STATUTES OF CALIFORNIA

FIFTY-FIFTH SESSION OF THE LEGISLATURE

1943

BEGAN ON MONDAY, JANUARY FOURTH, AND ADJOURNED
WEDNESDAY, MAY FIFTH, NINETEEN
HUNDRED FORTY-THREE

STATUTES OF CALIFORNIA

PASSED AT THE FIFTY-FIFTH SESSION OF THE LEGISLATURE

CHAPTER 1

An act making an appropriation for the mileage of the members and statutory officers of the Assembly, to take effect immediately.

[Approved by Governor January 6, 1943. Filed with Secretary of State January 6, 1943.] In effect immediately

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

SECTION 1. Out of any money in the State Treasury not otherwise appropriated the sum of ten thousand dollars ($10,000) is hereby appropriated for the mileage of the members of the Assembly and for the mileage of the officers of the Assembly. Appropriation: Assembly mileage

SEC. 2. This act, inasmuch as it makes an appropriation for the usual current expenses of the State, shall under the provisions of Section 1 of Article IV of the Constitution take effect immediately. Current expenses

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CHAPTER 2

An act to amend Sections 245 and 246 and to repeal Sections 268 and 269 of the Political Code, relating to officers and employees of the Legislature, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor January 6, 1943. Filed with Secretary of State January 6, 1943.] In effect immediately

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

SECTION 1. Section 245 of the Political Code is amended to read: Stats 1933, p 2500 See also Stats 1943 Ch 134

245. The officers and employees of the Senate shall be a President, a President pro tempore, one Secretary, one Sergeant-at-Arms, one Minute Clerk and one Chaplain. Senate officers and employees

Such officers and employees shall be elected by a majority vote of the duly elected and qualified members of the Senate.

The Senate shall by resolution provide for such other officers, employees and attaches as it shall deem necessary.

Any officer, employee or attache appointed or elected under the provisions of this section may at any time be removed in the same manner as is herein provided for his election or appointment. Removal

Compensation

The compensation of each said officer, employee and attache so provided for shall be fixed, in so far as such compensation is fixed, by the Senate by resolution.

Stats. 1943, p. 2501. See also Stats. 1943, Ch. 134. Assembly officers and employees

SEC. 2. Section 246 of the Political Code is amended to read:

246. The officers and employees of the Assembly shall be a Speaker, a Speaker pro tempore, one Chief Clerk, one Sergeant-at-Arms, one Minute Clerk and one Chaplain.

Such officers and employees shall be elected by a majority vote of the duly elected and qualified members of the Assembly.

The Assembly shall by resolution provide for such other officers, employees and attaches as it shall deem necessary.

Removal

Any officer, employee or attache appointed or elected under the provisions of this section may at any time be removed in the same manner as is herein provided for his election or appointment.

Compensation

The compensation of each said officer, employee and attache so provided for shall be fixed, in so far as such compensation is fixed, by the Assembly by resolution.

Repeals

SEC. 3. Sections 268 and 269 of the Political Code are repealed.

Urgency

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

In view of the present world crisis it is imperative that the Legislature have the assistance of competent employees and attaches to assist it in its work. The per diem rates set by previous Legislatures are no longer adequate to attract such competent assistants. Consequently, it is imperative that this act be adopted immediately in order that it may be expressly declared in the law that each house of the Legislature can itself, by resolution, set the rate of pay of its own employees and attaches, so that adequate number of competent personnel may be secured without which the Legislature will be unable to function.

CHAPTER 3

An act making an appropriation for the mileage of the members and statutory officers of the Senate, to take effect immediately.

In effect immediately

[Approved by Governor January 8, 1943. Filed with Secretary of State January 8, 1943.]

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

Appropriation Senate mileage

SECTION 1. Out of any money in the State Treasury not otherwise appropriated the sum of five thousand dollars

($5,000) is hereby appropriated for the mileage of the members of the Senate and for the mileage of the officers of the Senate.

SEC. 2. This act, inasmuch as it makes an appropriation for the usual current expenses of the State, shall under the provisions of Section 1 of Article IV of the Constitution take effect immediately. Current expenses

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CHAPTER 4

An act to amend Section 961 of the Code of Civil Procedure and Section 1247k of the Penal Code, relating to rules on appeal prescribed by the Judicial Council, extending the time for the reporting of such rules and the time of taking effect thereof, and providing that this act shall take effect immediately.

[Approved by Governor January 14, 1943 Filed with Secretary of State January 14, 1943.] In effect immediately

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

SECTION 1. Section 961 of the Code of Civil Procedure is amended to read: Stats 1941, p 1785

961. The Judicial Council shall have the power to prescribe by rules for the practice and procedure on appeal, and for the time and manner in which the records on such appeals shall be made up and filed, in all civil actions and proceedings in all courts of this State. Rules of procedure in civil appeals

The Judicial Council shall report the rules prescribed by it to the Legislature on or before March 31, 1943. Report

The rules reported as aforesaid shall take effect on July 1, 1943, and thereafter all laws in conflict therewith shall be of no further force or effect. When rules effective

SEC. 2. Section 1247k of the Penal Code is amended to read: Stats 1941 p. 1945

1247k. The Judicial Council shall have the power to prescribe by rules for the practice and procedure on appeal, and for the time and manner in which the records on such appeals shall be made up and filed, in all criminal cases in all courts of this State. Rules of procedure in criminal appeals

The Judicial Council shall report the rules prescribed by it to the Legislature on or before March 31, 1943. Report

The rules reported as aforesaid shall take effect on July 1, 1943, and thereafter all laws in conflict therewith shall be of no further force or effect. When rules effective

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

immediate effect. A statement of the facts constituting such necessity is as follows:

The entry of the United States into the war in which we are now engaged has resulted in loss of personnel to the Judicial Council, and consequent interruptions of the work of preparation of the rules on appeal authorized and directed by the sections amended by this act. Although proposed rules have been prepared, there has not been opportunity for them to receive the careful study by members of the bench and the bar which they merit. If these rules are reported to the Legislature and take effect at the time prescribed in the existing law, there will not be time for the necessary consideration, and the adoption of hastily considered rules may interfere with the orderly work of the courts. The time for reporting the rules to the Legislature will expire before the usual effective date of the laws enacted by the Fifty-fifth Legislature, and hence to provide sufficient time for study and revision of the proposed rules, it is necessary that this amendatory act extending the time for reporting the rules and the time at which they go into effect take effect immediately.

CHAPTER 5

An act to add Section 3721 to the Political Code, relating to assessment and taxation of property affected by the organization, formation and incorporation of sanitary districts, declaring the urgency thereof and providing that it shall take effect immediately

In effect immediately

[Approved by Governor January 25, 1943. Filed with Secretary of State January 25, 1943.]

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

New section

SECTION 1. Section 3721 is hereby added to the Political Code, to read as follows:

Time of filing statements of creation of certain sanitary districts

3721. Whenever a sanitary district is organized under and pursuant to the provisions of Part 1 of Division 6 of the Health and Safety Code of this State, and the proceedings thereon have been completed after the first day of February, 1943, and before the first Monday in March, 1943, such organization of such sanitary district shall be effective for the purposes of assessment and taxation if the statement and map or plat required by Section 3720 shall have been filed with the county assessor and with the State Board of Equalization on or before the third Monday in March, 1943.

Constitutionality

SEC. 2. If any clause, sentence, paragraph, or part of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this act, but shall be confined in its operation to the clause, sentence, paragraph, or

part thereof, directly involved in the controversy in which such judgment shall have been rendered.

Urgency

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of Section 1 of Article IV of the Constitution of the State of California, and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows: Certain proceedings for the formation of a sanitary district under Part 1, Division 6, of the Health and Safety Code have been instituted but can not be completed until after February 1, 1943, and can be completed prior to the first Monday in March, 1943; and it is therefore impossible for a sanitary district so organized to comply with the provisions of Section 3720 of the Political Code. Such sanitary district must nevertheless furnish to the inhabitants within its territory all the benefits of a sanitary district including among other things a sewage disposal system. That the territory of such sanitary district in process of organization is for a great part thereof built up with places of residence now occupied by human beings; that said places of residence have no means of adequate and safe sewage disposal thus constituting a serious menace to the peace, health, safety and welfare of the persons residing within and near to the territory of said district. Therefore, in order to defray the expenses and to meet the cost of necessary sewage disposal and other necessary sanitary matters contemplated by said provisions of said Health and Safety Code to the inhabitants of such district for the fiscal year beginning July 1, 1943, it is necessary and urgent that the property in such district be assessed and taxed during said fiscal year and be placed on the tax rolls before the beginning thereof.

CHAPTER 6

An act making an appropriation for the additional support of the California Polytechnic School, declaring the urgency thereof, to take effect immediately.

[Approved by Governor January 28, 1943. Filed with Secretary of State January 28, 1943] In effect immediately

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

Appropriation California Polytechnic School

SECTION 1. Out of any money in the State Treasury not otherwise appropriated, the sum of one hundred fifty-seven thousand five hundred dollars ($157,500) is hereby appropriated for the additional support of the California Polytechnic School during the Ninety-fourth Fiscal Year.

Disposition of army training funds

SEC. 2. Any money received by the California Polytechnic School for training personnel in the armed forces shall be deposited in the General Fund in the State Treasury for credit to this appropriation.

Urgency

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

The California Polytechnic School is an important unit in the defense efforts of this State because of the nature of the training made available. The institution was financed for only one-half of the Ninety-fourth Fiscal Year at the special session of the Legislature held in January, 1942. In order that the school may continue to function for the remainder of the current fiscal year in the interests of State and National defense it is necessary that financial aid, such as is contemplated by this act, be made immediately available. This school has been selected by the United States Navy as one of the 20 United States naval flight preparatory schools for the entire country, and the United States Navy has agreed to reimburse for all costs. The naval flight preparatory program is to start January 7, 1943.

CHAPTER 7

Stats 1935, p 1850

An act creating a special fund in the State Treasury for the deposit of restitutions received by the State from former recipients of relief under the provisions of the "California Unemployment Relief Act of 1935," making a transfer of funds to this fund, making an appropriation to the State Controller for continued collection of restitutions, to take effect immediately.

In effect immediately

[Approved by Governor January 31, 1943. Filed with Secretary of State January 31, 1943.]

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

"State Controller S.R.A. Restitutions Fund"

SECTION 1. There is hereby created in the State Treasury a special fund designated as the "State Controller S.R.A. Restitutions Fund," hereinafter called "the fund."

All moneys collected or received by the State Controller, on or after January 1, 1943, as restitutions made by persons formerly recipients of relief under the provisions of the "California Unemployment Relief Act of 1935" shall be deposited in this fund. In addition, the State Controller shall transfer from the Unemployment Relief Fund to the fund for a period of not to exceed 90 days from the effective date of this act the sum of ten thousand dollars ($10,000), which sum may be used for cash advances during such period.

Transfer

Policy

SEC. 2. The Legislature hereby declares that it is the policy of this State to make the work of the State Controller in auditing and collecting such restitutions self-supporting and the sum of twenty-six thousand five hundred dollars ($26,500)

is hereby appropriated from the "State Controller's S.R.A. Restitutions Fund" for the support of the State Controller until June 30, 1943, to be used for the auditing and the collection of refunds, under, and administrative expenses in connection with, the "California Unemployment Relief Act of 1935." Appropriation S R A auditing and refund collection

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

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CHAPTER 8

An act to add Section 3.95 to the School Code and to add Section 8161 to the Education Code, relating to the maintenance of schools and classes, declaring the urgency thereof, to take effect immediately. Stats 1943, Ch 71, amended

[Approved by Governor February 1, 1943. Filed with Secretary of State February 1, 1943.] In effect immediately

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

SECTION 1. Section 3.95 is added to the School Code, to read: New section

3.95. The governing board of a school district may, in its discretion, maintain schools and classes on any days other than Sunday, the twenty-fifth day of December, the first day of January, the fourth day of July, and any day appointed by the President of the United States of America or of the Governor of this State for a public thanksgiving. School days

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature, or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect, it shall supersede any existing provisions of law which are in conflict with it, but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted. Duration Existing law

Note.—See Stats. 1943, Ch. 71.

SEC. 3. Section 2 of this act becomes operative only if the Education Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said code takes effect; at which time Section 3.95 of the School Code added by this act is hereby repealed. Effect Stats 1943, Ch 71 Repeal

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

immediate effect. A statement of the facts constituting such necessity is as follows:

The war in which the United States of America is now engaged requires the most effective use of the manpower of the Nation. In order to make it possible for the personnel and pupils of the public schools to participate in the war effort to the fullest extent at the earliest possible moment without unnecessarily interfering with the essential purposes of the public school system it is necessary that this act take effect immediately.

CHAPTER 9

An act creating the Salary Emergency Fund, and making an appropriation to said fund and providing salary and wage increases for State employees and providing that this act take effect immediately.

In effect immediately

[Approved by Governor February 1, 1943 Filed with Secretary of State February 1, 1943]

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

Appropriation Salary Emergency Fund

SECTION 1. Out of any money in the State Treasury not otherwise appropriated, the sum of seven hundred thirty-one thousand seven hundred fifty-five dollars ($731,755) is hereby appropriated to the Salary Emergency Fund, which fund is hereby created, to be allocated therefrom by the Department of Finance solely for the purposes and in the manner provided by this act.

Allocation

SEC. 2. Such of the amount hereby appropriated shall be allocated to the several State officers, departments, boards, bureaus, commissions, The Regents of the University of California and other State agencies in augmentation of their respective appropriations for support for the third and fourth calendar quarters of the Ninety-fourth Fiscal Year in such amounts as will make sufficient money available during said fiscal year to pay to each State employee in the State service whose salary or wages, or a portion thereof, is payable from the General Fund an increase in salary or wage in accordance with the following schedule:

Salary increase schedule

(a) To each employee whose monthly salary or wage does not exceed three hundred dollars ($300), an increase of twenty-five dollars ($25) per month.

(b) To each employee whose monthly salary or wage exceeds three hundred dollars ($300), an increase of twenty dollars ($20) per month.

In order to make sufficient money available during said fiscal years to pay each employee in the State service whose salary or wage, or a portion thereof, is payable from special funds, the increase as provided by this section for other employees, the Governor and Director of Finance shall make funds

available from such special funds under the provisions of Section 661 of the Political Code.

SEC. 2.5. This act does not apply to employees whose compensation is fixed at or is based upon prevailing rates of wages. Employees not affected

SEC. 3. This act, inasmuch as it provides for an appropriation for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution take effect immediately. Current expenses

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CHAPTER 10

An act to add Section 92.1 to the Agricultural Code, relating to the basis of allocation to county, district or combined county and district fairs, declaring the urgency thereof, and providing that this act shall take effect immediately. Stats 1933, p 60, amended

[Approved by Governor February 4, 1943 Filed with Secretary of State February 4, 1943.] In effect immediately

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

SECTION 1. Section 92.1 is added to the Agricultural Code, to read: New section

92.1. Notwithstanding anything in Section 92 to the contrary each county and district agricultural association which received an apportionment under Section 92 on the basis of the premiums paid at a fair held during the calendar year 1942 shall return to the Fair and Exposition Fund in the State Treasury within 60 days after the effective date of this section the entire amount of such apportionment less the amount used as a base in determining said allocations. The Department of Finance shall apportion the funds so returned to the various counties and district agricultural associations which held fairs during the calendar year 1941 and received an apportionment under the provisions of Section 92 based on the premiums paid at said fairs. The money so apportioned shall be paid to the several counties and district agricultural associations as soon as such apportionment is determined. The funds returned to the Fair and Exposition Fund as provided above shall be apportioned to the various counties and district agricultural associations on the basis of the eligible premiums paid as set forth in the sworn statements of 1941 premiums paid which were filed with the Department of Finance under Section 92 and used in apportioning the funds to the various fairs held during the calendar year 1941. Return of apportionments. Reapportionment of funds returned

The Department of Finance shall apportion any money appropriated by the State for the encouragement of county, district or combined county and district fairs held or to be held during the calendar years 1943 and 1944 on the basis provided under Section 92 but the maximum that may be apportioned to any fair shall not exceed the amount of the Apportionment bases

base used in determining the apportionment. The Department of Finance shall apportion the balance of any funds remaining, after the above apportionments have been made, to the several counties and district agricultural associations which held fairs during the calendar year 1941 and received an apportionment under the provisions of Section 92 based on the premiums paid at said fairs. The money so apportioned shall be paid to the several counties and district agricultural associations as soon as such apportionment is determined. The funds remaining as referred to above shall be apportioned to the various counties and district agricultural associations on the basis of the eligible premiums paid as set forth in the sworn statements of 1941 premiums paid which were filed with the Department of Finance under Section 92 and used in apportioning the funds to the various fairs held during the calendar year 1941.

Urgency

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

Prior to the start of the war between the United States and the governments of Germany, Italy and Japan the revenues accruing through the operation of the various fairs provided the funds necessary to support the fairs and maintain and preserve their property. Due to war conditions most of the fairs have had to be discontinued temporarily.

The apportionments made as required by existing laws to the few fairs held during the calendar year 1942 were in excess of the reasonable requirements of those fairs. Furthermore, fairs which were temporarily discontinued due to the war lost the revenue which would accrue to them under normal conditions. As a result of the above conditions some of the fairs have more funds than are needed for their reasonable requirements while many of the fairs do not have sufficient funds for their essential maintenance and support which has created a critical situation requiring immediate relief. In order therefore that this inequitable distribution may be corrected, that funds may immediately be made available to protect the public investment in fair property and to maintain such property in a safe condition, it is imperative that this act go into effect immediately and the excess apportionments withdrawn and redistributed.

CHAPTER 11

An act to amend Section 2009 of the Code of Civil Procedure, relating to the use of affidavits in a proceeding to establish the fact of birth, declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 5, 1943. Filed with Secretary of State February 5, 1943.] In effect immediately

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

SECTION 1. Section 2009 of the Code of Civil Procedure is amended to read: Stats. 1929, p. 856. See also Stats. 1943, Ch. 821. Use of affidavits

2009. An affidavit may be used to verify a pleading or a paper in a special proceeding, to prove the service of a summons, notice, or other paper in an action or special proceeding, to obtain a provisional remedy, the examination of a witness, or a stay of proceedings, as evidence in an uncontested probate proceeding, including a proceeding relating to the administration of the estate of a decedent, also a proceeding relating to the administration of the estate of a minor or incompetent person after a guardian has been appointed therein, in any uncontested proceeding to establish a record of birth, or upon a motion, and in any other case expressly permitted by some other provision of this code.

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

Documentary proof establishing the vital statistics is daily becoming more in demand. These documents are required for use in connection with the armed services of the United States and with employment in the war industries. A simple, inexpensive and expeditious method of establishing the proof of facts of birth requires that an affidavit or affidavits may be offered as proof in the establishment thereof in any and all uncontested proceedings, instituted for the purpose of establishing record of such birth, and the foregoing amendment to said section of the Code of Civil Procedure is therefore an urgent necessity.

CHAPTER 12

Stats. 1939, p 482, amended

An act to amend Sections 10600, 10602, 10603, 10604, and 10607 of the Health and Safety Code, relating to proceedings to establish records of birth, death or marriage, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor February 5, 1943. Filed with Secretary of State February 5, 1943.]

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

Stats 1941, p 1070

SECTION 1. Section 10600 of the Health and Safety Code is amended to read:

Petition

10600. If any birth, death, or marriage, occurring in this State:

(a) Was not at the time it occurred required by law to be registered; or

(b) Was not registered in conformity with the provisions of law in effect at the time it occurred by the filing of the proper certificate with the local registrar within a period of one year from the date of the event or if such record has been filed but thereafter lost or destroyed, any person beneficially interested in establishing of record the fact of and the time and place of, such birth, death, or marriage may file with the county clerk a verified petition for an order judicially establishing the fact of, and the time and place of the birth, death, or marriage in either of the following courts:

(1) The superior court of the county in which the birth, death or marriage is alleged to have occurred.

(2) The superior court of the county in which the person whose birth or marriage it is sought to establish is residing; or, if such person has died, the superior court of the county in which such person was domiciled at the date of death.

Stats 1941, p 1070

SEC. 2. Section 10602 of said code is amended to read:

Service

10602. At least five days before the date of the hearing, a copy of the petition shall be served upon the district attorney of the county in which the petition is filed, together with a notice of the time and place of the hearing and he may appear at the hearing and oppose the making of the order.

Stats 1941, p 1070

SEC. 3. Section 10603 of said code is amended to read:

Time of hearing

10603. Upon the filing of the petition a hearing shall be fixed by the clerk and at the convenience of the court set at a time not less than 5 nor more than 10 days after the filing of the petition. The hearing may be held in chambers. The court, for good cause, may continue the hearing beyond the 10-day period.

Stats 1939, p 482

SEC. 4. Section 10604 of said code is amended to read:

Filing fee

10604. The fee for filing the petition shall be three dollars ($3) one dollar ($1) of which shall go to the law library fund of the county. In counties having more than one superior court judge, the petition may be heard by any judge thereof hearing probate matters, or if a probate department has been

Hearing

designated for hearing probate matters, the clerk shall assign the matter to the probate department for hearing.

SEC. 5. Section 10607 of said code is amended to read: Stats 1941, p 1070

10607. The order shall become effective upon a filing of a certified copy (a) with the local registrar of vital statistics of the district in which the birth or death occurred, if it occurred in this State, or in the case of marriage with the county recorder. If the event occurred outside the State, the order shall be filed with the registrar of the district or the county recorder of the county, as the case may be, in which the petitioner resides, and (b) with the State Registrar of Vital Statistics. Effective date of order

SEC. 6. This act is hereby declared to be an urgency measure necessary for the immediate preservation of public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows: Urgency

Documentary proof establishing vital statistics is daily becoming more in demand. These documents are required for use in connection with the armed services of the United States and with employment in the war industries. A simple, inexpensive and expeditious method of establishing the proof of facts of birth, death, and marriage, without expensive costs for fees and services, and which can be presented by the petitioner personally is an urgent necessity.

CHAPTER 13

An act to add Chapter 8.5 (comprising Sections 10615 to 10622 inclusive) to Division 9 of the Health and Safety Code, relating to the registration of previously unregistered births, declaring the urgency hereof, to take effect immediately. Stats. 1939, p 482, amended

[Approved by Governor February 5, 1943. Filed with Secretary of State February 5, 1943.] In effect immediately

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

SECTION 1. Chapter 8.5, comprising Sections 10615 to 10622, is hereby added to Division 9 of the Health and Safety Code, to read as follows: New chapter

CHAPTER 8.5. REGISTRATION OF PREVIOUSLY UNREGISTERED BIRTHS

10615. Any beneficially interested person born in this State, whose birth (a) was not required by law to be registered at the time it occurred, or (b) was not registered in conformity with law at the time it occurred, or if the record was filed but was thereafter lost or destroyed, may file an application for Application

the original registration of such birth with the State Registrar or local registrar of the district in which the birth occurred. The application and the affidavits mentioned in Section 10616 shall be on forms prescribed and furnished by the State Registrar and shall contain such information as may be necessary to enable the State Registrar to determine whether such birth did in fact occur and shall show the place and the date of such birth. The application shall be filed in duplicate. The State Registrar shall immediately mail the duplicate application to the district attorney of the county in which the birth is alleged to have occurred.

Filing

Alternate method

The provisions of this chapter are not exclusive of the provisions of Chapters 7 and 8 of this division, but offer an alternative method of securing records of birth.

Documents not accepted

Affidavits or documents of aliens ineligible for citizenship shall not be accepted.

Birth certificates

Birth certificates issued pursuant to this chapter shall not be considered as evidence in any action or proceeding involving estates of decedents or in any proceeding to establish heirship unless the affidavit of at least one person who knew the facts was filed at the time of obtaining the certificate.

Affidavits

10616. The application for birth record shall be accompanied by:

(a) An affidavit of the physician, midwife or other person who attended at the birth.

(b) If the affidavit of the persons named in (a) can not for any reason be secured, the affidavits of both natural parents of the person whose birth it is desired to register, if both are living and available and the person is under the age of 21 years. If one parent is dead or is not available, or if the person is over 21 years of age, the affidavit of any other person who knows the facts may be accepted in lieu of the affidavit of one parent.

(c) If neither parent is living or available, the affidavit of two other persons, either relatives or nonrelatives, who have actual knowledge of the facts, and who at the time of birth were of sufficient age to have a recollection thereof.

Affidavits filed in accordance with provisions (a), (b) and (c) shall be accompanied by at least one piece of documentary evidence showing place and date of birth as outlined in provision (d) of this section; provided, however, that if a child has not yet reached its fifth birthday, the affidavit by the attendant or one parent is sufficient.

(d) If none of the affidavits mentioned in (a), (b), or (c) can be secured, at least two documents, in which the facts showing the date and place of birth were recorded more than five years before the date of application. Original or certified copies of hospital records, baptismal certificates or other church records, school records, census records, insurance policies or statements in applications for insurance policies, Army, Navy or Marine discharges, naturalization certificates of foreign-born parents showing registrant's name and age, voting registration

records, family Bible records, birth certificates of registrant's child, marriage certificates, newspaper notices of birth, if sufficiently complete to establish birth, shall be accepted. If the aforementioned documents are not available, or are incomplete, the registrar may accept other documents which establish the facts.

All affidavits filed pursuant to this section shall contain a statement showing the basis of the affiant's knowledge of the facts sworn to pertaining to the date and place of birth.

Transmission to State Registrar

Upon the filing of any such application with a local registrar he shall immediately transmit it to the State Registrar, together with the filing fee hereafter in Section 10618 of this code provided.

Issuance of certificates

See also Stats 1943, Ch 1092

10617. The State Registrar after the expiration of 10 days from receipt by him of acknowledgment of receipt of the duplicate application by the district attorney, shall review the application and the affidavits and documentary evidence accompanying it, and if the evidence submitted complies with the provisions of Section 10615 and 10616 hereof, he shall issue and file a delayed certificate of such birth. He shall prepare either duplicate originals or certified copies of the certificate and transmit a copy to the local registrar of the district and the county recorder of the county in which such birth occurred, who shall index it and place it in a book marked "Delayed Certificates of Birth," except that if the birth occurred in a city and county he shall transmit a copy of the delayed certificate to the local registrar only. He shall also transmit either a duplicate original or certified copy of the certificate to the applicant without cost.

Copies

Indexing

Filing fee

10618. A fee of four dollars ($4) shall be paid at the time of filing to the State Registrar or local registrar for each application filed. The State Registrar shall retain three dollars ($3) from each such fee, and shall transmit one dollar ($1) to the local registrar together with the copy of the delayed certificate.

Disposition of money received

10619. The money so received by any local registrar who is also county recorder or clerk or health officer of any city and whose salary is by law his sole compensation for his services, shall be by him paid into the county or city treasury as the case may be.

Penalties

10620. Any person who wilfully makes or files or causes to be made or filed a false certificate or affidavit pursuant to this chapter is guilty of a felony and is also liable to the State of California for a civil penalty in the amount of five hundred dollars ($500). Such civil penalty may be recovered in an action filed by the Attorney General in any court of competent jurisdiction. Three-quarters of the sum representing a penalty so recovered shall be paid into the State Treasury to the credit of the State General Fund and one-quarter into the treasury of the county or city in which the district is located in which the record of birth is filed or offered for filing.

"Delayed Registration of Vital Statistics Fund"
See also Stats 1943, Ch 1092

10621. There is hereby created in the State Treasury the Delayed Registration of Vital Statistics Fund. All fees and penalties received by the State pursuant to this chapter, together with the sum of ten thousand dollars ($10,000) from the General Fund in the State Treasury, are hereby appropriated to the Delayed Registration of Vital Statistics Fund, to be used by the department to defray expenses incurred in carrying out the provisions of this chapter. The Controller shall draw his warrant from time to time in favor of the department for the amounts expended under its direction, and the Treasurer shall pay the warrants.

Transfer to General Fund
See also Stats 1943, Ch 1092

10622. From the sums available to it for carrying out the provisions of this chapter the Controller with the approval of the department shall transfer from the Delayed Registration of Vital Statistics Fund into the General Fund in the State Treasury the sum of ten thousand dollars ($10,000) on July 1, 1945.

Urgency

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

The existence of a state of war and the increased demand for vital statistics certificates for purposes connected with the armed services and employment in necessary war industries has made necessary the enactment of an expeditious, simple and inexpensive procedure of obtaining these certificates.

CHAPTER 14

War Production Act

An act to increase production by providing for exemptions from various requirements, relating to employment and working conditions of female employees essential to the war effort, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor February 5, 1943. Filed with Secretary of State February 5, 1943.]

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

Short title

SECTION 1. This act shall be known as the War Production Act.

Policy

SEC. 2. The Legislature hereby declares that, in order to increase production and to win the war in which the United States is engaged, certain restrictions on activities of employees should be temporarily revised, either wholly or partly, such revision of restrictions to be in effect only as provided in Section 10 hereof.

War production permits

SEC. 3. The Governor may, upon the application of an employer, issue a war production permit covering a desig-

nated place or places of employment permitting the employment of female employees at or for such hours, and at such type of work, and under such conditions, as may be helpful in increasing production and furthering the war effort without unreasonably increasing the risk of impairing the health or safety of said female employees, in view of the emergency. Such permit when issued shall remain in effect until revoked, modified or suspended under Section 6.

Application

SEC. 4. An application for such a permit shall be filed by an employer within 24 hours after he employs females at or for such hours or at such type of work or under such conditions not permitted by law without a permit under this act, with the State department in which is vested the enforcement of the law from which it is proposed to create an exemption as herein provided. Such State department shall within 15 days after filing of the employer's application recommend the issuance or denial of such a permit. If it recommends the issuance of such a permit, it shall incorporate the terms and conditions upon which it is recommended that the permit be issued. After receipt of the recommendation from the State department concerned, the Governor, within five days after he receives such recommendation from the State department, at his discretion shall either issue or deny the permit requested. If the permit is denied it shall thereafter be illegal to employ females in excess of the existing statutory limits. If a permit is issued, the Governor shall include the terms and conditions within the permit.

Issuance or denial

"State department"

SEC. 5. "State department" includes every department of the State, and every other State board or agency, whether or not created by the Constitution, but does not include any division, bureau or other branch or bureau of a State department.

Revocation, suspension, modification

SEC. 6. The Governor may at any time revoke, suspend or modify any permit. Upon proof being made that the terms and conditions of any such permit have been violated, the department which recommended the issuance of said permit may recommend to the Governor that the permit be suspended, modified or revoked.

Enforcement

SEC. 7. All State departments shall continue to exercise their duties under the laws and rules to insure that the relaxation authorized by the permit does not adversely affect the health or safety of the female employees involved.

Collective bargaining agreement

SEC. 8. No relaxation permit shall have the effect of abrogating any collective bargaining agreement prescribing overtime rates of pay or working conditions or any of the overtime rates prescribed pursuant to law by any State department or agencies of the Federal Government.

Delegation of duty

SEC. 9. Any authority herein given to a State department may be exercised by any official or employee in the department so authorized by the director or other head of the department.

Duration

SEC. 10. This act shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular

Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this act is in effect it shall supersede any existing provisions of law which are in conflict with this act; but such provisions are not repealed by this act and after this act is no longer effective shall have the same force as though this act had not been enacted.

Existing law

Urgency

SEC. 11. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

The war emergency requires that all facilities of production be utilized to the utmost and that restrictions upon the hours and conditions of work be relaxed to such an extent as may be compatible with the health and safety of the persons affected. This act provides a method whereby production can be increased under safeguards designed to afford full protection to all persons involved and its early effectiveness is necessary to the prosecution of the war effort.

CHAPTER 15

An act to amend Sections 4026 and 4026.1 of the Political Code, relating to county or township officers, deputies, assistants and employees, and their return to county or township service, declaring the urgency hereof, to take effect immediately.

In effect immediately

[Approved by Governor February 5, 1943. Filed with Secretary of State February 5, 1943.]

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

Stats 1941, p 1244

SECTION 1. Section 4026 of the Political Code is hereby amended to read:

Return to office of county and township officers in armed forces

4026. In the event that any member of a board of supervisors or any sheriff, county clerk, district attorney or other county or township officer has resigned or resigns his office to serve or to continue to serve in the armed forces of the United States or in the State Guard or State Militia when in active service he shall have a right to return to and to re-enter upon the office prior to the time at which his term would have ended if he had not resigned on serving a written notice to that effect upon any member of the board of supervisors or the county clerk, either personally or by registered mail, within six months of the termination of his active service with the armed forces.

Vacancies

Regardless of any other provision of law, appointments may be made by the authorized appointing power, including the board of supervisors, to fill any vacancy occurring under this section until whichever of the following first occurs: (i) the

resigning officer returns to and re-enters the office from which he resigned or (ii) the term expires for which the resigning officer was elected or appointed.

SEC. 2. Section 4026.1 is hereby amended to read: Stats 1941, p 1244

4026.1. In the event that any deputy, assistant, or employee of the county or township, has resigned or resigns his position to serve or to continue to serve in the armed forces of the United States, or in the armed forces of the State of California he shall have a right to return to the position prior to the time at which his occupancy of the position would have ended if he had not resigned on serving a notice to that effect upon any member of the board of supervisors or the county clerk or the chief personnel officer of the county, if any, either personally or by registered mail, within six months of the termination of his active service with the armed forces. Return to office of county and township employees in armed forces

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

An emergency exists in the United States and the State of California in providing adequate armies and facilities of defense. National Guard units have been called into the Federal service. Reserve officers have been called into active service. Calls for draft are being made under the provisions of the Selective Training and Service Act. The arming of the Nation is resulting in many county or township officers and employees resigning from their positions and employments because of entry into the armed forces. To protect these officers and employees in their positions, and to enable them to return to necessary public work at the expiration of the existing National emergency, it is necessary to immediately adopt laws permitting temporary resignations and reinstatements.

CHAPTER 16

An act to add Chapter 3 to Part 3 of Division 6 of the School Code and to add Chapter 11 to Division 9 of the Education Code, relating to child care centers, declaring the urgency thereof, to take effect immediately. Stats 1943 Ch 71, amended

[Approved by Governor February 5, 1943 Filed with Secretary of State February 5, 1943.] In effect immediately

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

SECTION 1. Chapter 3 is added to Part 3 of Division 6 of the School Code, to read: New chapter

CHAPTER 3. CHILD CARE CENTERS

6.780. The policy of the Legislature in enacting this chapter is to provide a means for meeting an emergency, existing Policy

in certain communities in this State, created by the employment of women with children in industry as a direct result of the war in which the United States of America is now engaged, without imposing additional taxes on property which the owners of such property can not, because of the burdens imposed by such war, be reasonably expected to bear.

Establishment of centers

6.781. The governing board of any school district may, subject to the provisions of this chapter, establish and maintain such child care centers within the district as it may deem necessary to provide for the proper supervision and care, including such health supervision as may be established under the standards established for child care centers by the Superintendent of Public Instruction as hereinafter provided, of children between two years and 16 years of age living within, and in the custody of persons residing in, the district when such care and supervision can not be provided by such persons because such persons are gainfully employed.

Agreements

6.782. Said governing board may enter into agreements with any city or city and county or other public agency for the furnishing to, or use by, said governing board in carrying out the provisions of this chapter, of property, facilities, personnel, supplies, equipment and other necessary items and such city, county, city and county, or other public agency is authorized to enter into such agreements..

School facilities

6.783. The said governing board may permit the use of buildings, grounds, existing administrative personnel and equipment for the purposes of this chapter.

Standards

6.784. The Superintendent of Public Instruction shall establish reasonable and uniform standards not in conflict with the provisions of this chapter for child care centers established and maintained under the provisions of this chapter and no child care center shall be so established and maintained which does not comply with such standards.

Time maintained

6.785. The hours in any day, the days in any week and the months in any year during which such child care centers may be maintained shall be determined by said governing board.

Hours

6.785-5. Children shall be accommodated at such child centers only during the hours in which the person or persons having custody of such children are at work or unable to care for such children for any reason connected with such work.

Fees

6.786. Said governing board shall charge and collect, in advance, from the person having custody of any child admitted to a child care center a fee which, together with all funds received under Section 6.792, shall be in such amount as will reimburse the district for the cost of maintaining such child care center including supervision and care and the cost of all food furnished such child. The fees charged need not be uniform.

Amounts

6.786-5. Recognizing the fact that certain mothers are forced to work due to the father serving in the armed forces of the United States—the State of California, or as civilians,

having been killed, reported missing, or so disabled so as to be unable to follow his employment, as a result of enemy action, it is the intent of the Legislature that consideration be given to the income of such mother and dependent children in setting fees to be charged by the school district for the care of such children.

"Child Care Center Fund"

6.787. The said governing board shall establish in the county treasury a fund to be known as the "Child Care Center Fund" into which shall be paid all funds received for, or from the operation of, child care centers. The costs incurred in the maintenance and operation of child care centers shall be paid from said fund.

School district funds

No funds of a district derived from the receipts of district taxes or derived from moneys apportioned to the district for the support of the schools thereof may be expended for, or in connection with, a child care center.

Rules

6.788. Said governing board may adopt such reasonable rules and regulations governing the child care center or centers maintained by it as are not in conflict with law or the standards established for child care centers by the Superintendent of Public Instruction. Such rules and regulations may include, among others, rules and regulations relating to the admission of children to, and their exclusion from, such center or centers.

Employees

6.789. The said governing board may employ in or for a child care center only such persons who hold permits issued by the Superintendent of Public Instruction. If persons holding such permits are not readily available, persons who do not hold such permits but who meet such standards as may be established by the Superintendent of Public Instruction may be employed for a period not to exceed five months, but such persons shall, during such period of temporary employment, attend such courses of instruction and training approved by the Superintendent of Public Instruction as will permit, upon the successful completion thereof, such persons to qualify for the appropriate permit.

Retirement system

6.790. No person employed in a child care center under the provisions of this chapter shall be deemed to be a person employed by a school district in a position requiring certification qualifications or employed in a status requisite for membership in the State Teachers Retirement System or district retirement system, or an employee subject to the provisions of Article 4 of Chapter 9 of Part 3 of Division 5 of this code.

Permit standards

6.791. The Superintendent of Public Instruction shall establish standards for the issuance of the permits herein provided for. Such standards may be changed from time to time, but changes therein shall not affect then valid permits issued to persons.

Funds

6.792. The governing board of each school district is hereby authorized to accept funds from the Government of the United States or any agency thereof, or from any other source other than funds derived from taxes levied by any taxing

agency, for any of the purposes of this chapter and such funds may be accepted subject to such conditions as will further the purpose of this chapter. As used in this section "taxing agency" has the meaning ascribed to the phrase in the Revenue and Taxation Code.

Discontinuation

6.793. Any child care center may be discontinued at any time at the discretion of the governing board of the district upon the giving of the notice herein prescribed.

Not less than 30 days before the discontinuance of a child care center the governing board shall mail to each person having custody of a child in attendance at such child care center a notice of the intended discontinuance of the child care center and the date the discontinuance will become effective, and shall post a similar notice at the child care center.

Insurance

6.794. Said governing board shall insure against the liability, other than a liability which may be insured against under Division 4 of the Labor Code, imposed upon the district by any law of this State, in any insurance company authorized to do business in this State. The cost of such insurance shall be paid out of the "Child Care Center Fund" of the district.

Duration

6.795. This chapter shall have no force or effect from and after July 1, 1945, or six months after the proclamation of the President of the United States that hostilities in the existing war have ceased, whichever is the earlier.

Note.—See Stats. 1943, Ch. 71.

Effect Stats 1943, Ch 71

SEC. 3. Section 2 of this act becomes operative only if the Education Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said code takes effect; at which time Chapter 3 of Part 3 of Division 6 of the School Code added by this act is hereby repealed.

Repeal

Constitutionality

SEC. 4. If any section, subsection, sentence, clause or phrase of this act, or of the act or acts of which this act is amendatory or supplemental, is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases of this act, or that any one or more sections, subsections, sentences, clauses or phrases of the act or acts of which this act is amendatory or supplemental, be declared unconstitutional. If any section, subsection, sentence, clause or phrase of this act for any reason be held to be unconstitutional and such unconstitutional provision shall have purported to repeal or amend any provision of the act or acts of which this act is amendatory or supplemental, the provision existing and in force at the time of the enactment of this act shall remain and be in full force and effect notwithstanding such purported repeal or amendment.

Urgency

SEC. 5. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public

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

Due to the request by the Federal Government that all possible sources of labor be utilized for the successful prosecution of the war effort, many women with children are now employed in industry. Such employment of mothers has created a child care problem, making it imperative that the governing boards of school districts be granted the authority to begin immediately the consideration of whether or not child care centers should be established in such local school districts for the care and supervision of young children of mothers so employed in industry. It is necessary that this act take effect immediately in order that such consideration begin at the earliest possible time.

CHAPTER 17

An act to amend Section 4 of the Budget Act of 1941, relating to approval of withdrawals from appropriations, declaring the urgency thereof, to take effect immediately.

Stats 1941, p 1984, amended

[Approved by Governor February 6, 1943. Filed with Secretary of State February 6, 1943.]

In effect immediately

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

SECTION 1. Section 4 of the Budget Act of 1941 is amended to read:

Stats 1941, p 1984

Sec. 4. The State Controller is hereby expressly prohibited from allowing any demands payable out of any appropriation herein contained, unless the same are presented in accordance with the provisions of Section 669 of the Political Code; provided, that in instances where the duties of any State officers or board make necessary the use of moneys for purposes of a confidential nature, the State Controller may audit claims for such expense without requiring itemization or vouchers; but such claims must be accompanied by a statement of the fact surrounding the expenditure, which statement must be filed in the office of the State Controller; provided further, that the total amount so allowed for such confidential purposes from the moneys herein appropriated shall not exceed in any one fiscal year the sum of two thousand dollars ($2,000), except in the case of the Attorney General's office, whose expenditures for such confidential purposes shall be governed by Section 476 of the Political Code. All bills and vouchers, which shall be presented for supplies furnished or services rendered, shall be original bills and vouchers of the parties furnishing supplies and rendering services; provided, that no officer shall use or appropriate any money,

Payments from appropriations

Vouchers and itemized statements

appropriated by this act, for any purpose whatever, unless authorized thereto by law; and provided, that any officer, board, commission, or department for whom any appropriation is made herein, may, without at the time furnishing vouchers and itemized statements, draw from such appropriations a sum not to exceed 1 per cent of the total amount appropriated for any such officer, board, commission or department; and provided further, that any officer, board, commission or department for whom any appropriation is made herein, may with the permission and the approval of the Department of Finance, and without at the time furnishing vouchers or itemized statements, draw from such appropriation a sum in excess of 1 per cent, but not to exceed 5 per cent of the total amount appropriated for any such officer, board, commission or department, and provided further, that any officer, board, commission or department for whom any appropriation is made herein, may, with the permission and approval of the Board of Control, and without at the time furnishing vouchers or itemized statements, draw from such appropriation a sum in excess of 5 per cent of the total appropriated to such officer, board, commission or department.

Any sums drawn under the provisions of this section without at the time furnishing vouchers and itemized statements, shall be considered to have been withdrawn from the amount appropriated for the Ninety-fourth Fiscal Year and need not be returned at the close of the Ninety-third Fiscal Year, and shall be used as a revolving fund where payment of compensation earned, traveling expense advances, or other cash payments are necessary, and at the close of each biennium, or at any other time, upon the demand of the Department of Finance, must be accounted for and substantiated by vouchers and itemized statements submitted to and audited by the Controller.

Urgency

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

Unless funds are made immediately available, the departments can not continue the payment of officers and employees on the first of the month, with the result that accounting procedure will be disrupted and the efficient operation of the government hindered.

CHAPTER 18

An act making an appropriation to meet a deficiency in the appropriation for support of the Division of Corporations, Department of Investment, State of California, for the Ninety-fourth Fiscal Year, to take effect immediately.

[Approved by Governor February 6, 1943. Filed with Secretary of State February 6, 1943.] In effect immediately

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

SECTION 1. The sum of one hundred ten thousand dollars ($110,000) is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, to meet a deficiency in the support of the Division of Corporations, Department of Investment, State of California, of the Ninety-fourth Fiscal Year. This sum shall be transferred by the State Controller to the "Corporation Commission Fund" in the State Treasury. Appropriation Division of Corporations

SEC. 2. This act, inasmuch as it provides an appropriation for the usual current expenses of the State shall, under the provisions of Section 1, Article IV of the Constitution of the State of California, take effect immediately. Current expenses

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CHAPTER 19

An act to amend Section 6 of the Inheritance Tax Act of 1935, relating to inheritance taxation, to take effect immediately. Stats 1935, p 1266, amended

[Approved by Governor February 6, 1943. Filed with Secretary of State February 6, 1943.] In effect immediately

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

SECTION 1. Section 6 of the act cited in the title hereof is hereby amended to read: Stats 1941, p 2387. See also Stats 1943, Ch 658

Sec. 6. The following exemptions from the tax are hereby allowed: Exemptions

(1) (a) All proceeds of any Federal war risk insurance policy of any veteran of World War I or World War II which is payable or which may become payable to the estate of such veteran shall be exempt. War risk insurance

(b) All property transferred to this State or to the United States or to societies, corporations and institutions now or hereafter exempted by law from taxation, or to any public corporation, or to any society, corporation, institution, or association of persons exclusively engaged in or devoted to any charitable, educational, public, or other like work (pecuniary profit not being its object or purpose); or to any person, society, corporation, institution, or association of persons in trust exclusively for or to be devoted exclusively to any Charitable

charitable, educational, or public purpose, by reason whereof any such person or corporation shall become beneficially entitled in possession or expectancy to any such property or to the income thereof, shall be exempt; provided, however, that such society, corporation, institution or association be organized solely for charitable, educational, public or other like work under the laws of this State or of the United States, or that the property transferred be limited for use within this State; provided further, that if such society, corporation, institution or association be organized or existing under the laws of a Territory or State of the United States (other than California) or of a foreign state or country, all property transferred to such society, corporation, institution or association shall be exempt if at the date of decedent's death the said State or Territory or foreign state or country under the laws of which such society, corporation, institution or association was organized or existing did not impose a legacy or succession tax or a death tax of any character in respect of property transferred to such a society, corporation, institution or association organized or existing under the laws of this State, or if at the date of decedent's death the laws of the State or Territory or foreign state or country under which such society, corporation, institution or association was organized or existing contained a reciprocal provision under which transfers to such a society, corporation, institution or association organized or existing under the laws of another State or Territory or foreign state or country were exempted from legacy or succession taxes or death taxes of every character; providing, said other State or Territory or foreign state or country allowed a similar exemption to such a society, corporation, institution or association organized or existing under the laws of another State or Territory or foreign state or country.

Specific

(2) Property of the clear value of twenty-four thousand dollars ($24,000) transferred to the wife, and of twelve thousand dollars ($12,000) transferred to a minor child of the decedent, and of five thousand dollars ($5,000) transferred to each of the other persons described in the first subdivision of Section 4 shall be exempt.

Previously taxed property

(3) "Previously taxed property" means property transferred by a present decedent to any person described in subdivision (1) of Section 4 where such property was transferred to the present decedent not more than five years before his death by a prior decedent in relation to whom the present decedent was in the class described in subdivision (1) of Section 4 and an inheritance tax was paid to this State on the transfer from the prior decedent. In determining the net amount of previously taxed property being transferred in the present decedent's estate its value shall be taken as of the date of the prior decedent's death or as of the date of the present decedent's death, whichever is lower, and due allowance shall be made under rules prescribed by the Controller

for the proportion of deductions and exemptions chargeable against such property in the prior decedent's estate and for the proportion of deductions chargeable against such property in the present decedent's estate.

"Proportionate exemption" means the amount which bears the same proportion to the exemption (other than the exemption allowed in this subdivision) allowed on all property transferred by the present decedent to the person to whom the previously taxed property is being transferred as the value of the net amount of previously taxed property bears to the value of the net amount of property transferred by the present decedent to the person to whom the previously taxed property is being transferred.

The net amount of previously taxed property, less the amount of the proportionate exemption, is exempt from the tax, except any tax levied under subdivision (12) of Section 2.

Specific

(4) Property of the clear value of two thousand dollars ($2,000) transferred to each of the persons described in the second subdivision of Section 4 shall be exempt.

(5) Property of the clear value of five hundred dollars ($500), transferred to each of the persons described in the third subdivision of Section 4 shall be exempt.

(6) Property of the clear value of fifty dollars ($50), transferred to each of the persons and corporations described in the fourth subdivision of Section 4 shall be exempt.

Computation of tax

(7) In computing the tax upon transfers subject to tax under the provisions of this act, the exemptions allowed in subdivisions (2), (3), (4), (5), and (6) of this section shall be deducted from the aggregate amount of property transferred, and the transfer of the remainder of the property after making such deduction shall be taxed at the rates at which it would have been taxed had no exemption whatever been allowed.

Intangible personalty

(8) The tax imposed by this act in respect of intangible personal property shall not be payable if the decedent is a resident of a State or Territory of the United States or a foreign state or country which at the time of his death imposed a legacy, succession or death tax in respect of intangible personal property of residents of the State or Territory or foreign state or country, but did not impose a legacy or succession tax or a death tax of any character in respect of intangible personal property of residents of this State, or if the laws of the State or Territory or foreign state or country of residence of the decedent at the time of his death contained a reciprocal provision under which nonresidents were exempted from legacy or succession taxes or death taxes of every character in respect of intangible personal property providing the State or Territory or foreign state or country of residence of such nonresidents allowed a similar exemption to residents of the State or Territory or foreign state or country of residence of such decedent.

For the purposes of this act, the District of Columbia is a Territory of the United States.

Legislative intent

SEC. 2. The Legislature hereby declares that the change effected by this chapter in subdivision (3) of Section 6 of the Inheritance Tax Act of 1935 is not a substantive change in the law, but is declaratory of the law as the Legislature intended it to be when it enacted the legislation contained in Chapter 833 of the Statutes of 1941.

Tax levy

SEC. 3. Inasmuch as it provides for a tax levy for the usual current expenses of the State, this act shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately.

CHAPTER 20

Stats 1937, p 2085, amended

An act to add Section 150.5 to, and to amend Sections 150, 151, and 190 of, the State Civil Service Act, relating to the payment of compensation earned and the computation of vacation and sick leave privileges, declaring the urgency thereof, and providing that this act shall take effect immediately.

In effect immediately

[Approved by Governor February 6, 1943. Filed with Secretary of State February 6, 1943.]

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

Stats 1937, p 2085 See also Stats 1943, Ch 395

SECTION 1. Section 150 of the State Civil Service Act is amended to read:

Vacation

Sec. 150. Each employee shall be entitled to a vacation of not to exceed 15 days' duration, excluding time during which he is not regularly assigned to work, with pay, during each year of continuous service. The time when such vacations shall be taken shall be determined by the appointing power of such employee. The board shall provide by rule for the regulation and accumulation of vacations and may provide for vacations for employees who have been employed for a period of at least six months and less than one year.

New section

SEC. 2. Section 150.5 is added to the State Civil Service Act, to read:

Payments on termination of service

Sec. 150.5. Upon a separation from service, without fault on his part, a person shall be entitled to a lump sum payment as of the time of separation for any unused or accumulated vacation or for any time off to which the person is entitled by reason of previous overtime work where compensating time off for overtime work is provided for by the appointing power or by the rules of the board. Such sums shall be computed by projecting the accumulated time on a calendar basis so that the lump sum will equal the amount to which the employee would have been paid had he taken the time off but not separated from the service. As to persons separated from the service through fault of their own, they shall be entitled to a lump

sum payment for such compensating time off for overtime work, similarly computed, and in addition such portion, if any, of unused vacation as the board may determine.

Stats 1939, p 2506 See also Stats 1943, Ch 395

SEC. 3. Section 151 of the State Civil Service Act is amended to read:

Sick leave

Sec. 151. Employees shall be entitled to 12 days sick leave, excluding time during which they are not regularly assigned to work, with pay for a calendar year of service, or one day of sick leave with pay for a calendar month of service, on the submission of satisfactory proof thereof as provided by rule of the board. The board shall, by rule, provide for the granting of additional sick leave, with or without pay, or with reduced pay, or for accumulation of sick leave.

Stats 1937, p 2085

SEC. 4. Section 190 of the State Civil Service Act is amended to read:

Payment of salary without board's certificate

Sec. 190. It shall be unlawful for any officer or employee of the State to draw, sign, issue, or authorize the drawing, signing, or issuing of any warrant or check payable out of State funds, to pay any salary or compensation to any one holding a State civil service position, where such person does not lawfully hold such position under this act. Before any pay roll claim to pay the salary or compensation to anyone holding a position in the State civil service is presented to the State Controller for payment, it shall bear the certificate of the board that the persons named in such pay roll are holding positions as provided by law, but this provision shall not prevent payments of such salaries or compensation by revolving fund check in advance of such presentation.

Urgency

SEC. 5. This act is hereby declared to be an urgency measure within the meaning of Section 1 of Article IV of the State Constitution, necessary for the immediate preservation of the public peace, health and safety. The statement of the facts constituting such necessity is as follows: Many persons are being separated from State service for the purpose of entering the armed forces or vital war industries, and in many cases are moved to far distant points prior to the time they can be paid on regular pay rolls for such accumulated vacation and overtime compensation to which they are entitled. Due to the increasing shortage of man power it is impossible to obtain workers in State service unless payment can be made sooner than is physically possible under the provisions of Section 190 of the State Civil Service Act. For these reasons this act shall take effect immediately.

CHAPTER 21

Stats 1931, p 1442 amended

An act to add Section 78a to the State Employees' Retirement Act, relating to retirement of members of the State Employees' Retirement System, and providing for retention in State service, upon conditions specified therein, of persons who have attained the age of compulsory retirement, to take effect immediately.

In effect immediately

[Approved by Governor February 9, 1943. Filed with Secretary of State February 9, 1943.]

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

New section

SECTION 1. Section 78a is added to the State Employees' Retirement Act, to read:

Retention of persons over 70

Sec. 78a. Notwithstanding the provisions of Section 78, until October 1, 1945, or the termination of the war in which the United States is now engaged, whichever is earlier, any member (other than a person who is also a member of the California Highway Patrol) who would otherwise be retired because he has attained the age of 70 years may be retained in State service, upon (a) the recommendation of the head of the office or department in which he is employed, and (b) the determination of the Board of Administration, by medical examination, that he is not incapacitated for the performance of the duties assigned or proposed to be assigned to him.

Subsequent retirement

On October 1, 1945, or the termination of the war, whichever is earlier, any person who has attained the age of 70 years and who has been retained in State service pursuant to this section shall be forthwith retired in accordance with the provisions of Section 78.

Urgency

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

The prosecution of the war in which the United States is now engaged has, by reason of the induction of millions of men into the armed forces and the employment of additional millions in war industries, resulted in an acute shortage of manpower throughout the Nation. This shortage makes it difficult or impossible for the State to replace the many highly trained and experienced officers and employees who must be retired upon reaching the compulsory retirement age. Most of these officers and employees are physically and mentally competent to continue to perform the duties in which they have been engaged, and are willing and eager to do so. Numerous officers and employees holding positions of great responsibility, and consequently most difficult to replace, such as physicians in charge of State hospitals and institutions, will reach the age of compulsory retirement prior to the final

adjournment of the Fifty-fifth Legislature. Therefore, to prevent the occurrence of numerous vacancies in important positions in the State service, and the break-down of the administration of the essential services of the State Government, it is necessary that this act take effect immediately.

CHAPTER 22

An act to amend Section 660.5 of the Fish and Game Code, relating to salmon, declaring the urgency of this act, to take effect immediately.

Stats 1933, p 394, amended

[Approved by Governor February 9, 1943. Filed with Secretary of State February 9, 1943.]

In effect immediately

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

SECTION 1. Section 660.5 of the Fish and Game Code is amended to read:

Stats 1941, p 1706

660.5. In Districts 15, 16, 17, and 18, not more than two salmon may be taken or possessed by any person during one day, between August 16th and August 31st, and no salmon taken during said period in said districts may be sold. The size limit is as provided in Section 661 of this code.

Salmon limit

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

Urgency

This act eliminates a conflict between provisions of the Fish and Game Code relating to the periods during which salmon may be taken in fish and game Districts 15, 16, 17, and 18. Under the present provisions of the code the season for commercial taking of salmon and the season when such taking of salmon is restricted overlap. The confusion caused by these conflicting provisions prevents the taking of salmon as the law was intended to permit. In view of the demands of the Federal Government upon the California fisheries for salmon for military and lend-lease purposes and in order to increase the supply of such fish for civilian use it is necessary that this act take immediate effect.

CHAPTER 23

Stats 1941, p 1240, amended

An act to amend Sections 2 and 3 of the Sabotage Prevention Act, relating to punishment, declaring the urgency hereof to take effect immediately.

In effect immediately

[Approved by Governor February 9, 1943. Filed with Secretary of State February 9, 1943.]

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

Stats 1941, p 1240

SECTION 1. Section 2 of the Sabotage Prevention Act is amended to read:

Injury to property

Sec. 2. Whoever intentionally and maliciously destroys, impairs, injures, interferes or tampers with real or personal property with reasonable grounds to believe that such act will hinder, delay or interfere with the preparation of the United States or of any of the States for defense or for war, or with the prosecution of war by the United States, shall be punished by imprisonment in the State prison for not more than 10 years, or by a fine of not more than ten thousand dollars ($10,000), or both; provided, if such person so acts with the intent to hinder, delay or interfere with the preparation of the United States or of any of the States for defense or for war, or with the prosecution of war by the United States, the minimum punishment shall be imprisonment in the State prison for not less than one year.

Stats 1941, p 1240

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

Making defective articles

Sec. 3. Whoever intentionally and maliciously makes or causes to be made or intentionally and maliciously omits to note on inspection any defect in any article or thing with reasonable grounds to believe that such article or thing is intended to be used in connection with the preparation of the United States or any of the States for defense or for war, or for the prosecution of war by the United States, or that such article or thing is one of a number of similar articles or things, some of which are intended so to be used, shall be punished by imprisonment in the State prison for not more than 10 years, or a fine of not more than ten thousand dollars ($10,000), or both; provided, if such person so acts or so fails to act with the intent to hinder, delay or interfere with the preparation of the United States or of any of the States for defense or for war, or with the prosecution of war by the United States, the minimum punishment shall be imprisonment in the State prison for not less than one year.

Urgency

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

The penalty prescribed by the Sabotage Prevention Act is at present uncertain, and the act can not be fully enforced until

the uncertainty has been removed. In order to protect property being devoted to the war effort and prevent serious crimes which may hinder the United States in its war program, it is necessary that the penalty be clearly defined.

CHAPTER 24

An act to repeal Sections 11 and 21 of an act approved May 23, 1921, as amended, entitled "An act to provide for the organization, incorporation, and government of municipal utility districts, authorizing such districts to incur bonded indebtedness for the acquisition and construction of works and property, and to levy and collect taxes to pay the principal and interest thereon," to amend Section 13 and to add Sections 11, 11.10, 11.20, 11.30, 11.40, 11.50, 11.60, 11.70, 21, 21.10, 21.20, 21.30, 21.40, 21.50, 21.60, 21.70, 21.80, 21.90 and 21.100, providing for the powers of the board of directors to determine all questions of policy, to supervise and regulate all utilities owned and operated by a municipal utility district, to appoint a general manager and other officers, assistants and employees, to contract for or employ services, and to provide for the performance of work or services, to create the positions necessary to carry on the functions of the district and to abolish positions and establish salary ranges; providing for the tenure and removal of the general manager; and relating to the powers of the board of directors generally; the powers and duties of the general manager; also providing for the adoption and administration of a civil service system, specifying the positions included therein and excepted therefrom, providing for appointments based on merit and discharge for cause, period of probation, suspensions, adoption of rules by the general manager, providing for the making of appointments without examination during the present emergency, and relating to civil service generally; and the severability of the act; and declaring the urgency thereof, to take effect immediately. Stats 1921, p 245, amended

[Approved by Governor February 9, 1943. Filed with Secretary of State February 9, 1943.] In effect immediately

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

SECTION 1. Section 11 of the act cited in the title hereof is hereby repealed. Stats 1941, p 1478

SEC. 2. Section 11 is hereby added to said act, to read as follows: New section

Sec. 11. The board of directors shall constitute the legislative body of such district and determine all questions of policy. Legislative body

New section

SEC. 3. Section 11.10 is hereby added to said act, to read as follows:

Powers of board

Sec. 11.10. The board of directors shall supervise and regulate every utility owned and operated by such district, including the fixing of rates, rentals, charges and classifications, and the making and enforcement of rules, regulations, contracts, practices and schedules, for or in connection with any service, product or commodity owned or controlled by such district.

New section

SEC. 4. Section 11.20 is hereby added to said act, to read as follows:

Utilities

Sec. 11.20. Each utility which a municipal utility district is authorized to acquire, construct, own, operate, control or use pursuant to the provisions of this act, shall be considered to be a utility owned and operated by such municipal utility district even though service therefrom is limited to a special district created as in this act provided.

New section

SEC. 5. Section 11.30 is hereby added to said act, to read as follows:

Appointment of general manager, etc

Sec. 11.30. The board of directors shall appoint a general manager and may in its discretion, appoint an accountant, a secretary, a treasurer, and an attorney, which appointees except the general manager shall hold office during the pleasure of the said board. Each appointee shall give such bond and in such amount as the board of directors may require. Said board may consolidate any of said offices in one and the same person. Said board may also provide for assistants to any officer of the district which assistants, when appointed by the board shall hold office at the pleasure of the board and may perform any and all acts that their principal may perform, when authorized so to do by the board; provided, further, however, the board of directors of any district having 600 or more employees may also appoint not to exceed 15 employees to positions requiring peculiar and exceptional qualifications, including those of a scientific, professional or expert character or of special confidence.

New section

SEC. 6. Section 11.40 is hereby added to said act, to read as follows:

Removal of general manager

Sec. 11.40. The general manager shall hold office for an indefinite term and may be removed by the board but only upon the adoption of a resolution by the affirmative vote of not less than three members of the board. Before the general manager may be removed, he shall, if he so demand, be given a written statement of the reasons alleged for his removal and shall have the right to be publicly heard thereon at a meeting of the board prior to the final vote on the resolution providing for his removal, but pending and during such hearing the board may suspend him from office. Neither may the board reduce the salary of the general manager below the amount fixed at the time of his original appointment except upon the adoption of a resolution by a like vote and after a like opportunity to be heard. The action of the board in suspending or removing the general manager or reducing his salary, if

Reduction of salary

approved by a majority of the membership of the board, shall be final; provided, however, that until such time as the district shall have operated, controlled or used works or parts of works for the providing of the inhabitants and public agencies within the boundaries of said district with the utility services, or any of them, specified in this act for a period of six months, the board, in its discretion, may or may not, appoint a general manager, who during such time shall hold office at the pleasure of the majority of the board.

New section

SEC. 7. Section 11.50 is hereby added to said act, to read as follows:

Professional services

Sec. 11.50. The board of directors may from time to time contract for or employ any professional service required by the district or for the performance of work or services, which work or services can not satisfactorily be performed under the civil service provisions of this act.

New section

SEC. 8. Section 11.60 is hereby added to said act, to read as follows:

Civil service

Sec. 11.60. No officer or assistant officer or person appointed or employed by the board of directors shall be subject to the civil service provisions of this act or any rules adopted pursuant thereto.

New section

SEC. 9. Section 11.70 is hereby added to said act, to read as follows:

Positions

Sec. 11.70. The board of directors shall by resolution determine and create such number and character of positions as may be necessary to properly carry on the functions of the district and establish appropriate salary ranges for each position so established. Said board may by resolution abolish any position so created. Except as otherwise provided appointments to such positions shall be made by the general manager in accordance with the civil service provisions applicable thereto.

Stats 1937, p 1643

SEC. 10. Section 13 of the act cited in the title hereof is hereby amended to read as follows:

Functions and powers of general manager

Sec. 13. The general manager shall have full charge and control of the construction of the works of said district and of their maintenance and operation, also of the administration of the business affairs of said district. He need not be a resident of the State of California at the time of his appointment. His salary shall be fixed by the board of directors. The powers of the general manager shall be:

(a) To see that all ordinances of the district are enforced;

(b) To administer the civil service system of the district and, except as otherwise provided herein, to appoint to the positions created by the board of directors, and which are subject to the civil service provisions of this act, such employees as may be necessary for the administration of the affairs of the district, and to remove the same, in accordance with the provisions of said civil service system;

(c) To attend all meetings of the board of directors and submit a general report of the affairs of the district;

(d) To keep the directors advised as to the needs of the district;

(e) To prepare or cause to be prepared, all plans and specifications for the construction of the works of said district;

(f) To devote his entire time to the business of the district;

(g) To perform such other and additional duties as the board of directors may require.

Financial report

The general manager shall within 60 days from the end of each fiscal year cause to be published a financial report showing the result of operations for the preceding fiscal year and the financial status of the district on the last day thereof. Said publication shall be made at least once a week for two weeks in some newspaper of general circulation printed and published in the district, or, if there be no such newspaper in the district, then within some newspaper of general circulation printed and published in the county where such district is situated.

Qualifications

All other things being equal, the board of directors shall appoint as general manager some person who has had experience in municipal engineering or in the construction or management of public utilities.

Stats 1937, p 1643

SEC. 11. Section 21 of the act cited in the title hereof is hereby repealed.

New section

SEC. 12. Section 21 is hereby added to said act, to read as follows:

Civil service system

Sec. 21. The general manager shall adopt a civil service system for the selection, examination, employment, classification, advancement, suspension and discharge of employees included in the "district civil service."

New section

SEC. 13. Section 21.10 is hereby added to said act, to read as follows:

"District civil service"

Sec. 21.10. The "district civil service" shall include every employee of the district except:

(a) Officers elected by the people;

(b) Officers, assistant officers and other persons and employees appointed by the board of directors;

(c) Temporary construction employees;

(d) Part time employees;

(e) Such unfilled positions (not to exceed 15) requiring peculiar and exceptional qualifications, including those of a scientific, professional or expert character or of special confidence, as may be excepted from "district civil service" upon the recommendation of the general manager approved by the unanimous vote of the board of directors.

New section

SEC. 14. Section 21.20 is hereby added to said act, to read as follows:

Appointments

Sec. 21.20. All appointments under such system shall be made for the good of the public service and solely on the basis of integrity, character, merit, fitness and industry as established by appropriate competitive tests, without regard to partisan, political, social, or other considerations, and shall be filled from lists of eligibles prepared by the general man-

ager; provided, however, when no list of eligibles is available for a position in the class requisitioned by the department or division head the general manager may make a noncivil service appointment thereto for a period of not exceeding six months and only until a regular appointment can be made, but no person shall be compensated under a noncivil service appointment or appointments for a period exceeding six months in any fiscal or calendar year and no office or employment may be filled by such noncivil service appointment for more than six months in the aggregate in one fiscal or calendar year. The general manager may make appointments to higher positions exclusively promotional by tests from lower ranks.

New section
See also Stats 1943, Ch 317

SEC. 15. Section 21.30 is hereby added to said act, to read as follows:

Incumbents

Sec. 21.30. The incumbents of permanent positions who have held such positions for a period of at least one year continuously next preceding the time that a civil service system shall first be adopted pursuant to the provisions of this act shall be continued in their positions as if appointed thereto after examination and certification from a list of eligibles and shall be governed thereafter by the provisions of this act and the rules and regulations adopted pursuant thereto but shall not be subject to the six months' probation period.

New section

SEC. 16. Section 21.40 is hereby added to said act, to read as follows:

Probationary period

Sec. 21.40. Every appointee to a permanent position shall be on probation for six months, during which the general manager may terminate the appointment, and if it be not then terminated it shall be permanent, subject to the provisions hereof and the rules and regulations adopted pursuant to the provisions of this act.

New section

SEC. 17. Section 21.50 is hereby added to said act, to read as follows:

Removal or discharge

Sec. 21.50. No person employed under civil service provisions of this act or of any rules and regulations adopted pursuant thereto, in a permanent position shall be removed, discharged or suspended except for cause. Within five days after the mailing of written notice of such removal, discharge or suspension or within five days after the effective date of the reduction of his salary below the minimum prescribed for his classification any such employee may file a written request with the general manager for an opportunity to be heard in his own defense. When such request is made the general manager shall immediately appoint from officers or assistant officers of the district (other than elected officials), or heads of departments or divisions, a committee of three to hear and determine such charges or reasons for salary reduction, and shall notify the person accused of the time and place when the charges or reasons will be heard by mailing a notice to his last known address. The committee shall examine into the case and make such decision as it deems just and may among other things

Hearing

Decision

order the employee discharged, suspended or reinstated and its order or decision shall be final unless the employee within 10 days after the date of the order requests the general manager to review the same, in which event the general manager may require any additional evidence he deems material, and his order or decision, with or without such additional evidence, shall be final.

New section

SEC. 18. Section 21.60 is hereby added to said act, to read as follows:

Court remedies

Sec. 21.60. Nothing in the civil service provisions of this act shall be construed in such manner as to deprive any person of his rights and remedies in a court of competent jurisdiction.

New section

SEC. 19. Section 21.70 is hereby added to said act, to read as follows:

Causes for removal or discharge

Sec. 21.70. Removal or discharge may be made for any of the following causes: Incompetence, habitual intemperance, immoral conduct, insubordination, discourteous treatment of the public, dishonesty, or inattention to public service.

New section

SEC. 20. Section 21.80 is hereby added to said act, to read as follows:

Suspension by department head

Sec. 21.80. The department or division head may for disciplinary purposes suspend a subordinate for a period of not exceeding 15 days and suspension shall carry with it a loss of salary for the period of suspension but the employee so suspended may have the order of suspension reviewed in the manner provided for the review of removals, discharges or suspensions made by the general manager.

New section
See also Stats 1943, Ch 317

SEC. 21. Section 21.90 is hereby added to said act, to read as follows:

Rules and regulations

Sec. 21.90. The general manager shall adopt rules and regulations to carry out the purposes of the civil service provisions of this act and may from time to time amend existing rules, and except as otherwise provided herein such rules shall govern applications, examinations, eligibility, duration of eligible lists; certification of eligibles; appointments; promotions; transfers; resignations; layoffs or reductions in force, both permanent and temporary, due to lack of work or funds, retrenchment, or completion of work; the filling of positions, temporary, seasonal and permanent; classification; and such other matters as are not in conflict with the civil service provisions of this act. Said rules and regulations or any proposed amendments thereto shall be in writing and a copy thereof shall be posted in a conspicuous place in the office of the district and shall not become effective until 20 days after the posting thereof. Any person interested may within 10 days after such posting file written objections to such proposed rules or amendments, or any part thereof, with the general manager, in which event such rules or amendments shall not become effective until the general manager has given notice of a hearing and heard objections thereto and announced his decision on the objections; provided, however, that anything herein to the contrary notwithstanding the civil service provisions hereof shall not apply

Objections

to any district until such time as it has operated, controlled or used works or parts of works for the providing of the inhabitants and municipalities within the boundaries of said district with the utility services, or any of them, specified in this act for a period of six months.

SEC. 22. Section 21.100 is hereby added to said act, to read as follows: New section

Sec. 21.100. Anything herein to the contrary notwithstanding at any time while this section is in effect the board of directors may by resolution passed by a four-fifths vote of all its members authorize the general manager to make appointments without examination, which shall be termed emergency appointments. Positions may be filled by such emergency appointments for such period as may be necessary for the proper operations of the district but not beyond two years after the termination of the present world war. No emergency appointee shall acquire any civil service status because of any such emergency appointment. This section shall continue in effect until two years after the termination of the present world war and shall have no force or effect thereafter. Emergency appointments Duration

SEC. 23. If any section, subsection, sentence, clause, or phrase of this act, or of the act or acts of which this act is amendatory or supplemental, is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases of this act, or that any one or more sections, subsections, sentences, clauses or phrases of the act or acts of which this act is amendatory or supplemental, be declared unconstitutional. If any section, subsection, sentence, clause or phrase of this act, for any reason, be held to be unconstitutional, and such unconstitutional provision shall have purported to repeal or amend any provision of the act or acts of which this act is amendatory or supplemental, the provision existing and in force at the time of the enactment of this act shall remain and be in full force and effect notwithstanding such purported repeal or amendment. Constitutionality

SEC. 24. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California and shall go into immediate effect. The facts constituting such emergency are as follows: The peace, health, safety and welfare of the citizens of this State residing within certain municipal utility districts are dependent upon water supplies which can only be secured from said municipal utility districts. Due to manpower shortages and loss of personnel the continuous and safe operations of said municipal utility districts will be jeopardized unless more flexible procedures may be adopted for the recruiting of essential personnel. Urgency

CHAPTER 25

Stats 1935, p 1090, amended
Stats 1939, p 1274, amended

An act to amend Section 13 of the Personal Income Tax Act and Section 18431 of the Revenue and Taxation Code, relating to filing returns, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor February 9, 1943. Filed with Secretary of State February 9, 1943.]

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

Stats 1935, p 1090
See also Stats 1943, Ch 659

SECTION 1. Section 13 of the Personal Income Tax Act is hereby amended to read as follows:

Form of returns

Sec. 13. Time and Plan for Filing Returns. (a) Returns required by Section 4 shall be under oath; all other returns required by this act shall contain, or be verified by, a written declaration that they are made under the penalties of perjury.

Place of filing

Such returns shall be in such form as the commissioner may from time to time prescribe, and shall be filed with the commissioner, at his main office or at any branch office which he may establish. The commissioner shall cause to be prepared blank forms for the said returns and shall cause them to be distributed throughout the State and to be furnished upon application, but failure to receive or secure the form shall not relieve any taxpayer from the obligation of making any return herein required.

Penalty

(b) Any individual who wilfully makes and subscribes a return which he does not believe to be true and correct as to every material matter, shall be guilty of a felony, and upon conviction thereof, shall be subject to the penalties prescribed for perjury by the Penal Code of this State.

Time of filing

(c) Returns made on the basis of the calendar year shall be filed on or before the fifteenth day of April following the close of the calendar year. Returns made on the basis of a fiscal year shall be filed on or before the fifteenth day of the fourth month following the close of the fiscal year.

Extensions of time

(d) The commissioner, under such rules and regulations as he shall prescribe, may grant a reasonable extension of time for filing the return and/or for payment of the tax, or any installment thereof, disclosed by the return, due or to become due within the period of the extension, whenever in his judgment good cause exists therefor, and he shall keep a record of every such extension. No such extension or extensions shall aggregate more than six months from the due date provided in subsection (c) of this section.

Stats 1943, Ch 659

SEC. 2. Section 18431 of the Revenue and Taxation Code is amended to read:

Form of returns

18431. Returns required by Section 18405 shall be under oath; all other returns required by this chapter shall contain, or be verified by, a written declaration that they are made under the penalties of perjury. Such returns shall be in such form as the commissioner may from time to time pre-

Place of filing

scribe, and shall be filed with the commissioner at his main

office or at any branch office which he may establish. The commissioner shall prepare blank forms for the returns and shall distribute them throughout the State and furnish them upon application. Failure to receive or secure the form does not relieve any taxpayer from making any return required. Any individual who wilfully makes and subscribes a return which he does not believe to be true and correct as to every material matter, shall be guilty of a felony, and upon conviction thereof, shall be subject to the penalties prescribed for perjury by the Penal Code of this State. Penalty

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

Most of the people of this State are engaged in the armed services of the United States or in some type of defense work. Officials authorized to administer oaths are not available to many of those people. Therefore, the elimination of the requirement of an oath will greatly facilitate the war effort.

SEC. 4. Section 2 of this act becomes operative only if Part 10, Division 2 of the Revenue and Taxation Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said Part 10 takes effect; at which time, Section 13 of The Personal Income Tax Act amended by this act is hereby repealed. Effect Stats 1943, Ch 659 Repeal

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CHAPTER 26

An act to amend Section 8 of The Personal Income Tax Act and Section 17306 of the Revenue and Taxation Code, relating to war losses, declaring the urgency thereof and providing that this act take effect immediately. Stats 1935, p 1090, amended Stats 1939, p 1274, amended

[Approved by Governor February 9, 1943. Filed with Secretary of State February 9, 1943.] In effect immediately

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

SECTION 1. Section 8 of The Personal Income Tax Act is amended to read: Stats 1941, p 3042 See also Stats 1943, Ch 659

Sec. 8. In computing net income there shall be allowed as deductions: Deductions from gross income

(a) All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered; traveling expenses (including the entire amount expended for meals and lodging) while away from home in the pursuit of a trade or business; and rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity. Business expenses

In the case of any taxpayer the deductions permitted by this subsection shall not be allowed if, and to the extent that they are connected with the production of income not taxable under this act, and proper apportionment and allocation of such deductions with respect to taxable and nontaxable income shall be determined under rules and regulations to be prescribed by the commissioner.

Interest on debts

(b) All interest paid or accrued within the taxable year on indebtedness of the taxpayer; provided, however, in the case of any taxpayer the deduction permitted by this subdivision shall not be allowed if, and to the extent that such deduction is connected with income not taxable under this act; and provided further, no such deduction shall be allowed or taken for interest paid or accrued within the taxable year on indebtedness incurred or continued to purchase or carry obligations, the interest upon which is wholly exempt from taxes imposed by this act. The proper apportionment and allocation of such deductions with respect to taxable and nontaxable income shall be determined under rules and regulations to be prescribed by the commissioner.

Taxes or licenses

(c) Taxes or licenses paid or accrued during the taxable year, other than taxes paid or accrued to the State under this act, and other than taxes on or according to or measured by income or profits paid or accrued within the taxable year imposed by the authority of (1) the Government of the United States or any foreign country, (2) any State, Territory, county, city and county, school district, municipality or other taxing subdivision of any State or Territory, and other than estate, inheritance, legacy, succession and gift taxes, and other than taxes computed as an addition to, or as a percentage of taxes which are not deductible hereunder and other than taxes assessed against local benefits of a kind tending to increase the value of the property assessed, but this shall not exclude the allowance as a deduction of so much of said taxes assessed against local benefits as is properly allocable to maintenance or interest charges. Taxes or licenses paid or accrued to this State or its political subdivisions which are deductible under the provisions of this subsection shall be deductible by nonresidents even though not connected with income from sources within this State.

Losses

(d) Losses sustained during the taxable year and not compensated for by insurance or otherwise:

(1) If incurred in trade or business; or

(2) If incurred in any transaction entered into for profit, though not connected with the trade or business; or

(3) Of property not connected with the trade or business, if the loss arises from fires, storms, shipwreck, or other casualty, or from theft; or

(4) If incurred by reason of the destruction or seizure of property on or after December 7, 1941, in the course of military or naval operations by the United States or any other

country engaged in the present war, subject to the rules and regulations prescribed by the Franchise Tax Commissioner.

The basis for determining the amount of deduction for losses sustained, to be allowed under this subsection shall be the adjusted basis provided in Section 9.3 (b) of this act for determining the loss from the sale or other disposition of property.

Wagering losses

(e) Losses from wagering transactions shall be allowed only to the extent of the gains from such transactions.

Worthless debts

(f) (1) Debts ascertained to be worthless within the taxable year and charged off (or in the discretion of the commissioner a reasonable addition to a reserve for bad debts) and when satisfied that a debt is recoverable only in part, the commissioner may allow such debt as a deduction, in an amount not in excess of the amount ascertained to be worthless in the taxable year and charged off; provided, however, that if a portion of a debt is claimed and allowed as a deduction in any year no deduction shall be allowed in any subsequent year for any portion of the debt ascertained in any prior year to be worthless, regardless of whether charged off or claimed as a deduction in such prior year. This paragraph shall not apply with respect to a debt evidenced by a security as defined in paragraph (3) of this subsection.

(2) If any securities (as defined in paragraph (3) of this subsection) are ascertained to be worthless within the taxable year and are charged off and are capital assets, the loss resulting shall be considered as a loss from the sale or exchange, on the last day of such taxable year, of capital assets.

(3) As used in this subsection, the term "securities" means bonds, debentures, notes, or certificates, or other evidences of indebtedness, issued by any corporation (including those issued by a government or political subdivision thereof) with interest coupons or in registered form.

Loss from disposition of securities

(g) In the case of any loss claimed to have been sustained from any sale or other disposition of shares of stock or securities where it appears that, within a period beginning 30 days before the date of such sale or disposition and ending 30 days after such date, the taxpayer has acquired (by purchase or by an exchange upon which the entire amount of gain or loss was recognized by law) or has entered into a contract or option so to acquire, substantially identical stock or securities, then no deduction for the loss shall be allowed. If the amount of stock or securities acquired (or covered by the contract or option to acquire) is less than the amount of stock or securities sold or otherwise disposed of, then the particular shares of stock or securities the loss from the sale or other disposition of which is not deductible shall be determined under rules and regulations prescribed by the commissioner.

If the amount of stock or securities acquired (or covered by the contract or option to acquire) is not less than the amount of stock or securities sold or otherwise disposed of, then the

particular shares of stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility of the loss shall be determined under the rules and regulations prescribed by the commissioner.

Loss from sale or exchange of capital assets

(h) (1) Losses from sales or exchanges of capital assets shall be allowed only to the extent provided in Section 9.4 of this act.

(2) If any securities (as defined in paragraph (3) of this subsection) become worthless during the taxable year and are capital assets, the loss resulting therefrom shall, for the purposes of this act, be considered as a loss from the sale or exchange, on the last day of the taxable year, of capital assets.

(3) As used in this subsection, the term "securities" means (A) shares of stock in a corporation, and (B) rights to subscribe for or to receive such shares.

Obsolescence, etc

(i) A reasonable allowance for the exhaustion, wear and tear of property used in the trade or business, including a reasonable allowance for obsolescence. In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust the allowable deduction shall be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each.

Depletion

(j) In the case of mines, oil and gas wells, other natural deposits, and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case; such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the commissioner. In any case in which it is ascertained as a result of operations or of development work that the recoverable units are greater or less than the prior estimate thereof, then such prior estimate (but not the basis for depletion) shall be revised and the allowance under this subsection for subsequent taxable years shall be based upon such revised estimate. In the case of leases the deductions shall be equitably apportioned between the lessor and the lessee. In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust the allowable deduction shall be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each. The percentage of depletion allowable under this subsection shall be computed in accordance with the provisions of Section 9.5 (b) (3) and (4) of this act.

(k) The basis upon which depletion, exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be as provided in Section 9.5 of this act.

(*l*) In the case of an individual, contributions or gifts payment of which is made within the taxable year to or for the use of: Gifts

(1) The United States, any State, Territory or any political subdivision thereof, or the District of Columbia, for exclusively public purposes;

(2) A corporation, or trust, or community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation;

(3) The special fund for vocational rehabilitation authorized by Section 12 of the World War Veterans' Act, 1924;

(4) Posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units, or societies are organized in the United States or any of its possessions, and if no part of their net earnings inures to the benefit of any private shareholder or individual; or

(5) A fraternal society, order, or association; operating under the lodge system, but only if such contributions or gifts are to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.

The deductions under this subsection shall be allowed to an amount which in all the above cases combined does not exceed 15 per centum of the taxpayer's net income as computed without the benefit of this subsection. Such contributions or gifts shall be allowed as deductions only if verified under rules and regulations prescribed by the commissioner. Limitation

In the case of an individual if in the taxable year and in each of the 10 preceding taxable years the amount of the contributions or gifts described in this subsection plus the amount of income, war profits, or excess profits taxes paid during such year in respect of preceding taxable years, exceeds 90 per centum of the taxpayer's net income for each such year, as computed without the benefit of this subsection then the 15 per centum limit imposed herein shall not be applicable.

In the case of a taxpayer other than a resident the deductions under this subsection shall be allowed only as to contributions or gifts to corporations or associations incorporated by or organized under the laws of this State or to the vocational rehabilitation fund above mentioned or to this State or any political subdivision thereof for exclusively public purposes.

(m) An employer establishing or maintaining a pension trust to provide for the payment of reasonable pensions to Pension trust

his employees (if such trust is exempt from tax under subsection (f) of Section 12, relating to trusts created for the exclusive benefit of employees) shall be allowed as a deduction (in addition to the contributions to such trust during the taxable year to cover the pension liability accruing during the year, allowed as a deduction under subsection (a) of this section) a reasonable amount transferred or paid into such trust during the taxable year in excess of such contributions, but only if such amount (1) has not theretofore been allowable as a deduction, and (2) is apportioned in equal parts over a period of 10 consecutive years beginning with the year in which the transfer or payment is made.

Nonresidents

(n) In the case of a taxpayer other than a resident the deductions allowed by this section shall unless otherwise provided in this section be allowed only if and to the extent that they are connected with the income arising from sources within this State and taxable under this act to a nonresident taxpayer, and the proper apportionment and allocation of the deductions with respect to sources of income within and without the State shall be determined under rules and regulations to be prescribed by the commissioner.

Stats. 1943, Ch. 659

SEC. 2. Section 17306 of the Revenue and Taxation Code is amended to read:

Losses deductible

17306. In computing net income there shall be allowed as a deduction losses sustained during the taxable year and not compensated for by insurance or otherwise:

(a) If incurred in trade or business; or

(b) If incurred in any transaction entered into for profit, though not connected with the trade or business; or

(c) Of property not connected with the trade or business, if the loss arises from fires, storms, shipwreck, or other casualty, or from theft; or

(d) If incurred by reason of the destruction or seizure of property, on or after December 7, 1941, in the course of military or naval operations by the United States or any other country engaged in the present war, subject to the rules and regulations prescribed by the Franchise Tax Commissioner.

The basis for determining the amount of deduction for losses sustained, to be allowed under this section, shall be the adjusted basis provided in Article 5 of Chapter 6 of this part for determining the loss from the sale or other disposition of property.

Urgency

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

The United States is at war with the Axis nations and as an unavoidable consequence of that conflict, the citizens of California will sustain losses by reason of the destruction or seizure of property. These losses are likely to be of such magnitude as to constitute serious burdens on taxpayers unless

they can deduct them from their gross income in computing their income tax.

SEC. 4. Section 2 of this act becomes operative only if Part 10 Division 2 of the Revenue and Taxation Code is enacted by the Legislature at its Fifty-fifth Session, and in such case, at the same time as said Part 10 takes effect; at which time, Section 8 of The Personal Income Tax Act amended by this act is hereby repealed. Effect Stats 1943, Ch. 659 Repeal

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CHAPTER 27

An act to add Section 259.1 to the Vehicle Code, relating to school bus drivers, declaring the urgency of this act, to take effect immediately. Stats 1935, p 93, amended

[Approved by Governor February 9, 1943 Filed with Secretary of State February 9, 1943.] In effect immediately

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

SECTION 1. Section 259.1 is added to the Vehicle Code, to read: New section

259.1. Age limit for driving school bus during war emergency. It is unlawful for any person under the age of 17 years to drive a school bus, transporting pupils to or from school. School bus age limit

This section shall remain in effect until the ninety-first day after the final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect, it shall supersede Section 259 of this code; but Section 259 is not repealed by this section and after this section is no longer effective, Section 259 shall have the same force as though this section had not been enacted. Duration Effect

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

It is the custom in many school districts to employ 18 and 19 year old student drivers of school buses. This custom results in the saving of about half the expense of operating such buses by employing, as a school bus driver, the student otherwise qualified living the farthest from the school on a particular route so that he may pick up all other students on his route while he drives to school and discharge them on his return to his home. Under this plan school buses make only one round trip per school day. If adult school bus drivers, other than students, must be employed, school buses would

make two round trips each school day, owing to the necessity of beginning the day's operation of the school bus at some other point than the extreme end of a route.

It is now impossible to hire student bus drivers because of the drafting of 18 and 19 year old men into the armed services of the United States.

Federal authorities have declared a National policy to conserve rubber and save motor vehicle tires and it is the policy and desire of the State of California and of every political subdivision thereof to cooperate with Federal authorities in win the war efforts and promote public peace, health and safety.

CHAPTER 28

An act to amend Section 1183 of, and to add Section 1183.5 to, the Civil Code, relating to the proof or acknowledgment of instruments and the administering of oaths or affirmations, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor February 9, 1943. Filed with Secretary of State February 9, 1943.]

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

Stats 1939, p 1505

SECTION 1. Section 1183 of the Civil Code is hereby amended to read as follows:

Proof or acknowledgment without the United States

1183. The proof or acknowledgment of an instrument may be made without the United States, before either:

1. A minister, commissioner, or chargé d'affaires of the United States, resident and accredited in the country where the proof or acknowledgment is made; or,

2. A consul, vice consul, or consular agent of the United States, resident in the country where the proof or acknowledgment is made; or,

3. A judge of a court of record of the country where the proof or acknowledgment is made; or,

4. Commissioners appointed for such purposes by the Governor of the State, pursuant to special statutes; or,

5. A notary public.

New section See also Stats 1943, Ch 365

SEC. 2. Section 1183.5 is added to said code, to read:

Notarial acts for persons in armed forces

1183.5. 1. Any officer of any component of the Army of the United States on active duty in Federal service commissioned in or assigned or detailed to duty with the Judge Advocate General's Department, any staff judge advocate or acting staff judge advocate, and the adjutant, assistant adjutant, personnel adjutant or commanding officer of any command;

2. Any commanding officer or executive officer of a ship, shore station or establishment on active duty with the Navy or Coast Guard of the United States;

3. Any adjutant, assistant adjutant, personnel adjutant or commanding officer on active duty with any United States Marine Corps command;

Shall have the power to administer and certify oaths or affirmations, attest documents, take acknowledgments, and perform all other notarial acts, for any person serving in or with the armed forces of the United States, wherever located within or without this State.

Any instrument acknowledged by any such officer shall not be rendered invalid by the failure to state therein the place of execution or acknowledgment. No authentication of the officer's certificate of acknowledgment shall be required but the officer taking the acknowledgment shall indorse thereon or attach thereto a certificate substantially in the following form:

Form of certificate

On this the_____day of_____, 19___, before me, _____, the undersigned officer, personally appeared_____known to me (or satisfactorily proven) to be serving in or with the armed forces of the United States and to be the person whose name is subscribed to the within instrument and acknowledged that_____he_____executed the same. And the undersigned does further certify that he is at the date of this certificate a commissioned officer of the rank stated below and is in the active service of the armed forces of the United States.

_____

_____

Signature of Officer

Rank, branch of service and capacity in which signed.

The recitals contained in such certificate shall be prima facie evidence of the truth thereof.

Affidavit

Any affidavit subscribed and sworn to before such officer shall be attested by him substantially in the following form:

Subscribed and sworn to before me on this_____day of _____, 19___.

_____

_____

Signature of Officer

Rank, branch of service and capacity in which signed.

Urgency

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

The existing statutes covering the acknowledgment of documents and the administration and certification of oaths and affirmations are such that since the entrance of the United States into the war a large percentage of those serving in or with the armed forces are unable to have needed documents notarized. Essential transactions pertaining to the family affairs of members of the Army, Navy, Marine Corps and Coast Guard and others serving in or with such forces can not be consummated for this reason. To remedy this situation and to protect and aid the members of our armed forces

in the conduct of their and their families' affairs it is urgently necessary that this act take effect immediately.

CHAPTER 29

Stats 1935, p 248, amended

An act to amend Section 185 of, and to add Section 186.5 to, the Streets and Highways Code, relating to expenditures for highway purposes, declaring the urgency thereof, and providing this act shall take effect immediately.

In effect immediately

[Approved by Governor February 9, 1943. Filed with Secretary of State February 9, 1943.]

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

Stats 1937, p 2557

SECTION 1. Section 185 of the Streets and Highways Code is amended to read:

Withdrawals

185. All money withdrawn from the State Highway Fund shall be withdrawn in the manner provided by law upon demands made by the department. Without at the time furnishing vouchers and itemized statements the department, through the Division of Highways, may withdraw from the State Highway Fund moneys in an amount not exceeding one million, five hundred thousand dollars ($1,500,000) in the aggregate at any one time. The amount so withdrawn may be used as a revolving fund where payment of compensation earned or cash advances are necessary.

Revolving fund

New section

SEC. 2. Section 186.5 is hereby added to the Streets and Highways Code, to read:

Expenditures until July 1, 1945

186.5. From and after the effective date of this section, and until July 1, 1945, notwithstanding the provisions of Section 186, the department and the commission shall be limited in expenditures, for general administration and for maintenance, to an amount not exceeding the net revenue derived from one and one-half cents ($0.01½) per gallon tax on motor vehicle fuel. Except as herein modified, all provisions of this article shall remain in full force and effect.

Urgency

SEC. 3. This act is declared to be an urgency measure within the meaning of Section 1 of Article IV of the State Constitution, necessary for the immediate preservation of the public peace, health and safety. The statement of the facts constituting such necessity is as follows. Under the present plan of compensating State officers and employees, payments are first made out of the revolving funds for the various State agencies. The revolving fund available to the Division of Highways is insufficient to permit the orderly meeting of pay rolls from this source. Such method is necessary to meet the emergency existing by reason of the frequent changes in personnel due to entrance into military service or war industries. The advent of gasoline rationing has so decreased the

revenues payable into the State Highway Fund from the tax on motor vehicle fuel that insufficient money will be available for maintenance and administration purposes. It is essential to the war effort that existing highways be maintained, to the exclusion of all construction, if necessary. It is therefore provided that this act shall take effect immediately.

CHAPTER 30

An act to add Section 1760.5 to the Welfare and Institutions Code, relating to the Youth Correction Authority, authorizing the Authority to require persons committed thereto to perform work on certain public projects, and to make contracts in relation thereto, and making an appropriation, to take effect immediately.

Stats. 1937, p. 1005, amended

[Approved by Governor February 9, 1943. Filed with Secretary of State February 9, 1943.]

In effect immediately

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

SECTION 1. Section 1760.5 is added to the Welfare and Institutions Code, to read:

New section

1760.5. The Authority may require persons committed to the Authority to perform work necessary and proper to be done by the Division of Forestry, the Division of Beaches and Parks, and the Division of Fish and Game in the Department of Natural Resources, by the Division of State Lands in the Department of Finance, by the United States Department of Agriculture, and by the Federal officials and departments in charge of National forests and parks within this State. For the purposes of this section, the Authority, with the approval of the Department of Finance, may enter into contracts with Federal and State officials and departments. All moneys received by the Authority pursuant to any such contract shall be paid into the State Treasury to the credit and in augmentation of the current appropriation for the support of the Authority.

Required work

Contracts

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

Urgency

The Youth Correction Authority has reached an agreement with representatives of the United States Government for the employment of youths committed to the Authority in production of guayule and in forest fire suppression work, under which the Authority is to receive an agreed sum per youth for each day the youth is in the camp established to carry out the project. The guayule to be produced is urgently needed

to relieve the current rubber shortage which is restricting the activities of the civilian population and threatening to interfere with the prosecution of the war, and the projects to be undertaken will afford needed wholesome, rehabilitating, outdoor employment for the persons committed to the Authority. The present law authorizing the making of such contracts is indefinite in its terms, and makes no provision for the moneys which may be received. Therefore, in order to permit the inauguration of the contemplated program of urgently needed and beneficial work at the earliest possible moment, it is necessary that this act take effect immediately.

CHAPTER 31

An act to make an appropriation for construction, improvements and equipment of the California Maritime Academy, declaring the urgency of this act, to take effect immediately.

In effect immediately

[Approved by Governor February 9, 1943. Filed with Secretary of State February 9, 1943.]

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

Appropriation California Maritime Academy

SECTION 1. Out of any money in the State Treasury not otherwise appropriated there is hereby appropriated the sum of four hundred seventy-four thousand three hundred dollars ($474,300) to the California Maritime Academy to be expended during the Ninety-fourth Fiscal Year for the construction of buildings, the making of improvements, and the acquisition of equipment and facilities for said academy at Morrow Cove, Solano County.

Urgency

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

The urgent need for training facilities and courses of instruction in seamanship, navigation, and maritime engineering must be promptly met in the interests of the successful prosecution of the war. The appropriation made by this act will provide such facilities, and in order that this may be accomplished without unnecessary delay it is necessary that this act take immediate effect.

CHAPTER 32

An act making an appropriation in augmentation of the Emergency Fund specified in Item 216 of the Budget Act of 1941, to take effect immediately.

Stats 1941, p 1984

[Approved by Governor February 9, 1943 Filed with Secretary of State February 9, 1943] In effect immediately

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

SECTION 1. Out of any money in the State Treasury not otherwise appropriated, the sum of six hundred forty-eight thousand, one hundred eighty-five dollars ($648,185) of which amount the sum of two hundred fifty thousand dollars ($250,000) shall be allocated for salary adjustments for employees of The Regents of the University of California is hereby appropriated to, and in augmentation of, the Emergency Fund specified in Item 216 of Section 2 of the Budget Act of 1941, to be expended as provided therein during the Ninety-third and Ninety-fourth Fiscal Years. Appropriation Emergency Fund—U C salary adjustments

SEC. 2. This act, inasmuch as it makes an appropriation for the usual current expenses of the State, shall under the provisions of Section 1 of Article IV of the Constitution take effect immediately. Current expenses

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CHAPTER 33

An act providing for substitution of fiduciaries during wartime, declaring the urgency thereof, to take effect immediately. Fiduciaries Wartime Substitutions Act

[Approved by Governor February 9, 1943 Filed with Secretary of State February 9, 1943] In effect immediately

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

SECTION 1. This act may be cited as Fiduciaries' Wartime Substitution Act. Short title

SEC. 2. As used herein:

(a) The masculine gender includes the feminine. Gender

(b) "Fiduciary" includes guardians, executors, administrators, and trustees of trusts, testamentary or created inter vivos. "Trusts" means express, not constructive or implied trusts. "Court trusts" and "private trusts," unless the context requires a different construction, have the meaning attributed to these terms in the Bank Act, except that this present act applies to all fiduciaries, corporate or individual. "Fiduciary"

(c) "Consultant" as herein used means a person, not a trustee, designated in a trust to advise or direct the trustee in respect of any matters or things connected with the trust, or whose consent or approval is required to purchases, sales, "Consultant"

exchanges or other transactions on the part of the trustee. It includes a trustor who reserves any such powers of direction or control.

War service

(d) A fiduciary or consultant shall be deemed to be engaged in war service in the following cases:

(1) If he is a member of the military or naval forces of the United States or like forces of any nation with which the United States is allied or associated in time of war. The term "military or naval forces" includes members of the Army, Navy, Marine Corps, Coast Guard; members of the Public Health Service detailed by proper authority for duty with the armed forces; members of the Enlisted Reserve Corps under orders to report for naval service; members of the Women's Army Auxiliary Corps; Women's Reserve; and all other organizations or services now or hereafter existing, recognized by the laws of the United States as a part of or auxiliary to the armed forces of the United States.

(2) If he has been accepted for and is awaiting induction into the military or naval forces or is receiving training or education under Government supervision preliminary to induction into any of these forces.

(3) If he is engaged, outside that part of the continental limits of the United States which is south of the 49th parallel of latitude, in any work in connection with a governmental agency of the United States or with the American Red Cross or any other body with similar objects operating with the approval and sanction of the Government of the United States, or of the government of any nation, dominion or commonwealth with which the United States may be allied or associated in time of war.

(4) If he is engaged in time of war in service upon any ship of United States registry.

(5) If he is interned or a prisoner of war in a foreign country or in the United States or any possession or dependency of the United States; or if he is absent from that part of the United States which is south of the 49th parallel of latitude and, due to war conditions, is unable to return freely at his own volition.

(6) If he is engaged in any service in the United States or abroad, arising out of or connected with a state of war, which the court having jurisdiction of the trust shall find prevents him from giving proper attention to his duties.

County of residence

(e) Where in this act reference is made to the county in which a fiduciary resides, that expression shall mean, in case of a corporate fiduciary, the county in which its principal office is located, or the county in which is located the office handling or administering the estate or trust with which the fiduciary or consultant engaged in war service is concerned.

Substitute fiduciary Appointment

SEC. 3. The appropriate court may appoint a substitute fiduciary for a fiduciary engaged in war service upon petition of such fiduciary or of a cofiduciary or of any person interested in the estate or trust. In the case of court trusts,

such substitute shall be appointed by the court in which the estate or trust is being administered, and in the case of private trusts, by the superior court in and for the county in which the trustee or trustees of one or more of them reside. Notice of hearing of the petition shall be given as provided in Section 6. Upon hearing the petition, and making such provision if any as the court may deem necessary regarding an accounting by the fiduciary engaged in war service, the court may order a suspension of the powers and duties of such fiduciary for the period of his war service and until the further order of the court; but upon the expiration of his war service, if the trust or estate has not been closed, the fiduciary, upon petition to the court and notice of hearing as provided below, shall be entitled to reinstatement as fiduciary. Upon such reinstatement, any fiduciary appointed as substitute shall be removed and may receive his discharge upon such conditions as the court shall prescribe.

Hearing

Suspension of powers

Reinstatement

Where there is a qualified and acting cofiduciary, the court shall not be required to appoint a substitute fiduciary, but may vest in the cofiduciary the power and authority of the fiduciary engaged in war service. Any substitute fiduciary (including a cofiduciary in whom authority is vested pursuant to the foregoing provisions) shall have all the power and authority, including discretionary powers, which the fiduciary engaged in war service might have exercised, except discretionary powers which the court shall find are purely personal to him. In the case of trusts having multiple trustees, a substitute trustee shall be appointed in all cases where, in the absence of such appointment, the trusteeship would be vested solely in a beneficiary having a vested or contingent interest in or to the income or principal of the trust.

Cofiduciary

Substitute's powers

Any substitute fiduciary appointed under the provisions of this act shall give bond in the manner and to the extent provided by law. No such substitute fiduciary, nor any fiduciary engaged in war service and reinstated as above provided, shall have any responsibility for, nor, unless expressly directed by the court, any duty to inquire into, the acts or omissions of the predecessor fiduciary.

Bond

SEC. 4. With the court approval hereinafter provided for, a fiduciary engaged in war service may delegate his power and authority as fiduciary (including discretionary powers) to his cofiduciary or fiduciaries, if any, who are not engaged in war service. Delegation may be made for the period during which the fiduciary is engaged in war service and not to exceed six months following the expiration of that period. In the case of court trusts, the approval of the court in which the estate or trust is being administered shall be required to delegation, and in the case of private trusts, the approval of the superior court in and for the county in which the cotrustee or trustees, or one or more of them, reside. The superior court sitting in probate or in equity, as the case may be, is

Delegation of powers of fiduciaries

Court action

hereby authorized to approve or disapprove any such delegation, upon petition of the delegant or delegate or of a fiduciary or any person interested in the estate or trust. Notice of hearing of the petition shall be given as provided in Section 6. Upon the expiration of his war service, the delegant, upon petition to the court and notice of hearing as provided below, may be authorized by the court to resume the exercise of his functions, and the authority delegated pursuant to the foregoing provisions shall cease.

Petition and hearing

Resumption of duties

Delegation prohibited

The right of delegation provided for in this section shall not exist (a) in the case of a trust, where and to the extent that the court shall find that the powers to be delegated are purely personal to the delegant; or (b) where in the case of a trust, the sole trustee to whom authority might otherwise be delegated under this section is a beneficiary having a vested or contingent interest in or to income or principal of the trust. In the absence of power to delegate under the provisions of this section, or in the absence of its exercise where the power is existent, proceedings may be had for the appointment of a substitute fiduciary under the provisions of Section 3 of this act, except that no substitute fiduciary shall be authorized to exercise powers purely personal to the fiduciary engaged in war service. Such powers of the fiduciary shall remain suspended until their exercise is resumed under earlier provisions of this section.

Responsibility

A fiduciary delegating as provided in this act shall have no responsibility for the acts or omissions of the person or persons to whom such delegation is made.

Delegation of powers of consultants

SEC. 5. A consultant engaged in war service may delegate his power and authority as consultant (including discretionary powers) to his coconsultant or consultants, if any, who are not engaged in war service, or to the trustee or trustees administering the trust. The procedure prescribed in Section 4 relative to delegation by fiduciaries shall govern in such cases. The right of delegation provided for in this section shall not exist to the extent that the court shall find that the powers to be delegated are purely personal to the delegant. In that class of cases, the powers of the delegant shall remain suspended until their exercise is resumed under later provisions of this section.

Suspension of powers

Where the consultant engaged in war service does not delegate his functions under the foregoing provisions, the appropriate court, as defined in Section 3, upon the petition of the trustee or of any person interested in the trust, and after notice of the hearing of the petition as provided in Section 6, may do any or all of the following: (a) suspend the consultant's authority and powers for the period of his war service and not to exceed six months thereafter; (b) confer these functions (except discretionary powers which the court shall find are purely personal to the consultant) upon any other consultant designated in the trust, or the trustee or trustees, or any other qualified person.

In all cases either of delegation by the consultant or of the suspension of his powers by the court, the consultant, within not to exceed six months following the expiration of his war service and upon petition to the court and notice of hearing as provided below, may be authorized by the court to resume the exercise of his functions. All authority delegated to or conferred upon other persons pursuant to the foregoing provisions shall thereupon cease. Resumption of powers

A consultant delegating as provided in this act shall have no responsibility for the acts or omissions of the person or persons to whom such delegation is made. Responsibility

SEC. 6. In all cases where notice of hearing of a petition for substitution of fiduciaries, or suspension or delegation of the functions of a fiduciary or consultant, or for resumption of these functions is required to be given under any of the provisions of this act, the clerk shall set the petition for hearing and shall post notice of the time and place of hearing in three public places in the county, at least 10 days before the time set for the hearing. The petitioner, at least 10 days before the time set for hearing, shall cause further notice thereof to be given as follows: Notices

(a) Notice shall be mailed, except as prohibited by Federal statute or governmental order or regulation:

(1) To each fiduciary (including consultants if any) who does not join in the petition;

(2) In case of probate estates, to the persons enumerated in the second paragraph of Section 1200 of the Probate Code, in the manner there provided;

(3) In case of trusts, to each person then receiving benefits under the trust, and to each person then presumptively entitled in remainder, in so far as the addresses and identity of the persons referred to in this clause (3) are known to the petitioner or to the trustee. In the case of revocable or terminable trusts, notice shall be sufficient if mailed to the person or persons having such right of revocation or termination.

(b) In the case of guardianships, notice shall be given in the manner required by law upon settlement of a guardian's account.

(c) In addition to the notice specified above, in cases where the fiduciary or consultant engaged in war service is not the petitioner or where his written consent to the relief prayed for is not filed, notice served either personally or by mail, telegraph or cable shall be given to such fiduciary or consultant, unless the court shall find that such notice is impracticable because his whereabouts are unknown and can not reasonably be ascertained, or because of impossibility or difficulty of communicating with him.

(d) In all cases mentioned in this section, such additional notice, if any, shall be given to parties in interest as the court shall direct.

SEC. 7. In all cases where notice is required to be given under any of the provisions of this act, the court shall inquire Finding on notice

as to whether proper notice has been given; and a finding or recital as to the giving of due notice contained in the court's order shall, when final, be conclusive on the fiduciary or consultant, as the case may be, and on all persons interested in the estate, trust or guardianship, unless modified or vacated on equitable grounds by a court of competent jurisdiction.

Wills and trusts

SEC. 8. Provisions otherwise lawful, contained in wills and trusts now existing or hereafter made or declared, relating to any of the matters and things dealt with in this act shall be valid though differing from or inconsistent with it.

Application

SEC. 9. This act applies to all court and private trusts now existing or hereafter coming into existence.

Urgency

SEC. 10. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

In numerous court and private trusts which are being administered by fiduciaries in war service, the interests of the persons beneficially interested therein are being jeopardized through the consequent total or partial inability of the fiduciary, or of a cofiduciary or consultant, to perform his duties. These trusts involve a sufficient number of persons and amount of property as to constitute a matter of public concern. The public is likewise interested in freeing property from the incidental restraint on the power of alienation which results from the inability of fiduciaries and consultants to perform their customary or required functions. For these reasons, this act is declared to be an urgency measure, necessary for the immediate preservation of the public peace, health and safety, effective immediately.

CHAPTER 34

Stats. 1935, p. 1090 amended
Stats. 1939, p. 1274, amended

An act to add Section 5.1 to the Personal Income Tax Act and Section 17053.5 to the Revenue and Taxation Code, relating to personal income taxes, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor February 9, 1943. Filed with Secretary of State February 9, 1943.]

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

New section
See also Stats. 1943, Ch. 659

SECTION 1. Section 5.1 is added to the Personal Income Tax Act, to read:

Simplified return

Sec. 5.1. (a) In lieu of the tax imposed under Section 5, an individual who makes his return on the cash basis may elect, for each taxable year, to pay the tax shown in the following table if his gross income for such taxable year is five

thousand dollars ($5,000) or less and consists wholly of one or more of the following: Salary, wages, compensation for personal services, dividends, interest, or annuities:

If the gross inc. is over	But not over	Single person not head of family	Married person making separate return	(1) Married person whose spouse has no gross inc., or (2) married person making jt. ret., or (3) head of family
$ 0	$1,000	$none	$none	$none
1,000	1,100	none	none	none
1,100	1,200	.80	none	none
1,200	1,300	1.75	none	none
1,300	1,400	2.70	.20	none
1,400	1,500	3.65	1.15	none
1,500	1,600	4.55	2.05	none
1,600	1,700	5.50	3.00	none
1,700	1,800	6 45	3.95	none
1,800	1,900	7.40	4.90	none
1,900	2,000	8 35	5.85	none
2,000	2,100	9.25	6.75	none
2,100	2,200	10.20	7.70	none
2,200	2,300	11.15	8.65	none
2,300	2,400	12.10	9.60	none
2,400	2,500	13.05	10.55	none
2,500	2,600	13.95	11.45	none
2,600	2,700	14.90	12.40	none
2,700	2,800	15.85	13.35	.85
2,800	2,900	16.80	14.30	1.80
2,900	3,000	17.75	15.25	2.75
3,000	3,100	18.65	16.15	3.65
3,100	3,200	19.60	17.10	4.60
3,200	3,300	20.55	18.05	5.55
3,300	3,400	21.50	19.00	6.50
3,400	3,500	22.45	19.95	7.45
3,500	3,600	23.35	20.85	8.35
3,600	3,700	24.30	21.80	9.30
3,700	3,800	25.25	22.75	10.25
3,800	3,900	26.20	23.70	11.20
3,900	4,000	27.15	24.65	12.15
4,000	4,100	28.05	25.55	13.05
4,100	4,200	29.00	26.50	14.00
4,200	4,300	29.95	27.45	14.95
4,300	4,400	30.90	28.40	15.90
4,400	4,500	31.85	29.35	16.85
4,500	4,600	32.75	30.25	17.75
4,600	4,700	33.70	31.20	18.70
4,700	4,800	34.65	32.15	19.65
4,800	4,900	35.60	33.10	20.60
4,900	5,000	36.55	34.05	21.55

Deduction for dependents

In applying the above schedule to determine the tax of a taxpayer with one or more dependents, there shall be subtracted from his gross income four hundred dollars ($400) for each dependent.

(b) For the purpose of this section—

"Married person"

(1) The term "married person" means a married person living with husband or wife on July 1st of the taxable year.

"Dependent"

(2) The word "dependent" means a person who is, on July 1st of the taxable year, a dependent under Section 10(b).

Single person

(3) An individual not a head of a family and not living with husband or wife on July 1st of the taxable year shall be treated as a single person.

Exceptions

(c) This section shall not apply to a nonresident alien individual, an estate or trust, an individual filing a return for a period of less than 12 months or for any taxable year other than a calendar year, or to a married individual, married and living with husband or wife at any time during the taxable year, whose spouse files a return and computes the tax without regard to this section.

Stats. 1943, Ch. 659

SEC. 2. Section 17053 is added to the Revenue and Taxation Code, to read:

Simplified return

17053.5. (a) In lieu of the tax imposed under Section 17052, an individual who makes his return on the cash basis may elect, for each taxable year, to pay the tax shown in the following table if his gross income for such taxable year is five thousand dollars ($5,000) or less and consists wholly of one or more of the following: Salary, wages, compensation for personal services, dividends, interest, or annuities:

If the gross inc is over	But not over	Single person not head of family	Married person making separate return	(1) Married person whose spouse has no gross inc., or (2) married person making jt. ret., or (3) head of family
$ 0	$1,000	$none	$none	$none
1,000	1,100	none	none	none
1,100	1,200	.80	none	none
1,200	1,300	1.75	none	none
1,300	1,400	2.70	.20	none
1,400	1,500	3.65	1.15	none
1,500	1,600	4.55	2.05	none
1,600	1,700	5 50	3.00	none
1,700	1,800	6.45	3 95	none
1,800	1,900	7.40	4.90	none
1,900	2,000	8.35	5.85	none
2,000	2,100	9.25	6.75	none
2,100	2,200	10 20	7.70	none
2,200	2,300	11 15	8.65	none
2,300	2,400	12.10	9.60	none
2,400	2,500	13 05	10.55	none
2,500	2,600	13.95	11.45	none
2,600	2,700	14.90	12 40	none
2,700	2,800	15 85	13.35	.85
2,800	2,900	16.80	14.30	1.80
2,900	3,000	17.75	15.25	2.75
3,000	3,100	18.65	16.15	3.65
3,100	3,200	19.60	17.10	4.60
3,200	3,300	20.55	18.05	5.55
3,300	3,400	21.50	19.00	6.50
3,400	3,500	22 45	19.95	7.45
3,500	3,600	23.35	20.85	8.35
3,600	3,700	24.30	21.80	9.30
3,700	3,800	25.25	22.75	10.25
3,800	3,900	26.20	23.70	11.20
3,900	4,000	27.15	24.65	12.15
4,000	4,100	28 05	25.55	13.05
4,100	4,200	29 00	26.50	14 00
4,200	4,300	29.95	27.45	14 95
4,300	4,400	30.90	28.40	15.90
4,400	4,500	31 85	29.35	16.85
4,500	4,600	32.75	30.25	17.75
4,600	4,700	33.70	31.20	18.70
4,700	4,800	34.65	32.15	19.65
4,800	4,900	35.60	33.10	20.60
4,900	5,000	36 55	34.05	21.55

Deduction for dependents

In applying the above schedule to determine the tax of a taxpayer with one or more dependents, there shall be subtracted from his gross income four hundred dollars ($400) for each dependent.

(3) For the purpose of this section—

"Married person" (1) The term "married person" means a married person living with husband or wife on July 1st of the taxable year.

"Dependent" (2) The word "dependent" means a person who is, on July 1st of the taxable year, a dependent under Section 17952.

Single person (3) An individual not a head of a family and not living with husband or wife on July 1st of the taxable year shall be treated as a single person.

Exceptions. (c) This section shall not apply to a nonresident alien individual, an estate or trust, an individual filing a return for a period of less than 12 months or for any taxable year other than a calendar year, or to a married individual, married and living with husband or wife at any time during the taxable year, whose spouse files a return and computes the tax without regard to this section.

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

The United States is at war with the Axis Powers. The successful prosecution of this war will be facilitated by the use, by thousands of defense workers, of a simplified State income tax form in that less of their time will be diverted from their war efforts.

Effect Stats 1943 Ch 639 SEC. 4. Section 2 of this act becomes operative only if Part 10, Division 2 of the Revenue and Taxation Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said Part 10 takes effect; at which time, Section 5a as added to the Personal Income Tax Act by this act is hereby repealed.

Repeal

CHAPTER 35

An act to amend Section 3519 of the Political Code, relative to the issuance of patents by the State, declaring the urgency of this act, to take effect immediately.

In effect immediately [Approved by Governor February 9, 1943. Filed with Secretary of State February 9, 1943.]

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

Stats 1911, p 1411 See also Stats 1943, Ch 609 Patent to land issued after full payment SECTION 1. Section 3519 of the Political Code is amended to read:

3519. Whenever full payment has been made for any tract of land, the selection of which has been approved by the United States authorities, or when the tract fully paid for is a sixteenth or thirty-sixth section, or a legal subdivision thereof, belonging to the State, or is segregated swamp and overflowed land, or land uncovered by the recession or drainage of water of inland lakes, the register, upon the surrender

of the certificate of purchase, must prepare a patent for the land, the said patent to be issued in the name of the original applicant, and send it to the Governor, together with a certificate that the laws in relation thereto have been complied with, that payment in full has been made, and that the party named in the patent is entitled to it. The said patent so issued shall inure to the benefit of the assignees, grantees, or successors in interest of said original applicant.

If the certificate of purchase has been lost or destroyed, or is beyond the control of the owner of the land, the register may require said owner to furnish an affidavit as to the loss of the certificate of purchase or as to his inability to surrender same. The register may, upon finding the facts stated in such affidavit to be true, thereupon prepare the patent for issuance as hereinabove provided. Loss or destruction

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

This act will permit patents to be issued for the lands specified therein without the surrender of the certificates of purchase. In many instances the certificates have been lost or mislaid, and can not be surrendered, and as a result the patents can not now be issued. The inability to obtain patents prevents the transfer of the lands, many of which are lands suitable for the grazing of live stock, into the hands of persons who will use them for that purpose. A severe shortage of meat exists, which menaces the health of the civilian population. When this act becomes effective, the lands affected can be transferred to persons who will use them for grazing live stock, and as a result the production of meat will be increased, and the health of the people of the State protected. It is therefore necessary that this act take effect immediately.

CHAPTER 36

An act to amend Section 6.37 of, and to add Section 6.38 to, the School Code, and to add Sections 18058 and 18059 to the Education Code, relating to the letting of contracts, declaring the urgency thereof, to take effect immediately. Stats. 1943, Ch. 71, amended

[Approved by Governor February 10, 1943. Filed with Secretary of State February 10, 1943.] In effect immediately

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

SECTION 1. Section 6.37 of the School Code is amended to read: Stats 1941, p 2093 See also Stats 1943, Ch 71

6.37. Any and all supplies, materials or equipment to be used in classes authorized under any program sponsored, Purchase of supplies

approved or directed by the State Department of Education or the State Board of Education, in connection with any National emergency training instruction given by any school district of any type or class, may be purchased by such district in accordance with rules and regulations for such purchase adopted by the governing board of said district notwithstanding any provisions of this code in conflict with such rules and regulations.

Duration This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first Existing law occurs. While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section; but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

New section See also Stats. 1943, Ch. 71 SEC. 2. Section 6.38 is added to the School Code, to read:

Bids 6.38. In each district governed by a city board of education or in each district having an average daily attendance of 850 or more the governing board may secure from responsible bidders at least three estimates of the cost of materials or supplies to be furnished. The estimates shall be secured from bona fide dealers engaged in handling the goods specified.

Estimates shall be submitted in writing and shall be filed with the clerk or secretary of the board or other officer designated by the board.

Contract If after a bona fide effort the board secures less than three such estimates it may let a contract to the lowest responsible dealer submitting an estimate. If after such effort no estimates are received the board may let a contract for the furnishing of the materials or supplies without the necessity of notice for bids.

Duration This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first Existing law occurs. While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section; but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

Note.—See Stats. 1943, Ch. 71.

Effect Stats. 1943, Ch. 71 SEC. 5. Sections 3 and 4 of this act become effective only if the Education Code is enacted by the Legislature at its Fifty-fifth Session, and in such case, at the same time as said Education Code takes effect, at which time Section 6.37 of the School Code amended by this act and Section 6.38

Repeal of the School Code added by this act are repealed.

Urgency SEC. 6. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section

1 of Article IV of the Constitution of the State of California and shall therefore go into effect immediately. The following is a statement of facts constituting such necessity:

The United States of America is in a state of war. The continued maintenance of all parts of the public school system being essential to the welfare of the United States and of the State of California, it is necessary that provision be made immediately for the securing of the necessary materials and supplies to operate National emergency training and the public school system. Because of the unsettled condition of prices and because of the scarcity of material it has proven impossible to secure the materials and supplies needed to operate the public school system through ordinary notice and bidding procedure. It is therefore necessary to authorize at once those districts governed by city boards of education to acquire materials and supplies without the necessity of calling for and receiving bids in the ordinary manner. It is also necessary to provide for the continuation of National emergency instruction throughout the war.

CHAPTER 37

An act to amend Sections 4, 4a, 6, 8, 9, 11, 13, 14, 16, 17, 20, 21, 24, 25, 25.1, 27, 28, 29, 30, 32 and 35 of, and to add a new section to be numbered 24.1 to, the Bank and Corporation Franchise Tax Act, relating to bank and corporation taxes, and to provide that this act shall take effect immediately.

Stats 1929, p 19, amended

[Approved by Governor February 10, 1943. Filed with Secretary of State February 10, 1943.]

In effect immediately

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

SECTION 1. Section 4a of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows:

Stats 1935, p 1245 See also Stats 1943, Ch 352

Sec. 4a. The rate of tax on National banking associations and other banks and financial corporations mentioned in Sections 1, 2 and 4 of this act shall be a percentage equal to the percentage of the total amount of net income, allocable to this State, of every corporation taxable under subdivision (3) of Section 4 of this act, for the next preceding calendar year or fiscal years ended during such calendar year, required to be paid to this State as franchise taxes according to or measured by such net income, and required to be paid to this State or its political subdivisions as personal property taxes during the preceding calendar year or fiscal years ended in such calendar year; provided, however, that said rate of tax shall not exceed 8 per centum. The percentage of the net income of every corporation taxable under subdivision (3) of Section 4 of this act, required to be paid to this State or its

Rate of tax

Personal property taxes

political subdivisions in personal property taxes shall be determined by ascertaining the ratio which the total amount of such personal property taxes, less 4 per centum thereof, bears to the total amount of net income of such corporations, allocable to California, increased by the amount of such personal property taxes; provided, however, that if any such corporation sustains a net loss allocable to California the personal property taxes required to be paid by such corporation to this State or its political subdivisions during the preceding calendar year or fiscal years ended during such calendar year shall be considered for the purpose of determining such ratio only to the extent which such personal property taxes exceed such net loss allocable to California.

Net loss

Determination and notice of tax

The commissioner, after public hearing and opportunity given to examine the data on which his determination is based, shall determine not later than the thirty-first day of December of each year the average percentage of net income above specified, and, within 30 days after his determination, shall mail notice of his determination and the amount of tax payable on the basis of such determination to all banks and financial corporations affected thereby, which are then classified on his records as banks or financial corporations, but such determination shall not be considered a deficiency assessment within the meaning of Section 25 hereof.

Higher tax than authorized

If it be judicially determined that the rate of tax on any bank or corporation is higher than is authorized by law such bank or corporation shall be relieved of liability for any tax imposed by this act only to the extent of the excess beyond that legally authorized.

Stats 1939, p 2934 See also Stats 1943, Ch 352

SEC. 2. Section 6 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows:

Gross income

Sec. 6. (a) The term "gross income," as herein used, includes gains, profits and income derived from business, of whatever kind and in whatever form paid; gains, profits or income from dealings in real or personal property; gains, profits or income received as compensation for services, as interest, rents, commissions, brokerage or other fees, or otherwise received in carrying on such business; all interest received from Federal, State, municipal or other bonds, and, except as hereinafter otherwise provided, all dividends received on stocks.

Exemptions

(b) The term gross income does not include the following items which shall be exempt from taxation under this act:

(1) Amounts received under life insurance policies and contracts paid by reason of the death of the insured but if such amounts are held by the insurer under an agreement to pay interest thereon, the interest payments shall be included in gross income.

(2) Amounts received (other than amounts paid by reason of the death of the insured) under life insurance, endowment or annuity contracts, either during the term or at maturity or upon surrender of the contract, equal to the total amount

of premiums paid thereon. In the case of a transfer for a valuable consideration by assignment or otherwise, of a life insurance, endowment or annuity contract or any interest therein, only the actual value of such consideration and the amount of the premiums and other sums subsequently paid by the transferee shall be excluded from gross income under paragraph (b) (1) of this section.

Dividends

(c) (1) The term "dividend" when used in this act means any distribution made by a corporation to its shareholders, whether in money or in other property, out of its earnings or profits accumulated after February 28, 1913, or out of the earnings or profits of the income year (computed as of the close of the income year without diminution by reason of any distributions made during the income year), without regard to the amount of the earnings and profits at the time the distribution was made.

(2) For the purposes of this act every distribution is made out of earnings or profits to the extent thereof, and from the most recently accumulated earnings or profits. Any earnings or profits accumulated, or increase in value of property accrued, before March 1, 1913, may be distributed without being included in the gross income of the recipient, after the earnings and profits accumulated after February 28, 1913, have been distributed, but any such distribution shall be applied against and reduce the adjusted basis of the stock provided in Section 21 (b).

(3) Amounts distributed in complete liquidation of a corporation shall be treated as in full payment in exchange for the stock and amounts distributed in partial liquidation of a corporation shall be treated as in part or full payment in exchange for the stock. The gain or loss to the distributee resulting from such exchange shall be determined under Section 19. In the case of amounts distributed (whether before or after the effective date of this amendment) in partial liquidation (other than a distribution within the provisions of subdivision (7) of this subsection of stock or securities in connection with a reorganization) the part of such distribution which is properly chargeable to capital account shall not be considered a distribution of earnings or profits. In the case of amounts distributed (whether before January 1, 1934, or on or after such date) in partial liquidation (other than a distribution within the provisions of subdivision (7) of this subsection or stock or securities in connection with a reorganization) the part of such distribution which is properly chargeable to capital account shall not be considered a distribution of earnings or profits within the meaning of subdivision (2) of this subsection for the purpose of determining the taxability of subsequent distributions by the corporation.

(4) If any distribution (not in partial or complete liquidation) made by a corporation to its shareholders is not out of increase in value of property accrued before March 1, 1913, and is not a dividend, then the amount of such distribution

shall be applied against and reduce the adjusted basis of the stock provided in Section 21, and if in excess of such basis, such excess shall be included in gross income in the same manner as a gain from the sale or exchange of property.

(5) (A) A distribution made by a corporation to its shareholders in its stock or in rights to acquire its stock shall not be treated as a dividend to the extent that it does not constitute income to the shareholder within the meaning of the Sixteenth Amendment to the Constitution of the United States.

(B) Whenever a distribution by a corporation is, at the election of any of the shareholders (whether exercised before or after the declaration thereof), payable either (i) in its stock or in rights to acquire its stock, of a class which if distributed without election would not be included in gross income under paragraph (A), or (ii) in money or any other property (including its stock or rights to acquire its stock, of a class which if distributed without election would be included in gross income under paragraph (A)), then the distribution shall constitute a taxable dividend in the hands of all shareholders, regardless of the medium in which paid.

(6) If a corporation cancels or redeems its stock (whether or not such stock was issued as a stock dividend) at such time and in such manner as to make the distribution and cancellation or redemption in whole or in part essentially equivalent to the distribution of a taxable dividend, the amount so distributed in redemption or cancellation of the stock, to the extent that it represents a distribution of earnings or profits accumulated after February 28, 1913, shall be treated as a taxable dividend.

(7) The distribution heretofore or hereafter made to a distributee by or on behalf of a corporation of its stock or securities or stock or securities in another corporation shall not be considered a distribution of earnings or profits of any corporation:

(A) If no gain to such distributee from the receipts of such stock or securities was recognized under the provisions of the Federal Revenue Act of 1936 or prior Federal revenue acts in effect at the time of the distribution, or

(B) If the distribution was not subject to tax in the hands of such distributee under the Federal Revenue Act of 1936 or prior Federal revenue acts in effect at the time of the distribution because it did not constitute income to him within the meaning of the Sixteenth Amendment to the Constitution of the United States or because exempted to him under Section 115 (f) of the Federal Revenue Act of 1934, or a corresponding provision of a prior Federal revenue act.

As used in this subsection, the term "stock or securities" includes rights to acquire stock or securities.

(8) As used in this subsection the term "amount distributed in partial liquidation" means a distribution by a corporation in complete cancellation or redemption of a part of

its stock, or one of a series of distributions in complete cancellation or redemption of all or a portion of its stock

(9) If the whole or any part of a dividend is paid to a shareholder in any medium other than money the property received other than money shall be included in gross income at its fair market value at the time as of which it becomes income to the shareholder.

(10) The gain or loss realized from the sale or other disposition (after February 28, 1913) of property by a corporation for the purpose of the computation of earnings and profits of the corporation for any period beginning after February 28, 1913, shall be determined by using as the adjusted basis the adjusted basis (under the law applicable to the year in which the sale or other disposition was made) for determining gain. Gain or loss so realized shall increase or decrease the earnings and profits to, but not beyond, the extent to which such a realized gain or loss was recognized in computing net income under the law applicable to the year in which such sale or disposition was made. Where, in determining the adjusted basis used in computing such realized gain or loss, the adjustment to the basis differs from the adjustment proper for the purpose of determining earnings or profits, then the latter adjustment shall be used in determining the increase or decrease above provided.

Where a corporation receives (after February 28, 1913) a distribution from a second corporation which (under the law applicable to the year in which the distribution was made) was not a taxable dividend to the shareholders of the second corporation, the amount of such distribution shall not increase the earnings and profits of the first corporation in the following cases:

(A) No such increase shall be made in respect of the part of such distribution which (under such law) is directly applied in reduction of the basis of the stock in respect of which the distribution was made.

(B) No such increase shall be made if (under such law) the distribution causes the basis of the stock in respect of which the distribution was made to be allocated between such stock and the property received.

For the purposes of this subdivision, the words "law applicable to the year" shall be deemed to refer to this act or, prior to January 1, 1928, the United States Revenue Act in force for the year in which the distribution, sale or other disposition was made.

(11) (A) If any increase or decrease in the earnings or profits for any period beginning after February 28, 1913, with respect to any matter would be different had the adjusted basis of the property involved been determined without regard to its March 1, 1913, value, then, except as provided in paragraph (B), an increase (properly reflecting such difference)

shall be made in that part of the earnings and profits consisting of increase in value of property accrued before March 1, 1913.

(B) If the application of subdivision (10) to a sale or other disposition after February 28, 1913, results in a loss which is to be applied in decrease of earnings and profits for any period beginning after February 28, 1913, then, notwithstanding subdivision (10) and in lieu of the rule provided in paragraph (A) of this subdivision, the amount of such loss so to be applied shall be reduced by the amount, if any, by which the adjusted basis of the property used in determining the loss, exceeds the adjusted basis computed without regard to the value of the property on March 1, 1913, and if such amount so applied in reduction of the decrease exceeds such loss, the excess over such loss shall increase that part of the earnings and profits consisting of increase in value of property accrued before March 1, 1913.

Losses

(d) If the indebtedness of a bank or corporation is canceled or forgiven in whole or in part without payment, the amount so canceled or forgiven shall constitute income to the extent the value of the property (including franchises) of the bank or corporation exceeds its liabilities immediately after the cancellation or forgiveness. The remainder of the amount of indebtedness so canceled or forgiven, if any, shall be applied in reduction of the basis of the assets to the extent the basis thereof exceeds the value thereof immediately after the cancellation or forgiveness, such reduction to be made in accordance with regulations prescribed by the commissioner.

If an indebtedness is not paid by the time an action to enforce payment is barred by limitation, the indebtedness shall be considered canceled or forgiven within the meaning of this subsection unless it can be established that the period of limitation has been extended by a new promise in writing.

Stats 1939, p 2934
See also Stats 1943, Ch 352

SEC. 3. Section 8 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows:

Deductions from gross income

Sec 8. In computing "net income" the following deductions shall be allowed:

Business expenses

(a) All the ordinary and necessary expenses paid or incurred during the income year in carrying on business, including a reasonable allowance for salaries or other compensation for personal services actually rendered, and rentals or other payments required to be made as a condition to the continued use or possession for business purposes of property to which the taxpayer has not taken or is not taking title or in which it has no equity.

Interest on debts

(b) All interest paid or accrued during the income year on indebtedness of the taxpayer to the extent in excess of income of the taxpayer from interest and dividends (other than dividends deductible under the provisions of subdivision (h) of this section and other than dividends from corporations, 50 per centum or more of the outstanding stock of which is

owned by the taxpayer), which is not included in the measure of the tax imposed by this act.

Taxes

(c) Taxes or licenses paid or accrued during the income year, other than taxes paid to the State under this act, and other than taxes on or according to or measured by income or profits paid or accrued within the income year imposed by the authority of (1) the Government of the United States or any foreign country, (2) any State, Territory, county, city and county, school district, municipality, or other taxing subdivision of any State or Territory, and other than taxes assessed against local benefits of a kind tending to increase the value of the property assessed, but this shall not exclude the allowance as a deduction of so much of said taxes assessed against local benefits as is properly allocable to maintenance or interest charges.

Losses

(d) Losses sustained during the income year and not compensated for by insurance or otherwise, except that such losses may, with the consent of the Franchise Tax Commissioner, hereinafter designated "commissioner," be accounted for as of a different period. In the case of any loss claimed to have been sustained in any sale or other disposition of shares of stock or securities where it appears that within 30 days before or after the date of such sale or other disposition, the taxpayer has acquired (otherwise than by bequest or inheritance) or has entered into a contract or option to acquire substantially identical property and the property so acquired is held by the taxpayer for any period after such sale or other disposition, no deduction for the loss shall be allowed unless the claim is made by a taxpayer, a dealer in stocks or securities, and with respect to a transaction made in the ordinary course of its business. If such acquisition or the contract or option to acquire is to the extent of part only of substantially identical property, then only a proportionate part of the loss shall be disallowed. Upon the subsequent sale or disposition of shares of stock or securities, in respect of which a loss has been disallowed, the basis for measuring gain or loss in the case of the property so acquired shall be the basis in the case of the stock or securities so sold or disposed of, except that if the repurchase price was in excess of the sale price such basis shall be increased in the amount of the difference, or if the repurchase price was less than the sale price such basis shall be decreased in the amount of the difference.

Worthless debts

(e) Debts ascertained to be worthless within the income year and charged off, or, in the discretion of the commissioner, a reasonable addition to a reserve for bad debts. When satisfied that a debt is recoverable in part only the commissioner may allow such debt as a deduction in an amount not in excess of the amount ascertained to be worthless in the income year and charged off; provided, however, that if a portion of a debt is claimed and allowed as a deduction in any year no deduction shall be allowed in any subsequent year for any portion of the debt ascertained in any prior year to

be worthless, regardless of whether charged off or claimed as a deduction in such prior year.

Obsolescence

(f) A reasonable allowance for exhaustion, wear and tear and obsolescence of property used in the trade or business. The basis on which such allowance is to be computed in respect of any property is the adjusted basis provided in Section 21 (b) for the purpose of determining the gain upon the sale or other disposition of such property.

Depletion

(g) (1) In the case of mines, oil and gas wells, other natural deposits and timber, a reasonable allowance for depletion and for depreciation of improvements according to the peculiar conditions in each case, such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the commissioner. In any case in which it is ascertained as a result of operations or of development work that the recoverable units are greater or less than the prior estimate thereof, then such prior estimate (but not the basis for depletion) shall be revised and the allowance under this subsection for subsequent taxable years shall be based upon such revised estimate. In the case of leases the deductions shall be equitably apportioned between the lessor and the lessee.

Basis for depletion allowances

(2) (A) The basis upon which depletion is to be allowed in respect of any property shall be the adjusted basis provided in Section 21 (b) for the purpose of determining the gain upon the sale or other disposition of such property, except as provided in paragraphs (B), (C), and (D) of this subsection.

Mines

(B) In the case of mines (other than metal, coal, or sulphur mines) discovered by the taxpayer after February 28, 1913, the basis for depletion shall be the fair market value of the property at the date of discovery or within 30 days thereafter, if such mines were not acquired as the result of purchase of a proven tract or lease, and if the fair market value of the property is materially disproportionate to the cost. The depletion allowance under subdivision (1) of this subsection based on discovery value provided in this paragraph shall not exceed 50 per centum of the net income of the taxpayer (computed without allowance for depletion) from the property upon which the discovery was made, except that in no case shall the depletion allowance under subdivision (1) of this subsection be less than it would be if computed without reference to discovery value. Discoveries shall include minerals in commercial quantities contained within a vein or deposit discovered in an existing mine or mining tract by the taxpayer after February 28, 1913, if the vein or deposit thus discovered was not merely the uninterrupted extension of a continuing commercial vein or deposit already known to exist, and if the discovered minerals are of sufficient value and quantity that they could be separately mined and marketed at a profit.

Oil and gas wells

(C) In the case of oil and gas wells the allowance for depletion under subdivision (1) of this subsection shall be 27½ per centum of the gross income from the property during

the income year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. Such allowance shall not exceed 50 per centum of the net income of the taxpayer (computed without allowance for depletion) from the property, except that in no case shall the depletion allowance under subdivision (1) of this subsection be less than it would be if computed without reference to this paragraph.

Coal mines, etc

(D) The allowance for depletion under Subdivision (1) of this subsection shall be, in the case of coal mines, 5 per centum, in the case of metal mines, 15 per centum, and, in the case of sulphur mines or deposits, 23 per centum, of the gross income from the property during the income year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. Such allowance shall not exceed 50 per centum of the net income of the taxpayer (computed without allowance for depletion) from the property. A taxpayer making his first return under this act in respect of a property shall state whether he elects to have the depletion allowance for such property for the income year for which the return is made computed with or without regard to percentage depletion, and the depletion allowance in respect of such property for such year shall be computed according to the election thus made. If the taxpayer fails to make such statement in the return, the depletion allowance for such property for such year shall be computed without reference to percentage depletion. The method, determined as above, of computing the depletion allowance shall be applied in the case of the property for all years in which it is in the hands of such taxpayer, or of any other person if the basis of the property (for determining gain) in his hands is, under Section 21, determined by reference to the basis in the hands of such taxpayer, either directly or through one or more substituted bases, as defined in that section. The above right of election shall be subject to the qualification that this paragraph shall, for the purpose of determining whether the method of computing the depletion allowance follows the property, be considered a continuation of Section 114 (b) (4) of the Federal Revenue Act of 1934 and the Federal Revenue Act of 1936, and as giving no new election in cases where either of such sections would, if applied, give no new election.

Dividends taxed to corporation declaring

(h) Dividends received during the income year declared from income which has been included in the measure of the tax imposed by this act upon the bank or corporation declaring the dividends, or from income which has been taxed under the provisions of the Corporation Income Tax Act of 1937 to the corporation declaring the dividends.

Stats 1937, p 2184

Gifts

(i) In the case of a bank or corporation, contributions or gifts payment of which is made within the income year to or for the use of a corporation, trust, community chest, fund or foundation, organized and operated exclusively for religious,

charitable, scientific, literary, or educational purposes or the prevention of cruelty to children (but only if such contributions or gifts are to be used within the United States exclusively for such purposes), no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; to an amount which does not exceed 5 per centum of the taxpayer's net income as computed without the benefit of this subsection. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the commissioner.

Return paid by building and loan association on money borrowed, etc

(j) In the case of a building and loan association, organized and operating wholly or partly on a mutual plan, the return paid or credited on or apportioned to the withdrawable shares of such association, but not exceeding the return such shares would receive computed at the average rate paid by all such associations in this State, or by such associations in a particular locality, as the Building and Loan Commissioner of this State may determine, on money borrowed or obtained through the issue during the income year of the association of all classes of notes and investment certificates not evidencing any proprietary interest in the association, such rate to be determined by the Building and Loan Commissioner and certified by him to the Franchise Tax Commissioner on or before the first day of March of each year.

Interest paid to depositors by certain banks

(k) In the case of a mutual savings bank, the entire amount of interest paid to depositors possessing no proprietary interest in the institution or in its surplus, and interest on their deposits to members possessing a proprietary interest in the institution or in its surplus at a rate determined by the State Superintendent of Banks to be the going rate of interest upon savings deposits in the State during the calendar year preceding the taxable year, such rate to be certified by him to the commissioner on or before the first day of March of each year.

Income of cooperative marketing associations

(*l*) In the case of farmers, fruit growers, or like associations organized and operated in whole or in part on a cooperative or a mutual basis, (1) for the purpose of marketing the products of members or other producers, and turning back to them the proceeds of sales, less the necessary marketing expenses, which may include reasonable reserves, on the basis of either the quantity or the value of the products furnished by them, or (2) for the purpose of purchasing, or producing, supplies and equipment for the use of members or other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses, all income resulting from or arising out of such business activities for or with their members carried on by them or their agents; or when done on a nonprofit basis for or with nonmembers.

Other cooperative associations

(m) In the case of other associations organized and operated in whole or in part on a cooperative or a mutual basis,

all income resulting from or arising out of business activities for or with their members, or with nonmembers, done on a nonprofit basis.

Pension trusts

(n) (1) An employer establishing or maintaining a pension trust to provide for the payment of reasonable pensions to his employees shall be allowed as a deduction (in addition to the contributions to such trust during the income year to cover the pension liability accruing during the year, allowed as a deduction under subsection (a) of this section) a reasonable amount transferred or paid into such trust during the income year in excess of such contributions, but only if such amount (1) has not theretofore been allowable as a deduction, and (2) is apportioned in equal parts over a period of 10 consecutive years beginning with the year in which the transfer or payment is made.

(2) The provisions of paragraph (1) of this subsection shall be subject to the qualification that the deduction shall be allowable only with respect to an income year (whether the year of transfer or payment or a subsequent year) of the employer ending within or with the taxable year of the trust with respect to which the trust would be exempt from tax under the California Personal Income Tax Act if such trust were subject to such act.

Stats 1935, p 1090

Deductions discriminating against national banking associations

(o) If any deduction provided for in this section is finally adjudged discriminatory against a National banking association contrary to Section 5219 of the Revised Statutes of the United States, or is for any reason finally adjudged invalid, in that event the tax of the favored taxpayer shall be recomputed by the commissioner for the taxable year in question, as of the time of allowance of the deduction, by disallowing the deduction, and any difference between the amount of the tax as recomputed and the amount of the tax as originally computed shall be subject to the provisions hereof relating to original computations.

Stats 1939, p 2934. See also Stats 1943, Ch 352

SEC. 4. Section 9 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows:

Sec. 9. In computing net income no deduction shall be allowed for:

Items not deductible

(a) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property; or for

(b) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made; or for

(c) Premiums paid on any life insurance policy covering the life of any officer or employee, or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under such policy.

(d) Any amount otherwise allowable as a deduction which is allocable to one or more classes of income not included in the measure of the tax imposed by this act.

(e) Except in case of distributions in liquidation, losses from sales or exchanges of property directly or indirectly between an individual and a corporation in which such individual owns directly or indirectly more than 50 per centum in value of the outstanding stock. For the purpose of this subdivision an individual shall be considered as owning the stock owned directly or indirectly by his family and the family of an individual shall include only his brothers and sisters (whether by the whole or half blood), spouse, ancestors and lineal descendants.

(f) In computing net income no deduction shall be allowed under Section 8(a), relating to expenses incurred, or under Section 8(b), relating to interest accrued:

(1) If such expenses or interest are not paid within the income year or within two and one-half months after the close thereof; and

(2) If, by reason of the method of accounting of the person or corporation to whom the payment is to be made, the amount thereof is not, unless paid, includible under the provisions of The Personal Income Tax Act, Corporation Income Tax Act or this act in the gross income of such person or corporation for the taxable year in which or with which the income year of the taxpayer ends; and

Stats 1935, p 1090
Stats 1937, p 2184

(3) If, at the close of the income year of the taxpayer or at any time within two and one-half months thereafter, both the taxpayer and the person to whom the payment is to be made are persons between whom losses would be disallowed under Section 9(e), or if the corporation to which payment is to be made owns, or is owned by, the taxpayer to the extent of more than 50 per centum in value of the outstanding stock.

The amount of expenses incurred or interest accrued, the deduction of which is disallowed under this subsection in the year incurred or accrued, may be deducted in the year paid.

Stats 1935, p 959

SEC. 5. Section 11 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows:

See also Stats 1943, Ch 352

Sec. 11. (a) The term "income year," as herein used, means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net income is computed herein. "Income year" includes, in the case of a return made for a fractional part of a year, the period for which such return is made.

Definitions. "Income year"

(b) The term "taxable year," as herein used, means the calendar year, or the fiscal year ending during such calendar year, for which the tax is payable. A "taxable year" may constitute a period of 12 months or of less duration.

"Taxable year"

(c) The term "fiscal year," as herein used, means an accounting period of 12 months or less ending on the last day of any month other than December.

"Fiscal year"

(d) The terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed hereunder.

"Paid or incurred"

"Paid or accrued"

(e) For the purposes of this act, unless otherwise required by the context, the word "State" shall include the Territories of Alaska and Hawaii, the District of Columbia, and the possessions of the United States. "State"

SEC. 6. Section 13 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows: Stats 1939, p 2939 See also Stats 1943, Ch 352

Sec. 13. (a) Every bank and corporation subject to the tax imposed by this act shall, within two months and 15 days after the close of its income year, transmit to the commissioner a return in a form prescribed by him, specifying, for the income year, all such facts as he may by rule, or otherwise, require in order to carry out the provisions of this act. Any return filed under the provisions of the Corporation Income Tax Act, which discloses the net income for any period, shall likewise constitute a return filed for the same period under this act, if the corporation should have filed a return under this act. Returns Stats 1937, p 2184

In the event that taxes, interest and penalties have been or shall be assessed against, paid by or collected from a corporation under this act, which assessment, payment or collection should have been made under the Corporation Income Tax Act, such taxes, interest and penalties shall be considered as having been assessed, paid or collected under the Corporation Income Tax Act as of the date or dates they were made.

(b) A corporation which incorporates or organizes under the laws of this State or qualifies to do business in this State, after the effective date of this act, shall thereupon prepay the minimum tax hereunder, which prepayment must be made before the corporation files with the Secretary of State its articles of incorporation or duly certified copy thereof as the case may be. Prepayment of taxes

(c) If a bank or a corporation commences to do business in this State during its first taxable year its tax for that year shall be adjusted upon the basis of the net income received during that taxable year, at the rate applicable to that year, a credit being allowed for the prepayment of the minimum tax. The return for the first taxable year, which shall be filed within two months and 15 days after the close of that year, shall also, in accordance with Sections 23 to 26, inclusive, be the basis for the tax of said bank or corporation for its second taxable year, if its first taxable year is a period of 12 months. In every case in which the first taxable year of a bank or corporation constitutes a period of less than 12 months, or in which a bank or corporation does business for a period of less than 12 months during its first taxable year, said bank or corporation shall pay as a prepayment of the tax for its second taxable year a tax based on the income for the first taxable year computed under the law and at the rate applicable to the second taxable year, the same to be due and payable at the same times and in the same manner as if that amount were the entire amount of its tax for that year; and upon the filing of its tax return within two months and 15 Tax for first and second taxable years

days after the close of its second taxable year it shall pay a tax for said year, at the rate applicable to that year, based upon its net income received during that year, allowing a credit for the prepayment; but in no event shall the tax for the second taxable year be less than the amount of the prepayment for that year, and said return for its second taxable year shall also, in accordance with Sections 23 to 26, inclusive, be the basis for the tax of said bank or corporation for its third taxable year.

Tax when business commenced in year other than of incorporation or qualification

(d) When any bank or corporation commences to do business in this State for the first time in any taxable year other than the year of incorporation or qualification, its tax for that taxable year and for the succeeding taxable year shall be computed in accordance with the provisions of subdivision (c) of this section relative to first and second taxable years, a credit being allowed for any tax payable under subdivision (5) of Section 4 hereof, for the year in which it commences to do business.

Adjusted tax payable

(e) The adjusted tax, as provided in subdivisions (c) and (d) of this section, for any taxable year in excess of the prepayment for that year, shall be due and payable in one amount on or before the fifteenth day of the third month following the close of that taxable year, or on or before the expiration of the period of extension where an extension has been granted by the commissioner under the provisions of Section 15 of this act, and, if not so paid, interest shall be added thereto in the manner and at the rate or rates provided in Section 24 of this act.

Deferred income

(f) In the case of a bank or corporation taxable in the manner provided in subdivisions (c) and (d) of this section, reporting income from any source on a deferred basis, the commissioner is authorized to distribute or apportion such income, or deductions applicable thereto, if he determines that such distribution or apportionment is necessary in order to prevent avoidance of taxes or clearly to reflect the income of such bank or corporation.

Reorganized banks and corporations

(g) Subsections (c), (d), and (e) of this section shall not apply to a bank or a corporation which commences to do business in this State, pursuant to a reorganization of a bank or corporation as defined in subsection (j) of this section.

Income of transferor

(h) (1) Where, pursuant to a reorganization, all or a substantial portion of the business or property of a bank or corporation, a party to the reorganization, is transferred to another bank or corporation, a party to the reorganization: (A) The net income of the transferor from the business or property so transferred to any bank or corporation for the taxable year in which the transfer occurs, shall be included in the measure of the tax on the transferee for the taxable year succeeding the taxable year in which the transfer occurs if the taxable year of the transferee in which the transfer occurs ends at the same time as or before the time the taxable year of the transferor in which the transfer occurs ends.

Income of the transferor so included in the measure of the tax on the transferee shall be considered the income of the transferee for the purposes of this act.

Return by transferee

(B) If the taxable year of the transferee in which the transfer occurs ends after the taxable year of the transferor in which the transfer occurs ends, the transferee shall, within two months and 15 days after the close of the taxable year of the transferor in which the transfer occurs, file a return disclosing the net income of the transferor from the business or property transferred for the taxable year in which the transfer occurs, and pay a tax measured by such income.

(2) If, at the time of any of the transfers referred to in the preceding subdivision (1), the transferor has not become subject to a tax measured by its income for a taxable year preceding the taxable year in which the transfer occurs, the transferee shall within two months and 15 days after the close of the month in which the transfer occurs file a return disclosing the net income of the transferor for such preceding year and pay a tax measured by such income.

Rate of tax offset

(3) Whenever under this subsection the transferee is required to pay a tax measured by the income of the transferor, the rate of tax applicable to the transferee shall apply. The transferee shall, pursuant to the provisions of Sections 4 and 26 of this act, be entitled to the same offset against any tax imposed on it measured by the income of the transferor for taxes on the business or property transferred as would have been allowed the transferor had the reorganization not occurred.

(i) Where income of the transferor is required to be included in the computation of a tax on the transferee, such income shall not thereafter be included in the measure of a tax on the transferor.

"Reorganization"

(j) The term "reorganization" as used in this section means (1) a transfer by a bank or corporation of all or a substantial portion of its business or property to another bank or corporation if immediately after the transfer the transferor or its stockholders or both are in control of the bank or corporation to which the assets are transferred; or (2) a mere change in identity, form or place of organization however effected; or (3) a merger or consolidation; or (4) a distribution in liquidation by a bank or corporation of all or a substantial portion of its business or property to a bank or corporation stockholder. As used in this paragraph the term "control" means the ownership of at least 80 per centum of the voting stock and at least 80 per centum of the total number of shares of all other classes of stock of the bank or corporation.

"Control"

Dissolved banks and corporations offset

(k) Any bank or corporation which is dissolved and any foreign corporation which withdraws from the State during any taxable year shall pay a tax hereunder only for the months of such taxable year which precede the effective date of such dissolution or withdrawal, according to or measured

by such proportionate part of the net income of the preceding income year as the number of months of the taxable year prior to the effective date of such dissolution or withdrawal bears to the entire preceding income year; provided, however, that in the case of any bank or corporation which is dissolved, or which withdraws from the State during any taxable year, the offset from the tax for the months of such taxable year prior to the effective date of such dissolution or withdrawal shall not exceed that proportion of the offset computed under Section 26 which the number of said months prior to the effective date of such dissolution or withdrawal bears to the number of months of the preceding income year; and provided further, that the taxes levied under this act shall not be subject to abatement or refund because of the cessation of business or corporate existence of any bank or corporation pursuant to a reorganization, consolidation, or merger. In any event, each such corporation shall pay a tax not subject to offset for such period in an amount equal to the minimum tax provided for in Section 4 of this act.

Abatement or refund

Minimum tax

Bank or corporation discontinuing business

(*l*) When a corporation discontinues doing business within the State during any taxable year and does not dissolve or withdraw from the State during that year, and does not resume doing business during the succeeding taxable year, its tax for the year in which it resumes doing business shall be computed upon the basis of the net income for the year in which it discontinued doing business (except where such income has already been included in the measure of a tax imposed by this act), a credit being allowed for any tax payable under subdivision (5) of Section 4 of this act. One-half the amount of such tax shall be due and payable at the time the corporation resumes doing business, or on or before the fifteenth day of the third month following the close of its income year, whichever is later, and the balance shall be due and payable within six months of the time the corporation resumes doing business, or on or before the fifteenth day of the ninth month following the close of the income year, whichever is later, but, in no event shall the balance of the tax be due and payable later than the close of the taxable year in which it resumes doing business. All the provisions of this act relating to delinquent taxes shall be applicable to such tax if it is not paid on or before its due date.

Banks and corporations which revive

(m) The tax of any bank or corporation which has suffered the suspension or forfeiture provided in Section 32 of this act, and which revives in any taxable year other than the taxable year in which suspension or forfeiture occurred, but did not transact business, as defined in Section 5 of this act, during the period of such suspension or forfeiture, shall be computed in the same manner as provided in subdivisions (c) and (d) of this section relative to the computation of taxes of banks and corporations commencing to do business for the first time after incorporation or qualification. Such a bank or corporation shall, in addition to the taxes, penalties, and interest

Tax prepayment

specified in Section 33 of this act, prepay a tax in an amount equal to the minimum tax provided for in Section 4 of this act as a condition precedent to the issuance of a certificate of revivor.

Tax not a deficiency assessment

(n) Any tax, imposed pursuant to this section, based on the net income as disclosed by the return, shall not be considered a deficiency assessment within the meaning of Section 25 of this act.

Attaching of liability

(o) The tax liability imposed under this act shall attach whether a bank or corporation has a taxable year of 12 months or of less duration.

Stats 1937, p 2324. See also Stats 1943, Ch 352

SEC. 7. Section 14 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows:

Allocation of income or deductions among affiliated banks and corporations

SEC. 14. In the case of two or more corporations or banks or of one or more banks and one or more corporations owned or controlled directly or indirectly by the same interests, the commissioner may permit or require the filing of a combined report and such other information as he deems necessary and is authorized to impose the tax due under this act as though the combined entire net income was that of one corporation, or to distribute, apportion, or allocate the gross income or deductions between or among such corporations or banks, if he determines that such consolidation, distribution, apportionment, or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any such corporations or banks.

Consolidated report

In the case of a corporation doing business within the meaning of this act, whether under agreement or otherwise, in such manner as either directly or indirectly to benefit the members or stockholders of the corporation, or any of them, or any person or persons, directly or indirectly interested in such business, by rendering services of any nature whatsoever, or acquiring or disposing of its products or the goods or commodities in which it deals, at less than a fair price therefor, the commissioner, in order to prevent evasion of taxes or clearly to reflect the income of such corporation, may require a report of such facts as he deems necessary, and may determine the amount which shall be deemed to be the entire net income allocable to this State of the business of such corporation for the calendar or fiscal year, and compute the tax upon such net income. In determining the entire net income the commissioner shall have regard to the fair profits which, but for any agreement, arrangement, or understanding, might be or could have been obtained from dealing in such products, goods or commodities.

In the case of a corporation liable to report under this act owning or controlling, either directly or indirectly, another corporation, or other corporations, and in the case of a corporation liable to report under this act and owned or controlled, either directly or indirectly, by another corporation, the commissioner may require a consolidated report showing the combined net income or such other facts as he deems necessary.

Assessment of tax

The commissioner is authorized and empowered, in such manner as he may determine, to assess the tax against either of the corporations whose net income is involved in the report upon the basis of the combined entire net income and such other information as he may possess, or he may adjust the tax in such other manner as he shall determine to be equitable if he determines it to be necessary in order to prevent evasion of taxes or to clearly reflect the net income earned by said corporation or corporations from business done in this State.

Ownership or control

Ownership or control of more than 50 per centum of the voting stock of the bank or corporation shall constitute ownership or control for the purposes of this section.

Stats 1935, p 959 See also Stats 1943, Ch 352

SEC. 8. Section 16 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows:

Computation in absence of return

Sec. 16. If any return required by this act is not made, the commissioner, at any time, may require a return, under oath, or may make an estimate of the net income, from any available information, and may compute and levy the amount of tax, interest and penalties due under this act. All the provisions of this act (not in conflict herewith) relative to delinquent taxes shall be applicable to the tax, interest and penalties computed and levied hereunder. A proceeding in court for the collection of the tax, interest and penalties herein provided for may be begun without assessment at any time.

Collection

Stats 1929, p 19 See also Stats 1943, Ch 352

SEC. 9. Section 17 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows:

Use of inventories

Sec. 17. (1) Whenever, in the opinion of the commissioner, the use of inventories is necessary clearly to determine the income of any taxpayer, inventory shall be taken by such taxpayer upon such basis as the commissioner may prescribe, conforming as nearly as may be to the best accounting practice and most clearly reflecting the income.

Method of inventorying

(2) (A) A taxpayer may use the following method (whether or not such method has been prescribed under Subdivision (1)) in inventorying goods specified in the application required under paragraph (B): (1) Inventory them at cost; (2) Treat those remaining on hand at the close of the income year as being: First, those included in the opening inventory of the income year (in order of acquisition) to the extent thereof, and second, those acquired in the income year; and (3) Treat those included in the opening inventory of the income year in which such method is first used as having been acquired at the same time and determine their cost by the average cost method.

(B) The method described in paragraph (A) may be used (1) only in inventorying goods (required under subdivision (1) to be inventoried) specified in an application to use such method filed at such time and in such manner as the commissioner may prescribe; and (2) only if the taxpayer establishes to the satisfaction of the commissioner that the taxpayer has used no procedure other than that specified in (2) and (3)

of paragraph (A) in inventorying (to ascertain income, profit, or loss, for credit purposes, or for the purpose of reports to shareholders, partners, or other proprietors, or to beneficiaries) such goods for any period beginning with or during the first income year for which the method described in paragraph (A) is to be used.

Regulations

(C) The change to, and the use of, such method shall be in accordance with such regulations as the commissioner may prescribe as necessary in order that the use of such method may clearly reflect income.

Inventory at cost

(D) In determining income for the income year preceding the income year for which such method is first used, the closing inventory of such preceding year of the goods specified in such application shall be at cost.

Change in inventorying method

(E) If the taxpayer, having complied with paragraph (B), uses the method described in paragraph (A) for any income year, then such method shall be used in all subsequent income years unless with the approval of the commissioner a change to a different method is authorized; or the commissioner determines that the taxpayer has used for any period beginning with or during any subsequent income year some procedure other than that specified in (2) of paragraph (A) in inventorying (for ascertaining income, profit, or loss, for credit purposes, or for the purpose of reports to shareholders, partners, or other proprietors, or to beneficiaries) the goods specified in the application, and requires a change to a method different from that prescribed in paragraph (A) beginning with such subsequent income year or any income year thereafter. In either of the above cases, the change to, and the use of, the different method shall be in accordance with such regulations as the commissioner may prescribe as necessary in order that the use of such method may clearly reflect income.

Stats 1939, p 2934 See also Stats 1943, Ch 352

SEC. 10. Section 20 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows:

Recognition of gain or loss

Sec. 20. (a) Upon the sale or exchange of property the entire amount of the gain or loss, determined under Section 19, shall be recognized, except as hereinafter provided in this section.

(b) (1) No gain or loss shall be recognized if property held for productive use in trade or business or for investment (not including stock in trade or other property held primarily for sale, nor stocks, bonds, notes, choses in action, certificates of trust or beneficial interest, or other securities or evidences of indebtedness or interest) is exchanged solely for property of a like kind to be held either for productive use in trade or business or for investment.

(2) No gain or loss shall be recognized if common stock in a corporation is exchanged solely for common stock in the same corporation, or if preferred stock in a corporation is exchanged solely for preferred stock in the same corporation.

(3) No gain or loss shall be recognized if stock or securities in a corporation a party to a reorganization are, in pursuance of the plan of reorganization, exchanged solely for stock or securities in such corporation or in another corporation a party to the reorganization.

(4) No gain or loss shall be recognized if a corporation a party to a reorganization exchanges property, in pursuance of the plan of reorganization, solely for stock or securities in another corporation a party to the reorganization.

(5) No gain or loss shall be recognized if property is transferred to a corporation by one or more taxpayers solely in exchange for stock or securities in such corporation, and immediately after the exchange such taxpayer or taxpayers are in control of the corporation; but in the case of an exchange by two or more taxpayers this paragraph shall apply only if the amount of the stock and securities received by each is substantially in proportion to its interest in the property prior to the exchange. Where the transferee assumes a liability of a transferor, or where the property of a transferor is transferred subject to a liability, then for the purpose only of determining whether the amount of stock or securities received by each of the transferors is in the proportion required by this paragraph, the amount of such liability (if under subsection (k) it is not to be considered as other property or money) shall be considered as stock or securities received by such transferor.

Distributions in complete liquidation

(6) No gain or loss shall be recognized upon the receipt by a corporation of property distributed in complete liquidation of another corporation. For the purposes of this paragraph a distribution shall be considered to be in complete liquidation only if:

(A) The corporation receiving such property was, on the date of the adoption of the plan of liquidation, and has continued to be at all times until the receipt of the property, the owner of stock (in such other corporation) possessing at least 80 per centum of the total combined voting power of all classes of stock entitled to vote and the owner of at least 80 per centum of the total number of shares of all other classes of stock (except nonvoting stock which is limited and preferred as to dividends), and was at no time on or after the date of the adoption of the plan of liquidation and until the receipt of the property the owner of a greater percentage of any class of stock than the percentage of such class owned at the time of the receipt of the property; and

(B) No distribution under the liquidation was made before the first day of the first taxable year of the corporation beginning after December 31, 1935; and either

(C) The distribution is by such other corporation in complete cancellation or redemption of all its stock, and the transfer of all the property occurs within the income year; in such case the adoption by the shareholders of the resolution under which is authorized the distribution of all the assets of

such corporation in complete cancellation or redemption of all its stock, shall be considered an adoption of a plan of liquidation, even though no time for the completion of the transfer of the property is specified in such resolution; or

(D) Such distribution is one of a series of distributions by such other corporation in complete cancellation or redemption of all its stock in accordance with a plan of liquidation under which the transfer of all the property under the liquidation is to be completed within three years from the close of the taxable year during which is made the first of the series of distributions under the plan, except that if such transfer is not completed within such period, or if the taxpayer does not continue qualified under subparagraph (A) until the completion of such transfer, no distribution under the plan shall be considered a distribution in complete liquidation.

If such transfer of all the property does not occur within the income year the commissioner may require of the taxpayer such bond, or waiver of the statute of limitations on assessment and collection, or both, as he may deem necessary to insure, if the transfer of the property is not completed within such three-year period, or if the taxpayer does not continue qualified under subparagraph (A) until the completion of such transfer, the assessment and collection of all taxes imposed by this act then due or to become due, to the extent attributable to property so received. A distribution otherwise constituting a distribution in complete liquidation within the meaning of this paragraph shall not be considered as not constituting such a distribution merely because it does not constitute a distribution or liquidation within the meaning of the corporate law under which the distribution is made; and for the purposes of this paragraph a transfer of property of such other corporation to the taxpayer shall not be considered as not constituting a distribution (or one of a series of distributions) in complete cancellation or redemption of all the stock of such other corporation, merely because the carrying out of the plan involves (i) the transfer under the plan to the taxpayer by such other corporation of property, not attributable to shares owned by the taxpayer, upon an exchange described in paragraph (4) of this subsection, and (ii) the complete cancellation or redemption under the plan, as a result of exchanges described in paragraph (3) of this subsection, of the shares not owned by the taxpayer.

(c) (1) If an exchange would be within the provisions of subsection (b) (1), (2), (3), or (5) of this section if it were not for the fact that the property received in exchange consists not only of property permitted by such paragraph to be received without the recognition of gain, but also of other property or money, then the gain, if any, to the recipient shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property.

(2) If a distribution made in pursuance of a plan of reorganization is within the provisions of paragraph (1) of this subsection but has the effect of the distribution of a taxable dividend, then there shall be treated as a dividend to each distributee such an amount of the gain recognized under paragraph (1) as is not in excess of his ratable share of the undistributed earnings and profits of the corporation accumulated after February 28, 1913. The remainder, if any, of the gain recognized under paragraph (1) shall be treated as a gain from the exchange of property.

(c) If an exchange would be within the provisions of subsection (b) (4) of this section if it were not for the fact that the property received in exchange consists not only of stock or securities permitted by such paragraph to be received without the recognition of gain, but also of other property or money, then:

(1) If the corporation receiving such other property or money distributes it in pursuance of the plan of reorganization, no gain to the corporation shall be recognized from the exchange, but

(2) If the corporation receiving such other property or money does not distribute it in pursuance of the plan of reorganization, the gain, if any, to the corporation shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property so received, which is not so distributed.

(e) If an exchange would be within the provisions of subsection (b) (1) to (5), inclusive, of this section if it were not for the fact that the property received in exchange consists not only of property permitted by such paragraph to be received without the recognition of gain or loss, but also of other property or money, then no loss from the exchange shall be recognized.

(f) If property (as a result of its destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation, or the threat or imminence thereof) is compulsory or involuntarily converted into property similar or related in service or use to the property so converted, or into money which is forthwith in good faith, under regulations prescribed by the commissioner, expended in the acquisition of other property similar or related in service or use to the property so converted, or in the acquisition of control of a corporation owning such other property, or in the establishment of a replacement fund, no gain or loss shall be recognized. If any part of the money is not so expended, the gain, if any, shall be recognized, but in an amount not in excess of the money which is not so expended.

(g) As used in this section and Section 21:

"Reorganization" (1) The term "reorganization" means (A) a statutory merger or consolidation, or (B) the acquisition by one corporation in exchange solely for all or a part of its voting stock: of at least 80 per centum of the voting stock and at

least 80 per centum of the total number of shares of all other classes of stock of another corporation; or of substantially all the properties of another corporation, but in determining whether the exchange is solely for voting stock, the assumption by the acquiring corporation of a liability of another, or the fact that property acquired is subject to a liability, shall be disregarded, or (C) a transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor or its shareholders or both are in control of the corporation to which the assets are transferred, or (D) a recapitalization, or (E) a mere change in identity, form, or place of organization, however effected.

"Party to a reorganization"

(2) The term "a party to a reorganization" includes a corporation resulting from a reorganization and includes both corporations in the case of a reorganization resulting from the acquisition by one corporation of stock or properties of another.

"Control"

(h) As used in this section the term "control" means the ownership of stock possessing at least 80 per centum of the total combined voting power of all classes of stock entitled to vote and at least 80 per centum of the total number of shares of all other classes of stock of the corporation.

Corporation created in foreign country

(i) In determining the extent to which gain shall be recognized in the case of any of the exchanges (made after the date of the enactment of this act) described in subsection (b) (3), (4), (5), or (6), or described in so much of subsection (c) as refers to subsection (b) (3) or (5), or described in subsection (d), a corporation created or organized in a foreign country shall not be considered as a corporation unless, prior to such exchange, it has been established to the satisfaction of the commissioner that such exchange is not in pursuance of a plan having as one of its principal purposes the avoidance of income taxes or franchise taxes imposed by this State.

Installment obligations

(j) For nonrecognition of gain or loss in the case of installment obligations, see Section 19 (e) (4).

Assumption or acquisition of liability

(k) Where, upon an exchange, the taxpayer receives as part of the consideration property which would be permitted by subsection (b) (4) or (5) of this section to be received without the recognition of gain if it were the sole consideration, and as part of the consideration another party to the exchange assumes a liability of the taxpayer or acquires from the taxpayer property subject to a liability, such assumption or acquisition shall not be considered as "other property or money" received by the taxpayer within the meaning of subsection (c), (d) or (e) of this section and shall not prevent the exchange from being within the provisions of subsection (b) (4) or (5); except that if, taking into consideration the nature of the liability and the circumstances in the light of which the arrangement for the assumption or acquisition was made, it appears that the principal purpose of the taxpayer with respect to the assumption or acquisition was a purpose

to avoid State tax on the exchange, or, if not such purpose, was not a bona fide business purpose, such assumption or acquisition (in the amount of the liability) shall, for the purposes of this section, be considered as money received by the taxpayer upon the exchange. In any suit or proceeding where the burden is on the taxpayer to prove that such assumption or acquisition is not to be considered as money received by the taxpayer, such burden shall not be considered as sustained unless the taxpayer sustains such burden by the clear preponderance of the evidence.

Proof

Stats 1939, p 2934 See also Stats 1943, Ch 352

SEC. 11. Section 21 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows:

Sec. 21. (a) The basis of property shall be the cost of such property; except that:

Basis of property

(1) If the property should have been included in the last inventory, the basis shall be the last inventory value thereof.

(2) If the property was acquired by gift after December 31, 1920, the basis shall be the same as it would be in the hands of the donor or the last preceding owner by whom it was not acquired by gift, except that for the purpose of determining loss the basis shall be the basis so determined or the fair market value of the property at the time of the gift, whichever is lower. If the facts necessary to determine the basis in the hands of the donor or the last preceding owner are unknown to the donee, the commissioner shall, if possible, obtain such facts from such donor or last preceding owner, or any other person cognizant thereof. If the commissioner finds it impossible to obtain such facts, the basis in the hands of such donor or last preceding owner shall be the fair market value of such property as found by the commissioner as of the date or approximate date at which, according to the best information that the commissioner is able to obtain, such property was acquired by such donor or last preceding owner.

(3) If the property was acquired after December 31, 1920, by a transfer in trust (other than by a transfer in trust by a bequest or devise) the basis shall be the same as it would be in the hands of the grantor, increased in the amount of gain or decreased in the amount of loss recognized to the grantor upon such transfer under the law applicable to the year in which the transfer was made.

(4) If the property was acquired, after February 28, 1913, upon an exchange described in Section 20 (b) to (e), inclusive, the basis (except as provided in paragraph (12) of this subsection) shall be the same as in the case of the property exchanged, decreased in the amount of any money received by the taxpayer and increased in the amount of gain or decreased in the amount of loss to the taxpayer that was recognized upon such exchange under the law applicable to the year in which the exchange was made. If the property so acquired consisted in part of the type of property permitted by section 20 (b) to be received without the recognition of gain or loss, and in part of other property, the basis provided in this

paragraph shall be allocated between the properties (other than money) received, and for the purpose of the allocation there shall be assigned to such other property an amount equivalent to its fair market value at the date of the exchange. Where, as part of the consideration to the taxpayer, another party to the exchange assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability, such assumption or acquisition (in the amount of the liability) shall, for the purposes of this paragraph, be considered as money received by the taxpayer upon the exchange. This paragraph shall not apply to property acquired by a corporation by the issuance of its stock or securities as the consideration in whole or in part for the transfer of the property to it.

(5) If the property was acquired:

(A) After December 31, 1917, and in an income year beginning before January 1, 1936, by a corporation in connection with a reorganization, and immediately after the transfer an interest or control in such property of 50 per centum or more remained in the same persons or any of them, or

(B) In an income year beginning after December 31, 1935, by a corporation in connection with a reorganization, then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made. This paragraph shall not apply if the property acquired consists of stock or securities in a corporation a party to the reorganization, unless acquired by the issuance of stock or securities of the transferee as the consideration in whole or in part for the transfer.

(6) If the property was acquired after December 31, 1920, by a corporation:

(A) By the issuance of its stock or securities in connection with a transaction described in Section 20 (b) (5) of this act or Section 9.2 (b) (4) of The Personal Income Tax Act or Section 11 (b) (5) of the Corporation Income Tax Act (including, also, cases where part of the consideration for the transfer of such property to the corporation was property or money, in addition to such stock or securities), or Stats 1935, p 1090 Stats 1937, p 2184

(B) As paid-in surplus or as a contribution to capital, then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made.

(7) If the property was acquired, after February 28, 1913, as the result of a compulsory or involuntary conversion described in Section 20 (f), the basis shall be the same as in the case of the property so converted, decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law (applicable

to the year in which such conversion was made) determining the taxable status of the gain or loss upon such conversion, and increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under the law applicable to the year in which such conversion was made.

(8) If the property consists of stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility (under Section 8 (d) of this act, relating to wash sales) of the loss from the sale or other disposition of substantially identical stock or securities, then the basis shall be the basis of the stock or securities so sold or disposed of, increased or decreased, as the case may be, by the difference, if any, between the price at which the property was acquired and the price at which such substantially identical stock or securities were sold or otherwise disposed of.

(9) In the case of property acquired by a corporation, during a period of affiliation, from a corporation with which it was affiliated, the basis of such property, after such period of affiliation, shall be determined, in accordance with regulations prescribed by the commissioner without regard to intercompany transactions in respect of which gain or loss was not recognized. The basis in case of property acquired by a corporation during any period, in the taxable year 1929 or any subsequent taxable year, in respect of which a consolidated return is made by such corporation under Section 13½ of this act or Section 141 of the Federal Revenue Act of 1928 or the Federal Revenue Act of 1932 or the Federal Revenue Act of 1934 or the Federal Revenue Act of 1936, shall be determined in accordance with regulations prescribed under Section 13½ of this act or Section 141 of the Federal Revenue Act of 1928 or the Federal Revenue Act of 1932 or the Federal Revenue Act of 1934 or the Federal Revenue Act of 1936. The basis in the case of property held by a corporation during any period, in the taxable year 1929 or any subsequent taxable year, in respect of which a consolidated return is made by such corporation under Section 13½ of this act or Section 141 of the Federal Revenue Act of 1928 or the Federal Revenue Act of 1932 or the Federal Revenue Act of 1934 or the Federal Revenue Act of 1936, shall be adjusted in respect of any items relating to such period, in accordance with regulations prescribed under Section 13½ of this act or Section 141 of the Federal Revenue Act of 1928 or the Federal Revenue Act of 1932 or the Federal Revenue Act of 1934 or the Federal Revenue Act of 1936, applicable to such period.

(10) If the property was acquired, after February 28, 1913, in any income year beginning prior to January 1, 1934, and the basis thereof, for the purposes of the Revenue Act of 1932 was prescribed by Section 113 (a) (6), (7), or (9) of such act, then for the purposes of this act the basis shall be the same as the basis therein prescribed in the Revenue Act of 1932.

(11) In the case of property acquired before March 1, 1913, if the basis otherwise determined under this subsection, adjusted (for the period prior to March 1, 1913) as provided in subsection (b), is less than the fair market value of the property as of March 1, 1913, then the basis for determining gain shall be such fair market value. In determining the fair market value of stock in a corporation as of March 1, 1913, due regard shall be given to the fair market value of the assets of the corporation as of that date.

(12) If the property was received by a corporation upon a distribution in complete liquidation of another corporation within the meaning of Section 20 (b) (6), then the basis shall be the same as it would be in the hands of the transferor.

(13) Whenever a corporation has realized gain or loss upon the receipt after January 1, 1928, at a time when it was subject to a tax under this act measured by income, of all or substantially all of the business or property of a corporation over which it exercised control within the meaning of subsection 20 (h), and such gain or loss actually was not taken into account in the computation of taxes imposed by this act, the basis of the property or business acquired shall be the same as it was in the hands of the transferor.

(14) If the property was acquired after February 28, 1913, in any income year beginning prior to January 1, 1937, and the basis thereof, for the purposes of the Federal Revenue Act of 1934 was prescribed by Section 113 (a) (6), (7), or (8) of such act, then for the purposes of this act the basis shall be the same as the basis therein prescribed in the Federal Revenue Act of 1934.

(15) (A) If the property was acquired by a shareholder in a corporation and consists of rights to acquire stock in such corporation acquired by him after February 28, 1913, in a distribution by such corporation, and (1) the right to acquire such stock was acquired in an income year beginning before January 1, 1937, (except as provided in subparagraph (B)), or (2) the right to acquire such stock was acquired in an income year beginning after December 31, 1936, and its distribution did not constitute income to the shareholder within the meaning of the Sixteenth Amendment to the Constitution of the United States, then the basis of the stock in respect of which the rights were declared and the right to acquire stock, respectively, shall, in the shareholder's hands be determined by allocating between the stock and the right to acquire stock the adjusted basis of the stock, such allocation to be made under regulations which shall be prescribed by the commissioner.

(B) If a stock right was acquired prior to January 1, 1928, and it constituted income within the purview of the Sixteenth Amendment to the Constitution of the United States, the basis of the stock in respect of which the rights were declared shall not be affected and the basis of the right shall be its fair market value as of the date of its acquisition.

(C) Where the shareholder acquired the right to acquire such stock in an income year beginning before January 1, 1943, and sold the same, and there was included in the gross income for such year of sale the entire amount of the proceeds of such sale, then if before the effective date of the 1943 amendments to this act the taxpayer has not asserted (by claim for a refund or credit or otherwise) that any part of the proceeds of the sale of such rights should be excluded from gross income for the year of its sale, the basis of the stock shall be determined without regard to paragraphs (A) and (B), and no part of the proceeds of the sale of such rights shall ever be excluded from the gross income for the year of such sale.

Adjusted basis

(b) The adjusted basis for determining the gain or loss from the sale or other disposition of property, whenever acquired, shall be the basis determined under subsection (a), adjusted as hereinafter provided.

(1) Proper adjustment in respect of the property shall in all cases be made—

(A) For expenditures, receipts, losses, or other items properly chargeable to capital account, including taxes and other carrying charges on unimproved and unproductive real property, but no such adjustment shall be made for taxes or other carrying charges for which deductions have been taken by the taxpayer in determining net income for the income year or prior income years;

(B) For exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent sustained prior to January 1, 1928, and to the extent allowed (but not less than the amount allowable) under this act, except that no deduction shall be made for (1) amounts in excess of the amount which would have been allowable had depreciation not been computed on the basis of January 1, 1928, value; (2) amounts in excess of the adjustments required by Section 113 (b) (1) (B) of the Federal Revenue Act of 1938 for depletion prior to January 1, 1932.

(C) In the case of stock (to the extent not provided for in the foregoing subparagraphs) for the amount of distributions previously made which, under the law applicable to the year in which the distribution was made, either were tax free or were applicable in reduction of basis (not including distributions made by a corporation, which was classified as a personal service corporation under the provisions of the Federal Revenue Act of 1918 or 1921, out of its earnings or profits which were taxable in accordance with the provisions of Section 218 of the Federal Revenue Act of 1918 or 1921).

"Substituted basis"

(2) The term "substituted basis" as used in this subsection means a basis determined under any provision of subsection (a) of this section providing that the basis shall be determined:

(A) By reference to the basis in the hands of a transferor, donor, or grantor, or

(B) By reference to other property held at any time by the person for whom the basis is to be determined.

Whenever it appears that the basis of property in the hands of the taxpayer is a substituted basis, then the adjustments provided in paragraph (1) of this subsection shall be made after first making in respect of such substituted basis proper adjustments of a similar nature in respect of the period during which the property was held by the transferor, donor, or grantor, or during which the other property was held by the person for whom the basis is to be determined. A similar rule shall be applied in the case of a series of substituted bases.

SEC. 12. Section 24 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows: Stats. 1939, p. 2934. See also Stats. 1943, Ch. 352

Sec. 24. (a) If any taxpayer fails to make and file a return required by this act on or before the due date of the return or the due date as extended by the commissioner, then, unless it is shown that such failure is due to reasonable cause and not due to wilful neglect, 5 per centum of the tax shall be added to the tax for each 30 days or fraction thereof elapsing between the due date of the return and the date on which filed, but the total addition shall not exceed 25 per centum of the tax. The amount so added to the tax shall be due and payable upon notice and demand from the commissioner. Interest and addition to tax. Failure to file return

If any taxpayer, upon notice and demand by the commissioner, fails or refuses to make and file a return required by this act, the commissioner is authorized to make an estimate of the net income and to compute and levy the amount of the tax due under this act from any available information, and in such case 25 per centum of the tax (in addition to the amounts added under the provisions of the preceding paragraph of this subsection) shall be added to the tax and shall be due and payable upon notice and demand from the commissioner.

If any bank or corporation fails or refuses to furnish any information as requested in writing by the commissioner, the commissioner may add a penalty of 25 per centum of the amount of any additional tax assessed by the commissioner concerning the determination of which such information was required.

(b) If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations but without intent to defraud, 5 per centum of the total amount of the deficiency (in addition to such deficiency and other additions provided in this section) shall be assessed, collected and paid in the same manner as if it were a deficiency. Deficiency

If any part of any deficiency is due to fraud with intent to evade tax, then 50 per centum of the total amount of the deficiency (in addition to such deficiency and other additions provided in this section) shall be assessed, collected and paid in the same manner as if it were a deficiency.

(c) If the tax imposed by this act (whether determined by the commissioner or the taxpayer) or any installment or Failure to pay

portion thereof is not paid on or before the date prescribed for its payment, there shall be collected as a part of the tax interest upon such unpaid amount at the rate of 6 per centum per year from the date prescribed for its payment until it is paid.

If the time for the payment of the tax or any installment thereof is extended by the commissioner, or if collection of a jeopardy assessment is stayed under Section 24.1 of this act, there shall be collected as part of such tax interest thereon at the rate of 6 per centum a year from the date upon which such payment should have been made if no extension had been granted or collection had not been stayed until the date the tax is paid.

Interest upon the amount determined as a deficiency shall be assessed and paid at the same time as the deficiency at the rate of 6 per centum per year from the date prescribed for the payment of the tax (or, if the tax is paid in installments, from the date prescribed for the payment of the first installment) to the date the deficiency is assessed; provided, however, if any portion of the deficiency is paid prior to the date it is assessed, interest shall accrue on such portion only to the date paid; and further provided, that interest on the deficiency assessment provided for in Section 4a of this act shall run only from the fifteenth day following the mailing of the first notice to established banks and financial corporations of the commissioner's determination of the bank rate for the year involved.

Where a deficiency, or any interest or additional amounts assessed in connection therewith, or any addition to the tax in case of delinquency provided for in subsection (a) of this section, is not paid in full within 10 days from the date of notice and demand from the commissioner, there shall be collected as a part of the tax, interest upon the unpaid amount at the rate of 6 per centum a year from the date of such notice and demand until it is paid.

Overpayment. Credit on deficiency

(d) When the correction of an erroneous inclusion or deduction of an item in the computation of income of any year results in an overpayment for one year and a deficiency for another year, the overpayment, if the period within which credit for the overpayment may be allowed has not expired, shall be credited on the deficiency, if the period within which the deficiency may be proposed has not expired, and the balance, if any, shall be credited or refunded as provided in Section 27. No interest shall be assessed on such portion of the deficiency as is extinguished by the credit for the period of time subsequent to the date the overpayment was made.

Notwithstanding the provisions of Section 27, no interest shall in any case be allowed on any overpayment to the extent credited on deficiencies pursuant to the provisions of this section.

SEC. 13. Section 24.1 is hereby added to the Bank and Corporation Franchise Tax Act, as follows: New section

Sec. 24.1. (a) If the commissioner finds that the assessment or the collection of a tax or a deficiency for any year, current or past, will be jeopardized in whole or in part by delay, he may mail or issue notice of such finding to the taxpayer, together with a demand for immediate payment of the tax or the deficiency declared to be in jeopardy (including interest, penalties and additions thereto). In the case of a tax for a current period, the commissioner may declare the income period of the taxpayer immediately terminated and shall cause notice of such finding and declaration to be mailed or issued to the taxpayer, together with a demand for immediate payment of the tax based on the period declared terminated, including therein income accrued and deductions incurred up to such date of termination if not otherwise properly includible or deductible in respect of such period, and such tax shall be immediately due and payable whether or not the time otherwise allowed by law for filing the return and paying the tax has expired. Jeopardy assessment

(b) The jeopardy assessments provided for in this section shall be immediately due and payable and proceedings for collection may be commenced at once; provided, that the taxpayer may stay collection and prevent the jeopardy assessment from becoming final by filing, within 10 days after the date of mailing or issuing the notice of jeopardy assessment, a petition for reassessment, accompanied by a bond or other security in such amount as the commissioner may deem necessary, not exceeding double the amount (including interest, penalties, and additions thereto) as to which the stay is desired. The commissioner shall consider such petition for reassessment, and notify the taxpayer of his decision thereon, which decision shall be final. If the taxpayer has so requested in its petition, it shall be the duty of the commissioner to grant said taxpayer, or its authorized representative, an oral hearing. If petition for reassessment, accompanied by bond or other security, is not filed within the 10-day period, the assessment shall become final. Collection

Petition for reassessment

Oral hearing

(c) In any proceeding brought to enforce payment of taxes made due and payable by virtue of the provisions of this section, the finding of the commissioner, made as herein provided, whether made after notice to the taxpayer or not, shall be for all purposes presumptive evidence that the assessment or collection of the tax or the deficiency was in jeopardy. A certificate of the commissioner of the mailing or issuing the notices specified in this section shall be presumptive evidence that such notices were mailed or issued. Finding of commissioner

Certificate

SEC. 14 Section 25 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows: Stats 1939, p 2934 See also Stats 1943, Ch 352

Sec. 25. As soon as practicable after the return is filed, the commissioner shall examine it and shall determine the correct amount of the tax. If the commissioner determines Additional tax Notice

that the tax disclosed by the original return is less than the tax disclosed by his examination he shall mail notice or notices to the taxpayer at its post-office address (which must appear on its return) of the additional tax proposed to be assessed against it. Each notice shall set forth the details of the proposed additional assessment and of computing said tax.

Protest

Within 60 days after the mailing of said notice the taxpayer may file with the commissioner a written protest against the levy of the proposed additional tax, as computed by the commissioner, specifying therein the grounds upon which the protest is based. The protest must be under oath.

Hearing, etc

If no such protest is so filed the amount of the tax shall be final upon the expiration of said 60-day period. If a protest is so filed it shall be the duty of the commissioner to reconsider the computation and levy of the tax complained of, and if the taxpayer has so requested in its protest, it shall be the duty of the commissioner to grant said taxpayer, or its authorized representatives, an oral hearing. After consideration of the protest and the evidence adduced in the event of such oral hearing, the commissioner's action upon the protest shall be final upon the expiration of 30 days from the date when he mails to the taxpayer notice of his action, unless within that 30-day period the taxpayer appeals in writing from the action of the commissioner to the State Board of Equalization.

Appeal

The appeal must be addressed and mailed to the State Board of Equalization at Sacramento, and a copy of the appeal addressed and mailed at the same time to the commissioner at Sacramento. Said board shall hear and determine the same and thereafter shall forthwith notify the taxpayer and the commissioner of its determination, and the reasons therefor. Such determination shall be final upon the expiration of 60 days from the time of such determination unless within such 60-day period the determination is modified in which event it shall become final upon the expiration of 60 days from the time it is modified.

Notice and demand

When a deficiency has been determined and the tax has become final under the provisions of this section, the commissioner shall mail notice and demand to the taxpayer for the payment thereof, and such tax shall be due and payable at the expiration of 10 days from the date of such notice and demand.

A certificate by the commissioner or of said board, as the case may be, of the mailing of the notices specified in this section shall be prima facie evidence of the computation and levy of the deficiency in tax and of the giving of said notices.

Limitation

Except in the case of a fraudulent return, every notice of additional tax proposed to be assessed hereunder shall be mailed to the taxpayer within four years after the return was filed and no deficiency shall be assessed or collected with respect to the year for which such return was filed unless such notice is mailed within such period; provided, that in the case of any taxpayer which shall agree with the United States

Commissioner of Internal Revenue for an extension (or renewals thereof) of the period for proposing and assessing deficiencies in Federal income tax for any year, the period for mailing notices of proposed deficiency tax pursuant to this section shall (unless otherwise agreed between the commissioner and the taxpayer) be four years after the return was filed or six months after the date of the expiration of the agreed period for assessing deficiencies in Federal income tax, whichever period expires the later. For the purposes of this paragraph a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

Extension of assessment period

Where, before the expiration of the time prescribed in this section for the assessment of the tax, the taxpayer has consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

Excess tax due to mathematical error

Any amount of tax in excess of that disclosed by the return, due to a mathematical error, notice of which has been mailed to the taxpayer, shall not be considered a deficiency assessment within the meaning of this section. The taxpayer shall have no right of protest or appeal as herein provided, based on such notice, nor shall such assessment or collection be prohibited by any of the provisions of this section.

Bankruptcy of taxpayer

Upon the adjudication of bankruptcy of any taxpayer in any bankruptcy proceeding or the appointment of a receiver for any taxpayer in any receivership proceeding before any court of the United States or of any State or Territory or of the District of Columbia, any deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) determined by the commissioner in respect of a tax imposed by this act upon such taxpayer may be immediately assessed. In such cases the trustee in bankruptcy or receiver shall give notice in writing to the commissioner of the adjudication of bankruptcy or the appointment of the receiver, and the running of the statute of limitations on the making of assessments shall be suspended for the period from the date of adjudication in bankruptcy or the appointment of the receiver to a date 30 days after the date upon which the notice from the trustee or receiver is received by the commissioner; but the suspension under this sentence shall in no case be for a period in excess of two years. Claims for the deficiency and such interest, additional amounts and additions to the tax may be presented, for adjudication in accordance with law, to the court before which the bankruptcy or receivership proceeding is pending, despite the pendency of proceedings for the redetermination of the deficiency in pursuance of a petition to the Board of Equalization but no petition for any such redetermination shall be filed with said board after the adjudication

of bankruptcy or the appointment of the receiver. Any portion of the claim allowed in such bankruptcy or receivership proceeding which is unpaid shall be paid by the taxpayer upon notice and demand from the commissioner after determination of such proceeding and may be collected in the manner provided in this act for the collection of delinquent taxes at any time within six years after termination of such proceeding.

Stats 1931, p 2034
See also Stats 1943, Ch 352

SEC. 15. Section 25.1 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows:

Withholding and payment at source

Sec. 25 1. (a) The commissioner may, by regulation, require any bank, corporation or person including any officer or department of the State or any political subdivision or agency of the State to withhold from payments of interest (other than interest coupons payable to bearer), dividends, rent, prizes, winnings, and compensation for personal services, including bonuses, a percentage equal to the rate of tax measured by income imposed by this act on the payee and to transmit the amounts withheld to the commissioner at such time as he may designate. Any bank, corporation or person failing to withhold from any payments and transmit to the commissioner any amounts required by the commissioner pursuant to this paragraph to be withheld and transmitted shall be liable for any taxes due from the taxpayer to which such payments are made for the year in which made to an extent not in excess of the amounts required to be withheld, unless it is shown that such failure was due to reasonable cause.

(b) The commissioner may by notice served personally or by registered mail require any bank, corporation or person, including any officer or department of the State or any political subdivision or agency of the State, to withhold from any payments of any nature to any taxpayer the amount of any tax, interest or penalties due from the taxpayer under this act and to transmit the amount withheld to the commissioner at such times as he may designate. Any bank, corporation or person failing to withhold the tax due from any taxpayer and transmit the same to the commissioner as required by the commissioner pursuant to this paragraph shall be liable for such tax.

(c) Any bank, corporation or person required to withhold and transmit any amount pursuant to this section must comply with such requirement without resort to any legal or equitable action in a court of law or equity, and any bank, corporation or person paying to the commissioner any amount required by him to be paid pursuant to subsections (a) and (b) of this section shall not be liable therefor to the taxpayer from which withheld unless the amount withheld is refunded to the withholding agent.

(d) Any taxpayer from which a tax has been collected by withholding under this section shall be entitled to the remedies set forth in Sections 27 and 30 of this act; provided, however, that any refund of such tax under Section 27 shall be

made to the withholding agent instead of directly to the taxpayer, if requested in writing by the withholding agent at the time the amounts refundable were transmitted to the commissioner.

SEC. 16. Section 27 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows: Stats 1939 p 2934 See also Stats 1943 Ch 352

Sec. 27. If, in the opinion of the commissioner, or the State Board of Equalization, as the case may be, there has been an overpayment of tax, penalty or interest by a taxpayer for any year for any reason, the amount of such overpayment shall be credited against any taxes then due from the taxpayer under this act, and the balance shall be refunded to the taxpayer or its successor through reorganization, merger, or consolidation, or to stockholders upon dissolution. No such credit or refund shall be allowed or made until approved by the State Board of Control. No such credit or refund shall be allowed or made after four years from the last day prescribed for filing the return or after one year from the date of the overpayment, whichever period expires the later, unless before the expiration of such period a claim therefor is filed by the taxpayer, or unless before the expiration of such period the commissioner has certified the overpayment to the State Board of Control for approval of the refunding or the crediting thereof. A refund claim upon which action has become final shall not thereafter be considered a refund claim within the meaning of the foregoing provision except to the extent allowed. Every claim for refund must be in writing under oath and must state the specific grounds upon which the claim is founded. Credits and refunds. Claim

If the commissioner disallows any claim for refund, he shall notify the taxpayer accordingly. At the expiration of 90 days from the mailing of such notice, the commissioner's action upon the claim shall be final unless within such 90-day period, the taxpayer appeals in writing from the action of the commissioner to the State Board of Equalization. If the commissioner fails to mail notice of action on any refund claim within six months after the claim was filed, the taxpayer may, prior to mailing of notice of action on the refund claim, consider the claim disallowed and appeal to said board. Appeals must be addressed and mailed to the State Board of Equalization at Sacramento, and a copy of the appeal addressed and mailed at the same time to the commissioner at Sacramento. Said board shall hear and determine the same and thereafter shall forthwith notify the taxpayer and the commissioner of its determination. Such determination shall be final upon the expiration of 60 days from the time of such determination unless within such 60-day period the determination is modified, in which event it shall become final upon the expiration of 60 days from the time it is modified. Disallowance Notice. Appeal

Interest shall be allowed and paid upon any overpayment of any tax, if the overpayment was not made because of an Interest

error or mistake on the part of the taxpayer, at the rate of 6 per centum per annum as follows:

(1) In the case of a credit, from the date of the overpayment to the date of the allowance of the credit. Any interest allowed on any credit shall first be credited on any taxes due from the taxpayer under this act.

(2) In the case of a refund, from the date of the overpayment to a date preceding the date of the refund warrant by not more than 30 days, such date to be determined by the commissioner.

Recovery of erroneous refunds

Any refund or any portion thereof which is erroneously made, and any credit or any portion thereof which is erroneously allowed, may be recovered, together with interest at the rate of 6 per centum per annum from the date the refund was made or the credit allowed, in an action brought by the commissioner in a court of competent jurisdiction in the County of Sacramento in the name of the people of the State of California, and such actions shall be tried in the County of Sacramento, unless the court, with the consent of the Attorney General or the counsel for the commissioner, orders a change of place of trial. The Attorney General or the counsel for the commissioner must prosecute such action, and the provisions of the Code of Civil Procedure, relating to service of summons, pleadings, proofs, trials, and appeals are applicable to the proceedings herein provided for.

Tax illegally levied

In the event that a tax has been illegally levied against a taxpayer, the commissioner shall, in the absence of any other applicable provision in this act, certify such fact to the State Board of Control and said board shall authorize the cancellation of the tax upon the records of the commissioner.

Stats 1929, p 19
See also Stats 1943, Ch 352

SEC. 17. Section 28 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows:

Attempt to evade tax

Sec. 28. If any taxpayer files a false or fraudulent return, or fails or neglects to file a return, with intent to evade tax, the commissioner, at any time, may require a return, or a supplementary return, under oath, or may make an estimate of the net income from any available information, and may compute and levy the amount of tax, interest and penalties due under this act. All the provisions of this act (not in conflict herewith) relative to delinquent taxes shall be applicable to the tax, interest and penalties computed hereunder. A proceeding in court for the collection of the tax, interest and penalties herein provided for may be begun without assessment at any time.

Stats 1939, p 2934
See also Stats 1943, Ch 352

SEC. 18. Section 29 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows:

Tax liens

Sec. 29. (a) The taxes imposed by this act and disclosed on the return shall constitute a lien upon the real property of the taxpayer, which lien shall have the same force, effect and priority as a judgment lien and shall attach on the first day of the "taxable year," except that in the case of a bank

or corporation incorporated under the laws of this State or a foreign bank or corporation qualified to do business within the limits of this State, after the effective date of this amendment, the lien of taxes for the first taxable year of such a bank or corporation shall attach at the time of such incorporation or qualification. The taxes imposed by this act and determined pursuant to Sections 16, 25, or 28 shall constitute a lien upon all real property of the taxpayer located in any county in which there is filed for record in the office of the county recorder a certificate executed by the commissioner stating that payment of a tax determined under the provisions of Sections 16, 25 or 28 of this act has been demanded and has not been paid and specifying the amount thereof and the name of the taxpayer, and such lien shall attach at the time the certificate is recorded and shall have the same force, effect and priority as a judgment lien. The lien provided for in this section shall remain until the taxes are paid or the property subject to the lien is sold for the payment thereof, or until the lien is released or otherwise extinguished. The commissioner may at any time release all or any portion of the property subject to the lien from the lien or subordinate the lien to other liens if he determines that the taxes are sufficiently secured by a lien on other property of the taxpayer or that the release or subordination of the lien will not endanger or jeopardize the collection of such taxes. A certificate by the commissioner to the effect that any property has been released from the lien herein provided for or that such lien has been subordinated to other liens shall be conclusive evidence that the property has been released or that the lien has been subordinated as provided in the certificate. Release

(b) No decree of dissolution shall be made and entered by any court, nor shall the county clerk of any county or the Secretary of State file any such decree, or file any other document by which the term of existence of any taxpayer shall be reduced or terminated, nor shall the Secretary of State file any certificate of the surrender by a foreign corporation of its right to do intrastate business in this State unless the taxpayer obtains from the commissioner and files with said court, county clerk or Secretary of State as the case may be, a certificate to the effect the commissioner is satisfied from the available evidence that all taxes imposed by this act have been paid or are secured by bond, deposit or otherwise. Within 30 days after receiving a request for a certificate, the commissioner shall either issue the certificate or notify the person requesting the certificate of the amount of tax that must be paid or the amount of bond, deposit or other security that must be furnished as a condition of issuing the certificate. The issuance of the certificate shall not relieve the taxpayer or any individual, bank, or corporation from liability for any taxes, penalties, or interest imposed by this act. Certificate of tax payment

Stats 1939, p 2934 See also Stats 1943, Ch 352

SEC. 19. Section 30 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows:

Action to recover tax paid

Sec. 30. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against this State or against any officer thereof to prevent or enjoin the assessment or collection of any tax under this act but any taxpayer claiming that the tax computed and levied against it pursuant to Sections 24.1 and 25 of this act is void in whole or in part may bring an action against the commissioner for the recovery of the whole or any part of the amount paid. Such action must be filed within four years from the last date prescribed for filing the return or within one year from the date the tax was paid, whichever period expires the later; provided, that no action shall be filed for the recovery of a deficiency assessment unless the taxpayer has made protest to the commissioner of the computation and levy complained of under the provisions of Section 25 hereof.

Limitation

Within 90 days after the mailing of the notice of the commissioner's action upon any refund claim, or in case of an appeal to the State Board of Equalization from the disallowance of any refund claim, within 90 days after the mailing of the notice of the board's determination of the appeal, the taxpayer may bring an action against the commissioner on the grounds set forth in such claim for the recovery of the whole or any part of the amount claimed as an overpayment.

If the commissioner fails to mail notice of action on any refund claim within six months after the claim was filed, the taxpayer may, prior to mailing of notice of action on the refund claim, consider the claim disallowed and bring an action against the commissioner on the grounds set forth in such claim for the recovery of the whole or any part of the amount claimed as an overpayment.

Service of papers

Whenever under the provisions of this section an action is commenced against the commissioner, a copy of the complaint and the summons must be served upon the commissioner or assistant commissioner. A second copy of the complaint and summons must be furnished to the commissioner, but this requirement shall not be considered jurisdictional. At the time the commissioner demurs or answers, he may demand that the action be tried in the Superior Court of the County of Sacramento, which demand must be granted. The Attorney General or the counsel for the commissioner must defend the action. The provisions of the Code of Civil Procedure, relating to pleadings, proofs, trials, and appeals are applicable to the proceedings herein provided for. A failure to begin such action within the time herein specified shall be a bar against the recovery of such taxes. In any such action the court shall have power to render judgment for plaintiff for any part or portion of the tax, interest, penalties or cost found to be void and so paid by plaintiff upon such assessment.

In all actions now pending against the State Treasurer under the provisions of this act, the commissioner shall be substituted for the State Treasurer by the court wherein the action is pending. This substitution shall not in any way affect the rights of the plaintiff in said action. Substitution

If judgment is rendered against the commissioner, the amount thereof shall first be credited against any taxes and interest due from the taxpayer under this act and the remainder refunded to the taxpayer or its successor by the State Treasurer on warrant drawn by the Controller.

In any judgment of any court rendered for any overpayment in respect of any tax imposed by this act, interest shall be allowed at the rate of 6 per centum per annum upon the amount of the overpayment, from the date of the payment or collection thereof to the date of allowance of credit on account of such judgment or to a date preceding the date of the refund warrant by not more than 30 days, such date to be determined by the commissioner. Interest

SEC. 20. Section 32 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows: Stats 1939, p 2934 See also Stats 1943, Ch 352

Sec. 32. (a) If any tax, or any portion thereof, together with penalties, and interest thereon, which is due and payable either at the time the return is required to be filed or on or before the fifteenth day of the ninth month following the close of the income year, is not paid on or before six o'clock p.m. on the last day of the twelfth month after the close of the income year or if any tax due and payable upon notice and demand from the commissioner, together with penalties and interest thereon, is not paid on or before six o'clock p.m. on the last day of the eleventh month following the due date of such tax, except in case of jeopardy or fraud assessments, in which case, if such tax, interest and penalties are not paid within 40 days from the date such tax, penalties and interest are due and payable (unless the bond required by this act is filed to stay the collection of such tax, penalties and interest and such tax, interest and penalties are paid within 60 days after notice by the commissioner on taxpayer's petition for reassessment), the corporate powers, rights and privileges of the delinquent taxpayer, if it be a domestic bank or corporation, shall be suspended and shall be incapable of being exercised for any purpose or in any manner except for the purpose of amending the articles of incorporation to set forth a new name; if the delinquent taxpayer be a foreign bank or corporation the right to exercise its corporate powers, rights and privileges in this State shall be forfeited. Suspension of corporate powers

(b) The commissioner shall transmit the name of each such bank or corporation to the Secretary of State, and the suspension or forfeiture herein provided for shall thereupon become effective and the certificate of the Secretary of State shall be prima facie evidence of such suspension or forfeiture.

(c) Any person who attempts or purports to exercise any of the rights, privileges or powers of any such domestic bank Penalty for transacting business

or corporation, except as hereinabove permitted, or who transacts or attempts to transact any intrastate business in the State in behalf of any such foreign bank or corporation shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than two hundred fifty dollars ($250) and not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not less than 50 days or more than 500 days, or by both such fine and imprisonment. The jurisdiction of such offense shall be held to be in any county in which any part of such attempted exercise of such powers, or any part of such transaction of business occurred, and the district attorney of the county must prosecute such offense. In addition to the penal provisions in this paragraph, any bank or corporation which transacts business during the period of suspension or forfeiture shall be subject to tax under the provisions of this act.

(d) Every contract made in violation of this section is hereby declared to be voidable, at the instance of any party other than the taxpayer.

Stats. 1939, p 2934 See also Stats. 1943, Ch 352

SEC. 21. Section 35 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows:

Unlawful to divulge information

Sec. 35. (a) Except in accordance with proper judicial order in cases or actions instituted for the enforcement of the provisions of this act or for the prosecution of violations of this act and except as otherwise herein provided, it shall be unlawful for the commissioner, any deputy, agent, clerk or other officer or employee, to divulge or make known in any manner the amount of income or any particulars relating to the business affairs of the bank or corporation set forth or disclosed in any report or return required under this act;

Exception

provided, however, that such information may upon request of a committee appointed by either the Assembly or the Senate be furnished to such committee, but it shall be unlawful for such committee or any member, clerk or other officer or employee thereof to divulge or make known in any manner any particulars of the information so furnished except to law enforcement officers for the purpose of aiding the detection or prosecution of crimes committed in violation of this act. Nothing herein shall be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular reports or returns and the items thereof, or the publication of the percentage of dividends paid by any bank or corporation which is deductible by the recipients thereof under the provisions of this act or the Corporation Income Tax Act, or the inspection by the Attorney General or other legal representatives of the State, of the report or return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted to recover any tax or any penalty imposed by this act. Reports and returns shall be preserved for four years and thereafter until the commissioner orders them to be destroyed.

Publication of statistics, etc

Stats 1937, p 2184

Preservation of returns

The term "business affairs," as herein used, means the details relative to the business activities of the corporation as disclosed by the return but shall exclude extraneous matters, such as the exact corporate title, corporate number, the date of commencement of business in this State, taxable year adopted, filing date of return, name, date and title of persons signing affidavit to the return, due date of taxes, taxes unpaid, taxpayer's address, private address of officers and directors. "Business affairs"

(b) Any offense against this section shall be a misdemeanor. Penalty

(c) Notwithstanding the provisions of subsection (a), the commissioner may permit the Commissioner of Internal Revenue of the United States, or other tax officials of this State, or the proper officer of any State imposing an income tax or tax measured by income, or the authorized representative of either such officer, to inspect the returns of any bank or corporation, or may furnish to such officer or his authorized representative an abstract of the return of income of any taxpayer or supply him with information concerning any item of income contained in any return, or disclosed by the report of any investigation of the income or return of income of any taxpayer; but such permission shall be granted or such information furnished to such officer or his representative, only if the statutes of the United States or of such other State, as the case may be, grant substantially similar privileges to the proper officer of this State charged with the administration of this act. The information furnished or secured pursuant to this subsection shall be used solely for the purposes of administering the tax acts administered by the person or agency obtaining it, and unwarranted disclosures or uses of such information by such person or agency, or the employees or officers thereof, shall be subject to the penalty provisions of this section. Inspection by Federal and other tax agencies

(d) Whenever under this act, or any act heretofore or hereafter enacted, the commissioner is permitted or required to disclose information, or furnish abstracts, or permit access to his records to, or by any official, department, bureau, or agency of this State (including its political subdivisions), or any other State, or the United States, he may charge such official, department, bureau or agency for the reasonable cost of such services. Charge

SEC. 22. If any section, subsection, clause, sentence or phrase of this act which is reasonably separable from the remaining portions of this act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed the remaining portions of this act, irrespective of the fact that any such section, subsection, clause, sentence or phrase of this act be declared unconstitutional. Constitutionality

SEC. 23. This act, inasmuch as it provides for a tax levy for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately. With the exception of the amendments to Tax levy Application

subsections 20 (b), 20 (g), the addition of subsection 20 (k), and the amendment to subsection 21 (a), which shall be retroactive, the provisions of this act affecting changes in the computation of taxes shall be applied only in the computation of taxes for taxable years ending after December 31, 1942, and the remaining provisions of this act shall become effective on the effective date of this act. Provisions effecting changes in the computation of taxes shall mean those affecting income, deductions, rates, methods of calculating tax, exclusions, exemptions, and credits. Any amendment to any section of the Bank and Corporation Franchise Tax Act shall not, of itself, be taken as an indication that a change of meaning is intended.

Interpretation

CHAPTER 38

Stats 1937, p 2184, amended

An act to amend Sections 1, 2, 3, 6, 7, 8, 9, 11, 12, 14, 16, 18, 19, 20, 21, 22, 23, 24, 25 and 29 of, and to add a new section to be numbered 18.1 to, The Corporation Income Tax Act of 1937, relating to taxes upon the income of corporations, associations and Massachusetts or business trusts, and to provide that this act shall take effect immediately.

In effect immediately

[Approved by Governor February 10, 1943. Filed with Secretary of State February 10, 1943.]

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

Stats 1939, p 2902 See also Stats 1943, Ch 351

SECTION 1. Section 1 of The Corporation Income Tax Act of 1937 is hereby amended to read as follows:

Short title

Section 1. This act shall be known and may be cited as "The Corporation Income Tax Act."

Stats 1939, p 2902 See also Stats 1943, Ch 351

SEC. 2. Section 2 of The Corporation Income Tax Act of 1937 is hereby amended to read as follows:

Definitions

Sec. 2. For the purposes of this act and unless otherwise required by the context:

(a) The word "commissioner" as used in this act means the Bank and Corporation Franchise Tax Commissioner.

(b) The term "corporation" as herein used shall include every corporation, association, and Massachusetts or business trust, except a bank or banking association. For the purposes of this act a Massachusetts or business trust includes every business organization consisting essentially of an arrangement whereby property is conveyed to one, or more than one, trustee for purposes other than the mere conservation of assets, collection and disbursing of fixed and periodic income, or the securing of an obligation.

(c) The words "taxable year" mean the calendar year or the fiscal year, upon the basis of which the net income is computed under this act; if no fiscal year has been established they mean the calendar year.

"Taxable year" includes, in the case of a return made for a fractional part of a year under the provisions of this act or under regulations prescribed by the commissioner, the period for which such return is made.

(d) The words "fiscal year" mean an accounting period of 12 months ending on the last day of any month other than December.

(e) The words "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed under this act.

(f) The word "State" shall include the Territories of Alaska and Hawaii, the District of Columbia, and the possessions of the United States.

SEC. 3. Section 3 of The Corporation Income Tax Act of 1937 is hereby amended to read as follows: Stats 1939, p 2902 See also Stats 1943, Ch 351

Sec. 3. There shall be levied, collected and paid for each taxable year, a tax at the rate of 4 per centum upon the net income of every corporation derived from sources within this State on or after January 1, 1937, other than income for any period for which the corporation is subject to taxation under the Bank and Corporation Franchise Tax Act, Statutes of 1929, Chapter 13, as amended, according to or measured by net income. There shall be offset against the tax hereby imposed for any period the amount of any tax imposed on the corporation under the Bank and Corporation Franchise Tax Act for the same period. In the event that taxes, interest and penalties have been or shall be assessed against, paid by or collected from a corporation under this act, which assessment, payment or collection should have been made under the Bank and Corporation Franchise Tax Act, such taxes, interest and penalties shall be considered as having been assessed, paid or collected under the Bank and Corporation Franchise Tax Act as of the date or dates they were made. Tax levy Offset

Income from sources within this State includes income from tangible or intangible property located or having a situs in this State and income from any activities carried on in this State, regardless of whether carried on in intrastate, interstate or foreign commerce.

SEC. 4. Section 6 of The Corporation Income Tax Act of 1937 is hereby amended to read as follows: Stats 1939, p 2902 See also Stats 1943, Ch 351

Sec. 6. (a) "Gross income" includes gains, profits, and income derived from salaries, wages, or compensation for personal service, of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce, or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in such property; also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatever, including interest which now or hereafter constitutionally may be taxed. Gross income

Exemptions

(b) The following items shall not be included in gross income and shall be exempt from taxation under this act:

(1) Amounts received under life insurance policies and contracts paid by reason of the death of the insured, but if such amounts are held by the insurer under an agreement to pay interest thereon, the interest payments shall be included in gross income.

(2) Amounts received (other than amounts paid by reason of the death of the insured) under life insurance, endowment or annuity contracts, either during the term or at maturity or upon surrender of the contract, equal to the total amount of premiums paid thereon. In the case of a transfer for a valuable consideration by assignment or otherwise, of a life insurance, endowment or annuity contract or any interest therein, only the actual value of such consideration and the amount of the premiums and other sums subsequently paid by the transferee shall be excluded from gross income under paragraph (1) of this subsection.

(3) Income which this State is prohibited from taxing under the Constitution or laws of the United States of America or under the Constitution of this State.

Dividends

(c) (1) The term "dividend" when used in this act means any distribution made by a corporation to its shareholders, whether in money or in other property, out of its earnings or profits accumulated after February 28, 1913, or out of the earnings or profits of the taxable year (computed as of the close of the taxable year without diminution by reason of any distributions made during the taxable year), without regard to the amount of the earnings and profits at the time the distribution was made.

(2) For the purposes of this act every distribution is made out of earnings or profits to the extent thereof, and from the most recently accumulated earnings or profits. Any earnings or profits accumulated, or increase in value of property accrued, before March 1, 1913, may be distributed exempt from tax, after the earnings and profits accumulated after February 28, 1913, have been distributed, but any such tax-free distribution shall be applied against and reduce the adjusted basis of the stock provided in Section 12.

(3) Amounts distributed in complete liquidation of a corporation shall be treated as in full payment in exchange for the stock and amounts distributed in partial liquidation of a corporation shall be treated as in part or full payment in exchange for the stock. The gain or loss to the distributee resulting from such exchange shall be determined under Section 10. In the case of amounts distributed (whether before or after the effective date of this amendment) in partial liquidation (other than a distribution within the provisions of subdivision (7) of this subsection of stock or securities in connection with a reorganization) the part of such distribution which is properly chargeable to capital account shall not be considered a distribution of earnings or profits. In the case

of amounts distributed (whether before January 1, 1934, or on or after such date) in partial liquidation (other than a distribution within the provisions of subdivision (7) of this subsection or stock or securities in connection with a reorganization) the part of such distribution which is properly chargeable to capital account shall not be considered a distribution of earnings or profits within the meaning of subdivision (2) of this subsection for the purpose of determining the taxability of subsequent distributions by the corporation.

(4) If any distribution (not in partial or complete liquidation) made by a corporation to its shareholders is not out of increase in value of property accrued before March 1, 1913, and is not a dividend, then the amount of such distribution shall be applied against and reduce the adjusted basis of the stock provided in Section 12, and if in excess of such basis, such excess shall be taxable in the same manner as a gain from the sale or exchange of property.

(5) (A) A distribution made by a corporation to its shareholders in its stock or in rights to acquire its stock shall not be treated as a dividend to the extent that it does not constitute income to the shareholder within the meaning of the Sixteenth Amendment to the Constitution of the United States.

(B) Whenever a distribution by a corporation is, at the election of any of the shareholders (whether exercised before or after the declaration thereof), payable either (i) in its stock or in rights to acquire its stock, of a class which is distributed without election would be exempt from tax under paragraph (A), or (ii) in money or any other property (including its stock or rights to acquire its stock, of a class which if distributed without election would not be exempt from tax under paragraph (A)), then the distribution shall constitute a taxable dividend in the hands of all shareholders, regardless of the medium in which paid.

(6) If a corporation cancels or redeems its stock (whether or not such stock was issued as a stock dividend) at such time and in such manner as to make the distribution and cancellation or redemption in whole or in part essentially equivalent to the distribution of a taxable dividend, the amount so distributed in redemption or cancellation of the stock, to the extent that it represents a distribution of earnings or profits accumulated after February 28, 1913, shall be treated as a taxable dividend.

(7) The distribution heretofore or hereafter made to a distributee by or on behalf of a corporation of its stock or securities or stock or securities in another corporation shall not be considered a distribution of earnings or profits of any corporation:

(A) If no gain to such distributee from the receipts of such stock or securities was recognized under the provisions of the Federal Revenue Act of 1936 or prior Federal revenue acts in effect at the time of the distribution, or

(B) If the distribution was not subject to tax in the hands of such distributee under the Federal Revenue Act of 1936 or prior Federal revenue acts in effect at the time of the distribution because it did not constitute income to him within the meaning of the Sixteenth Amendment to the Constitution of the United States or because exempted to him under Section 115 (f) of the Federal Revenue Act of 1934, or a corresponding provision of a prior Federal revenue act.

As used in this subsection, the term "stock or securities" includes rights to acquire stock or securities.

(8) As used in this subsection the term "amount distributed in partial liquidation" means a distribution by a corporation in complete cancellation or redemption of a part of its stock, or one of a series of distributions in complete cancellation or redemption of all or a portion of its stock.

(9) If the whole or any part of a dividend is paid to a shareholder in any medium other than money the property received other than money shall be included in gross income at its fair market value at the time as of which it becomes income to the shareholder.

(10) The gain or loss realized from the sale or other disposition (after February 28, 1913) of property by a corporation for the purpose of the computation of earnings and profits of the corporation for any period beginning after February 28, 1913, shall be determined by using as the adjusted basis the adjusted basis (under the law applicable to the year in which the sale or other disposition was made) for determining gain. Gain or loss so realized shall increase or decrease the earnings and profits to, but not beyond, the extent to which such a realized gain or loss was recognized in computing net income under the law applicable to the year in which such sale or disposition was made. Where in determining the adjusted basis used in computing such realized gain or loss the adjustment to the basis differs from the adjustment proper for the purpose of determining earnings or profits, then the latter adjustment shall be used in determining the increase or decrease above provided.

Where a corporation receives (after February 28, 1913) a distribution from a second corporation which (under the law applicable to the year in which the distribution was made) was not a taxable dividend to the shareholders of the second corporation, the amount of such distribution shall not increase the earnings and profits of the first corporation in the following cases:

(A) No such increase shall be made in respect of the part of such distribution which (under such law) is directly applied in reduction of the basis of the stock in respect of which the distribution was made.

(B) No such increase shall be made if (under such law) the distribution causes the basis of the stock in respect of which the distribution was made to be allocated between such stock and the property received.

For the purposes of this subdivision, the words "law applicable to the year" shall be deemed to refer to this act or, prior to January 1, 1937, the United States Revenue Act in force for the year in which the distribution, sale or other disposition was made.

(11) (A) If any increase or decrease in the earnings or profits for any period beginning after February 28, 1913, with respect to any matter would be different had the adjusted basis of the property involved been determined without regard to its March 1, 1913, value, then, except as provided in paragraph (B), an increase (properly reflecting such difference) shall be made in that part of the earnings and profits consisting of increase in value of property accrued before March 1, 1913.

(B) If the application of subdivision (10) to a sale or other disposition after February 28, 1913, results in a loss which is to be applied in decrease of earnings and profits for any period beginning after February 28, 1913, then, notwithstanding subdivision (10) and in lieu of the rule provided in paragraph (A) of this subdivision, the amount of such loss so to be applied shall be reduced by the amount, if any, by which the adjusted basis of the property used in determining the loss, exceeds the adjusted basis computed without regard to the value of the property on March 1, 1913, and if such amount so applied in reduction of the decrease exceeds such loss, the excess over such loss shall increase that part of the earnings and profits consisting of increase in value of property accrued before March 1, 1913.

(d) If the indebtedness of a corporation is canceled or forgiven in whole or in part without payment, the amount so canceled or forgiven shall constitute income to the extent the value of the property (including franchises) of the corporation exceeds its liabilities immediately after the cancellation or forgiveness. The remainder of the amount of indebtedness so canceled or forgiven, if any, shall be applied in reduction of the basis of the assets to the extent the basis thereof exceeds the value thereof immediately after the cancellation or forgiveness, such reduction to be made in accordance with regulations prescribed by the commissioner. Cancellation of debt

If an indebtedness is not paid by the time an action to enforce payment is barred by limitation, the indebtedness shall be considered canceled or forgiven within the meaning of this subsection unless it can be established that the period of limitation has been extended by a new promise in writing. Stats 1939, p 2902

SEC. 5. Section 7 of The Corporation Income Tax Act of 1937 is hereby amended to read as follows: See also Stats 1943, Ch 351

Sec 7. In computing "net income" the following deductions shall be allowed: Deductions from gross income

(a) All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on business, including a reasonable allowance for salaries or other compensation for personal services actually rendered, and rentals Business expenses

or other payments required to be made as a condition to the continued use or possession for business purposes of property to which the taxpayer has not taken or is not taking title or in which it has no equity.

Interest (b) Interest paid or accrued during the taxable year on indebtedness of the taxpayer to the extent that such interest exceeds the corporation's income from intangible personal property (other than dividends deductible under the provisions of subdivision (h) of this section and other than dividends from corporations, 50 per cent or more of the outstanding stock of which is owned by the taxpayer) which is exempt from the tax imposed by this act.

Taxes (c) Taxes or licenses paid or accrued during the taxable year, other than taxes paid to the State under this act, and other than taxes on or according to or measured by income or profits paid or accrued within the taxable year imposed by the authority of (1) the Government of the United States or any foreign country, (2) any State, Territory, county, city and county, school district, municipality, or other taxing subdivision of any State or Territory, and other than taxes assessed against local benefits of a kind tending to increase the value of the property assessed, but this shall not exclude the allowance as a deduction of so much of said taxes assessed against local benefits as is properly allocable to maintenance or interest charges.

Losses (d) Losses sustained during the taxable year and not compensated for by insurance or otherwise, except that such losses may, with the consent of the commissioner, be accounted for as of a different period. In the case of any loss claimed to have been sustained in any sale or other disposition of shares of stock or securities where it appears that within 30 days before or after the date of such sale or other disposition, the taxpayer has acquired (otherwise than by bequest or inheritance) or has entered into a contract or option to acquire substantially identical property and the property so acquired is held by the taxpayer for any period after such sale or other disposition, no deduction for the loss shall be allowed unless the claim is made by a taxpayer, a dealer in stocks or securities, and with respect to a transaction made in the ordinary course of its business. If such acquisition or the contract or option to acquire is to the extent of part only of substantially identical property, then only a proportionate part of the loss shall be disallowed. Upon the subsequent sale or disposition of shares of stock or securities, in respect of which a loss has been disallowed, the basis for measuring gain or loss in the case of the property so acquired shall be the basis in the case of the stock or securities so sold or disposed of, except that if the repurchase price was in excess of the sale price such basis shall be increased in the amount of the difference, or if the repurchase price was less than the sale price such basis shall be decreased in the amount of the difference.

(e) Debts ascertained to be worthless within the taxable year and charged off, or, in the discretion of the commissioner, a reasonable addition to a reserve for bad debts. When satisfied that a debt is recoverable in part only the commissioner may allow such debt as a deduction in an amount not in excess of the amount ascertained to be worthless in the taxable year and charged off; provided, however, that if a portion of a debt is claimed and allowed as a deduction in any year no deduction shall be allowed in any subsequent year for any portion of the debt ascertained in any prior year to be worthless, regardless of whether charged off or claimed as a deduction in such prior year. Worthless debts

(f) A reasonable allowance for exhaustion, wear and tear and obsolescence of property used in the trade or business The basis on which such allowance is to be computed in respect of any property is the adjusted basis provided in Section 12 (b) for the purpose of determining the gain upon the sale or other disposition of such property. Obsolescence, etc

(g) (1) In the case of mines, oil and gas wells, other natural deposits and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case, such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the commissioner. In any case in which it is ascertained as a result of operations or of development work that the recoverable units are greater or less than the prior estimate thereof, then such prior estimate (but not the basis for depletion) shall be revised and the allowance under this subsection for subsequent taxable years shall be based upon such revised estimate. In the case of leases the deductions shall be equitably apportioned between the lessor and the lessee. Depletion

(2) (A) The basis upon which depletion is to be allowed in respect of any property shall be the adjusted basis provided in Section 12 (b) for the purpose of determining the gain upon the sale or other disposition of such property, except as provided in paragraphs (B), (C) and (D) of this subsection. Basis for depletion: Allowance

(B) In the case of mines (other than metal, coal, or sulphur mines) discovered by the taxpayer after February 28, 1913, the basis for depletion shall be the fair market value of the property at the date of discovery or within 30 days thereafter, if such mines were not acquired as the result of purchase of a proven tract or lease, and if the fair market value of the property is materially disproportionate to the cost. The depletion allowance under subdivision (1) of this subsection based on discovery value provided in this paragraph shall not exceed 50 per centum of the net income of the taxpayer (computed without allowance for depletion) from the property upon which the discovery was made, except that in no case shall the depletion allowance under subdivision (1) of this subsection be less than it would be if computed without reference to discovery value. Discoveries shall include minerals in

commercial quantities contained within a vein or deposit discovered in an existing mine or mining tract by the taxpayer after February 28, 1913, if the vein or deposit thus discovered was not merely the uninterrupted extension of a continuing commercial vein or deposit already known to exist, and if the discovered minerals are of sufficient value and quantity that they could be separately mined and marketed at a profit.

Oil and gas wells

(C) In the case of oil and gas wells the allowance for depletion under subdivision (1) of this subsection shall be 27½ per centum of the gross income from the property during the taxable year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. Such allowance shall not exceed 50 per centum of the net income of the taxpayer (computed without allowance for depletion) from the property, except that in no case shall the depletion allowance under subdivision (1) of this subsection be less than it would be if computed without reference to this paragraph.

Coal mines, etc

(D) The allowance for depletion under subdivision (1) of this subsection shall be, in the case of coal mines, 5 per centum, in the case of metal mines, 15 per centum, and, in the case of sulphur mines or deposits, 23 per centum, of the gross income from the property during the taxable year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. Such allowance shall not exceed 50 per centum of the net income of the taxpayer (computed without allowance for depletion) from the property. A taxpayer making his first return under this title in respect of a property shall state whether he elects to have the depletion allowance for such property for the taxable year for which the return is made computed with or without regard to percentage depletion, and the depletion allowance in respect of such property for such year shall be computed according to the election thus made. If the taxpayer fails to make such statement in the return, the depletion allowance for such property for such year shall be computed without reference to percentage depletion. The method, determined as above, of computing the depletion allowance shall be applied in the case of the property for all taxable years in which it is in the hands of such taxpayer, or of any other person if the basis of the property (for determining gain) in his hands is, under Section 12, determined by reference to the basis in the hands of such taxpayer, either directly or through one or more substituted bases, as defined in that section. The above right of election shall be subject to the qualification that this paragraph shall, for the purpose of determining whether the method of computing the depletion allowance follows the property, be considered a continuation of Section 114 (b) (4) of the Federal Revenue Act of 1934 and the Federal Revenue Act of 1936, and as giving no new election in cases where either of such sections would, if applied, give no new election.

(h) Dividends received during the taxable year from a corporation taxable under this act declared from income which has been taxed under the provisions of this act to the corporation declaring the dividends, and dividends received during the taxable year from a bank or corporation doing business in this State declared out of income which has been included in the measure of the tax imposed by the Bank and Corporation Franchise Tax Act, Statutes 1929, Chapter 13, as amended, upon the bank or corporation declaring the dividends. Dividends taxed to corporation declaring

(i) In the case of a building and loan association, organized and operating wholly or partly on a mutual plan, the return paid or credited on or apportioned to the withdrawable shares of such association, but not exceeding the return such shares would receive computed at the average rate paid by all such associations in this State, or by such associations in a particular locality, as the Building and Loan Commissioner of this State may determine, on money borrowed or obtained through the issue during the income year of the association of all classes of notes and investment certificates not evidencing any proprietary interest in the association, such rate to be determined by the Building and Loan Commissioner and certified by him to the Franchise Tax Commissioner on or before the first day of March of each year. Return paid by building and loan associations on money borrowed, etc

(j) In the case of farmers, fruit growers, or like associations organized and operated in whole or in part on a cooperative or a mutual basis, (1) for the purpose of marketing the products of members or other producers, and turning back to them the proceeds of sales, less the necessary marketing expenses, which may include reasonable reserves, on the basis of either the quantity or the value of the products furnished by them, or (2) for the purpose of purchasing, or producing, supplies and equipment for the use of members or other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses, all income resulting from or arising out of such business activities for or with their members carried on by them or their agents; or when done on a nonprofit basis for or with nonmembers. Income of cooperative marketing associations

(k) In the case of other associations organized and operated in whole or in part on a cooperative or a mutual basis, all income resulting from or arising out of business activities for or with their members, or with nonmembers, done on a nonprofit basis. Other cooperative associations

(*l*) In the case of a corporation, contributions or gifts payment of which is made within the taxable year to or for the use of a corporation, trust, community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or the prevention of cruelty to children (but only if such contributions or gifts are to be used within the United States exclusively for such purposes), no part of the net earnings of which inures to the benefit of any private shareholder or individual, Corporate gifts

and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; to an amount which does not exceed 5 per centum of the taxpayer's net income as computed without the benefit of this subsection. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the commissioner.

Pension trusts

(m) (1) An employer establishing or maintaining a pension trust to provide for the payment of reasonable pensions to his employees shall be allowed as a deduction (in addition to the contributions to such trust during the taxable year to cover the pension liability accruing during the year, allowed as a deduction under subsection (a) of this section) a reasonable amount transferred or paid into such trust during the taxable year in excess of such contributions, but only if such amount (1) has not theretofore been allowable as a deduction, and (2) is apportioned in equal parts over a period of 10 consecutive years beginning with the year in which the transfer or payment is made.

(2) The provisions of paragraph (1) of this subsection shall be subject to the qualification that the deduction shall be allowable only with respect to a taxable year (whether the year of transfer or payment or a subsequent year) of the employer ending within or with a taxable year of the trust with respect to which the trust would be exempt from tax under the California Personal Income Tax Act if such trust were subject to such act.

Stats 1939, p 2902 See also Stats 1943, Ch 351

SEC. 6. Section 8 of The Corporation Income Tax Act of 1937 is hereby amended to read as follows:

SEC. 8. In computing net income no deductions shall be allowed for:

Items not deductible

(a) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property; or for

(b) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made; or for

(c) Premiums paid on any life insurance policy covering the life of any officer or employee, or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under such policy.

(d) Any amount otherwise allowable as a deduction which is allocable to one or more classes of income not included in the measure of the tax imposed by this act.

(e) Except in case of distributions in liquidation, losses from sales or exchanges of property directly or indirectly between an individual and a corporation in which such individual owns directly or indirectly more than 50 per centum in value of the outstanding stock. For the purpose of this subdivision an individual shall be considered as owning the stock owned directly or indirectly by his family and the

family of an individual shall include only his brothers and sisters (whether by the whole or half blood), spouse, ancestors and lineal descendants.

(f) In computing net income no deduction shall be allowed under Section 7 (a), relating to expenses incurred, or under Section 7 (b), relating to interest accrued:

(1) If such expenses or interest are not paid within the taxable year or within two and one-half months after the close thereof; and

(2) If, by reason of the method of accounting of the person or corporation to whom the payment is to be made, the amount thereof is not, unless paid, includible under the provisions of The Personal Income Tax Act or Bank and Corporation Franchise Tax Act or this act in the gross income of such person or corporation for the year in which or with which the taxable year of the taxpayer ends; and

Stats. 1935, p. 1090
Stats. 1939 p. 19

(3) If, at the close of the taxable year of the taxpayer or at any time within two and one-half months thereafter, both the taxpayer and the person to whom the payment is to be made are persons between whom losses would be disallowed under Section 8 (e), or if the corporation to which payment is to be made is owned by, or owns, the taxpayer to the extent of more than 50 per centum in value of the outstanding stock.

The amount of expenses incurred or interest accrued the deduction of which is disallowed under this subsection in the year incurred or accrued, may be deducted in the year paid.

SEC. 7. Section 9 of The Corporation Income Tax Act of 1937 is hereby amended to read as follows:

Stats 1937, p. 2184
See also Stats 1943, Ch. 351

Sec. 9. (1) Whenever, in the opinion of the commissioner, the use of inventories is necessary clearly to determine the income of any taxpayer, inventory shall be taken by such taxpayer upon such basis as the commissioner may prescribe, conforming as nearly as may be to the best accounting practice and most clearly reflecting the income.

Inventories

(2) (A) A taxpayer may use the following method (whether or not such method has been prescribed under subdivision (1)) in inventorying goods specified in the application required under paragraph (B): (1) Inventory them at cost; (2) treat those remaining on hand at the close of the taxable year as being: First, those included in the opening inventory of the taxable year (in the order of acquisition) to the extent thereof, and second, those acquired in the taxable year; and (3) treat those included in the opening inventory of the taxable year in which such method is first used as having been acquired at the same time and determine their cost by the average cost method.

Methods of inventorying

(B) The method described in paragraph (A) may be used (1) only in inventorying goods (required under subdivision (1) to be inventoried) specified in an application to use such method filed at such time and in such manner as the commissioner may prescribe; and (2) only if the taxpayer establishes to the satisfaction of the commissioner that the taxpayer has

used no procedure other than that specified in (2) and (3) of paragraph (A) in inventorying (to ascertain income, profit, or loss, for credit purposes, or for the purpose of reports to shareholders, partners, or other proprietors, or to beneficiaries) such goods for any period beginning with or during the first taxable year for which the method described in paragraph (A) is to be used.

(C) The change to, and the use of, such method shall be in accordance with such regulations as the commissioner may prescribe as necessary in order that the use of such method may clearly reflect income.

(D) In determining income for the taxable year preceding the taxable year for which such method is first used, the closing inventory of such preceding year of the goods specified in such application shall be at cost.

Change in method

(E) If a taxpayer, having complied with paragraph (B), uses the method described in paragraph (A) for any taxable year, then such method shall be used in all subsequent taxable years unless with the approval of the commissioner a change to a different method is authorized; or the commissioner determines that the taxpayer has used for any period beginning with or during any subsequent taxable year some procedure other than that specified in (2) of paragraph (A) in inventorying (for ascertaining income, profit, or loss, for credit purposes, or for the purpose of reports to shareholders, partners, or other proprietors, or to beneficiaries) the goods specified in the application, and requires a change to a method different from that prescribed in paragraph (A) beginning with such subsequent taxable year or any taxable year thereafter. In either of the above cases, the change to, and the use of, the different method shall be in accordance with such regulations as the commissioner may prescribe as necessary in order that the use of such method may clearly reflect income.

Stats. 1939, p. 2902. See also Stats. 1943, Ch. 351

SEC. 8. Section 11 of The Corporation Income Tax Act of 1937 is hereby amended to read as follows:

Recognition of gain or loss

Sec. 11. (a) Upon the sale or exchange of property the entire amount of the gain or loss, determined under Section 10, shall be recognized, except as hereinafter provided in this section.

(b) (1) No gain or loss shall be recognized if property held for productive use in trade or business or for investment (not including stock in trade or other property held primarily for sale, nor stocks, bonds, notes, choses in action, certificates of trust or beneficial interest, or other securities or evidences of indebtedness or interest) is exchanged solely for property of a like kind to be held either for productive use in trade or business or for investment.

(2) No gain or loss shall be recognized if common stock in a corporation is exchanged solely for common stock in the same corporation, or if preferred stock in a corporation is exchanged solely for preferred stock in the same corporation.

(3) No gain or loss shall be recognized if stock or securities in a corporation a party to a reorganization are, in pursuance of the plan of reorganization, exchanged solely for stock or securities in such corporation or in another corporation a party to the reorganization.

(4) No gain or loss shall be recognized if a corporation a party to a reorganization exchanges property, in pursuance of the plan of reorganization, solely for stock or securities in another corporation a party to the reorganization.

(5) No gain or loss shall be recognized if property is transferred to a corporation by one or more taxpayers solely in exchange for stock or securities in such corporation, and immediately after the exchange such taxpayer or taxpayers are in control of the corporation; but in the case of an exchange by two or more taxpayers this paragraph shall apply only if the amount of the stock and securities received by each is substantially in proportion to its interest in the property prior to the exchange.

Where the transferee assumes a liability of a transferor, or where the property of a transferor is transferred subject to a liability, then for the purpose only of determining whether the amount of stock or securities received by each of the transferors is in the proportion required by this paragraph, the amount of such liability (if under subsection (k) it is not to be considered as other property or money) shall be considered as stock or securities received by such transferor.

(6) No gain or loss shall be recognized upon the receipt by a corporation of property distributed in complete liquidation of another corporation. For the purposes of this paragraph a distribution shall be considered to be in complete liquidation only if: Distribution in complete liquidation

(A) The corporation receiving such property was, on the date of the adoption of the plan of liquidation, and has continued to be at all times until the receipt of the property, the owner of stock (in such other corporation) possessing at least 80 per centum of the total combined voting power of all classes of stock entitled to vote and the owner of at least 80 per centum of the total number of shares of all other classes of stock (except nonvoting stock which is limited and preferred as to dividends), and was at no time on or after the date of the adoption of the plan of liquidation and until the receipt of the property the owner of a greater percentage of any class of stock than the percentage of such class owned at the time of the receipt of the property; and

(B) No distribution under the liquidation was made before the first day of the first taxable year of the corporation beginning after December 31, 1935; and either

(C) The distribution is by such other corporation in complete cancellation or redemption of all its stock, and the transfer of all the property occurs within the taxable year; in such case the adoption by the shareholders of the resolution under which is authorized the distribution of all the assets

of such corporation in complete cancellation or redemption of all its stock, shall be considered an adoption of a plan of liquidation, even though no time for the completion of the transfer of the property is specified in such resolution; or

(B) Such distribution is one of a series of distributions by such other corporation in complete cancellation or redemption of all its stock in accordance with a plan of liquidation under which the transfer of all the property under the liquidation is to be completed within three years from the close of the taxable year during which is made the first of the series of distributions under the plan, except that if such transfer is not completed within such period, or if the taxpayer does not continue qualified under subparagraph (A) until the completion of such transfer, no distribution under the plan shall be considered a distribution in complete liquidation.

If such transfer of all the property does not occur within the taxable year the commissioner may require of the taxpayer such bond, or waiver of the statute of limitations on assessment and collection, or both, as he may deem necessary to insure, if the transfer of the property is not completed within such three-year period, or if the taxpayer does not continue qualified under subparagraph (A) until the completion of such transfer, the assessment and collection of all taxes imposed by this act then due or to become due, to the extent attributable to property so received. A distribution otherwise constituting a distribution in complete liquidation within the meaning of this paragraph shall not be considered as not constituting such a distribution merely because it does not constitute a distribution or liquidation within the meaning of the corporate law under which the distribution is made; and for the purposes of this paragraph a transfer of property of such other corporation to the taxpayer shall not be considered as not constituting a distribution (or one of a series of distributions) in complete cancellation or redemption of all the stock of such other corporation, merely because the carrying out of the plan involves (i) the transfer under the plan to the taxpayer by such other corporation of property, not attributable to shares owned by the taxpayer, upon an exchange described in paragraph (4) of this subsection, and (ii) the complete cancellation or redemption under the plan, as a result of exchanges described in paragraph (3) of this subsection, of the shares not owned by the taxpayer.

Particular exchanges

(c) (1) If an exchange would be within the provisions of subsection (b) (1), (2), (3), or (5) of this section if it were not for the fact that the property received in exchange consists not only of property permitted by such paragraph to be received without the recognition of gain, but also of other property or money, then the gain, if any, to the recipient shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property.

(2) If a distribution made in pursuance of a plan of reorganization is within the provisions of paragraph (1) of

this subsection but has the effect of the distribution of a taxable dividend, then there shall be taxed as a dividend to each distributee such an amount of the gain recognized under paragraph (1) as is not in excess of his ratable share of the undistributed earnings and profits of the corporation accumulated after February 28, 1913. The remainder, if any, of the gain recognized under paragraph (1) shall be taxed as a gain from the exchange of property.

(d) If an exchange would be within the provisions of subsection (b) (4) of this section if it were not for the fact that the property received in exchange consists not only of stock or securities permitted by such paragraph to be received without the recognition of gain, but also of other property or money, then:

(1) If the corporation receiving such other property or money distributes it in pursuance of the plan of reorganization, no gain to the corporation shall be recognized from the exchange, but

(2) If the corporation receiving such other property or money does not distribute it in pursuance of the plan of reorganization, the gain, if any, to the corporation shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property so received, which is not so distributed.

(e) If an exchange would be within the provisions of subsection (b) (1) to (5), inclusive, of this section if it were not for the fact that the property received in exchange consists not only of property permitted by such paragraph to be received without the recognition of gain or loss, but also of other property or money, then no loss from the exchange shall be recognized.

(f) If property (as a result of its destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation, or the threat or imminence thereof) is compulsorily or involuntarily converted into property similar or related in service or use to the property so converted, or into money which is forthwith in good faith, under regulations prescribed by the commissioner, expended in the acquisition of other property similar or related in service or use to the property so converted, or in the acquisition of control of a corporation owning such other property, or in the establishment of a replacement fund, no gain or loss shall be recognized. If any part of the money is not so expended, the gain, if any, shall be recognized, but in an amount not in excess of the money which is not so expended.

(g) As used in this section and Section 12:

(1) The term "reorganization" means (A) a statutory merger or consolidation, or (B) the acquisition by one corporation in exchange solely for all or a part of its voting stock: Of at least 80 per centum of the voting stock and at least 80 per centum of the total number of shares of all other classes of stock of another corporation; or of substantially

Reorganization

all the properties of another corporation, but in determining whether the exchange is solely for voting stock, the assumption by the acquiring corporation of a liability of the other, or the fact that property acquired is subject to a liability, shall be disregarded, or (C) a transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor or its shareholders or both are in control of the corporation to which the assets are transferred, or (D) a recapitalization, or (E) a mere change in identity, form, or place of organization, however effected.

"Party to a reorganization"

(2) The term "a party to a reorganization" includes a corporation resulting from a reorganization and includes both corporations in the case of a reorganization resulting from the acquisition by one corporation of stock or properties of another.

"Control"

(h) As used in this section the term "control" means the ownership of stock possessing at least 80 per centum of the total combined voting power of all classes of stock entitled to vote and at least 80 per centum of the total number of shares of all other classes of stock of the corporation.

(i) In determining the extent to which gain shall be recognized in the case of any of the exchanges (made after the date of the enactment of this act) described in subsection (b) (3), (4), (5), or (6), or described in so much of subsection (c) as refers to subsection (b) (3) or (5), or described in subsection (d), a corporation created or organized in a foreign country shall not be considered as a corporation unless, prior to such exchange, it has been established to the satisfaction of the commissioner that such exchange is not in pursuance of a plan having as one of its principal purposes the avoidance of income taxes or franchise taxes imposed by this State.

Installment obligations

(j) For nonrecognition of gain or loss in the case of installment obligations, see Section 10 (e) (4).

Assumption or acquisition of liability

(k) Where upon an exchange the taxpayer receives as part of the consideration property which would be permitted by subsection (b) (4) or (5) of this section to be received without the recognition of gain if it were the sole consideration, and as part of the consideration another party to the exchange assumes a liability of the taxpayer or acquires from the taxpayer property subject to a liability, such assumption or acquisition shall not be considered as "other property or money" received by the taxpayer within the meaning of subsection (c), (d) or (e) of this section and shall not prevent the exchange from being within the provisions of subsection (b) (4) or (5); except that if, taking into consideration the nature of the liability and the circumstances in the light of which the arrangement for the assumption or acquisition was made, it appears that the principal purpose of the taxpayer with respect to the assumption or acquisition was a purpose to avoid State tax on the exchange, or, if not such purpose, was not a bona fide business purpose, such assumption or

acquisition (in the amount of the liability) shall, for the purposes of this section, be considered as money received by the taxpayer upon the exchange. In any suit or proceeding where the burden is on the taxpayer to prove that such assumption or acquisition is not to be considered as money received by the taxpayer, such burden shall not be considered as sustained unless the taxpayer sustains such burden by the clear preponderance of the evidence. Proof

SEC. 9. Section 12 of The Corporation Income Tax Act of 1937 is hereby amended to read as follows: Stats. 1939, p. 2902. See also Stats. 1943, Ch. 351.

Sec. 12. (a) The basis of property shall be the cost of such property; except that: Basis of property

(1) If the property should have been included in the last inventory, the basis shall be the last inventory value thereof.

(2) If the property was acquired by gift after December 31, 1920, the basis shall be the same as it would be in the hands of the donor or the last preceding owner by whom it was not acquired by gift, except that for the purpose of determining loss the basis shall be the basis so determined or the fair market value of the property at the time of the gift, whichever is lower. If the facts necessary to determine the basis in the hands of the donor or the last preceding owner are unknown to the donee, the commissioner shall, if possible, obtain such facts from such donor or last preceding owner, or any other person cognizant thereof. If the commissioner finds it impossible to obtain such facts, the basis in the hands of such donor or last preceding owner shall be the fair market value of such property as found by the commissioner as of the date or approximate date at which, according to the best information that the commissioner is able to obtain, such property was acquired by such donor or last preceding owner.

(3) If the property was acquired after December 31, 1920, by a transfer in trust (other than by a transfer in trust by a bequest or devise) the basis shall be the same as it would be in the hands of the grantor, increased in the amount of gain or decreased in the amount of loss recognized to the grantor upon such transfer under the law applicable to the year in which the transfer was made.

(4) If the property was acquired, after February 28, 1913, upon an exchange described in Section 11 (b) to (e), inclusive, the basis (except as provided in paragraph (12) of this subsection) shall be the same as in the case of the property exchanged, decreased in the amount of any money received by the taxpayer and increased in the amount of gain or decreased in the amount of loss to the taxpayer that was recognized upon such exchange under the law applicable to the year in which the exchange was made. If the property so acquired consisted in part of the type of property permitted by Section 11 (b) to be received without the recognition of gain or loss, and in part of other property, the basis provided in this paragraph shall be allocated between the properties (other than money) received, and for the purpose of the allocation there shall be assigned to such other property an

amount equivalent to its fair market value at the date of the exchange. Where as a part of the consideration to the taxpayer another party to the exchange assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability, such assumption or acquisition (in the amount of the liability) shall, for the purposes of this paragraph, be considered as money received by the taxpayer upon the exchange. This paragraph shall not apply to property acquired by a corporation by the issuance of its stock or securities as the consideration in whole or in part for the transfer of the property to it.

(5) If the property was acquired:

(A) After December 31, 1917, and in a taxable year beginning before January 1, 1936, by a corporation in connection with a reorganization, and immediately after the transfer an interest or control in such property of 50 per centum or more remained in the same persons or any of them; or

(B) In a taxable year beginning after December 31, 1935, by a corporation in connection with a reorganization, then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made. This paragraph shall not apply if the property acquired consists of stock or securities in a corporation a party to the reorganization, unless acquired by the issuance of stock or securities of the transferee as the consideration in whole or in part for the transfer.

(6) If the property was acquired after December 31, 1920, by a corporation:

(A) By the issuance of its stock or securities in connection with a transaction described in Section 11 (b) (5) (including, also, cases where part of the consideration for the transfer of such property to the corporation was property or money, in addition to such stock or securities), or

(B) As paid in surplus or as a contribution to capital, then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made.

(7) If the property was acquired, after February 28, 1913, as the result of a compulsory or involuntary conversion described in Section 11 (f), the basis shall be the same as in the case of the property so converted, decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law (applicable to the year in which such conversion was made) determining the taxable status of the gain or loss upon such conversion, and increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under

the law applicable to the year in which such conversion was made.

(8) If the property consists of stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility (under Section 7 (d) of this act, relating to wash sales) of the loss from the sale or other disposition of substantially identical stock or securities, then the basis shall be the basis of the stock or securities so sold or disposed of, increased or decreased, as the case may be, by the difference, if any, between the price at which the property was acquired and the price at which such substantially identical stock or securities were sold or otherwise disposed of.

(9) In the case of property acquired by a corporation during a period of affiliation, from a corporation with which it was affiliated, the basis of such property, after such period of affiliation, shall be determined, in accordance with regulations prescribed by the commissioner, without regard to intercompany transactions in respect of which gain or loss was not recognized. The basis in case of property acquired by a corporation during any period, in the taxable year 1929 or any subsequent taxable year, in respect of which a consolidated return is made by such corporation under Section 141 of the Federal Revenue Act of 1928 or the Federal Revenue Act of 1932 or the Federal Revenue Act of 1934 or the Federal Revenue Act of 1936, or the Federal Revenue Act of 1938, shall be determined in accordance with regulations prescribed under Section 141 of the Federal Revenue Act of 1928 or the Federal Revenue Act of 1932 or the Federal Revenue Act of 1934 or the Federal Revenue Act of 1936 or the Federal Revenue Act of 1938. The basis in the case of property held by a corporation during any period, in the taxable year 1929 or any subsequent taxable year, in respect of which a consolidated return is made by such corporation under Section 141 of the Federal Revenue Act of 1928 or the Federal Revenue Act of 1932 or the Federal Revenue Act of 1934 or the Federal Revenue Act of 1936, or the Federal Revenue Act of 1938, shall be adjusted in respect of any items relating to such period, in accordance with regulations prescribed under Section 141 of the Federal Revenue Act of 1928 or the Federal Revenue Act of 1932 or the Federal Revenue Act of 1934 or the Federal Revenue Act of 1936, or the Federal Revenue Act of 1938, applicable to such period.

(10) If the property was acquired, after February 28, 1913, in any taxable year beginning prior to January 1, 1934, and the basis thereof, for the purposes of the Federal Revenue Act of 1932 was prescribed by Section 113 (a) (6), (7), or (9) of such act, then for the purposes of this act the basis shall be the same as the basis therein prescribed in the Federal Revenue Act of 1932.

(11) In the case of property acquired before March 1, 1913, if the basis otherwise determined under this subsection, adjusted (for the period prior to March 1, 1913) as provided

in subsection (b), is less than the fair market value of the property as of March 1, 1913, then the basis for determining gain shall be such fair market value. In determining the fair market value of stock in a corporation as of March 1, 1913, due regard shall be given to the fair market value of the assets of the corporation as of that date.

(12) If the property was received by a corporation upon a distribution in complete liquidation of another corporation within the meaning of Section 11 (b) (6), then the basis shall be the same as it would be in the hands of the transferor.

(13) If the property was acquired after February 28, 1913, in any taxable year beginning prior to January 1, 1936, and the basis thereof, for the purposes of the Federal Revenue Act of 1934 was prescribed by Section 113 (a) (6), (7), or (8) of such act, then for the purposes of this act the basis shall be the same as the basis therein prescribed in the Federal Revenue Act of 1934.

(14) (A) If the property was acquired by a shareholder in a corporation and consists of rights to acquired stock in such corporation acquired by him after February 28, 1913, in a distribution by such corporation, and (1) the right to acquire such stock was acquired in a taxable year beginning before January 1, 1937 (except as provided in subparagraph (B)), or (2) the right to acquire such stock was acquired in a taxable year beginning after December 31, 1936, and its distribution did not constitute income to the shareholder within the meaning of the Sixteenth Amendment to the Constitution of the United States, then the basis of the stock in respect of which the rights were declared and the right to acquire stock, respectively, shall, in the shareholder's hands be determined by allocating between the stock and the right to acquire stock the adjusted basis of the stock, such allocation to be made under regulations which shall be prescribed by the commissioner.

(B) If a stock right was acquired prior to January 1, 1937, and it constituted income within the purview of the Sixteenth Amendment to the Constitution of the United States, the basis of the stock in respect of which the rights were declared shall not be affected and the basis of the right shall be its fair market value as of the date of its acquisition.

(C) Where the shareholder acquired the right to acquire such stock in a taxable year beginning before January 1, 1943, and sold the same, and there was included in the gross income for such year of sale the entire amount of the proceeds of such sale, then if before the effective date of the 1943 amendments to this act the taxpayer has not asserted (by claim for a refund or credit or otherwise) that any part of the proceeds of the sale of such rights should be excluded from gross income for the year of its sale, the basis of the stock shall be determined without regard to paragraphs (A) and (B) and no part of the proceeds of the sale of such rights shall ever be excluded from the gross income for the year of such sale.

(b) The adjusted basis for determining the gain or loss from the sale or other disposition of property, whenever acquired, shall be the basis determined under subsection (a), adjusted as hereinafter provided. Adjusted basis

(1) Proper adjustment in respect of the property shall in all cases be made:

(A) For expenditures, receipts, losses, or other items, properly chargeable to capital account, including taxes and other carrying charges on unimproved and unproductive real property, but no such adjustment shall be made for taxes or other carrying charges for which deductions have been taken by the taxpayer in determining net income for the taxable year or prior taxable years;

(B) For exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent sustained prior to January 1, 1937, and for periods thereafter to the extent allowed (but not less than the amount allowable) under this act;

(C) In the case of stock (to the extent not provided for in the foregoing subparagraphs) for the amount of distributions previously made which, under the law applicable to the year in which the distribution was made, either were tax-free or were applicable in reduction of basis (not including distributions made by a corporation, which was classified as a personal service corporation under the provisions of the Federal Revenue Act of 1918 or 1921, out of its earnings or profits which were taxable in accordance with the provisions of Section 218 of the Federal Revenue Act of 1918 or 1921).

(2) The term "substitutive basis" as used in this subsection means a basis determined under any provision of subsection (a) of this section, providing that the basis shall be determined: "Substituted basis"

(A) By reference to the basis in the hands of a transferor, donor, or grantor, or

(B) By reference to other property held at any time by the person for whom the basis is to be determined.

Whenever it appears that the basis of property in the hands of the taxpayer is a substituted basis, then the adjustments provided in paragraph (1) of this subsection shall be made after first making in respect of such substituted basis proper adjustments of a similar nature in respect of the period during which the property was held by the transferor, donor, or grantor, or during which the other property was held by the person for whom the basis is to be determined. A similar rule shall be applied in the case of a series of substituted bases.

SEC. 10. Section 14 of The Corporation Income Tax Act of 1937 is hereby amended to read as follows: Stats 1937, p 2184 See also Stats 1943, Ch 351

Sec. 14. In the case of two or more corporations or of one or more corporations owned or controlled directly or indirectly by the same interests, the commissioner may permit or require the filing of a combined report and such other information as he deems necessary and is authorized to impose the tax due under this act as though the combined entire net Apportionment of tax between consolidated corporations

income was that of one corporation, or to distribute, apportion, or allocate the gross income or deductions between or among such corporations, if he determines that such consolidation, distribution, apportionment, or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any such corporations.

In the case of a corporation doing business within the meaning of this act, whether under agreement or otherwise, in such manner as either directly or indirectly to benefit the members or stockholders of the corporation, or any of them, or any person or persons, directly or indirectly interested in such business, by rendering services of any nature whatsoever, or acquiring or disposing of its products or the goods or commodities in which it deals, at less than a fair price therefor, the commissioner, in order to prevent evasion of taxes or clearly to reflect the income of such corporation, may require a report of such facts as he deems necessary, and may determine the amount which shall be deemed to be the entire net income allocable to this State of the business of such corporation for the calendar or fiscal year, and compute the tax upon such net income. In determining the entire net income the commissioner shall have regard to the fair profits which, but for any agreement, arrangement, or understanding, might be or could have been obtained from dealing in such products, goods or commodities.

In the case of a corporation liable to report under this act owning or controlling, either directly or indirectly, another corporation, or other corporations, and in the case of a corporation liable to report under this act and owned or controlled, either directly or indirectly by another corporation, the commissioner may require a consolidated report showing the combined net income or such other facts as he deems necessary. The commissioner is authorized and empowered, in such manner as he may determine, to assess the tax against either of the corporations whose net income is involved in the report upon the basis of the combined entire net income and such other information as he may possess, or he may adjust the tax in such other manner as he shall determine to be equitable, if he determines it to be necessary in order to prevent evasion of taxes or to clearly reflect the net income earned by said corporation or corporations from business done in this State.

Ownership or control

Ownership or control of more than 50 per centum of the voting stock of the bank or corporation shall constitute ownership or control for the purposes of this section.

Stats 1939, p 2902 See also Stats 1943, Ch 351

SEC. 11. Section 16 of The Corporation Income Tax Act is hereby amended to read as follows:

Time for filing return

Sec. 16. Every corporation deriving income from sources within this State subject to the tax imposed by this act shall, within two months and 15 days after the close of its taxable year, transmit to the commissioner a return in a form prescribed by him, specifying, for the taxable year, all such facts

as he may by rule, or otherwise, require in order to carry out the provisions of this act. Returns should be verified by an executive officer of the corporation.

Any return filed under the provisions of the Bank and Corporation Franchise Tax Act which discloses the net income for any period shall likewise constitute a return filed for the same period under this act if a return should have been filed under this act.

Extension

A reasonable extension of time for filing the return may be granted by the commissioner whenever in his judgment good cause exists. Requests for extensions must be made on or before the due date for filing the return. The commissioner is hereby required to keep a record of each extension and the reason therefor. No such extension or extensions shall aggregate more than six months from the due date for filing the return.

Stats 1939, p 2902
See also Stats 1943, Ch 351

SEC. 12. Section 18 of The Corporation Income Tax Act of 1937 is hereby amended to read as follows:

Interest and additions to the tax
Failure to file return

Sec. 18. (a) If any taxpayer fails to make and file a return required by this act on or before the due date of the return or the due date as extended by the commissioner then, unless it is shown that such failure is due to reasonable cause and not due to wilful neglect, 5 per centum of the tax shall be added to the tax for each 30 days or fraction thereof elapsing between the due date of the return and the date on which filed, but the total addition shall not exceed 25 per centum of the tax. The amount so added to the tax shall be due and payable upon notice and demand from the commissioner.

If any taxpayer, upon notice and demand by the commissioner, fails or refuses to make and file a return required by this act, the commissioner is authorized to make an estimate of the net income and to compute and levy the amount of the tax due under this act from any available information, and in such case 25 per centum of the tax (in addition to the amounts added under the provisions of the preceding paragraph of this subsection) shall be added to the tax and shall be due and payable upon notice and demand from the commissioner.

If any corporation fails or refuses to furnish any information as requested in writing by the commissioner, the commissioner may add a penalty of 25 per centum of the amount of any additional tax assessed by the commissioner concerning the determination of which such information was required.

Deficiency

(b) If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations but without intent to defraud, 5 per centum of the total amount of the deficiency (in addition to such deficiency and other additions provided in this section) shall be assessed, collected, and paid in the same manner as if it were a deficiency.

If any part of any deficiency is due to fraud with intent to evade tax, then 50 per centum of the total amount of the deficiency (in addition to such deficiency and other additions

provided in this section) shall be assessed, collected and paid in the same manner as if it were a deficiency.

Failure to pay

(c) If the tax imposed by this act (whether determined by the commissioner or the taxpayer) or any installment or portion thereof is not paid on or before the date prescribed for its payment, there shall be collected as a part of the tax interest upon such unpaid amount at the rate of 6 per centum per year from the date prescribed for its payment until it is paid.

If the time for the payment of the tax or any installment thereof is extended by the commissioner, or if the collection of a jeopardy assessment is stayed under Section 18.1 of this act, there shall be collected as part of such tax interest thereon at the rate of 6 per centum a year from the date upon which such payment should have been made if no extension had been granted or collection had not been stayed until the date the tax is paid.

Interest upon the amount determined as a deficiency shall be assessed and paid at the same time as the deficiency at the rate of 6 per centum per year from the date prescribed for the payment of the tax (or, if the tax is paid in installments, from the date prescribed for the payment of the first installment) to the date the deficiency is assessed; provided, however, if any portion of the deficiency is paid prior to the date it is assessed, interest shall accrue on such portion only to the date paid.

Where a deficiency, or any interest or additional amounts assessed in connection therewith, or any addition to the tax in case of delinquency provided for in subsection (a) of this section, is not paid in full within 10 days from the date of notice and demand from the commissioner, there shall be collected as a part of the tax, interest upon the unpaid amount at the rate of 6 per centum a year from the date of such notice and demand until it is paid.

New section

SEC. 13. Section 18.1 is hereby added to The Corporation Income Tax Act of 1937, to read as follows:

Jeopardy assessments

Sec. 18.1. (a) If the commissioner finds that the assessment or the collection of a tax or a deficiency for any year, current or past, will be jeopardized in whole or in part by delay, he may mail or issue notice of such finding to the taxpayer, together with a demand for immediate payment of the tax or the deficiency declared to be in jeopardy (including interest, penalties and additions thereto). In the case of a tax for a current period, the commissioner may declare the taxable period of the taxpayer immediately terminated and shall cause notice of such finding and declaration to be mailed or issued to the taxpayer, together with a demand for immediate payment of the tax based on the period declared terminated, including therein income accrued and deductions incurred up to such date of termination if not otherwise properly includible or deductible in respect of such period, and such tax shall be immediately due and payable whether or not

the time otherwise allowed by law for filing the return, and paying the tax has expired.

Collection

(b) The jeopardy assessments provided for in this section shall be immediately due and payable and proceedings for collection may be commenced at once; provided, that the taxpayer may stay collection and prevent the jeopardy assessment from becoming final by filing, within 10 days after the date of mailing or issuing the notice of jeopardy assessment, a petition for reassessment, accompanied by a bond or other security in such amount as the commissioner may deem necessary, not exceeding double the amount (including interest, penalties, and additions thereto) as to which the stay is desired. The commissioner shall consider such petition for reassessment, and notify the taxpayer of his decision thereon, which decision shall be final. If the taxpayer has so requested in its petition, it shall be the duty of the commissioner to grant said taxpayer, or its authorized representative, an oral hearing. If petition for reassessment, accompanied by bond or other security, is not filed within the 10-day period, the assessment shall become final.

Oral hearing

Finding of commissioner

(c) In any proceedings brought to enforce payment of taxes made due and payable by virtue of the provisions of this section, the finding of the commissioner, made as herein provided, whether made after notice to the taxpayer or not, shall be for all purposes presumptive evidence that the assessment or collection of the tax or the deficiency was in jeopardy. A certificate of the commissioner of the mailing or issuing the notices specified in this section shall be presumptive evidence that such notices were mailed or issued.

Certificate

Stats 1939, p 2902 See also Stats 1943, Ch 351

SEC. 14. Section 19 of The Corporation Income Tax Act of 1937 is hereby amended to read as follows:

Additional tax Notice

Sec. 19. As soon as practicable after the return is filed, the commissioner shall examine it and shall determine the correct amount of the tax If the commissioner determines that the tax disclosed by the original return is less than the tax disclosed by his examination he shall mail notice or notices to the taxpayer at its post-office address (which must appear on its return) of the additional tax proposed to be assessed against it. Each notice shall set forth the details of the proposed additional assessment and of computing said tax.

Protest

Within 60 days after the mailing of said notice the taxpayer may file with the commissioner a written protest against the levy of the proposed additional tax, as computed by the commissioner, specifying therein the grounds upon which the protest is based. The protest must be under oath.

Hearing, etc

If no such protest is so filed the amount of the tax shall be final upon the expiration of said 60-day period. If a protest is so filed it shall be the duty of the commissioner to reconsider the computation and levy of the tax complained of, and if the taxpayer has so requested in its protest, it shall be the duty of the commissioner to grant said taxpayer, or its authorized representatives, an oral hearing. After consideration of

the protest and the evidence adduced in the event of such oral hearing, the commissioner's action upon the protest shall be final upon the expiration of 30 days from the date when he mails to the taxpayer notice of his action, unless within that 30-day period the taxpayer appeals in writing from the action of the commissioner to the State Board of Equalization. The appeal must be addressed and mailed to the State Board of Equalization at Sacramento, and a copy of the appeal addressed and mailed at the same time to the commissioner at Sacramento. Said board shall hear and determine the same and thereafter shall forthwith notify the taxpayer and the commissioner of its determination, and the reasons therefor. Such determination shall be final upon the expiration of 60 days from the time of such determination unless within such 60-day period the determination is modified in which event it shall become final upon the expiration of 60 days from the time it is modified.

Appeal

Notice and demand

When a deficiency has been determined and the tax has become final under the provisions of this section, the commissioner shall mail notice and demand to the taxpayer for the payment thereof, and such tax shall be due and payable at the expiration of 10 days from the date of such notice and demand.

A certificate by the commissioner or of said board, as the case may be, of the mailing of the notices specified in this section shall be prima facie evidence of the computation and levy of the deficiency in tax and of the giving of said notices.

Limitation

Except in the case of a fraudulent return, every notice of additional tax proposed to be assessed hereunder shall be mailed to the taxpayer within four years after the return was filed and no deficiency shall be assessed or collected with respect to the year for which such return was filed unless such notice is mailed within such period; provided, that in the case of any taxpayer which shall agree with the United States Commissioner of Internal Revenue for an extension (or renewals thereof) of the period for proposing and assessing deficiencies in Federal income tax for any year, the period for mailing notices of proposed deficiency tax pursuant to this section shall (unless otherwise agreed between the commissioner and the taxpayer) be four years after the return was filed or six months after the date of the expiration of the agreed period for assessing deficiencies in Federal income tax, whichever period expires the later. For the purposes of this paragraph a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

Extension of assessment period

Where before the expiration of the time prescribed in this section for the assessment of the tax, the taxpayer has consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended

by subsequent agreements in writing made before the expiration of the period previously agreed upon.

Any amount of tax in excess of that disclosed by the return, due to a mathematical error, notice of which has been mailed to the taxpayer, shall not be considered a deficiency assessment within the meaning of this section. The taxpayer shall have no right of protest or appeal as herein provided, based on such notice, nor shall such assessment or collection be prohibited by any of the provisions of this section. Excess tax due to mathematical error

SEC. 15. Section 20 of The Corporation Income Tax Act of 1937 is hereby amended to read as follows: Stats 1939, p 2902 See also Stats 1943, Ch 351

Sec. 20. If, in the opinion of the commissioner, or the State Board of Equalization, as the case may be, there has been an overpayment of tax, penalty or interest by a taxpayer for any year for any reason, the amount of such overpayment shall be credited against any taxes then due from the taxpayer under this act, and the balance shall be refunded to the taxpayer or its successor through reorganization, merger, or consolidation, or to stockholders upon dissolution. No such credit or refund shall be allowed or made until approved by the State Board of Control. No such credit or refund shall be allowed or made after four years from the last day prescribed for filing the return or after one year from the date of overpayment, whichever period expires the later, unless before the expiration of such period a claim therefor is filed by the taxpayer, or unless before the expiration of such period the commissioner has certified the overpayment to the State Board of Control for approval of the refunding or the crediting thereof. A refund claim upon which action has become final shall not thereafter be considered a refund claim within the meaning of the foregoing provision except to the extent allowed. Every claim for refund must be in writing under oath and must state the specific grounds upon which the claim is founded. Credits and refunds Claim

If the commissioner disallows any claim for refund, he shall notify the taxpayer accordingly. At the expiration of 90 days from the mailing of such notice, the commissioner's action upon the claim shall be final unless within such 90-day period, the taxpayer appeals in writing from the action of the commissioner to the State Board of Equalization. If the commissioner fails to mail notice of action on any refund claim within six months after the claim was filed, the taxpayer may, prior to mailing of notice of action on the refund claim, consider the claim disallowed and appeal to said board. Appeals must be addressed and mailed to the State Board of Equalization at Sacramento, and a copy of the appeal addressed and mailed at the same time to the commissioner at Sacramento. Said board shall hear and determine the same and thereafter shall forthwith notify the taxpayer and the commissioner of its determination. Such determination shall be final upon the expiration of 60 days from the time of such determination unless within such 60-day period, the Disallowance Notice Appeal

determination is modified in which event it shall become final upon the expiration of 60 days from the time it is modified.

Interest

Interest shall be allowed and paid upon any overpayment of any tax, if the overpayment was not made because of an error or mistake on the part of the taxpayer, at the rate of 6 per centum per annum as follows:

(1) In the case of a credit, from the date of the overpayment to the date of the allowance of the credit. Any interest allowed on any credit shall first be credited on any taxes due from the taxpayer under this act.

(2) In the case of a refund, from the date of the overpayment to a date preceding the date of the refund warrant by not more than 30 days, such date to be determined by the commissioner.

Recovery of erroneous refunds

Any refund or any portion thereof which is erroneously made, and any credit or any portion thereof which is erroneously allowed, may be recovered, together with interest at the rate of 6 per centum per annum from the date the refund was made or the credit allowed, in an action brought by the commissioner in a court of competent jurisdiction in the County of Sacramento in the name of the people of the State of California, and such actions shall be tried in the County of Sacramento unless the court, with the consent of the Attorney General or the counsel for the commissioner, orders a change of place of trial. The Attorney General or the counsel for the commissioner must prosecute such action and the provisions of the Code of Civil Procedure, relating to service of summons, pleadings, proofs, trials, and appeals are applicable to the proceedings herein provided for.

Tax illegally levied

In the event that a tax has been illegally levied against a taxpayer, the commissioner shall, in the absence of any other applicable provision in this act, certify such fact to the State Board of Control and said board shall authorize the cancellation of the tax upon the records of the commissioner.

Stats. 1937, p. 2184. See also Stats. 1943, Ch. 371

SEC. 16. Section 21 of The Corporation Income Tax Act of 1937 is hereby amended to read as follows:

Evasion of tax

Sec. 21. If any return required by this act is not made, or if any taxpayer files a false or fraudulent return with intent to evade tax, the commissioner, at any time, may require a return or a supplementary return under oath, or may make an estimate of the net income, from any available information, and may compute the amount of tax, interest and penalties due under this act. All the provisions of this act, not in conflict herewith, relative to delinquent taxes shall be applicable to the tax, interest and penalties computed and levied hereunder. A proceeding in court for the collection of the tax, interest and penalties herein provided for may be begun without assessment at any time.

Bankruptcy

Upon the adjudication of bankruptcy of any taxpayer in any bankruptcy proceeding or the appointment of a receiver for any taxpayer in any receivership proceeding before any court of the United States or of any State or Territory or of

the District of Columbia, any deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) determined by the commissioner in respect of a tax imposed by this act upon such taxpayer may be immediately assessed. In such cases the trustee in bankruptcy or receiver shall give notice in writing to the commissioner of the adjudication of bankruptcy or the appointment of the receiver, and the running of the statute of limitations on the making of assessments shall be suspended for the period from the date of adjudication in bankruptcy or the appointment of the receiver to a date 30 days after the date upon which the notice from the trustee or receiver is received by the commissioner; but the suspension under this sentence shall in no case be for a period in excess of two years. Claims for the deficiency and such interest, additional amounts and additions to the tax may be presented, for adjudication in accordance with law, to the court before which the bankruptcy or receivership proceeding is pending, despite the pendency of proceedings for the redetermination of the deficiency in pursuance of a petition to the Board of Equalization but no petition for any such redetermination shall be filed with said board after the adjudication of bankruptcy or the appointment of the receiver. Any portion of the claim allowed in such bankruptcy or receivership proceeding which is unpaid shall be paid by the taxpayer upon notice and demand from the commissioner after determination of such proceeding and may be collected in the manner provided in this act for the collection of delinquent taxes at any time within six years after termination of such proceeding.

SEC. 17. Section 22 of The Corporation Income Tax Act of 1937 is hereby amended to read as follows: Stats 1937 p 2184 See also Stats 1943, Ch 351

Sec. 22. The taxes imposed by this act and disclosed on the return shall constitute a lien upon the real property of the taxpayer, which lien shall have the same force, effect and priority as a judgment lien and shall attach on the last day of the "taxable year"; provided, that taxes imposed by this act and determined pursuant to the provisions of Sections 18 (a), 19 or 21 shall constitute a lien on all real property of the taxpayer located in any county in which there is filed for records in the office of the county recorder a certificate executed by the commissioner stating that payment of a tax determined under the provisions of Sections 18 (a), 19 or 21 of this act has been demanded and has not been paid, and specifying the amount thereof and the name of the taxpayer, and such lien shall attach at the time the certificate is recorded and shall have the same force, effect and priority as a judgment lien. The lien provided for in this section shall remain until the taxes are paid or the property subject to the lien is sold for the payment thereof; provided, however, that the commissioner may at any time release all or any portion of the property subject to the lien from the lien or subordinate the

Tax lien

Release

lien to other liens if he determines that the taxes are sufficiently secured by a lien on other property of the taxpayer or that the release or subordination of the lien will not endanger or jeopardize the collection of such taxes. A certificate by the commissioner to the effect that any property has been released from the lien herein provided for or that such lien has been subordinated to other liens shall be conclusive evidence that the property has been released or that the lien has been subordinated as provided in the certificate. No decree of dissolution shall be made and entered by any court, nor shall the county clerk of any county or the Secretary of State file any such decree, or file any other document by which the term of existence of any taxpayer shall be reduced or terminated, nor shall the Secretary of State file any certificate of the surrender by a foreign corporation of its right to do intrastate business in this State until the tax, penalties, and interest shall have been paid or are secured by bond, deposit, or otherwise.

Certificate of release

Certificate of tax payment

Stats 1939, p 2902 See also Stats 1943, Ch 351

SEC. 18. Section 23 of The Corporation Income Tax Act of 1937 is hereby amended to read as follows:

Action to recover tax paid

Sec. 23. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against this State or against any officer thereof to prevent or enjoin the assessment or collection of any tax under this act, but any taxpayer claiming that the tax computed and levied against it pursuant to Sections 18.1 and 19 of this act is void in whole or in part may bring an action against the commissioner for the recovery of the whole or any part of the amount paid. Such action must be filed within four years from the last date prescribed for filing the return or within one year from the date the tax was paid, whichever period expires the later; provided, that no action shall be filed for the recovery of a deficiency assessment unless the taxpayer has made protest to the commissioner of the computation and levy complained of under the provisions of Section 19 hereof.

Limitation

Within 90 days after the mailing of the notice of the commissioner's action upon any refund claim, or in case of an appeal to the State Board of Equalization from the disallowance of any refund claim, within 90 days after the mailing of the notice of the board's determination of the appeal, the taxpayer may bring an action against the commissioner on the grounds set forth in such claim for the recovery of the whole or any part of the amount claimed as an overpayment.

If the commissioner fails to mail notice of action on any refund claim within six months after the claim was filed, the taxpayer may, prior to mailing of notice of action on the refund claim, consider the claim disallowed and bring an action against the commissioner on the grounds set forth in such claim for the recovery of the whole or any part of the amount claimed as an overpayment.

Service of papers

Whenever under the provisions of this section an action is commenced against the commissioner, a copy of the complaint

and the summons must be served upon the commissioner, or the assistant commissioner. A second copy of the complaint and summons must be furnished to the commissioner, but this requirement shall not be considered jurisdictional. At the time the commissioner demurs or answers, he may demand that the action be tried in the Superior Court of the County of Sacramento, which demand must be granted. The Attorney General or the counsel for the commissioner must defend the action. The provisions of the Code of Civil Procedure, relating to pleadings, proofs, trials, and appeals are applicable to the proceedings herein provided for. A failure to begin such action within the time herein specified shall be a bar against the recovery of such taxes. In any such action the court shall have power to render judgment for plaintiff for any part or portion of the tax, interest, penalties or cost found to be void and so paid by plaintiff upon such assessment.

Interest

In any judgment of any court rendered for any overpayment in respect of any tax imposed by this act, interest shall be allowed at the rate of 6 per centum per annum upon the amount of the overpayment, from the date of the payment or collection thereof to the date of allowance of credit on account of such judgment or to a date preceding the date of the refund warrant by not more than 30 days, such date to be determined by the commissioner.

Substitution

In all actions now pending against the State Treasurer under the provisions of this act, the commissioner shall be substituted for the State Treasurer by the court wherein the action is pending. This substitution shall not in any way affect the rights of the plaintiff in said action.

If judgment is rendered against the commissioner, the amount thereof shall first be credited against any taxes and interest due from the taxpayer under this act and the remainder refunded to the taxpayer or its successor by the State Treasurer on warrant drawn by the Controller.

Stats 1939, p 2902 See also Stats 1943, Ch 351

SEC. 19. Section 24 of The Corporation Income Tax Act of 1937 is hereby amended to read as follows:

Collection of delinquent taxes

Sec. 24. (a) At any time within three years after the determination of liability for any tax, penalties, and interest, or any installment thereof, the commissioner may bring an action in a court of competent jurisdiction in the County of Sacramento in the name of the people of the State of California to collect the amount delinquent, together with penalties, and interest, and such action shall be tried in the County of Sacramento unless the court, with the consent of the Attorney General or the counsel for the commissioner, orders a change of place of trial. The Attorney General or the counsel for the commissioner must prosecute such action, and the provisions of the Code of Civil Procedure, relating to service of summons, pleadings, proofs, trials, and appeals are applicable to the proceedings, herein provided for. In such action a writ of attachment may be issued, and no bond or affidavit previous to the

Certificate

issuing of said attachment is required. In such action a certificate by the commissioner showing the delinquency shall be prima facie evidence of the levy of the tax, penalties, and interest of the delinquency and of compliance by the commissioner and the State Board of Equalization with all the provisions of this act in relation to the computation and levy of the tax.

Seizure and sale of property

(b) At any time within which an action can be brought to collect any delinquent amounts as provided in the preceding paragraph, the commissioner may collect the tax, together with penalties and interest, in the following manner: The commissioner shall seize any personal property, owned by the corporation against whom the tax is assessed, and thereafter sell at public auction such property so seized, or a sufficient portion thereof, to pay the tax due hereunder, together with any interest, and any penalty or penalties imposed hereby for such delinquency, and any and all costs that may have been incurred on account of such seizure and sale. Notice of such intended sale and the time and place thereof, shall be given to such delinquent corporation and to all persons appearing of record to have an interest in such property, in writing at least 10 days before the date set for such sale by inclosing such notice in an envelope addressed to said corporation at its last known place of business in this State if any, and, in the case of any person appearing of record to have an interest in such property, addressed to such person at the last known place of residence, if any, and depositing the same in the United States mail, postage prepaid, and by publication for at least 10 days before the date set for such sale in a newspaper of general circulation published in the county or city and county in which the property seized is to be sold; provided, however, that if there be no newspaper of general circulation in such county or city and county, then by the posting of such notice in three public places in such county or city and county for said 10-day period. The said notice shall contain a description of the property to be sold, together with a statement of the amount of the taxes, interest, penalties and costs, the name of the corporation, and the further statement that, unless such taxes, interest, penalties and costs are paid on or before the time fixed in said notice for such sale, said property, or so much thereof as may be necessary, will be sold in accordance with law and said notice.

Notice of sale

Disposition of proceeds of sale, etc

At any such sale, the property shall be sold by said commissioner or his duly authorized agent in accordance with law and said notice, and the commissioner shall deliver to the purchaser a bill of sale for the property so sold and such bill of sale shall vest title in the purchaser. The unsold portion of any property so seized may be left at the place of sale at the risk of said corporation. If, upon any such sale, the moneys so received shall exceed the amount of all taxes, interest, penalties and costs due the State from such corporation, any such excess shall be returned to the corporation and a receipt therefor obtained; provided, however, that if any person having an interest in or

lien upon the property has filed with the commissioner prior to any such sale notice of such interest or lien the commissioner shall withhold any such excess pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction.

If, for any reason, the receipt of such corporation shall not be available, the commissioner shall deposit such excess moneys with the State Treasurer, as trustee for such owner, subject to the order of such corporation or its successor through reorganization, merger, or consolidation, or its stockholders upon dissolution.

Action in Federal or foreign court

(c) The commissioner may bring an appropriate action (whether in the form of a common law action of debt or indebitatus assumpsit, or a code or other action), in any court of competent jurisdiction in the United States or in a foreign country, in the name of the people of the State of California, to recover the amount of any taxes and interest due under this act. The Attorney General or the counsel for the commissioner of this State must prosecute such action.

Remedies cumulative

(d) It is expressly provided that the foregoing remedies of the State shall be cumulative and that no action taken by the commissioner shall be or be construed to be an election on the part of the State or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy for which provision is made in this act.

Suspension of corporate powers

(e) If any tax, or any portion thereof, together with penalties, and interest thereon, which is due and payable either at the time the return is required to be filed or on or before the fifteenth day of the ninth month following the close of the income year, is not paid on or before 6 o'clock p.m. on the last day of the twelfth month after the close of the income year or if any tax due and payable upon notice and demand from the commissioner, together with penalties and interest thereon, is not paid on or before 6 o'clock p.m. on the last day of the eleventh month following the due date of such tax, except in case of jeopardy or fraud assessments, in which case, if such tax, interest and penalties are not paid within 40 days from the date such tax, penalties and interest are due and payable (unless the bond required by this act is filed to stay the collection of such tax, penalties and interest and such tax, interest and penalties are paid within 60 days after notice by the commissioner on taxpayer's petition for reassessment), the corporate powers, rights and privileges of the delinquent taxpayer shall be suspended and shall be incapable of being exercised in any manner which it is within the power of this State to prohibit; provided, that in any action or suit at law or in equity in which such suspended taxpayer shall seek to prosecute or shall be named as defendant, if such taxpayer has not been notified by the commissioner of its liability for tax, such action shall be continued on motion of the suspended taxpayer for a period of 90 days, or until such time as the tax determined by the commissioner to be due shall be paid,

Commissioner's certificate

whichever expires or occurs the earlier. The certificate of the commissioner setting forth that the suspended taxpayer has been notified of its liability for tax under this act and that such tax has not been paid, shall constitute prima facie evidence of such facts. The suspension shall be terminated on payment of the tax, and the certificate of the commissioner that the tax has been paid shall be evidence of the termination of the suspension.

Stats 1939, p 2902 See also Stats 1943, Ch 351

SEC. 20. Section 25 of The Corporation Income Tax Act of 1937 is hereby amended to read as follows:

Information and withholding at source

Sec. 25. (a) The commissioner may, by regulation, require any bank, corporation or person, including any officer or department of the State or any political subdivision or agency of the State, to withhold from payments of interest (other than interest coupons payable to bearer), dividends, rent, prizes, winnings, and fees, commissions, compensation for personal services, including bonuses, an amount equal to the tax that would be imposed by this act upon such payments if they, together with all similar payments since the beginning of the calendar year, represented net income of the payee and to transmit the amounts withheld to the commissioner at such time as he may designate. Any bank, corporation or person failing to withhold from any payments and transmit to the commissioner any amounts required by the commissioner pursuant to this paragraph to be withheld and transmitted shall be liable for any taxes due from the taxpayer to whom such payments are made for the year in which made to an extent not in excess of the amounts required to be withheld, unless it is shown that such failure was due to reasonable cause.

(b) The commissioner may by notice served personally or by registered mail require any bank, corporation or person, including any officer or department of the State or any political subdivision or agency of the State, to withhold from any payments of any nature to any taxpayer the amount of any tax, interest or penalties due from the taxpayer under this act and to transmit the amount withheld to the commissioner at such times as he may designate Any bank, corporation or person failing to withhold the tax due from any taxpayer and transmit the same to the commissioner as required by the commissioner pursuant to this paragraph shall be liable for such tax.

(c) Any bank, corporation or person required to withhold and transmit any amount pursuant to this section must comply with such requirement, without resort to any legal or equitable action in a court of law or equity, and any bank, corporation or person paying to the commissioner any amount required by him to be paid pursuant to subsections (a) and (b) of this section shall not be liable therefor to the bank, corporation or person from which withheld unless the amount withheld is refunded to the withholding agent.

(d) Any taxpayer from which a tax has been collected by withholding under this section shall be entitled to the remedies set forth in Sections 20 and 23 of this act; provided, however, that any refund of such tax under Section 20 shall be made to the withholding agent instead of directly to the taxpayer, if requested in writing by the withholding agent at the time the amounts refundable were transmitted to the commissioner. Remedies

SEC. 21. Section 29 of The Corporation Income Tax Act of 1937 is hereby amended to read as follows: Stats 1939, p 2902 See also Stats 1943, Ch 351

Sec. 29. (a) Except in accordance with proper judicial order in cases or actions instituted for the enforcement of the provisions of this act or for the prosecution of violations of this act and except as otherwise herein provided, it shall be unlawful for the commissioner, any deputy, agent, clerk or other officer or employee, to divulge or make known in any manner the amount of income or any particulars relating to the business affairs of the corporation set forth or disclosed in any report or return required under this act; provided, however, that such information may upon request of a committee appointed by either the Assembly or the Senate be furnished to such committee, but it shall be unlawful for such committee or any member, clerk or other officer or employee thereof to divulge or make known in any manner, any particulars of the information so furnished except to law enforcement officers for the purpose of aiding the detection or prosecution of crimes committed in violation of this act. Unlawful to divulge information; Exception

Nothing herein shall be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular reports or returns and the items thereof, or the publication of the percentage of dividends paid by any corporation which is deductible by the recipients thereof under the provisions of this act or the Bank and Corporation Franchise Tax Act, or the inspection by the Attorney General or other legal representative of the State, of the report or return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted to recover any tax or any penalty imposed by this act. Reports and returns shall be preserved for four years and thereafter until the commissioner orders them to be destroyed. Publication of statistics

The term "business affairs," as herein used, means the details relative to the business activities of the corporation as disclosed by the return but shall exclude extraneous matters, such as the exact corporate title, corporate number, the date of commencement of business in this State, taxable year adopted, filing date of return, name, date and title of persons signing affidavit to the return, due date of taxes, taxes unpaid, taxpayer's address, private address of officers and directors. "Business affairs"

(b) Notwithstanding the provisions of subsection (a), the commissioner may permit the Commissioner of Internal Revenue of the United States, or other tax officials of this State or the Inspection by Federal and other tax agencies

proper officer of any State imposing an income tax or tax measured by income, or the authorized representative of either such officer, to inspect the tax returns, or may furnish to such officer or his authorized representative an abstract of the return of income of any taxpayer or supply him with information concerning any item of income contained in any return, or disclosed by the report of any investigation of the income or return of income of any taxpayer; but such permission shall be granted or such information furnished to such officer or his representative, only if the statutes of the United States or of such other State, as the case may be, grant substantially similar privileges to the proper officer of this State charged with the administration of this act.

The information furnished or secured pursuant to this subsection shall be used solely for the purposes of administering the tax acts administered by the person or agency obtaining it, and unwarranted disclosures or uses of such information by such person or agency, or the employees or officers thereof, shall be subject to the penalty provisions of this section.

Penalties (c) Any violation of the provisions of this section is a misdemeanor, punishable by a fine not exceeding five hundred dollars ($500) or by imprisonment not exceeding six months, or both.

Charge (d) Whenever under this act or any act heretofore or hereafter enacted, the commissioner is permitted or required to disclose information, or furnish abstracts, or permit access to his records to or by any official, department, bureau, or agency of this State (including its political subdivisions), or any other State, or the United States, he may charge such official, department, bureau, or agency for the reasonable cost of such services.

Constitutionality SEC. 22. If any section, subsection, clause, sentence or phrase of this act which is reasonably separable from the remaining portions of this act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed the remaining portions of this act, irrespective of the fact that any such section, subsection, clause, sentence or phrase of this act be declared unconstitutional.

Tax levy SEC. 23. This act, inasmuch as it provides for a tax levy for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution, take

Application effect immediately. With the exception of amendments to subsections 11 (b), 11 (g), the addition of subsection 11 (k), and the amendment to subsection 12 (a), which shall be retroactive, the provisions of this act effecting changes in the computation of taxes shall be applied only in the computation of taxes for taxable years ending after December 31, 1942, and the remaining provisions of this act shall become effective on the effective date of this act. Provisions effecting changes in

Interpretation the computation of taxes shall mean those affecting income, deductions, rates, methods of calculating tax, exclusions, exemptions, and credits. Any amendment to any section of

The Corporation Income Tax Act of 1937 shall not, of itself, be taken as an indication that a change of meaning is intended.

CHAPTER 39

An act to add Article 4 to Chapter 2, Division 5 of the Welfare and Institutions Code, to amend and renumber Section 3305 and to repeal Section 3261, relating to the revolving funds of the manufacturing departments of the Industrial Home for the Adult Blind, the San Diego Workshop and the Los Angeles Workshop for the Adult Blind, declaring the urgency thereof, to take effect immediately.

Stats. 1937, p. 1095, amended

[Approved by Governor February 10, 1943. Filed with Secretary of State February 10, 1943.] In effect immediately

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

SECTION 1. Article 4 is hereby added to Chapter 2, Division 5, of the Welfare and Institutions Code, to read as follows: New article

Article 4. Revolving Funds of State Institutions for the Blind

3330. The manufacturing funds of the Industrial Home for the Adult Blind and the Industrial Workshops for the Blind may be drawn upon in a sum not to exceed 1 per cent of the total amount appropriated therefor, and may, with the permission and approval of the Department of Finance, be drawn upon in a sum in excess of 1 per cent but not to exceed 5 per cent of the total amount appropriated therefor, without at the time furnishing vouchers or itemized statements. Any sums so drawn shall be used as a revolving fund where payment of compensation earned, traveling expense advances, or other cash payments are necessary. Upon the demand of the Department of Finance all sums so withdrawn must be accounted for and substantiated by vouchers and itemized statements submitted to and audited by the Controller. Revolving funds

SEC. 2. Section 3305 of the Welfare and Institutions Code is hereby amended and renumbered and added to Article 4, Chapter 2, Part 5, to read as follows: Stats. 1939, p. 3011

3331. All moneys received from the sale of products manufactured in the manufacturing departments of the Industrial Home for the Adult Blind and in the Industrial Workshops for the Blind shall be remitted at least once in every month to the State Treasury for credit to, and shall become part of, the Industrial Home for the Adult Blind Manufacturing Fund and the Industrial Workshop Manufacturing Funds from whence derived. Remittance of money

Stats 1937, p 1005

SEC. 3. Section 3261 of the Welfare and Institutions Code is hereby repealed.

Urgency

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

The following is a statement of facts constituting such necessity:

The Industrial Home for the Adult Blind and the Industrial Workshops for the Blind have contracted with various agencies of the United States Government to manufacture for the Army and Navy various items vitally needed for the National defense. These orders are large and large quantities of raw materials must be purchased for manufacture. In the purchase of these large quantities of raw materials, there arise frequent occasions for cash discount advantages, as well as cash purchases. The provisions of this act will facilitate the more efficient manufacturing of the various items vitally needed for the National defense.

CHAPTER 40

Stats 1937, p 1005, amended

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

In effect immediately

[Approved by Governor February 10, 1943. Filed with Secretary of State February 10, 1943.]

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

Stats 1941, p 402

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

Industrial Home for the Adult Blind Manufacturing Fund

3259. The revolving fund for the manufacturing departments of the Industrial Home for the Adult Blind heretofore created shall be known as the Industrial Home for the Adult Blind Manufacturing Fund and is continued in existence in

Purpose

the sum of one hundred thousand dollars ($100,000). The fund shall be used for the payment of all materials needed in the manufacturing of products, for the payment of salaries of workers and for other costs of manufacturing, and may be used for the purchase of equipment, at the manufacturing departments of the Industrial Home for the Adult Blind. Whenever

Credit to General Fund

in the opinion of the Director of Finance any portion of said manufacturing fund no longer is required, such portion of said manufacturing fund shall be returned to the State Treasurer for credit to the General Fund upon order of the Director of Finance.

SEC. 2. The Industrial Home for the Adult Blind Revolving Fund heretofore created in the sum of fifty thousand dollars ($50,000) is hereby designated as the Industrial Home for the Adult Blind Manufacturing Fund and is hereby increased to one hundred thousand dollars ($100,000). The sum of fifty thousand dollars ($50,000) is hereby appropriated out of funds in the State Treasury not otherwise appropriated to be credited to the Industrial Home for the Adult Blind Manufacturing Fund, to be expended for the purpose for which said fund was created. Appropriation

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

The following is a statement of facts constituting such necessity:

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

CHAPTER 41

An act to amend Section 3304 of the Welfare and Institutions Code, relating to the Los Angeles Industrial Workshop for the Blind, making an appropriation and declaring the urgency thereof. Stats 1937, p 1005, amended

[Approved by Governor February 10, 1943. Filed with Secretary of State February 10, 1943.] In effect immediately

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

SECTION 1. Section 3304 of the Welfare and Institutions Code is hereby amended to read as follows: Stats 1939, p 3014

3304. The permanent revolving fund known as the "Los Angeles Industrial Workshop Revolving Fund," is hereby designated the Los Angeles Industrial Workshop Manufacturing Fund, and is continued in existence in the sum of one hundred and forty thousand dollars ($140,000). The fund shall be used for the payment of all materials, and may be used for the payment of equipment, needed in the manufacturing of products, for the payment of salaries of workers and for other costs of manufacturing, at the Los Angeles Workshop for the Blind. Los Angeles Industrial Workshop Manufacturing Fund

Returned to General Fund

Whenever in the opinion of the Director of Finance any portion of said manufacturing fund no longer is required, such portion of said manufacturing fund shall be returned to the State Treasurer for credit to the General Fund upon order of the Director of Finance.

Appropriation

SEC. 2. The Los Angeles Industrial Workshop Revolving Fund heretofore created in the sum of forty thousand dollars ($40,000) is hereby designated as the Los Angeles Industrial Workshop Manufacturing Fund and is hereby increased to one hundred and forty thousand dollars ($140,000). The sum of one hundred thousand dollars ($100,000) is hereby appropriated out of funds in the State Treasury not otherwise appropriated to be credited to the Los Angeles Industrial Workshop Manufacturing Fund, to be expended for the purpose for which said fund was created.

Urgency

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

The following is a statement of facts constituting such necessity:

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

CHAPTER 42

Stats 1937, p 1005, amended

An act to amend Section 3304.5 of the Welfare and Institutions Code, relating to the San Diego Industrial Workshop for the Blind, making an appropriation and declaring the urgency thereof.

In effect immediately

[Approved by Governor February 10, 1943. Filed with Secretary of State February 10, 1943.]

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

Stats 1939 p 2527

SECTION 1. Section 3304.5 of the Welfare and Institutions Code is hereby amended to read as follows:

San Diego Industrial Workshop Manufacturing Fund"

3304.5. The permanent revolving fund known as the San Diego Industrial Workshop Revolving Fund is hereby designated the San Diego Industrial Workshop Manufacturing Fund and is continued in existence in the sum of one hundred twenty thousand dollars ($120,000). The fund shall be used for the payment of all materials, and may be used for

the payment of equipment, needed in the manufacturing of products, for the payment of salaries of workers and for other costs of manufacturing, at the San Diego Workshop for the Blind.

Whenever in the opinion of the Director of Finance any portion of said manufacturing fund no longer is required, such portion of said manufacturing fund shall be returned to the State Treasurer for credit to the General Fund upon order of the Director of Finance. Return to General Fund

SEC. 2. The San Diego Industrial Workshop Revolving Fund heretofore created in the sum of twenty thousand dollars ($20,000), is hereby designated as the San Diego Industrial Workshop Manufacturing Fund and is hereby increased to one hundred twenty thousand dollars ($120,000). The sum of one hundred thousand dollars ($100,000) is hereby appropriated out of funds in the State Treasury not otherwise appropriated to be credited to the San Diego Industrial Workshop Manufacturing Fund, to be expended for the purpose for which said fund was created. Appropriation

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

The following is a statement of facts constituting such necessity:

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

CHAPTER 43

An act to add Section 2183.9 to the Welfare and Institutions Code, relating to aid to the aged, and declaring the urgency of this act, to take effect immediately. Stats. 1937, p. 1005, amended

[Approved by Governor February 10, 1943. Filed with Secretary of State February 10, 1943.] In effect immediately

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

SECTION 1. Section 2183.9 is added to the Welfare and Institutions Code, to read: New section

2183.9. Notwithstanding any other provision of this article, whenever a former recipient of aid under this chapter whose aid has been canceled or discontinued because he has accepted Reapplication for aid after employment

employment from which he derives income in excess of the amount allowed under this chapter again applies for aid, and at the time of such reapplication notifies the county that he no longer has such employment and such income, the county shall have a period of 30 days after the date of the reapplication within which to determine whether or not the applicant is eligible for assistance, and the aid shall be granted to him from the first day of the month in which the determination is made that he is eligible but in no event shall the aid commence prior to the date of reapplication. If the investigation is not completed at the end of the 30-day period, the investigation shall continue until completed, and if eligibility is established aid shall begin as of the first day of the month in which the 30-day period ended.

Investigation

Urgency

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

Because of the increased demand for workers of all kinds in industries directly connected with the prosecution of the war, and the induction of millions of men into the armed forces, a shortage of manpower exisits throughout the Nation, and particularly in the State of California. Lack of labor threatens shortages of foods, and endangers the successful prosecution of the war. Many recipients of old age aid are eager to contribute to the war effort by accepting employment, and physically able to do so, but are discouraged from accepting gainful employment which would render them ineligible for aid during the period of employment by the belief that the demand of their services is temporary, and the fear that on the cessation of employment, they will be without resources or income during the 90-day period of investigation now required to establish eligibility for aid. The shorter period of investigation of applications of former recipients of aid provided by this act will relieve that fear, and encourage those recipients of aid who are physically able to do so to accept employment and contribute their labor, directly or indirectly, to the war effort. To make this additional source of manpower available at the earliest possible time, and so to avert the threat of food shortages, and hasten the attainment of a victorious peace, it is necessary that this act take effect immediately.

CHAPTER 44

An act relating to the performance by the Department of Public Works of highway and other cooperative work for the Federal Government, making an appropriation for administrative expenses, declaring the urgency thereof, and providing that this act shall take effect immediately.

[Approved by Governor February 10, 1943. Filed with Secretary of State February 10, 1943.] In effect immediately

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

SECTION 1. In addition to the powers otherwise conferred upon the Department of Public Works, said department and each division thereof is hereby authorized to perform any engineering, architectural, construction, maintenance, or mechanical work for or on behalf of the Government of the United States, when requested so to do in writing by the Public Roads Administration, the Maritime Commission, the Army or the Navy, where such work is to be completely financed by Federal funds, except for general administrative expense, and said department may enter into agreements with the authorized officials of the United States for the performance of any such work. Any architectural or construction work on buildings shall be limited to projects on property owned or controlled by the State. Performance of work for Federal agencies

Any such agreement providing for such work to be done by Division of Architecture or Division of Water Resources shall be subject to the approval of the Department of Finance. Agreements

In the performance of any such federally financed work by the department, it may adopt any procedure as to the letting of contracts for, the conduct of, or the payment for, the work, that is requested by the authorized agents of the above mentioned agencies of the United States or required by Federal law, rules, or regulations. In the absence of any such requirement or request, such work shall be performed in accordance with the laws of this State. Procedure

The department and the California Highway Commission, as to such work to be performed by the Division of Highways, are and each of them is authorized to do any and all things in connection therewith as may be done in connection with State highways and may acquire therefor, in accordance with State law, any necessary property, real or personal, or interest therein. Work of Division of Highways

In addition to the purposes for which moneys are appropriated to said department or any division thereof, all of said moneys or so much thereof as may be necessary, are hereby appropriated and may be expended by the department for the performance of such work, provided that such expenditures shall be limited to those items for which the Government of the United States has agreed to reimburse the State in full, except for general administrative expenses which shall be Expenditures

chargeable to the funds appropriated for the support or administration of the division doing the work. Such expenditures, to the extent to which the United States is obligated to reimburse the State, shall be considered as temporary advancements for the performance of such work and shall not be considered as expenditures of State funds. Such expenditures must be excluded in making the computations required by Section 695 of the Political Code, as added by Chapter 923, Statutes of 1933. Moneys received from the Government of the United States as reimbursements for such expenditures shall be deposited in the State Treasury to the credit of the fund from which the advancements were made.

Reimbursements

Appropriation

SEC. 2. The sum of twenty thousand dollars ($20,000) is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, to the Department of Public Works for the support of the Division of Highways to cover the general administrative and administrative engineering expenses incurred by that division on work other than highway work performed for the Federal Government under this act and from said appropriation there shall be paid to the State Highway Fund quarterly an amount equal to 1 per cent of the funds expended for such Federal work, other than highway work. The State Controller shall pay such moneys upon claims filed by said department in the manner provided by law.

Duration

SEC. 2.5. This act shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs, except that within six months thereafter the department may complete any work under way.

Urgency

SEC. 3. This act is hereby declared to be an urgency measure within the meaning of Section 1 of Article IV of the State Constitution, necessary for the immediate preservation of the public peace, health and safety. The statement of the facts constituting such necessity is as follows: The State of California by reason of its geographical location not only is in a combat zone but is the shipping point for a large portion of the war material being forwarded to the fighting fronts. As a result, there is a huge amount of construction, maintenance and mechanical work being and to be performed in California to further the war effort. The Federal Government is performing a large volume of such work, much of which is such that the Department of Public Works, by reason of its trained personnel, equipment, and facilities, is able to perform it economically and efficiently for the Federal Government. The Federal Government has asked assistance from said department in several instances, and it is necessary for the protection of the State and the efficient conduct of the war that this act take effect immediately so that all such assistance can be promptly given.

CHAPTER 45

An act to add Division 4.5, comprising Sections 6100 to 6149, inclusive, to the Labor Code, relating to benefits payable to employees of the State of California and their dependents, directly or through the medium of insurance, on account of injuries arising out of and occurring in the course of their employment, which injuries or resulting death are not compensable under the provisions of Division 4 of the Labor Code, to take effect immediately.

Stats. 1937, p. 185, amended

[Approved by Governor February 10, 1943. Filed with Secretary of State February 10, 1943.]

In effect immediately

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

SECTION 1. Division 4.5, comprising Sections 6100 to 6149, inclusive, is added to the Labor Code, to read:

New division

DIVISION 4.5. WORKMEN'S COMPENSATION AND INSURANCE: STATE EMPLOYEES NOT OTHERWISE COVERED

CHAPTER 1. GENERAL PROVISIONS

Policy

6100. The purpose of this division is to effect economy, efficiency, and continuity in the public service by providing means for increasing the willingness of competent persons to assume the risk of injuries or death in State employment and for restoring experienced employees to productive work at the earliest possible moment following injury in the course of and arising out of State employment, irrespective of fault, in circumstances which make the injury or resulting death non-compensable under the provisions of Division 4 of this code.

6101. Unless the context otherwise requires, as used in this division:

"State agency"

(a) "State agency" means any agency, department, division, commission, board, bureau, officer, or other authority of the State of California.

"Fund"

(b) "Fund" means State Compensation Insurance Fund.

CHAPTER 2. DIRECT PAYMENTS

Authorization

6110. Any State agency may, by appropriate action, undertake to provide hospitalization, medical treatment and indemnity, including death benefits, to its employees and to their dependents for injury or death suffered from accident, irrespective of fault, occurring in the course of and arising out of the employment with such State agency, where the injury or death is not compensable under the provisions of Division 4 of this code.

Master agreement

6111. The State Compensation Insurance Fund may enter into a master agreement with the State Department of Finance

to render services in accordance with the agreement in the adjustment and disposition of claims against any State agency arising under this chapter.

Rates

6112. The master agreement shall provide for the rendition of services at a uniform rate to all State agencies.

Expenditures

6113. The fund may make all expenditures, including payments to claimants for medical care or for adjustment or settlement of claims.

Reimbursement

6114. The agreement shall provide that the State agency whose officer or employee is a claimant shall reimburse the fund for the expenditures and for the actual cost of services rendered.

Actions

6115. The fund may in its own name, or in the name of the State agency for which services are performed, do any and all things necessary to recover on behalf of the State agency any and all amounts which an employer might recover from third persons under Chapter 5 of Part 1 of Division 4 of this code, or which an insurer might recover pursuant to Section 11662 of the Insurance Code, including the rights to commence and prosecute actions or to intervene in other court proceedings, or to compromise claims before or after commencement of suit.

CHAPTER 3. INSURANCE

Authorization

6130. In lieu of direct payments pursuant to Chapter 2 of this division, any State agency may obtain by insurance from the State Compensation Insurance Fund, if the fund accepts the risk when the application for insurance is made, otherwise from any other insurer, hospitalization, medical treatment, and indemnity, including death benefits, on behalf of its employees and of their dependents for injury or death suffered from accident, irrespective of fault, occurring in the course of and arising out of the employment with such State agency, where the injury or death is not compensable under the provisions of Division 4 of this code.

Premiums

6131. The premium for such insurance shall be a proper charge against any moneys appropriated for the support of or expenditure by such State agency. In case such State agency is supported by or authorized to expend moneys appropriated out of more than one fund, it may, with the approval of the Director of Finance, determine the proportion of such premium to be paid out of each such fund.

CHAPTER 4. BENEFITS AND PROCEDURE

Extent of benefits

6140. The hospitalization, medical treatment, and indemnity, including death benefits, provided pursuant to this division shall be the same as provided by Division 4 of this code for employees entitled to the benefits of that division.

Application of Division 4

6141. Except as otherwise provided in this chapter, the provisions of Division 4 of this code, relating to benefits, procedure, and limitations, and all other provisions of that division, so far as they are consistent with the intent and purpose

of this division, are made a part hereof the same as if set forth herein verbatim.

Exceptions

6142. The provisions of Sections 3212, 3212.5, 3361, 4458, and 4800 to 4855, inclusive, of this code, as well as of other sections of Division 4 of this code, which are restrictive to particular persons or occupations, are excepted from this division and its operation.

Industrial Accident Commission

6143. The Industrial Accident Commission is vested with all power not inconsistent with Article VI of the Constitution of the State of California to hear and determine any dispute or matter arising out of an obligation under this division to provide directly, or through the medium of insurance, benefits identical with those prescribed by Division 4 of this code, with such limitations as are authorized, in the case of insurance, by Section 11657 of the Insurance Code.

Arbitration

6144. The commission may try and determine controversies under this division referred to it by the parties under the provisions of Part 3, Title 10, of the Code of Civil Procedure, when such controversies are submitted to it by the signed agreement of the parties, or by the application of one party and the submission of the other to its jurisdiction, with or without an express request for arbitration.

Submission of controversies

6145 The State, acting by or through any State agency, or when the consent of the opposing party is obtained, shall submit to the commission all controversies under this division susceptible of being arbitrated.

Powers of commission

6146. In acting as arbitrator, the commission has all the powers which it has in compensation cases, and its findings and award upon an arbitration have the same conclusiveness and are subject to the same mode of reopening, review, and enforcement as in compensation cases.

No fee or cost shall be charged by the commission for acting as arbitrator.

Election to sue State

6147. No State agency, either directly or through its adjusting agency, the State Compensation Insurance Fund, shall pay or provide any benefit authorized by this division unless and until the claimant makes and delivers to such State agency or to the fund an agreement in writing that if he, or his dependents in the event of his death, elects or elect to bring suit against the State with respect to the injury or death, except an action before the Industrial Accident Commission pursuant to the provisions of this division, or an action against the State for damages resulting from the negligence of an employee of another State agency, he or they will allow, and take all proper measures to effect, a credit to the reasonable value of all benefits which he or they have received under the provisions of this division, deductible from any verdict or judgment obtained in such suit, and from the date of commencement of suit will forego further benefits under this division.

Same

6148. The insurer, when insurance exists, shall not pay or provide any benefit authorized by this division unless and

until the claimant makes and delivers to the insurer an agreement in writing that if he, or his dependents in the event of his death, elects or elect to bring suit against the State or the insurer with respect to the injury or death, except an action before the Industrial Accident Commission pursuant to the provisions of this division, or an action against the State for damages resulting from the negligence of an employee of another State agency, he or they will allow, and take all proper measures to effect, a credit to the reasonable value of all benefits which he or they have received under the provisions of this division, deductible from any verdict or judgment obtained in such suit, and from the date of commencement of suit will forego further benefits under such insurance.

Agreement prior to injury

6149. Nothing shall preclude an employee from negotiating the agreement mentioned in Sections 6147 and 6148 prior to the occurrence of injury.

Urgency

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

Many persons in State employment are sustaining injuries, some fatal, which are not compensable under the workmen's compensation laws of California and they are unable to procure the medical care and support or protection of their dependents, which is urgently required in order efficiently to carry on the work of the State. It is necessary that some form of compensation be provided at the earliest possible moment for injuries to, and death of, such persons arising out of conditions which provide no relief under the workmen's compensation laws.

CHAPTER 46

An act to amend Sections 2701, 2702 and 2780 of, and to add Sections 2715 and 2729 to, the Penal Code, relating to prisons, the employment of prisoners and the sale of prison-made products, and declaring the urgency thereof and that this act shall go into immediate effect.

In effect immediately

[Approved by Governor February 10, 1943. Filed with Secretary of State February 10, 1943.]

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

Stats 1941, p 1080

SECTION 1. Section 2701 of the Penal Code is hereby amended to read as follows:

Articles to be produced or manufactured

2701. The board is hereby authorized and empowered to cause the prisoners in the State prisons of this State to be employed in the rendering of such services and in the production and manufacture of such articles, materials, and supplies

as are now, or may hereafter be, needed by the State, or any political subdivision thereof, or that may be needed for any State, county, district, municipal, school, or other public use, or that may be needed by any public institution of the State or of any political subdivision thereof, and also by the Federal Government or any department, agency or corporation until April 15, 1945, or until the termination of the present National emergency declared to exist by the President of the United States by his proclamation of September 8, 1939, or until the termination of the present war and six months thereafter, whichever of the foregoing first occurs. The board may enter into contracts for the purposes of this article. Duration

SEC. 2. Section 2702 of the Penal Code is hereby amended to read as follows: Stats 1941, p 1080

2702. The board shall, from time, to time, determine the kind, quality, and quantity, of the several articles, materials, and supplies to be thus produced and manufactured or the services to be rendered. Determination of articles or services

SEC. 3. Section 2780 of the Penal Code is hereby amended to read as follows: Stats 1941, p. 1648

2780. Any department, division, bureau, commission or other agency of the State of California or the Federal Government may use or cause to be used convicts confined in the State prisons to perform work necessary and proper to be done by them at camps to be established under this article. The board may enter into contracts for the purposes of this article. Convict camps

SEC. 4 Section 2715 is hereby added to the Penal Code, to read as follows: New section See also Stats. 1943, Ch. 953

2715. The board may authorize, pursuant to regulations adopted by it, the temporary removal of prisoners under custody of prison officials to harvest crops and fight fires until April 15, 1945, or until the termination of the present National emergency declared to exist by the President of the United States by his proclamation of September 8, 1939, or until the termination of the present war and six months thereafter, whichever of the foregoing first occurs. Crop harvesting, etc Duration

SEC. 5. Section 2729 is hereby added to the Penal Code, to read as follows: New section See also Stats. 1943, Ch. 541

2729. As used in this article the word "jute" shall also mean and include hemp and any other material suitable to be processed and manufactured into products in any jute mill at any of the State prisons. "Jute"

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

The following is a statement of facts constituting such necessity:

The United States of America is now at war with certain foreign powers and its manpower is being severely taxed to meet the personnel requirements of the Army and Navy and

the National defense plants necessary to supply the Army and Navy with materials, supplies and equipment; that the Federal Government has called upon the State and Federal prisons to turn their inmate manpower and equipment previously done by unskilled workmen, such as the harvesting and planting of crops, the fighting of forest fires and the salvaging of scrap to productive war work and particularly to do work of the unskilled workman; that under the present laws the State prisons can not utilize their inmate manpower and equipment to the fullest extent for war work and this act is necessary to accomplish this purpose.

CHAPTER 47

Stats. 1935, p. 1090, amended
Stats. 1943, Ch. 659, amended

An act to add Sections 8.2 and 13.1 to The Personal Income Tax Act and Sections 17356 and 18434 to the Revenue and Taxation Code, relating to the personal income tax, deductions therefrom and returns made therefore, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor February 10, 1943. Filed with Secretary of State February 10, 1943.]

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

New section See also Stats 1943, Ch 659 Deduction of military compensation

SECTION 1. Section 8.2 is added to The Personal Income Tax Act, to read:

Sec. 8.2. In computing net income there shall be allowed as a deduction all of the salary, wages, bonuses, allowances, and other compensation received by an individual for his services as a member of the armed forces of the United States, including any auxiliary branch thereof, or the State Guard.

SEC. 2. Section 13.1 is added to The Personal Income Tax Act, to read:

Extension of time

Sec. 13.1. In the case of a taxpayer who is serving as a member of the armed forces of the United States or any auxiliary branch thereof, or the Merchant Marine, beyond the boundaries of the United States, the commissioner shall automatically grant, without application being made therefor, an extension of time, free from interest and penalties, for filing the return and/or for payment of the tax until 180 days after his discharge or release from active service therein or until 180 days after the termination of hostilities in which the United States is now engaged, whichever first occurs.

New section See also Stats 1943, Ch 659 Deduction of military compensation

SEC. 3. Section 17356 is added to the Revenue and Taxation Code, to read:

17356. In computing net income there shall be allowed as a deduction all of the salary, wages, bonuses, allowances, and other compensation received by an individual for his services as a member of the armed forces of the United States, including any auxiliary branch thereof, or the State Guard.

New section See also Stats 1943, Ch. 659 Extension of time

SEC. 4. Section 18434 is added to the Revenue and Taxation Code, to read:

18434. In the case of a taxpayer who is serving as a member of the armed forces of the United States or any auxiliary

branch thereof, or the Merchant Marine, beyond the boundaries of the United States, the commissioner shall automatically grant, without application being made therefor, an extension of time, free from interest and penalties, for filing the return and/or for payment of the tax until 180 days after his discharge or release from active service therein or until 180 days after the termination of hostilities in which the United States is now engaged, whichever first occurs.

Effect Stats 1943, Ch 659

SEC. 5. Sections 3 and 4 of this act shall take effect only if Part 10 of Division 2 of the Revenue and Taxation Code is enacted by the Legislature at its Fifty-fifth Session, and in such case, at the same time as Part 10 takes effect; at which time, Sections 8.2 and 13.1 of The Personal Income Tax Act as added by this act are hereby repealed.

Repeal

Retroactive application

SEC. 6. The provisions of this act adding Section 8.2 to The Personal Income Tax Act and Section 17356 to the Revenue and Taxation Code shall apply to income received or accrued after the effective date of this act; the provisions of this act adding Section 13.1 to The Personal Income Tax Act and Section 18434 to the Revenue and Taxation Code shall apply to returns to be made for income received or accrued in any taxable years ending prior to the effective date of this act, and for all taxable years on or thereafter.

Urgency

SEC. 7. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

Individuals serving the Nation outside its boundaries in time of war are unable to file their income tax returns within the time specified. Therefore it is necessary to the public welfare to permit an extension of time in filing these returns. It is a hardship for individuals serving their country to pay an income tax on the compensation received for these services, and they should be relieved of this burden.

CHAPTER 48

An act to authorize public agencies to withhold amounts from salaries and wages, paid by public agencies and to comply with provisions of internal revenue laws of the United States, declaring the urgency of this act, to take effect immediately.

In effect immediately

[Approved by Governor February 10, 1943. Filed with Secretary of State February 10, 1943.]

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

Authorization

SECTION 1. The State, its agencies and political subdivisions, municipal corporations and all other public agencies are authorized to withhold from any wages or salaries paid by

them to any person such portion thereof as may be required to be withheld by any law of the United States relating to internal revenue and to pay the sums so withheld at the times and in the manner provided by said law and to make such records, reports and returns as provided by said internal revenue laws, or the regulations promulgated thereunder.

Records and forms

SEC. 2. The Department of Finance of the State of California shall direct the manner and form in which each department, board, commission or other agency of the State of California shall maintain the records incidental to the withholding of funds pursuant to the authority provided in Section 1 and shall prescribe the forms to be used in making any returns, reports or payments except where such forms are provided by the internal revenue laws or the regulations promulgated thereunder.

Deposit and withdrawal of funds State

SEC. 3. All funds withheld pursuant to Section 1 by any unit of the State whose funds are deposited in the State Treasury shall, immediately upon such withholding, be deposited in the State Treasury in a "special deposit fund" as provided by Section 453a of the Political Code and shall be withdrawn in the manner provided by Section 453a.

Counties

SEC. 4. All funds withheld by any county pursuant to the authority set forth in Section 1 shall be deposited immediately upon such withholding in the county treasury as trust moneys and shall be withdrawn only on a warrant issued by the county auditor in fulfillment of the purpose for which said moneys were deposited.

Other public agencies

SEC. 5. Any public agency not within the provisions of Sections 3 and 4 hereinabove shall deposit all moneys withheld pursuant to the authority of Section 1 immediately upon such withholding in the depositary designated for the funds of such agency and such deposit shall be denominated "Victory Tax Trust Deposit" and shall be subject to withdrawal only upon order of the disbursing officer of such agency in fulfillment of the purpose for which said moneys were deposited.

Urgency

SEC. 6. This act is hereby declared to be an urgency measure necessary for the immediate preservation of public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and shall take effect immediately. A statement of the facts constituting such necessity is as follows:

The Federal Government has imposed a victory tax on all incomes and has provided for the withholding of a portion of all salaries and wages at the source for payment to the Federal Government. The funds so derived are necessary for the financing of the war. There is some doubt whether public agencies are now empowered to withhold such funds and make the necessary reports and payments to the Federal Government. Authorization of such withholding and payment is necessary to prevent impeding the war effort and the preservation of the public health, peace and safety.

SEC. 7. Neither this act nor any thing expressed in it is intended to or is to be construed as a denial of the power of

any public agency to withhold wages and salaries prior to its effective date pursuant to the requirements of the Federal internal revenue laws.

CHAPTER 49

An act to amend Section 5.876 of the School Code and to amend Section 14536 of the Education Code, relating to the employment of persons retired under the State Teachers Retirement Act and declaring the urgency thereof, to take effect immediately.

Stats. 1943, Ch. 71, amended

[Approved by Governor February 10, 1943. Filed with Secretary of State February 10, 1943.]

In effect immediately

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

SECTION 1. Section 5.876 of the School Code is amended to read:

Stats 1941, p 2666 See also Stats 1943, Ch 71

5.876. Except as otherwise provided in this section, no person retired under Section 5.870 hereof, shall accept employment in a status requisite for membership in the retirement system as provided in Section 5.840 hereof, or in any teaching capacity in a public school, within two years after the effective date of retirement, and in any event not until after notifying the retirement board at its office in Sacramento, California, and if retirement be under Section 5.872 hereof, until said board has determined by medical examination, that said person has recovered from the disability for which he was retired. If any person shall fail to comply with the requirements of the sentence immediately preceding, said employment shall be invalid. At any time prior to July 1, 1945, or prior to the termination of the war in which the United States of America is now engaged, whichever is the earlier, any person heretofore or hereafter retired under Section 5.870 hereof and any person heretofore or hereafter retired under Section 5.872 hereof after attaining an age at which the classification of persons as permanent employees of school districts ceases and who was not otherwise retired under said section because of bodily or mental infirmity may, after giving notice to the retirement board at its office in Sacramento, accept employment in any status requisite for membership in the retirement system or in any teaching capacity in a public school.

Other employment after retirement

Exception

If any person shall accept employment, in a status requisite for membership in the retirement system as provided in Section 5.840 hereof, or in any teaching capacity in a public school, after complying with the requirements of this section, his retirement allowance shall be canceled forthwith.

Retirement cancellation

Note.—See Stats. 1943, Ch. 71.

SEC. 3. Section 2 of this act becomes operative only if the Education Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said code takes

Effect Stats 1943, Ch 71

Repeal

effect; at which time Section 5.876 of the School Code amended by this act is hereby repealed.

Urgency

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

A grave shortage of teachers for the public schools of California now exists. The employment of teachers heretofore retired under the provisions of the State Teachers Retirement Act but whose employment as teachers in the public schools is now prohibited by the provisions of said act will aid in relieving such shortage. In order that such persons may be so employed at the earliest possible time it is necessary that this act take effect immediately.

CHAPTER 50

An act to add Section 350.5 to the Political Code, relating to the sale or rental of tools or equipment of the State, declaring the urgency thereof, and providing that this act shall take effect immediately.

In effect immediately

[Approved by Governor February 10, 1943 Filed with Secretary of State February 10, 1943]

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

New section

SECTION 1. Section 350.5 is added to the Political Code, to read:

Sale or lease of equipment for war use

350.5. The head of each department, subject to the approval of the Department of Finance, may in his discretion sell or lease any tools or equipment under the control of his department to the Government of the United States or to any person designated by the War Production Board or its successor in authority, provided in either case that the War Production Board or such successor certifies to the head of the department that such tools or equipment or the rental thereof are required for use on any project or projects essential to the war effort. Notwithstanding any law or rule or regulation, such sales or leases may be made on an informal basis without the taking of bids.

Duration

SEC. 2. Section 350.5 as added by this act shall be effective until the cessation of hostilities in the present war, as declared by the President of the United States or by the Congress.

Urgency

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

The war effort has made huge demands on available construction tools and equipment. A shortage of such tools and

equipment now exists and may hereafter grow more serious. At any time the Federal Government may be required to request the sale or lease of construction equipment and tools owned by the States to itself or to its contractors engaged in projects essential to the war effort. In order that the State may be in position to cooperate to the fullest possible extent with the Federal Government in the prosecution of the war effort, it is necessary that immediate authorization to sell or lease such equipment, if the same be required for the war effort, be granted. It is, therefore, provided that this act take effect immediately.

CHAPTER 51

An act to add Section 704 to the Civil Code, relating to the ownership of United States savings bonds or other obligations of the United States registered in the name of two persons as co-owners or registered in the name of one person with a named survivor, declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 10, 1943. Filed with Secretary of State February 10, 1943.] In effect immediately

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

SECTION 1. Section 704 is added to the Civil Code, to read as follows: New section

704. All United States savings bonds or other bonds or obligations of the United States, however designated, now or hereafter issued, which are registered in the names of two persons as co-owners in the alternative, shall, upon the death of either of the registered co-owners, become the sole and absolute property of the surviving co-owner, unless the Federal laws under which such bonds or other obligations were issued or the regulations governing the issuance thereof, made pursuant to such laws, provide otherwise. U. S. savings bonds

All United States savings bonds or other bonds or obligations of the United States, however designated, now or hereafter issued, which are registered in the name of one person payable on death to a named survivor, shall, upon the death of the registered owner, become the sole and absolute property of the surviving beneficiary named therein, unless the Federal laws under which such bonds or other obligations were issued or the regulations governing the issuance thereof, made pursuant to such laws, provide otherwise.

This section shall not be construed to mean that prior to the enactment hereof the law of this State was otherwise than as herein provided.

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

IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

Doubt has arisen as to the interpretation of Federal regulations governing the issuance of United States war savings bonds and other United States bonds and obligations. In order that questions of ownership be settled and the sale of these bonds be not obstructed by conflicting interpretations, it is necessary that this act take effect immediately.

CHAPTER 52

Stats. 1937, p. 2085, amended

An act to amend Section 86.2 of the State Civil Service Act, relating to oaths to be taken by persons in the State civil service, declaring the urgency thereof, and providing that this act shall take effect immediately.

In effect immediately

[Approved by Governor February 10, 1943 Filed with Secretary of State February 10, 1943.]

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

Stats. 1941, p. 1199

SECTION 1. Section 86.2 of the State Civil Service Act is amended to read:

Oath for civil service employees

Sec. 86.2. Every person who has not previously taken and subscribed the oath required by this section, shall within the first 30 days of his employment in a permanent position in the State civil service where such employment continues for 30 days or more, take and subscribe the following oath:

Contents

"I do solemnly swear (or affirm, as the case may be), that I will support the Constitution of the United States and the Constitution of the State of California, and that I will faithfully discharge the duties of the office of_____(insert classification title), according to the best of my ability."

Presumption

All such persons who take, subscribe and file such oath within the time herein provided shall be conclusively presumed to have been and to be legally holding their positions as far as this or any other law is concerned requiring that such person take and/or subscribe and/or file an oath.

Penalty

The failure of any person, required to take and subscribe said oath within the times provided in this section, shall be a cause for dismissal by the board in accordance with the procedure provided in Section 173.

Notification

Every appointing power shall notify every new employee immediately following his appointment of the provisions of this section.

Filing

The oath herein required shall be filed with the board within 30 days of the date when such oath is taken and subscribed. The board shall prepare and furnish printed forms of said oath.

The oath herein required may be taken by any employee before his appointing power or before any person authorized in writing by such appointing power, which authorization shall be filed with the board, or may be taken before any other person authorized by law to administer oaths. No fee shall be charged by any person before whom the oath herein provided may be taken and subscribed. Administration of oath

SEC. 2. This act is hereby declared to be an urgency measure within the meaning of Section 1 of Article IV of the State Constitution, necessary for the immediate preservation of the public peace, health and safety. The statement of the facts constituting such necessity is as follows: Under the existing law it is necessary for the same individual to take and subscribe the oath prescribed by Section 86.2 of the State Civil Service Act each time he accepts an appointment to a new position, even though he has already taken and subscribed said oath for some other position. Urgency

The amendments made by this section will eliminate the necessity of many thousands of oaths being filed. It is necessary that such elimination be accomplished due to the shortage of supervisorial and clerical help and to save the materials and labor necessary in preparing the blank forms of said oath. It is therefore declared that this act shall take effect immediately.

CHAPTER 53

An act to amend Section 19626.5 of the Business and Professions Code, relating to the disposition of moneys in the Fair and Exposition Fund, making an appropriation, to take effect immediately. Stats. 1937, p. 1229, amended

[Approved by Governor February 10, 1943. Filed with Secretary of State February 10, 1943.] In effect immediately

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

SECTION 1. Section 19626.5 of the Business and Professions Code is amended to read: Stats. 1941, p. 2626

19626.5. Out of any money otherwise appropriated under this chapter for permanent improvements upon the property of the State, citrus, county, or district agricultural associations for fair purposes, there is hereby annually allocated one hundred thousand dollars ($100,000) to Agricultural District No. 1A, of which not less than fifty-five thousand dollars ($55,000) shall be expended only for premiums, and the remainder for the support of the district. Appropriation Agricultural District No. 1A (San Francisco-San Mateo)

SEC. 2. Upon the effective date of this act, the State Controller shall transfer from any moneys available to Agricultural District No. 1A in the Fair and Exposition Fund the sum of forty-five thousand dollars ($45,000), or so much thereof as may be necessary, to the Emergency Fund specified Repayment of loan

in Item 216 of Section 2 of the Budget Act of 1941 in repayment of a loan of said amount made from said Emergency Fund to Agricultural District No. 1A.

Current expenses

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

CHAPTER 54

Stats 1937, p 1229, amended

An act to add Section 4132.5 to the Business and Professions Code, relating to licentiate in pharmacy, declaring the urgency thereof to take effect immediately.

In effect immediately

[Approved by Governor February 10, 1943. Filed with Secretary of State February 10, 1943.]

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

New section

SECTION 1. Section 4132.5 is added to the Business and Professions Code, to read:

Requirements for pharmacist's license

4132.5. The provisions of Section 4132 of this code relating to age and pharmaceutical experience do not apply during the time this section is in effect.

Duration

This section shall remain in effect until the ninety-first day after the final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever

Existing law

first occurs. While this section is in effect, it shall supersede the provisions of Section 4132 to the effect indicated; but Section 4132 is not repealed by this section and after this section is no longer effective, Section 4132 shall have the same force as though this section had not been enacted.

Urgency

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

The prescribed courses have been intensified and shortened in furtherance of the war effort, resulting in students being ready to be graduated at an earlier age and with less experience. It is in the interest of the people of the State that those being graduated be licensed immediately to fill a present shortage of qualified pharmacists. In addition, certain of the students who have completed their courses are imminent for induction in the armed forces but are under 21 years of age, and unless permitted to take the examination now will be under a great handicap when they return from military service.

CHAPTER 55

An act making an appropriation for the contingent expenses of the Assembly, to take effect immediately.

[Approved by Governor March 17, 1943. Filed with Secretary of State March 17, 1943.] In effect immediately

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

SECTION 1. The sum of twenty-five thousand dollars ($25,000) is hereby appropriated out of any money in the State Treasury not otherwise appropriated, to and in augmentation of the contingent fund of the Assembly for the Fifty-fifth Regular Session of the Legislature for contingent expenses and legislative committees whose personnel is composed in whole or in part of Members of the Assembly, to be disbursed therefrom upon the order of the Assembly. Appropriation Contingent expenses of Assembly

SEC. 2. This act, inasmuch as it makes an appropriation for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately. Current expenses

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CHAPTER 56

An act making an appropriation for the operation, maintenance, and organization of the State Guard to take effect immediately.

[Approved by Governor March 24, 1943. Filed with Secretary of State March 24, 1943.] In effect immediately

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

SECTION 1. The sum of one million eight hundred seventy-four thousand seven hundred fifty-three dollars ($1,874,753) out of any moneys in the State Treasury not otherwise appropriated is hereby appropriated for the equipment, support, and maintenance of the State Guard, in addition to, and in augmentation of, the appropriation contained in Section 8 of Chapter 19 of the First Extraordinary Session of 1941-1942. Appropriation: State Guard

SEC. 2. This act, inasmuch as it makes an appropriation for the usual current State expenses, shall under provision of Section 1 of Article IV of the Constitution take effect immediately. Current expenses

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CHAPTER 57

An act making an appropriation for support of the Governor's Office, to take effect immediately.

[Approved by Governor March 31, 1943 Filed with Secretary of State March 31, 1943.] In effect immediately

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

SECTION 1. Out of any money in the State Treasury not otherwise appropriated, the sum of twenty-two thousand sixty-seven dollars ($22,067) is hereby appropriated for support of Appropriation: Governor's Office

the Governor's Office for the Ninety-fourth Fiscal Year, of which not more than twenty thousand nine hundred twenty-nine dollars ($20,929) may be expended under the provisions of Item 21 of "The Budget Act of 1941" and not more than one thousand one hundred thirty-eight dollars ($1,138) may be expended under the provisions of Item 22 in "The Budget Act of 1941."

Current expenses

SEC. 2. This act, inasmuch as it makes an appropriation for the usual current expenses of the State, shall under the provisions of Section 1 of Article IV of the Constitution take effect immediately.

CHAPTER 58

An act to amend Section 1161 of the Code of Civil Procedure, relating to unlawful detainer.

In effect August 4, 1943

[Approved by Governor April 2, 1943. Filed with Secretary of State April 2, 1943.]

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

Stats. 1933, p. 1315

SECTION 1. Section 1161 of the Code of Civil Procedure is hereby amended to read as follows:

Unlawful detainer

1161. A tenant of real property, for a term less than life, or the executor or administrator of his estate heretofore qualified and now acting or hereafter to be qualified and act, is guilty of unlawful detainer:

Possession after expiration of term

1. When he continues in possession, in person or by subtenant, of the property, or any part thereof, after the expiration of the term for which it is let to him, without the permission of his landlord, or the successor in estate of his landlord, if any there be; including the case where the person to be removed became the occupant of the premises as a servant, employee, agent, or licensee and the relation of master and servant or employer and employee or principal and agent or licensor and licensee has been lawfully terminated or the time fixed for such occupancy by the agreement between the parties has expired; but nothing in this subdivision contained shall be construed as preventing the removal of such occupant in any other lawful manner; but in case of a tenancy at will, it must first be terminated by notice, as prescribed in the Civil Code.

Possession after default in rent

2. When he continues in possession, in person or by subtenant, without the permission of his landlord, or the successor in estate of his landlord, if any there be, after default in the payment of rent, pursuant to the lease or agreement under which the property is held, and three days' notice, in writing, requiring its payment, stating the amount which is due, or possession of the property, shall have been served upon him and if there is a subtenant in actual occupation of the premises, also upon such subtenant.

Such notice may be served at any time within one year after the rent becomes due. In all cases of tenancy upon agricultural lands, where the tenant has held over and retained possession for more than 60 days after the expiration of the term without any demand of possession or notice to quit by the landlord or the successor in estate of his landlord, if any there be, he shall be deemed to be holding by permission of the landlord or successor in estate of his landlord, if any there be, and shall be entitled to hold under the terms of the lease for another full year, and shall not be guilty of an unlawful detainer during said year, and such holding over for the period aforesaid shall be taken and construed as a consent on the part of a tenant to hold for another year. Notice

3. When he continues in possession, in person or by subtenant, after a neglect or failure to perform other conditions or covenants of the lease or agreement under which the property is held, including any covenant not to assign or sublet, than the one for the payment of rent, and three days' notice, in writing, requiring the performance of such conditions or covenants, or the possession of the property, shall have been served upon him, and if there is a subtenant in actual occupation of the premises, also, upon such subtenant. Within three days after the service of the notice, the tenant, or any subtenant in actual occupation of the premises, or any mortgagee of the term, or other person interested in its continuance may perform the conditions or covenants of the lease or pay the stipulated rent, as the case may be, and thereby save the lease from forfeiture; provided, if the conditions and covenants of the lease, violated by the lessee, can not afterward be performed, then no notice, as last prescribed herein, need be given to said lessee or his subtenant, demanding the performance of the violated conditions or covenants of the lease. Possession after failure to perform conditions of lease

A tenant may take proceedings, similar to those prescribed in this chapter, to obtain possession of the premises let to a subtenant or held by servant, employee, agent, or licensee, in case of his unlawful detention of the premises underlet to him or held by him. Proceedings against subtenant

4. Any tenant, subtenant, or executor or administrator of his estate heretofore qualified and now acting, or hereafter to be qualified and act, assigning or subletting or committing waste upon the demised premises, contrary to the conditions or covenants of his lease, thereby terminates the lease, and the landlord, or his successor in estate, shall upon service of three days' notice to quit upon the person or persons in possession, be entitled to restitution of possession of such demised premises under the provision of this chapter. Subletting, etc., in breach of lease

CHAPTER 59

An act to amend Section 204e of the Code of Civil Procedure, relating to the duties and compensation of the secretary and jury commissioner of the superior court, and assistants.

In effect August 4, 1943

[Approved by Governor April 2, 1943. Filed with Secretary of State April 2, 1943.]

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

Stats 1941, p 2611

SECTION 1. Section 204e of the Code of Civil Procedure is amended to read:

Secretary of superior court judges as jury commissioner

204e. In any county or city and county where there is a secretary of the judges of the superior court in said county, or city and county, a majority of the said judges may in their discretion require such secretary to perform the duties of jury commissioner in addition to his regular duties as secretary. In such case the salary of the secretary of the said judges shall be six hundred dollars ($600) per month, except in counties, or cities and counties, having a population of less than 600,000, as ascertained and determined in the manner provided by Section 4005c of the Political Code, in which counties, or cities and counties, the salary of the secretary shall be five hundred dollars ($500) per month.

Assistants

On the authorization of the judges in such a case, the secretary shall have three assistant secretaries, who shall assist also in the performance of the duties of jury commissioner and one whose salary shall be three hundred dollars ($300) per month and the others two hundred seventy-five dollars ($275) per month each. The salaries herein authorized shall be paid out of the same fund that salaries of county officers are paid.

CHAPTER 60

An act to amend Sections 261a and 1744 of the Code of Civil Procedure, relating to the appointment, compensation, and expenses of superior court employees in counties, or cities and counties, having a population of 900,000 inhabitants and over.

In effect August 4, 1943

[Approved by Governor April 2, 1943. Filed with Secretary of State April 2, 1943.]

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

Stats 1941, p. 2611

SECTION 1. Section 261a of the Code of Civil Procedure is amended to read:

Employees of the superior court

261a. In each county, or city and county, having a population of 900,000 inhabitants and over, the judges of the superior court in and for such county, or city and county, a majority thereof concurring therein, to assist the court in the

transaction of the judicial business of said court, may appoint the following employees: Three stenographic secretaries, each at a salary of two thousand two hundred twenty dollars ($2,220) per annum; fifteen stenographers, each at a salary of one thousand nine hundred eighty dollars ($1,980) per annum; two stenographers, each at a salary of one thousand eight hundred dollars ($1,800) per annum; two investigators of domestic relations cases, each at a salary of two thousand seven hundred dollars ($2,700) per annum; two messengers, one at a salary of one thousand three hundred twenty dollars ($1,320) per annum, and the other at a salary of one thousand one hundred forty dollars ($1,140) per annum. All of the employees provided in this section shall be allowed actual traveling and necessary expenses incurred while engaged in the discharge of the duties of their office.

The salaries in this section provided for shall be paid in monthly installments out of the salary fund of the county, or city and county, or if there be no salary fund, then out of such fund as other salary demands against the county, or city and county, are paid, and expenses in this section provided for shall be paid in monthly installments out of the general fund, and both salaries and expenses shall be allowed and audited in the same manner as other demands against the county, or city and county, are required by law to be allowed and audited.

SEC. 2. Section 1744 of the Code of Civil Procedure is amended to read: Stats. 1939, p. 2261

1744. In each county having a population of 900,000 inhabitants or more, the superior court may appoint the following persons to assist the conciliation court in disposing of its business: Assistants to superior court acting as children's court of conciliation

(a) One commissioner, who shall be known as the "director of conciliation," and shall receive a salary of four thousand two hundred dollars ($4,200) per annum.

(b) One investigator, who shall receive a salary of two thousand seven hundred dollars ($2,700) per annum and necessary expenses while engaged in the discharge of his duties.

(c) Two stenographers, each of whom shall receive a salary of one thousand nine hundred eighty dollars ($1,980) per annum.

The appointments provided for in this section shall be made by majority vote of the judges of the superior court of the county, and may be made in addition to all other appointments of commissioners and other judicial attaches and employees otherwise authorized by law to be made in counties having a population of 900,000 inhabitants or more.

The salaries and expenses provided for in this section shall be paid in monthly installments out of the fund of the county from which salaries of county officers generally are paid, and shall be audited and allowed in the same manner as other salary demands against the county.

CHAPTER 61

An act to repeal Section 905 of the Political Code, relating to oaths of office of the Governor and Lieutenant Governor.

In effect August 4, 1943

[Approved by Governor April 2, 1943. Filed with Secretary of State April 2, 1943.]

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

1872 code

SECTION 1. Section 905 of the Political Code is hereby repealed.

CHAPTER 62

"Budget Act of 1943"

An act making appropriations for the support of the Government of the State of California and for several public purposes in accordance with the provisions of Section 34 of Article IV of the Constitution of the State of California, approved and adopted by the people at the general election held November 7, 1922, to take effect immediately.

In effect immediately

[Approved by Governor April 2, 1943. Filed with Secretary of State April 2, 1943.]

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

Short title

SECTION 1. This act shall be known and may be cited as the "Budget Act of 1943."

Budget appropriations

SEC. 2. The following sums of money, or so much thereof as may be necessary are hereby appropriated for the use and support of the State of California for the Ninety-fifth and Ninety-sixth Fiscal Years and, unless otherwise herein provided, shall be paid out of the General Fund in the State Treasury.

Special funds

Whenever by constitutional or statutory provision the revenues or receipts of any institution, department, board, bureau, commission, officer, employee, or other agency, or any moneys in any special fund created by law therefor, are to be used for salaries, support or any proper purpose, expenditures shall be made therefrom for all such purposes, and not from the General Fund, to the extent only of the amount herein appropriated unless otherwise stated herein.

Recurrent appropriations

Appropriations for purposes not otherwise provided for herein which have been heretofore made by any existing constitutional or statutory provision shall continue to be governed thereby.

Items included in appropriations

Support

Whenever herein an appropriation is made for support it shall include salaries and all other proper expenses, including repairs and equipment, incurred in connection with the institution, department, board, bureau, commission, officer, employee, or other agency, for which such appropriation is made.

Whenever herein an appropriation is made for construction and improvements, it shall include equipment necessary in connection with such construction or improvements. Construction and improvements

Wherever herein in any item of appropriation the amount of such appropriation as set forth in words differs from the amount thereof as set forth in figures, the lesser amount, whether in words or figures, is the amount appropriated by such item. Variance between words and figures

LEGISLATIVE

Item 1	For mileage of Lieutenant Governor, Senators, and statutory officers of the Senate	$2,500.00	Legislative
Item 2	For pay of the officers, clerks, and all other employees of the Senate for the Fifty-sixth Session	$38,000.00	
Item 3	For contingent expenses of Senate for the Fifty-sixth Session and legislative committees thereof whose personnel is composed in whole or in part of members of the Senate, exempt from Section 6 of this act	$40,000.00	
Item 4	For salaries of Senators	$96,000.00	
Item 5	For pay of officers, clerks, and all other employees of Assembly for Fifty-sixth Session	$45,000.00	
Item 6	For mileage of Assemblymen and statutory officers of the Assembly	$5,000.00	
Item 7	For contingent expenses of the Assembly for the Fifty-sixth Session and legislative committees thereof whose personnel is composed in whole or in part of members of the Assembly, exempt from Section 6 of this act	$45,000.00	
Item 8	For salaries of Assemblymen	$192,000.00	
Item 9	For legislative printing, binding, etc., for Fifty-sixth Session	$300,000.00	
Item 10	For legislative mailing	$3,000.00	
Item 11	For support of Legislative Counsel Bureau	$144,876.00	Legislative Counsel
Item 12	For support of California Code Commission	$29,450.00	Code Commission
Item 13	For support of California Commission on Uniform State Laws	$2,000.00	Commission on Uniform State Laws

JUDICIAL

Item 14	For support of Supreme Court	$438,440.00	Supreme Court
Item 15	For support of Judicial Council and for extra compensation and traveling expenses of judges assigned by the Judicial Council	$64,780.00	Judicial Council

District Courts of Appeal	Item 16—For support of The First District Court of Appeal	$218,940.00
	Item 17—For support of The Second District Court of Appeal	$307,210.00
	Item 18—For support of The Third District Court of Appeal	$125,410.00
	Item 19—For support of The Fourth District Court of Appeal	$154,330.00
Superior courts	Item 20—For State's share of salaries of judges of superior courts	$1,296,000.00

EXECUTIVE

Governor	Item 21—For support of the Governor and of the Governor's office (exempt from provisions of Sections 433, 669, and 677.5 of the Political Code)	$234,368.00
	Item 22—For special contingent expenses (secret service), Governor's office (exempt from provisions of Sections 433, 440, 669 and 677.5 of the Political Code)	$15,000.00
	Item 23—For support of the Governor's residence (exempt from provisions of Sections 433, 440, 669 and 677.5 of the Political Code)	$12,000.00
Lieutenant Governor	Item 24—For salary and support of Lieutenant Governor	$29,630.00

ADMINISTRATIVE

Attorney General	Item 25—For support of Attorney General, provided that the amount herein appropriated shall be reduced by whatever sum, not to exceed eight thousand dollars ($8,000), which the Attorney General receives from the Department of Social Welfare during the Ninety-fifth and Ninety-sixth Fiscal Years under the provisions of Section 473a of the Political Code	$656,768.00
	Item 25.5—For litigation and legal services in connection with activities of the Colorado River Board, to be expended by the Attorney General	$20,000.00
Controller	Item 26—For support of State Controller	$972,728.00
	Item 27—For support of Motor Vehicle Fuel Tax Refund Division, State Controller, payable from the Motor Vehicle Fuel Fund	$162,506.00
	Item 28—For support of Redemption Tax Division, State Controller, payable from the Tax-deeded Land Rental Fund	$270,345.00

Item 30—For support of Board of Administration of the State Employees' Retirement System ---------- $147,402.00 Employees' retirement system

Item 31—For support of State Board of Equalization ---------- $1,323,723.00 Board of Equalization

Item 32—For support of Retail Sales Tax Division of the State Board of Equalization ---------- $5,480,471.00
which amount may be augmented out of the Retail Sales Tax Fund as provided by Section 661 of the Political Code if the amount thus made available under said section does not increase the total amount available for the purpose of this item during any fiscal year to an amount which exceeds 3 per cent of the amounts deposited during such year in said fund.

Item 33—For support of Alcoholic Beverage Control Division of the State Board of Equalization ---------- $2,447,337.00

Item 34—For support of Motor Vehicle Fuel Tax Division, State Board of Equalization, payable from the Motor Vehicle Fuel Fund---------- $309,861.00

Item 35—For support of Franchise Tax Commissioner ---------- $600,481.00 Franchise Tax Commissioner

Item 36—For support of Franchise Tax Commissioner ---------- $1,500,398.00
which amount may be augmented from The Personal Income Tax Fund as provided by Section 661 of the Political Code if the amount thus made available under said section does not increase the total amount available for the purpose of this item during any fiscal year to an amount which exceeds 3 per cent of the amounts deposited during such year in said fund.

Item 37—For support of California Horse Racing Board, payable from the Fair and Exposition Fund------- $49,564.00 Horse Racing Board

Item 38—For support of California Commission on Interstate Cooperation---- $10,000.00 Commission on Interstate Cooperation

Item 39—For support of State Personnel Board ---------- $730,251.00 Personnel Board

Item 40—For support of Railroad Commission of the State of California--------- $1,342,605.00 Railroad Commission

	Item 41—For support of Transportation Rate Division, Railroad Commission of the State of California, payable from the Transportation Rate Fund	$79",11S.00
Harbor Commissioners San Diego	Item 42—For support of Board of Harbor Commissioners for the Bay of San Diego, payable from the San Diego Harbor Improvement Fund	$1,894.00
Secretary of State	Item 43—For support of Secretary of State	$140,248.00
	Item 44—For printing constitutional amendments, Secretary of State's Office	$95,000.00
	Item 45—For Printing Roster of Public Officials	$1,500.00
	Item 46—For support of Collection Agency Division, Secretary of State's Office, payable from the Collection Agency License Fund	$35,403.00
State Treasurer	Item 47—For support of the State Treasurer	$171,546.00

AGRICULTURE

Department of Agriculture	Item 50—For support of Department of Agriculture	$2,516,259.00
	Item 51—For construction, improvements, and equipment, Department of Agriculture	$2,130.00
	Item 52—For support of Department of Agriculture, payable from the Department of Agriculture Fund	$3,931,548.00
Poultry Improvement Commission	Item 53—For support of Poultry Improvement Commission, payable from the Poultry Testing Project Fund	$19,473.00
	Item 54—For additional support of Poultry Improvement Commission payable from any moneys in the Fair and Exposition Fund available for permanent improvements upon the property of the State, citrus, county, or district agricultural associations for fair purposes, allocated by Section 19626 of the Business and Professions Code	$10,000.00
	Item 55—For construction, improvements, and equipment, Poultry Improvement Commission payable from any moneys in the Fair and Exposition Fund available for permanent improvements upon the property of the State, citrus, county, or district agricultural associations for fair purposes, allocated by Section 19626 of the Business and Professions Code	$1,600.00

EDUCATION

Item 56—For support of the State Board of Education	$6,400.00	Department of Education
Item 57—For support of Department of Education and Superintendent of Public Instruction, California State Historical Association, exclusive of the State Board of Education	$473,207.00	
Item 58—For support of California State Library in the Department of Education	$342,303.00	State Library
Item 59—For publishing, purchasing, and shipping free textbooks, Department of Education	$1,467,664.00	Textbooks
Item 60—For vocational education, Department of Education, three hundred thousand dollars, in addition to the amounts appropriated under the provisions of Section 4.84 of the School Code	$300,000.00	Vocational education
Item 61—For support of Chico State College	$395,876.00	State Colleges: Chico
Item 62—For support of Fresno State College	$673,646.00	Fresno
Item 63—For construction, improvements and equipment, Fresno State College	$7,000.00	
Item 64—For support of Humboldt State College	$270,080.00	Humboldt
Item 65—For construction, improvements, and equipment, Humboldt State College	$11,500.00	
Item 66—For support of San Diego State College	$679,017.00	San Diego
Item 67—For construction, improvements and equipment, San Diego State College	$12,000.00	
Item 68—For support of San Francisco State College	$619,657.00	San Francisco
Item 69—For construction, improvements, and equipment, San Francisco State College	$12,000.00	
Item 70—For support of San Jose State College	$915,442.00	San Jose
Item 71—For construction, improvements, and equipment, San Jose State College	$18,400.00	
Item 72—For support of Santa Barbara State College	$572,549.00	Santa Barbara
Item 73—For construction, improvements and equipment, Santa Barbara State College	$5,000.00	
Item 74—For support of California School for Blind at Berkeley	$263,840.00	California School for Blind
Item 75—For readers for blind college students, California School for Blind at Berkeley	$13,000.00	

Item 76—For construction, improvements, and equipment, California School for Blind at Berkeley $6,500.00

California School for Deaf

Item 77—For support of California School for Deaf at Berkeley $568,475.00

Item 78—For expenses of deaf graduates attending Gallaudet College, California School for Deaf at Berkeley ... $8,100.00

Item 79—For construction, improvements, and equipment, California School for Deaf at Berkeley $2,000.00

California Maritime Academy

Item 80—For support of California Maritime Academy $169,785.00

California Polytechnic School

Item 81—For support California Polytechnic School $485,871.00

provided, that the sum appropriated by this item shall be reduced by any amount which during the Ninety-fifth and Ninety-sixth Fiscal Years, may become available to said school under the provisions of Section 19626 of the Business and Professions Code; provided further, that any money received by the California Polytechnic School for training personnel in the armed forces during the Ninety-fifth and Ninety-sixth Fiscal Years shall be deposited in the State Treasury in augmentation of this item.

University of California

Item 82—For support of University of California $15,178,142.00

provided, that not more than one-twentieth of such amount shall be expended during any one month and not more than one-half of such amount shall be expended during the Ninety-fifth Fiscal Year.

Hastings College of Law

Item 84—For support of Hastings College of the Law $65,072.00

FINANCE

Department of Finance

Item 85—For support of Department of Finance, exclusive of Bureau of Buildings and Grounds $1,184,743.00

Item 85.5—For support of Bureau of Buildings and Grounds, Division of Service and Supply, Department of Finance $1,709,252.00

Item 86—For payment of automobile liability claims and salaries and expenses incident to investigation, adjustment and defense thereof, or for premiums for automobile liability insurance, Department of Finance_ $46,000.00

Item 87—For official advertising, Department of Finance _____ $2,000.00

Item 88—For premiums on official bonds required by law for officers and employees whose salaries are paid from the General Fund, including premiums on official bonds required by Section 28 of the Unemployment Insurance Act, Department of Finance _____ $7,500.00

Item 89—For reclamation assessments on State-owned property, Department of Finance _____ $1,780.00

Item 90—For alterations, repairs and equipment, State Capitol and State office buildings, Department of Finance_ $75,000.00

Division of Fairs and Expositions

Item 91—For support, Division of Fairs and Expositions, State Department of Finance, payable from moneys allocated to the Department of Finance in the Fair and Exposition Fund under the provision of Section 19621 of the Business and Professions Code _____ $22,948.00

Division of Audits

Item 92—For support of Division of Audits, State Department of Finance, payable from moneys allocated to the Department of Finance in the Fair and Exposition Fund under the provision of Section 19621 of the Business and Professions Code_____ $15,000.00

State Agricultural Society

Item 93—For support of State Agricultural Society, Division of Exhibits, Department of Finance, payable from the State Agricultural Society Contingent Fund _____ $86,009.00

Sixth District Agricultural Association

Item 94—For support of Sixth District Agricultural Association, Division of Exhibits, Department of Finance, payable from the Sixth District Agricultural Association Fund____ $41,318.00

Division of State Lands

Item 95—For support, Division of State Lands, State Lands Commission, Department of Finance, payable from the State Lands Act Fund___ $207,061.00

INDUSTRIAL RELATIONS

Department of Industrial Relations	Item 96—For support, Departmental Administration, Department of Industrial Relations	$91,116.00
Apprentice training	Item 97—For apprentice training, Department of Industrial Relations	$53,862.00
Immigration and Housing	Item 98—For support of Division of Immigration and Housing, Department of Industrial Relations	$183,814.00
Industrial Accidents and Safety	Item 99—For support of Division of Industrial Accidents and Safety, Department of Industrial Relations	$1,736,309.00
Industrial Welfare	Item 100—For support of Division of Industrial Welfare, Department of Industrial Relations	$159,792.00
	No money appropriated by this act is available for expenditure by the Division of Industrial Welfare, Department of Industrial Relations, for the salary, expenses, or any other items for any person holding the position designated as administrative adviser, formerly known as confidential secretary, or any other position subsequently created for the purpose of performing substantially the same duties as the administrative adviser.	
Labor Statistics and Law Enforcement	Item 101—For support of Division of Labor Statistics and Law Enforcement, Department of Industrial Relations	$556,892.00
Fire Safety	Item 102—For support of Division of Fire Safety, Department of Industrial Relations	$28,665.00
	Item 103—For additional support of Division of Fire Safety, Department of Industrial Relations, payable from the Fire Marshal's Fund	$186,808.00

INSTITUTIONS

Department of Institutions	Item 105—For support of Department of Institutions	$317,229.00
Transportation	Item 106—For transportation of patients, juvenile delinquents, and other persons committed to State institutions of the Department of Institutions, Department of Institutions	$196,000.00
Langley-Porter Clinic	Item 107—For support of the Langley-Porter Clinic at San Francisco	$507,655.00

Item 108—For construction, improvements, and equipment at the Langley-Porter Clinic at San Francisco	$33,900.00	
Item 109—For support of Agnews State Hospital	$2,534,622.00	State Hospitals Agnews
Item 110—For construction, improvements, and equipment, Agnews State Hospital	$29,050.00	
Item 111—For purchase of land, Agnews State Hospital	$7,500.00	
Item 112—For support of Camarillo State Hospital	$2,790,240.00	Camarillo
Item 113—For support of Mendocino State Hospital	$2,052,450.00	Mendocino
Item 114—For construction, improvements, and equipment, Mendocino State Hospital	$26,000.00	
Item 115—For support of Napa State Hospital	$2,681,231.00	Napa
Item 116—For construction, improvements, and equipment, Napa State Hospital	$10,000.00	
Item 117—For support of Norwalk State Hospital	$1,836,010.00	Norwalk
Item 118—For construction, improvements, and equipment, Norwalk State Hospital	$2,500.00	
Item 119—For support of Patton State Hospital	$2,663,273.00	Patton
Item 120—For support of Stockton State Hospital	$3,018,118.00	Stockton
Item 121—For construction, improvements, and equipment, Stockton State Hospital	$30,000.00	
Item 122—For support of Pacific Colony	$1,375,161.00	Pacific Colony
Item 122.5—For construction, improvements, and equipment, Pacific Colony	$13,000.00	
Item 123—For support of Sonoma State Home	$2,387,897.00	Sonoma State Home
Item 124—For support of Preston School of Industry	$1,191,979.00	Preston School of Industry
Item 125—For construction, improvements, and equipment, Preston School of Industry	$8,500.00	
Item 126—For support of the Fred C. Nelles School for Boys	$674,936.00	Fred C Nelles School for Boys
Item 127—For construction, improvements, and equipment, Fred C. Nelles School for Boys	$5,400.00	
Item 128—For support of Ventura School for Girls	$393,897.00	Ventura School for Girls
Item 129—For construction, improvements, and equipment, Ventura School for Girls	$11,500.00	
Item 130—For support of Industrial Home for Adult Blind	$284,802.00	Industrial Home for Adult Blind
Item 131—For construction, improvements, and equipment, Industrial Home for Adult Blind	$4,400.00	

Industrial Work Shop for Blind

Item 132—For support of Industrial Work Shop for the Blind $81,947.00

Item 133—For support of State Blind Shop ... $36,561.00

INVESTMENT

Insurance

Item 134—For support of the Department of Insurance, payable from the Insurance Fund $746,711.00

Banking

Item 135—For support of Division of Banking, Department of Investment, payable from the Banking Fund $263,980.00

Building and Loan

Item 136—For support of Division of Building and Loan, Department of Investment, payable from the Building and Loan Inspection Fund $161,916.00

Corporations

Item 137—For support of Division of Corporations, Department of Investment, payable from the Corporation Commission Fund $625,191.00

Real Estate

Item 138—For support of the Division of Real Estate, Department of Investment, payable from the Real Estate Fund $312,722.00

District Securities Commission

Item 139—For support of California Districts Securities Commission $27,910.00

MILITARY AND VETERANS AFFAIRS

Director

Item 140—For additional salary of Director of Military and Veterans Affairs $2,000.00

Adjutant General and National Guard

Item 141—For support of The Adjutant General, and the California National Guard, including rental of armories, and maintenance of High School Cadets $300,772.00

Item 142—For construction, improvements, and equipment of armories, arsenals, stables, rifle ranges, and camp sites, The Adjutant General and the California National Guard $20,000.00

Veterans' Home of California

Item 143—For support of Veterans' Home of California $976,700.00

Item 144—For construction, improvements and equipment, Veterans' Home of California, payable from the Athletic Commission Fund $10,000.00

Woman's Relief Corps Home

Item 145—For support of Woman's Relief Corps Home $94,353.00

Item 146—For construction, improvements and equipment, Woman's Relief Corps Home $2,500.00

Athletic Commission

Item 147—For support of State Athletic Commission, payable from the Athletic Commission Fund $119,178.00

MOTOR VEHICLES

Department of Motor Vehicles

Item 148—For support of Department of Motor Vehicles, payable from the Motor Vehicle Support Fund---------- $12,790,029.00

Item 149—The State Controller, upon written authorization of the Director of Finance, shall transfer from time to time from the Motor Vehicle Fund to the Motor Vehicle Support Fund such amounts during the Ninety-fifth Fiscal Year, not exceeding in all the sum of five hundred eighty-four thousand five hundred seventeen dollars ($584,517), as are necessary to meet claims against the appropriation made by Item 148 and likewise may make such transfers during the Ninety-sixth Fiscal Year not exceeding the sum of five hundred eighty-four thousand five hundred seventeen dollars ($584,517) in all.

Item 151—For support of Motor Vehicle License Fee Administration, Department of Motor Vehicles, payable from the Motor Vehicle License Fee Fund-- $1,201,671.00

NATURAL RESOURCES

Department of Natural Resources

Item 152—For support of Departmental Administration, Department of Natural Resources ---------- $126,333.00

Division of Forestry

Item 153—For support of Division of Forestry, Department of Natural Resources-- $5,256,369.00

Item 154—For additional support of Division of Forestry, Department of Natural Resources, to be transferred to Item 153 upon executive order of the Director of Finance---------- $500,000.00

Item 155—For white pine blister rust control protection, Division of Forestry, Department of Natural Resources--- $100,000.00 provided that any amount withdrawn from this item must be matched by an expenditure of a like amount by the Federal Government in this State for the same purpose.

Item 156—For construction, improvements and equipment, Division of Forestry, Department of Natural Resources--- $18,475.00

Division of Mines

Item 157—For support of Division of Mines, Department of Natural Resources-- $195,613.00

Item 158—For expenses in connection with regulation of ore buying, Department of Natural Resources, Division of Mines, payable from Ore Buyers' License Fund $2,000.00

Division of Beaches and Parks

Item 159—For support of Division of Beaches and Parks, Department of Natural Resources, payable from the State Park Maintenance and Acquisition Fund $588,780.00

Item 160—For additional support, Division of Beaches and Parks, Department of Natural Resources, payable out of the State Park Maintenance Fund $20,000.00

Item 161—For construction, improvements and equipment of State parks, Division of Beaches and Parks, Department of Natural Resources, payable from the State Park Maintenance and Acquisition Fund $5,000.00

Acquisition of beaches and parks

Item 162—For acquisition of beaches, payable from the State Park Maintenance and Acquisition Fund $15,000.00

Item 163—For acquisition of additional redwood park areas in Humboldt and Del Norte Counties, Division of Beaches and Parks, Department of Natural Resources, payable from the State Park Maintenance and Acquisition Fund $102,222.00

provided, that any sum expended from this appropriation shall be matched by like amounts in money, property or lands received from private or other sources.

Division of Fish and Game

Item 164—For support of Division of Fish and Game, Department of Natural Resources, including license commissions, State Fair and other exhibits, and for the maintenance and construction of fish screens and other stream improvements, payable from the Fish and Game Preservation Fund $3,313,914.00

Item 165—For cooperation with the Federal Government in the purchase of land for game production, improvement of waterfowl areas and research in game management under the provisions of the Pittman-Robertson Act, Division of Fish and Game,

Department of Natural Resources, payable from Fish and Game Preservation Fund ---------- $100,000.00

Item 166—For purchase of land, Division of Fish and Game, Department of Natural Resources, payable from the Fish and Game Preservation Fund_ $7,000.00

Item 167—For purchase of game refuges and public shooting grounds and lands for fish hatcheries and construction, improvements and equipment of fish hatcheries, Division of Fish and Game, Department of Natural Resources, payable from Fish and Game Preservation Fund -------- $112,500.00

Item 168—For support of Division of Oil and Gas, Department of Natural Resources, payable from the Petroleum and Gas Fund ---------- $403,849.00 Division of Oil and Gas

PENOLOGY

Item 168.5—For support Director of Penology $3,100.00 Director of Penology

Item 169—For support of Division of Criminal Identification and Investigation --- $624,330.00 Division of Criminal Identification and Investigation

Item 170—For additional support of Division of Criminal Identification and Investigation, payable from the Motor Vehicle Fund---------- $70,000.00

Item 171—For support of Division of Narcotic Enforcement ---------- $179,502.00 Division of Narcotic Enforcement

Item 172—For support of Advisory Pardon Board ---------- $15,180.00 Advisory Pardon Board

Item 173—For support of Detective License Bureau, Board of Prison Directors, payable from the Detective Agency Contingent Fund ---------- $39,086.00 Board of Prison Directors

Item 174—For transportation of prisoners to State prisons, State Board of Prison Directors ---------- $125,000.00

Item 175—For transportation of prisoners from San Quentin State Prison to the California Institution for Men, State Board of Prison Directors--- $12,000.00

Item 176—For deportation from California of aliens and citizens of other States convicted of felonies, State Board of Prison Directors---------- $3,000.00

Item 177—For expenses of returning fugitives from justice from outside the State, State Board of Prison Directors--- $100,000.00

	Item 178—For support of State Board of Prison Directors	$70,637.00
State Prisons and Institutions	Item 179—For support of Folsom State Prison	$1,579,992.00
	Item 180—For support of San Quentin Prison	$2,507,701.00
	Item 181—For support of California Institution for Men	$794,377.00
	Item 182—For support of California Institution for Women	$271,614.00
Board of Prison Terms and Paroles	Item 183—For support of Board of Prison Terms and Paroles	$57,280.00
Bureau of Parole	Item 184—For support of Bureau of Parole, State Board of Prison Directors	$332,293.00

PROFESSIONAL AND VOCATIONAL STANDARDS

Accountancy	Item 185—For support of State Board of Accountancy, payable from the Board of Accountancy Fund	$25,560.00
Architecture	Item 186—For support of State Board of Architecture, payable from the Board of Architectural Examiners Fund	$21,920.00
Barbers	Item 187—For support of State Board of Barber Examiners, payable from the State Board of Barber Examiners' Fund	$96,123.00
Civil Engineers	Item 188—For support of Board of Registration for Civil Engineers, payable from the Civil Engineers' Fund	$56,091.00
Contractors'	Item 189—For support of Contractors' License Board, payable from the Contractors' License Fund	$307,797.00
Cosmetology	Item 190—For support of State Board of Cosmetology, payable from the Board of Cosmetology Contingent Fund	$167,983.00
Dentistry	Item 191—For support of Board of Dental Examiners, payable from the Dentistry Fund	$64,318.00
Funeral Directors and Embalmers	Item 192—For support of Funeral Directors and Embalmers, payable from the Funeral Directors and Embalmers' Fund	$38,572.00
Furniture and Bedding	Item 193—For support of Bureau of Furniture and Bedding Inspection, Department of Professional and Vocational Standards, payable from the Bureau of Furniture and Bedding Inspection Fund	$152,491.00
Medicine	Item 194—For support of State Board of Medical Examiners, payable from Medical Examiners' Contingent Fund	$142,420.00
Nurses	Item 195—For support of Board of Nurse Examiners, payable from the Board of Nurse Examiners' Fund	$102,081.00

Item 196—For support of State Board of Optometry, payable from the Board of Optometry Fund ..... $17,194.00 — Optometry

Item 197—For support of State Board of Pharmacy, payable from the Pharmacy Board Contingent Fund ..... $100,261.00 — Pharmacy

Item 198—For support of Structural Pest Control Board, payable from the Structural Pest Control Board Fund ..... $20,646.00 — Structural Pest Control

Item 199—For support of Board of Examiners in Veterinary Medicine, payable from the Veterinary Medicine Examiners' Contingent Fund ..... $11,319.00 — Veterinary Medicine

Item 200—For support of Yacht and Ship Brokers Commission, payable from the Yacht and Ship Brokers Fund ..... $10,006.00 — Yacht and Ship Brokers

Item 201—For support of Board of Chiropractic Examiners, payable from the Chiropractic Examiners' Fund ..... $31,966.00 — Chiropractors

Item 202—For support of State Board of Osteopathic Examiners, payable from the Osteopathic Examiners' Contingent Fund ..... $28,750.00 — Osteopaths

PUBLIC HEALTH

Item 203—For support of Department of Public Health, exclusive of Bureau of Cannery Inspection ..... $1,419,276.00 — Department of Public Health

Item 204—For subsidies, Bureau of Tuberculosis, Department of Public Health $1,650,000.00

Item 205—For additional support of Department of Public Health, payable from Public Health Fund $427,101.00

PUBLIC WORKS

Item 206—For pro rata support of Department of Public Works, exclusive of Division of Architecture, Division of Water Resources, Division of Highways, and Division of Contracts and Rights of Way ..... $59,597.00 — Department of Public Works

Item 207—For special engineering and administrative services furnished to the Division of Ports in connection with the Port of Eureka by the Division of Highways under cooperative agreement approved by the Department of Finance $2,000.00

Item 208—For support of Division of Architecture, Department of Public Works ..... $218,729.00 — Division of Architecture

Item 209—For support of Division of Architecture, Department of Public Works,

payable from the Division of Architecture Public Building Fund..... $88,045.00

Division of Water Resources

Item 210—For support of Division of Water Resources, including cooperative work with other agencies..... $737,564.00

Water Project Authority

Item 211—For support of the Water Project Authority, in furtherance of the Central Valley Project..... $71,536.00

Outdoor Advertising

Item 212—For support of supervision of outdoor advertising, Department of Public Works, payable from Supervision of Outdoor Advertising Fund $58,965.00

Reclamation Board

Item 213—For support of State Reclamation Board $59,356.00

Item 214—For lands, rights of way, borrow pits, and easements for levees and flood control works to be constructed by the United States within the Sacramento-River Flood Control Project, and for advances and payment to the United States of incidental construction items which are a right-of-way cost or obligation of the State in the construction of said levees and flood control works, and for materials and necessary construction or reconstruction of, or alterations to highways, bridges, power lines, pipe lines and other structures or facilities, and for flowage rights over lands in by-passes and channels created for the disposal of flood waters, and for flowage rights over lands in overflow areas, State Reclamation Board..... $500,000.00
to be transferred upon order of the Director of Finance to the Joint Navigation and Flood Control Project Fund for expenditure and use as provided by Sections 37a and 37b of the Reclamation Board Act.

Item 215—For additional support, State Reclamation Board, payable out of Assessment Fund No. 1, Sacramento-San Joaquin Drainage District..... $94,200.00

Item 215.5—For purchase of warrants of the Sacramento and San Joaquin Drainage District issued as provided in the Reclamation Board Act and drawn or based upon Sutter-Butte By-Pass Assessment No. 6 to secure an equitable readjustment

and refund of said assessment—
State Reclamation Board..... $44,878.00
to be transferred upon order of the Director of Finance to the Joint Navigation and Flood Control Project Fund for expenditure and use as provided by Section 37a of the Reclamation Board Act.

Item 216—For support of Colorado River Board ..... $24,712.00 Colorado River Board

SOCIAL WELFARE

Item 217—For support of Department of Social Welfare ..... $876,296.00 Department of Social Welfare
to be transferred to the Social Welfare Fund under the provisions of Section 124 of the Welfare and Institutions Code; provided, however, that the limitations of subdivision (b) of Section 124 of the Welfare and Institutions Code on the rate of withdrawal do not apply to revolving fund withdrawals under Section 4 of this act. Such appropriation shall be in addition to any grants made available by the Federal Government for support of the Department of Social Welfare during the Ninety-fifth and Ninety-sixth Fiscal Years.

MISCELLANEOUS

Item 219—For support State Relief Administration (in liquidation)..... $16,045.00 State Relief Administration

Item 220—For such proportion of the compensation benefits to State officers and employees as in each case the contribution out of the General Fund to the salary of such officer or employee, during the portion of the Ninety-fifth and Ninety-sixth Fiscal Years prior to the date when the benefit becomes payable, bears to the total salary of such officer or employee during the same period, or for officers and employees of the State paid in whole or in part from the State Vocational Education Fund or Vocational Rehabilitation Fund; or for premiums on insurance therefor ..... $350,000.00 Compensation benefits to State officers and employees

Emergency Fund

Item 221—For Emergency Fund, exempt from Section 6 of this act, to be expended only on written authorization of the State Department of Finance for emergencies; provided, that loans may be made from the Emergency Fund to State agencies which derive funds from sources other than the General Fund upon such terms and conditions for repayment as may be prescribed by the State Department of Finance ---------- $1,750,000.00

Emergencies within the meaning of this provision are hereby defined as contingencies for which no appropriation, or insufficient appropriation, has been made by law.

Special Emergency Fund

Item 222—For special Emergency Fund, to be expended only on written authorization of the State Department of Finance for augmentation of the appropriations for support of the State prisons, State hospitals, and other State institutions, when and if commodity prices increase during the Ninety-fifth and Ninety-sixth Fiscal Years ---------- $3,000,000.00

Operation of motor vehicles

Item 223—For augmentation of the appropriations for support of State agencies supported from the General Fund, to be expended only on written authorization of the State Department of Finance, for purchase and operation of motor vehicles------- $250,000.00

Board of Harbor Commissioners, San Francisco

Item 224—For support of Board of State Harbor Commissioners, San Francisco, payable from San Francisco Harbor Improvement Fund---------- $5,830,795.00

Item 225—For maintenance of fire boats, Board of State Harbor Commissioners, payable from San Francisco Harbor Improvement Fund ---------- $185,000.00

Item 226—For construction and improvements of wharves, piers, sheds, bridges, tracks, and other construction, improvements and equipment as needed, Board of State Harbor Commissioners, San Francisco, payable from San Francisco Harbor Improvement Fund ---------- $170,000.00

Refund of fees and taxes

Item 227—To the Department of Finance for the purpose of making refunds of

payments of taxes and licenses and other fees, which payments have been paid erroneously into the General Fund to the credit of the General Fund and for the refund of which no other provision is made by law; provided, that the expenditures from this item shall be approved by the State Board of Control ---------- $25,000.00

Item 228—For salary emergency fund to be allocated only on authorization of the State Department of Finance to the several State officers, departments, boards, bureaus, commissions, The Regents of the University of California, and other State agencies in augmentation of their respective appropriations for support for the Ninety-fifth and Ninety-sixth Fiscal Years in such amounts as will make sufficient money available during said fiscal years to be paid each State officer or employee in the State service whose compensation, or a portion thereof, is payable from the General Fund, an increase in compensation in accordance with the following schedule: Salary emergency fund

(a) To each officer or employee whose monthly compensation does not exceed three hundred dollars ($300), an increase of twenty-five dollars ($25) per month.

(b) To each officer or employee whose monthly compensation exceeds three hundred dollars ($300), an increase of twenty dollars ($20) per month ---------- $4,122,840.00

For State officers and employees whose compensation, or portion thereof, is payable from special funds, there is appropriated from each special fund from which such officers and employees are paid an amount sufficient to provide an increase in compensation for each such officer or employee in accordance with the schedule above set forth in this item, which amount is to be made available by the Governor and Director of Finance under the provisions of Section 661 of the Political Code. Salaries payable from special funds

The money appropriated by this item or made available under its provisions shall not be available to officers or employees whose compensation is fixed at or based upon prevailing rates of wages. Exceptions from salary increase

Conditions

Except for officers and employees of the courts or of the University of California, or for members of the faculty as defined by the Director of Education in the State colleges, including the California Polytechnic School, or for officers and employees of the Legislature, no money appropriated or made available by this item shall be paid to any State officer or employee unless the appointing power certifies on each pay roll that the officer or employee has worked on the basis of a minimum of 40 hours per week, except for such absences as may be authorized by law or by or in accord with rules of the State Personnel Board, whether the position be within or without the State civil service.

Salary Restoration Fund

Item 229—For Salary Restoration Fund for the payment of salaries and wages, to be allocated on authorization of the Board of Control by the Department of Finance to each State officer, department, board, bureau and other State agency, including The Regents of the University of California, in augmentation of the respective appropriations for the support of each for the Ninety-fifth and Ninety-sixth Fiscal Years in an amount for each thereof not in excess of 5 per cent of the salaries and wages (exclusive of salaries and wages expressly fixed by statute) provided in that certain document entitled "State of California Budget for the Biennium July 1, 1943, to June 30, 1945, Ninety-fifth and Ninety-sixth Fiscal Years, Submitted by Earl Warren, Governor, to the California Legislature, Fifty-fifth Session," and as amended by the "Budget Act of 1943"_____ $2,500,000.00

Allocation

To receive an allocation from the Salary Restoration Fund an officer, department, board, bureau, commission or other State agency, including The Regents of the University of California, shall prove to the Department of Finance that it has personnel in the number provided in such document sufficient to require the allocation authorized to be made by this item. The Department of Finance shall certify to the Board of Control that this condition exists as respects any officer, department, board, bureau, commission or other State agency, and the authorization of the Board of Control allocation funds to any department from the Salary Restoration Fund shall be sufficient evidence for the Controller to transfer said funds.

No authorization given by the State Board of Control pursuant to this section in respect to any allocation of money

from the Salary Restoration Fund is valid unless given with the unanimous consent of the State Board of Control expressed in the form of a resolution which shall set forth the reasons and necessities for the authorization and shall be entered upon the minutes of the board.

Report

The State Board of Control shall submit to each member of the Legislature not later than the fifteenth day of each month a report on all authorizations given pursuant to this section during the preceding month. The report shall contain such information regarding each authorization as shall be sufficient to apprise the members of the Legislature as to the reasons and necessity therefor.

Publications

SEC. 3. When any State publication is printed and paid for out of any appropriation in this act, the disposition of the same shall be subject to the provisions of Section 2295a of the Political Code of the State of California.

Legislative expenses

The sums that are herein appropriated for expenses of the Senate and Assembly shall be disbursed under the direction of the bodies to which they respectively belong, and shall not be subject to any of the provisions of Sections 669 and 677.5 of the Political Code; provided, that the State Controller shall not be required to draw such warrants until the original claims and vouchers, itemized and properly sworn to, are filed with him.

National Guard

The sums herein appropriated for the expenses of the National Guard shall be audited by The Adjutant General, as required by Sections 190 and 192 of the Military and Veterans Code.

Payments from appropriations

SEC. 4. The State Controller is hereby expressly prohibited from allowing any demands payable out of any appropriation herein contained, unless the same are presented in accordance with the provisions of Section 669 of the Political Code; provided, that in instances where the duties of any State officers or board make necessary the use of moneys for purposes of a confidential nature, the State Controller may audit claims for such expense without requiring itemization or vouchers; but such claims must be accompanied by a statement of the fact surrounding the expenditure, which statement must be filed in the office of the State Controller; provided further, that the total amount so allowed for such confidential purposes from the moneys herein appropriated shall not exceed in any one fiscal year the sum of two thousand dollars ($2,000), except in the case of the Attorney General's office, whose expenditures for such confidential purposes shall be governed by Section 476 of the Political Code.

Vouchers and itemized statements

All bills and vouchers, which shall be presented for supplies furnished or services rendered, shall be original bills and vouchers of the parties furnishing supplies and rendering services; provided, that no officer shall use or appropriate any money, appropriated by this act, for any purpose whatever, unless authorized thereto by law; and provided, that any officer, board, commission, or department for whom any appropriation is made herein, may, without at the time furnishing vouchers and itemized statements, draw from such appropriations a sum not to

exceed 1 per cent of the total amount appropriated for any such officer, board, commission or department; and provided further, that any officer, board, commission or department for whom any appropriation is made herein, may with the permission and the approval of the Department of Finance, and without at the time furnishing vouchers or itemized statements, draw from such appropriation a sum in excess of 1 per cent, but not to exceed 5 per cent of the total amount appropriated for any such officer, board, commission or department; and provided further, that any officer, board, commission or department for whom any appropriation is made herein, may with the permission and approval of the Board of Control, and without at the time furnishing vouchers or itemized statements, draw from such appropriation a sum in excess of 5 per cent of the total appropriated to such officer, board, commission or department.

Any sums drawn under the provisions of this section without at the time furnishing vouchers and itemized statements, shall be considered to have been withdrawn from the amount appropriated for the Ninety-sixth Fiscal Year and need not be returned at the close of the Ninety-fifth Fiscal Year, and shall be used as a revolving fund where payment of compensation earned, traveling expense advances, or other cash payments are necessary, and at the close of each biennium, or at any other time, upon the demand of the Department of Finance, must be accounted for and substantiated by vouchers and itemized statements submitted to and audited by the Controller.

Application of Pol C. Sec 677.5

SEC. 5. The appropriations under this act, shall, unless otherwise provided, be subject to the provisions of Section 677.5 of the Political Code.

Ninety-fifth Fiscal Year

SEC. 6. Not more than one-half of the amount appropriated under this act for each office, board, commission, department, or institution for support shall be expended during the Ninety-fifth Fiscal Year, unless the same has been expressly authorized by this act, or by the State Board of Control.

Expenditures in excess of appropriations

SEC. 7. The officers of the various departments, boards, commissions and institutions, for whose benefit and support appropriations are made in this act, are expressly forbidden to make any expenditure in excess of such appropriations, except the consent of the State Department of Finance be first obtained, and a certificate, in writing, duly signed by the director of said department, of the unavoidable necessity of such expenditure; and any indebtedness attempted to be created against the State in violation of the provisions of this section shall be absolutely null and void; and shall not be allowed by the State Controller nor paid out of any State appropriation; provided, that any member of any such department, board, commission or institution, who shall vote for any expenditure, or create any indebtedness against the State in excess of the respective appropriations made by this

act, except by the consent of the State Department of Finance and the certificate in this section provided to be first obtained, shall be liable on his official bond for the amount of such indebtedness, to be recovered in any court of competent jurisdiction by the person or persons, firm or corporation to whom such indebtedness is owing.

Item 60 Vocational Education

SEC. 8. Notwithstanding anything in this act to the contrary, the appropriation provided for by Item 60 of this act is appropriated subject only to the provisions of Article 10 of Chapter 1 of Part 4 of Division 3 and of Chapter 5 of Part 1 of Division 4 of the School Code. Of the sum so appropriated, one hundred fifty thousand dollars ($150,000) is appropriated for each of the Ninety-fifth and Ninety-sixth Fiscal Years, and of the sum appropriated for each such fiscal year there may be expended for use during such fiscal year nineteen thousand six hundred fifteen dollars and fifty cents ($19,615.50) for agricultural subjects, fifty-four thousand three hundred seven dollars and fifty-four cents ($54,307.54) for trade and industrial subjects, twenty-seven thousand four hundred ninety-six dollars and eighteen cents ($27,496.18) for homemaking subjects, fifteen thousand six hundred fifty-three dollars and ten cents ($15,653.10) for distributive occupation subjects, and thirty-two thousand nine hundred twenty-seven dollars and sixty-eight cents ($32,927.68) for teacher training.

Acceptance of U S C, Title 20, Sec. 15h, et seq.

In making the appropriation contained in Item 60 of this act the people of the State of California do hereby accept the provisions of, and each and all of the funds provided by an act passed by the Senate and House of Representatives of the United States of America in Congress assembled, entitled "An act to provide for the further development of vocational education in the several States and Territories" and approved June 8, 1936. In accepting the benefits of said act the people of the State of California agree to comply with all of its provisions and to observe all of its requirements.

Fire insurance

SEC. 9. No money appropriated by this act shall be used to renew, or to pay for the renewal of any fire insurance on any public building or property, nor to effect or pay for any new insurance on any public building or property, except the property of San Francisco Harbor, the University of California, and the property referred to in Section 6 of Chapter 264, Statutes of 1933.

Transfer of unneeded funds

SEC. 10. The State Board of Control may, upon the recommendation of the Director of Institutions and the Director of Finance, authorize the transfer of unneeded funds from an appropriation for support or construction, improvement and equipment for an institution within the Department of Institutions to a similar appropriation of another institution within the Department of Institutions.

Same

SEC. 11. The State Board of Control may, upon the recommendation of the Director of Education and the Director of Finance, authorize the transfer of unneeded funds from an appropriation for support or construction, improvement and

equipment for a State college or school within the Department of Education to a similar appropriation of another State college or school within the Department of Education.

Same

SEC. 12. The State Board of Control may, upon the recommendation of the Board of Prison Directors and the Director of Finance, authorize the transfer of unneeded funds from an appropriation for support or construction, improvement and equipment for a State prison to a similar appropriation of another State prison.

Effect of item veto, etc.

SEC. 13. If any item of appropriation in this act is vetoed, eliminated or reduced by the Governor under Sections 16 and 34 of Article IV of the Constitution while approving other portions of this act, such veto, elimination or reduction shall not affect the other portions of this act and these other portions of this act, so approved, shall have the same effect in law as if any vetoed or eliminated items of appropriation had not been present in this act and as if any reduced item of appropriation had not been reduced.

Transfer of appropriations

SEC. 14. Whenever any of the duties, powers, purposes, responsibilities, or jurisdiction of any office, officer, board, commission, bureau or other agency of the State are transferred by law to any other office, officer, board, commission, bureau or other agency of the State, that portion of any appropriation herein made from the General Fund for the support of such office, officer, board, commission, bureau or other agency of the State, intended to be used and available for the performance of such duties, powers, purposes, responsibilities or jurisdiction, shall, by the State Controller, be transferred to, and the same shall become a part of, the funds available for the support of the office, officer, board, commission, bureau or other agency of the State, to which the duties, powers, purposes, responsibilities, or jurisdiction of such office, officer, board, commission, or other State agency have been transferred.

Reversion of appropriations

SEC. 15. Whenever the duties, powers, purposes, responsibilities and jurisdiction of any office, board, commission or other State agency are abolished by law the appropriation herein made for the support of such office, board, commission, or other State agency shall upon the effective date of the act abolishing such office, board, commission or other State agency revert to and become a part of the unexpended balance of the fund from which such appropriation was made.

Constitutionality

SEC. 16. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Current expenses

SEC. 17. This act, inasmuch as it provides for an appropriation for the usual current expenses of the State, shall, under the provision of Section 1, of Article IV of the Constitution of the State of California, take effect immediately.

CHAPTER 63

An act to amend Section 1263 of the Civil Code of the State of California, relating to homesteads.

[Approved by Governor April 3, 1943. Filed with Secretary of S ate April 3, 1943.] In effect August 4, 1943

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

SECTION 1. Section 1263 of the Civil Code is hereby amended to read as follows: Stats 1927, p. 828

1263. The declaration of homestead must contain:

1. A statement, showing that the person making it is the head of a family, and if the claimant is married, the name of the spouse; or, when the declaration is made by the wife, showing that her husband has not made such declaration and that she therefore makes the declaration for their joint benefit; Contents of declaration of homestead

2. A statement that the person making it is residing on the premises, and claims them as a homestead;

3. A description of the premises;

4. An estimate of their actual cash value;

5. Such declaration of homestead may further contain a statement of the character of the property sought to be homesteaded with sufficient detail to show that it is a proper subject of homestead, and that no former declaration has been made, or, if made, that it has been abandoned and if it contains such further statement and the declaration is supported by the affidavit of the declarant, annexed thereto, that the matters therein stated are true of his or her own knowledge, such declaration, when properly recorded, shall be prima facie evidence of the facts therein stated, and conclusive evidence thereof in favor of a purchaser or encumbrancer in good faith and for a valuable consideration.

CHAPTER 64

An act to amend Section 1034 of the Political Code, relating to date of receipt of communications by mail.

[Approved by Governor April 3, 1943. Filed with Secretary of State April 3, 1943.] In effect August 4, 1943

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

SECTION 1. Section 1034 of the Political Code is amended to read: Stats 1941, p 1373

1034. If a remittance to cover a payment required by law to be made to the State or to a State agency is sent through the United States mail, it shall be treated by the State or the State agency as if it had been received on the date shown by the post-office cancellation mark stamped upon the envelope Mailed remittances and applications

containing the remittance, or on the date it was mailed if proof satisfactory to the State or State agency establishes that the mailing occurred on an earlier date.

If an application, tax return or claim for credit or refund is filed with a State agency through the United States mail, it shall be treated by the State agency as if it had been filed on the date shown by the post-office cancellation mark stamped on the envelope containing it or on the date it was mailed if proof satisfactory to the State agency establishes that the mailing occurred on an earlier date.

Exceptions
Stats 1909, p 656
Stats 1913, p 1012

This provision shall not apply to any application or other documents required or permitted to be filed under the State Contract Act, and shall not apply to applications to appropriate water under the Water Commission Act.

CHAPTER 65

Stats 1943, Ch 71, amended

An act to amend Section 2.173 of the School Code and to amend Section 2593 of the Education Code, relating to the lapsing of school districts, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor April 6, 1943. Filed with Secretary of State April 6, 1943.]

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

Stats 1931, p 2365
See also Stats 1943, Ch 71

SECTION 1. Section 2.173 of the School Code is amended to read:

Lapsed districts
National emergency

2.173. If a district shall not be reestablished within two years after having been suspended the board of supervisors shall, except as herein otherwise provided, declare the district lapsed. During a National emergency declared by the President of the United States of America no suspended district shall be lapsed except with the prior approval of the county superintendent of schools.

Note.—See Stats. 1943, Ch. 71.

Effect Stats 1943, Ch 71

SEC. 3. Section 2 of this act becomes operative only if the Education Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said code takes effect; at which time Section 2.173 of the School Code amended by this act is hereby repealed.

Repeal

Urgency

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

The war in which the United States of America is now engaged and the preceding National Defense period have caused great temporary shifts in population within this State

and as a consequence the school population in a large number of elementary districts has been adversely affected temporarily and must under existing law be lapsed, by operation of law, at the end of the current school year. In order that this undesirable condition may be avoided, it is necessary that this act take effect immediately.

CHAPTER 66

An act to amend Sections 9161, 9167 and 9220 and to amend and renumber Sections 9162 and 9163 of, and to repeal Article 2, comprising Sections 9370 to 9377, inclusive, of Chapter 4, Division 9, of the Public Resources Code, relating to soil conservation, to take effect immediately.

Stats 1939, p 1067, amended

[Approved by Governor April 6, 1943 Filed with Secretary of State April 6, 1943.]

In effect immediately

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

SECTION 1. Section 9161 of the Public Resources Code is amended to read:

Stats. 1941, p. 45

9161. Each director shall take the oath of office.

Director's oath

SEC. 2. Section 9162 of said code is amended and renumbered to read:

Stats 1941, p 45

9167.5. The bonds shall be recorded in the office of the county recorder of the principal county and filed with the county clerk of that county.

Recording bond

SEC. 3. Section 9163 of said code is amended and renumbered to read:

Stats 1941, p. 45

9167.6. The bonds shall be in the form prescribed for bonds of county officers and the premiums on the bonds shall be paid by the district.

Form of bond

SEC. 4. Section 9167 of said code is amended to read:

Stats 1941 p. 45

9167. The president and secretary shall each give a bond in the sum of two thousand dollars ($2,000) for the faithful performance of his duties.

Bond of president and secretary

SEC. 5. Section 9220 of said code is amended to read:

Stats 1941. p. 60

9220. The directors elected shall qualify within 20 days after receiving their certificates of election by taking the oath. The president and the secretary of the board shall file an official bond in the sum of two thousand dollars ($2,000) approved by a judge of the superior court of the principal county. The premiums on such bonds shall be paid by the district.

Oaths and bonds

SEC. 6. Article 2, comprising Sections 9370 to 9377, inclusive, of Chapter 4, Division 9 of the said code is repealed. The repeal of this article shall not affect the levy, collection, or use of any money heretofore raised by special assessments under the authority of this article.

Stats 1941. p. 68

Effect of repeal

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

Urgency

immediate effect. A statement of the facts constituting such necessity is as follows:

It is imperative and vital during wartime that improvements in agricultural conditions be encouraged. Provisions which call for special assessments hinder and prevent the formation of soil conservation districts and are inimical to the public peace, health and safety.

CHAPTER 67

An act to amend Sections 2009, 2023 and 2033 of the Penal Code, relating to the transfer of prisoners between prisons.

In effect August 4, 1943

[Approved by Governor April 6, 1943. Filed with Secretary of State April 6, 1943.]

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

Stats 1941, p 2964

SECTION 1. Section 2009 of the Penal Code is hereby amended to read as follows:

Transfer of prisoners

2009. The board may remove any prisoner imprisoned in the California Institution for Men to any other State prison for males for further imprisonment, pursuant to regulations established by the State Board of Prison Directors.

Stats. 1941, p 1080

SEC. 2. Section 2023 of the Penal Code is hereby amended to read as follows:

Same

2023. The board may remove any prisoner imprisoned in the California State Prison at San Quentin to any other State prison for males for further imprisonment, pursuant to regulations established by the State Board of Prison Directors.

Stats 1941, p 1080

SEC. 3. Section 2033 of the Penal Code is hereby amended to read as follows:

Same

2033. The board may remove any prisoner imprisoned in the California State Prison at Folsom to any other State prison for males for further imprisonment, pursuant to regulations established by the State Board of Prison Directors.

CHAPTER 68

An act to amend Section 2092 of the Penal Code, relating to prisons.

In effect August 4, 1943

[Approved by Governor April 6, 1943. Filed with Secretary of State April 6, 1943.]

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

Stats. 1941, p 1080

SECTION 1. Section 2092 of the Penal Code is hereby amended to read as follows:

Warden at Chino Term

2092. The warden or superintendent of the California State Prison at Chino shall hold office for the same term as prescribed by law for the wardens of other State prisons.

CHAPTER 69

An act relating to the production and availability of food and fiber; the use and augmentation of labor and facilities, and cooperation by officers and agencies of State and local governments in connection therewith; making an appropriation; and declaring the urgency hereof, to take effect immediately.

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.] In effect immediately

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

SECTION 1. The purpose of this act is to achieve the maximum production and availability of food and fiber possible from the farms of this State; to provide for the most effective use of existing farm labor and facilities; and to augment such labor and facilities. Purpose

SEC. 2. This act shall be known as the Emergency Farm Production Act. Short title

SEC. 3. As used in this act, the phrases "farm labor" and "farm products" have the meanings ascribed in subdivisions (e) and (f) of Section 3 of the California Food and Fiber Production Act. Definitions Stats 2d Ex. Sess 1943, Ch. 1

As used in this act, "public agencies" includes those of the Federal Government, this State, another State, and districts, local governmental units and political subdivisions of this or another State.

SEC. 4. In the performance of the duties imposed upon him, including that of promoting and protecting the agricultural industry of this State and that of protecting and serving the interests of producers, distributors and consumers, the State Director of Agriculture shall foster, provide for, and engage and assist in the recruitment, placement, distribution, transportation, and housing of farm labor in this State; whenever necessary, make and assist in making available facilities required by or in connection with such farm labor; and cooperate or contract with public and private agencies for the performance of any acts or the rendition of any services which are necessary or proper therefor, which contracts such public agencies are hereby authorized to execute and perform, all for the purpose of attaining the greatest possible production of farm products in this State for the preservation of the public health, safety and welfare and in furtherance of this State's participation in the war effort. Director of Agriculture Duties

SEC. 5. After the California Food and Fiber Production Act, as enacted at the Fifty-fifth (Second Extraordinary) Session becomes effective:

(a) The Director of Agriculture may transfer to the State Farm Production Director and the latter may accept all contracts executed by the Director of Agriculture in furtherance Transfer of contracts

of the purposes of this act; the acceptance of such contracts shall subrogate the State Farm Production Director to all the rights, and subject him to all the obligations thereunder, of the Director of Agriculture.

Transfer of properties

(b) The Director of Agriculture may transfer to the State Farm Production Director all or any part of the properties, books, records, documents and correspondence in his possession or under his control, relating to the purposes of this act or the California Food and Fiber Production Act.

Avoidance of duplicate effort

(c) In order to avoid duplication of effort and confusion in administration the Director of Agriculture may refrain from activities he is authorized or required to undertake under this or other laws and which are included within the scope of the California Food and Fiber Production Act.

Transfer of appropriation

(d) If transfers are made under subdivisions (a) and (b) of this section and if the Director of Agriculture makes the election provided for in subdivision (c), the Director of Agriculture and the State Farm Production Director shall by agreement ascertain what portion of the appropriation made by this act is not needed for expenditure under this act and shall notify the Controller accordingly. Upon receipt of such notification, the Controller shall transfer such amount to and in augmentation of the appropriation made by the California Food and Fiber Production Act.

Conflict

(e) In the event of a conflict between the provisions of this act and the provisions of the California Food and Fiber Production Act, the provisions of the latter shall control.

Assistance from State agencies

SEC. 6. Upon the request of the Director of Agriculture every officer and employee of this State shall consult and advise with the director, and each department, division, bureau, board, commission, and officer of this State and each agency or political subdivision of this State shall render all possible assistance to the director for the purpose of carrying out the provisions of this act. With the approval of the Governor, the Director of Agriculture may request a State officer, department, division, bureau, board, or commission, having appropriate authority therefor, to assume the discharge of any function necessary to further the purposes of this act and such a State officer, department, division, bureau, board, or commission shall assume the discharge of such appropriate function.

Appropriation

SEC. 7. Out of any money in the State treasury not otherwise appropriated, the sum of three hundred thousand dollars ($300,000) is hereby appropriated, to be expended in accordance with law in carrying out the provisions of this act.

Constitutionality

SEC. 8. If any provision of this act, or the application thereof to any person or circumstance, is held invalid, the remainder of the act, or the application of such provision to other persons or circumstances, shall not be affected thereby.

SEC. 9. This act shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the expiration of one year after the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. Duration

SEC. 10. This act is an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and as such shall take effect immediately. The following is a statement of the facts constituting such necessity: Urgency

The wartime emergency has depleted the farm labor supply and increased the need for food and fiber to such an extent that unless immediate and effective use of every available source of farm labor is made the life and health of the State and Nation will be endangered and this State's participation in the war effort obstructed, delayed and impaired.

CHAPTER 70

An act to add Section 4.5 to an act entitled "An act conveying certain tidelands and lands lying under inland navigable waters situate in the Bay of San Diego to the City of San Diego in furtherance of navigation and commerce and the fisheries, and providing for the government, management and control thereof," approved May 1, 1911, as amended, relating to the trusts and restrictions heretofore imposed upon said tidelands, and to the use and leasing of the tidelands by the city. Stats 1911, p 1357, amended

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.] In effect August 4, 1943

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

SECTION 1. Section 4.5 is added to the act cited in the title hereof, to read: New section

Sec. 4.5. The City of San Diego or its successor may use the lands mentioned in Section 4 and may lease, rent, or otherwise let said lands in parcels in excess of 40 acres to one or more persons, firms, or corporations in accordance with all the powers otherwise granted by Section 4 and subject to all of the limitations otherwise imposed by Section 4. Use or lease of lands

CHAPTER 71*

An act to establish an Education Code, thereby consolidating and revising the law relating to the establishment, maintenance, government and operation of schools, libraries and institutions of learning, arts, and sciences, and to repeal certain acts and parts of acts specified herein.

In effect August 4, 1943

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

NOTE.—The Education Code, as prepared by the California Code Commission, consists of this chapter and Chapters 72 to 91, inclusive, all as originally enacted. As here set forth Chapter 71 contains the provisions of these chapters and also contains all of the amendments to the code made during the Fifty-fifth Session of the Legislature, namely, by Chapters 8, 16, 36, 49, 65, 126, 162, 175, 178, 264, 273, 316, 320, 364, 367, 408, 417, 575, 634, 637, 645, 649, 664, 671, 688, 694, 695, 696, 700, 704, 705, 714, 738, 756, 785, 787, 809, 810, 812, 813, 814, 815, 816, 817, 818, 819, 820, 823, 827, 828, 829, 833, 834, 836, 837, 862, 883, 906, 915, 923, 946, 976, 979, 990, 1032, 1078, 1082, 1083, 1085, and 1127.

The chapters constituting the original code are in effect August 4, 1943. For approval, filing and effective dates of the amendatory chapters, see the respective chapters in their numerical sequence.

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

GENERAL PROVISIONS

Title

1. This act shall be known as The Education Code.

Continuation of existing law

2. The provisions of this code, in so far as they are substantially the same as existing statutory provisions relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments.

Construction

3. The code establishes the law of this State respecting the subjects to which it relates, and its provisions and all proceedings under it are to be liberally construed, with a view to effect its objects and to promote justice.

Joint authority

4. Words giving a joint authority to three or more public officers or other persons are construed as giving such authority to a majority of them, unless it is otherwise expressed in the provisions of the code giving the authority.

Continuation in office

5. All persons who, at the time this code goes into effect, hold office under any of the acts repealed by this code, which offices are continued by this code shall continue to hold them according to their former tenure.

Continuation of rights

6. No action or proceeding commenced before this code takes effect, and no right accrued, is affected by the provisions of this code, but all procedure thereafter taken therein shall conform to the provisions of this code so far as possible.

Continuation of license or certificate

7. No rights given by any license or certificate under any act repealed by this code are affected by the enactment of this code or by such repeal, but such rights shall hereafter be exercised according to the provisions of this code.

* A cross-reference table showing the origin of each section appears in the appendix to this volume.

8. All persons who, at the time this code goes into effect, are entitled to a certificate or credential under any act repealed by this code, are thereby entitled to a certificate or credential under the provisions of this code so far as the provisions of this code are applicable. Persons entitled to certificates and credentials

9. The time in which any act provided by this code is to be done is computed by excluding the first day, and including the last, unless the last day is a holiday, and then it is also excluded. Computation of time

10. Unless the provisions or the context otherwise requires these general provisions, rules of construction, and definitions shall govern the construction of this code. Construction

11. Division, chapter, article, and section headings do not in any manner affect the scope, meaning, or intent of the provisions of this code. Headings

12. Whenever a power is granted to, or a duty is imposed upon, a public officer, the power may be exercised or the duty may be performed by a deputy of the officer or by a person authorized, pursuant to law, by the officer, unless this code expressly provides otherwise. Delegation of powers

13. Writing includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement, or record is required or authorized by this code, it shall be made in writing in the English language unless it is expressly provided otherwise. Writings

14. Whenever reference is made to any portion of this code or of any other law of this State, such reference applies to all amendments and additions now or hereafter made. Reference to statutes

15. "Section" means a section of this code unless some other statute is specifically mentioned. "Section"

16. The present tense includes the past and future tenses, and the future, the present. Tense

17. The masculine gender includes the feminine. Gender

18. The singular number includes the plural, and the plural, the singular. Number

19. "Shall" is mandatory and "may" is permissive "Shall" and "may"

20. "Oath" includes affirmation. "Oath"

21. "Any school district" and "all school districts" mean school districts of every kind or class. "Any school district" "All school districts"

22. "Governing board" means board of school trustees, and city, and city and county board of education. "Governing board"

23. "Union school district" means a district composed of two or more school districts situated in the same county. "Union school district"

24. "Joint union school district" means a district composed of two or more school districts situated wholly or in part in different counties. "Joint union school district"

25. "State" means the State of California, unless applied to the different parts of the United States. In the latter case, it includes the District of Columbia and the territories. "State"

26. If any provision of this code, or the application thereof to any person or circumstances is held invalid, the remainder of the code, and the application of such provision to other persons or circumstances, shall not be affected thereby. Constitutionality

DIVISION 1. STATE AND COUNTY ADMINISTRATIVE ORGANIZATION

CHAPTER 1. STATE ORGANIZATION

Article 1. State Board of Education

State Board of Education

101. There is in the State Government a State Board of Education, consisting of 10 members, who are appointed by the Governor with the advice and consent of two-thirds of the Senate.

Term of members

102. The term of office of the members of the board is four years, and they shall hold office until the appointment and qualification of their successors. The terms of the members of the board in office when this chapter takes effect shall expire as follows:

Three members January 15, 1944.
Two members January 15, 1945.
Three members January 15, 1946.
Two members January 15, 1947.

The terms shall expire in the same relative order as to each member as the term for which he holds office before this chapter takes effect.

Vacancy

103. Any vacancy shall be filled by appointment by the Governor, subject to confirmation by two-thirds of the Senate. The appointee to fill a vacancy shall hold office only for the balance of the unexpired term.

Organization

104. At the first meeting following any change in the membership of the board, the board shall reorganize by electing one of its members president.

Secretary

105. The Superintendent of Public Instruction shall be secretary and shall act as executive officer of the board. He shall have charge of all its correspondence and shall keep a record of its proceedings.

Meetings

106. The board shall meet every three months at such times as it may by resolution determine.

Special meetings

107. Special meetings may be called by the president. Upon the request of any four members in writing, the secretary shall call a special meeting.

Notice of meetings

108. Notice of each meeting shall be given by the secretary by registered mail to each member of the board at least 10 days prior to the time of the meeting. Notice of the meeting may be waived in writing by all members of the board.

Required vote

109. The concurrence of six members of the board shall be necessary to the validity of any of its acts.

Compensation and expenses

110. Members of the board shall serve without pay. They shall receive their actual and necessary traveling expenses while on official business.

Determination of policy

111. The board shall determine all questions of policy within its powers.

Rules

112. The board shall adopt rules and regulations not inconsistent with the laws of this State (a) for its own government, (b) for the government of its appointees and employees,

(c) for the government of the day and evening elementary schools, the day and evening secondary schools, and the technical and vocational schools of the State, (d) for the government of the several teachers colleges of the State, and (e) for the government of such other schools, excepting the University of California, as may receive in whole or in part financial support from the State.

The rules and regulations adopted shall be published for distribution as soon as practicable after adoption.

Witnesses

113. The board shall issue subpenas to compel the attendance of witnesses before the board, or any member thereof, in the same manner as any court in this State. Whenever the testimony of any witness upon any matter pending before it is material, the president shall cause the attendance of the witnesses before the board, or a member of the board, to testify concerning the matter, and the board may make a reasonable allowance for this purpose not exceeding the fees of witnesses in civil cases. The allowance shall be paid for out of the appropriation for the expense of the board, but in no instance shall an allowance be made in favor of a witness who appears in behalf of a claimant.

Seal

114. The board shall adopt and use an official seal in authentication of its acts.

Printing

115. The board shall cause the State Printer or other officer having the management of State printing to do any printing required by it. All orders for printing shall first be approved by the Department of Finance.

Study and plans

116. The board shall study the educational conditions and needs of the State. It shall make plans for the improvement of the administration and efficiency of the public schools of the State.

Biennial report

117. The board shall submit to the Governor biennially on or before the fifteenth day of September next preceding the regular session of the Legislature, a report of its transactions for the preceding two years, together with recommendations of its needs for the coming biennium, and such recommendations as to changes in laws or new educational legislation as may seem to it to be necessary.

Acting secretary

118. The board shall appoint an acting secretary, who shall also act as executive officer of the board in the absence of the Superintendent of Public Instruction from the State, or in case of his incapacity for duty.

Article 2. Superintendent of Public Instruction

Salary and bond

141. The annual salary of the Superintendent of Public Instruction is the same as that of the Secretary of State, namely five thousand dollars ($5,000). He shall execute an official bond in the sum of ten thousand dollars ($10,000).

Vacancy

142. A vacancy in the office of Superintendent of Public Instruction shall be filled by appointment by the Governor.

Deputy and assistant

143. The Superintendent of Public Instruction may appoint one Deputy Superintendent of Public Instruction,

one secretary, and one Assistant Superintendent of Public Instruction in charge of research and statistics, all of whom shall be civil executive officers.

Salary of deputy

144. The annual salary of the Deputy Superintendent of Public Instruction shall be five thousand four hundred dollars ($5,400).

(Amended by Stats. 1943, Ch. 820.)

[ORIGINAL SECTION]

144. The annual salary of the Deputy Superintendent of Public Instruction shall be four thousand five hundred dollars ($4,500).

Assistant and expenses

145. The Superintendent of Public Instruction may employ assistant superintendents and other necessary clerical and expert assistants in addition to statutory employees enumerated in Section 143, and may fix the compensation of all statutory and other employees except as otherwise provided.

Traveling expenses

146. The actual and necessary traveling expenses of the Superintendent of Public Instruction, his deputy and assistants, shall be ordered and paid out of the appropriation made for the Department of Education.

Execution of policies

147. The Superintendent of Public Instruction shall execute, under direction of the State Board of Education, the policies which have been decided upon by the board and shall direct, under general rules and regulations adopted by the State Board of Education, the work of all appointees and employees of the board.

Duties

148. The Superintendent of Public Instruction shall:

(a) Superintend the schools of this State.

(b) Prepare, have printed, and furnish to teachers and to all officers charged with the administration of the laws relating to the public schools such blank forms and books as may be necessary to the discharge of their duties, including blank teachers' certificates to be used by county and city and county boards of education.

(c) Visit the several orphan asylums to which State appropriations are made, and examine into the course of instruction in the asylums.

(d) Visit the schools in the different counties, and inquire into their condition; and the actual traveling expense thus incurred, not exceeding one thousand eight hundred dollars ($1,800) per annum, shall be allowed, audited and paid out of the General Fund in the same manner as other claims are audited and paid.

(e) Visit and inspect each State college from time to time, inquire into its condition and management, require such reports as he may deem proper from the teachers of the school, and exercise general supervision over the colleges.

(f) Authenticate with his official seal all drafts or orders drawn by him, and all papers and writings issued from his office.

(g) Have bound, at the State bindery, all valuable school reports, journals, and documents in his office, or received by him.

(h) Deliver over, at the expiration of his term of office, on demand, to his successor, all property, books, documents, maps, records, reports, and other papers belonging to his office, or which may have been received by him for the use of his office.

Estimate of school money to be apportioned

149. The Superintendent of Public Instruction shall, not later than the twenty-fifth day of July in each year, prepare an estimate of the amount of State school money that will be apportioned to each county or city and county during the current school year, and furnish a certified copy of the estimate to each county or city and county superintendent of schools.

Report to Governor

150. The Superintendent of Public Instruction shall report to the Governor, on or before the fifteenth day of September, preceding each regular session of the Legislature, a statement of the condition of the public elementary and secondary schools, the State colleges, and other educational institutions, supported in whole or in part by the State.

He shall accompany his report with tabular statements, showing:

(a) The number attending public schools, and the average attendance.

(b) The amount of State school funds apportioned, and the sources from which derived.

(c) The amount raised by county, city and county, and district taxes, or from other sources of revenue, for school purposes.

(d) The amount expended for salaries of teachers, for building schoolhouses, for district school libraries, and for incidental expenses.

Article 3. Department of Education

Department of Education

171. There is in the State Government a Department of Education.

Administration

172. The Department of Education shall be administered through:

(a) The State Board of Education which shall be the governing and policy determining body of the department.

(b) The State Director of Education in whom all executive and administrative functions of the department are vested and who is the executive officer of the State Board of Education.

Executive officer

173. The Department of Education shall be conducted under the control of an executive officer known as the Director of Education.

Director of Education

174. The State Superintendent of Public Instruction is ex officio Director of Education.

Conduct of department

175. Except as otherwise in this chapter prescribed, the provisions of Article 2 of Chapter 3 of Title 1 of Part 3 of the Political Code, as adopted at the Forty-fourth Session of the Legislature, and as amended from time to time, shall govern and apply to the conduct of the Department of Education in every respect as if such provisions were herein set forth at length.

"Head of the department"

176. Wherever in Article 2, Chapter 3 of Title 1 of Part 3 of the Political Code the term "head of the department," "head of a department," or similar designation occurs, it shall, for the purposes of this chapter mean the Director of Education.

(Amended by Stats. 1943, Ch. 364.)

[ORIGINAL SECTION]

176. Wherever in Article 2, Chapter 3 of Title 1 of Part 3 of the Political Code the term "head of the department," "head of a department," or similar designation occurs, it shall, for the purposes of this part mean the Director of Education.

Boards succeeded to

177. The Department of Education is the successor to, and is vested with all the duties, powers, purposes, responsibilities, and jurisdiction of the State Board of Education, boards of trustees of the several State normal schools, teachers colleges, board of trustees of the California Polytechnic School, board of directors of the California School for the Deaf and the Blind, and of the several officers, deputies, and employees of such bodies and offices.

Powers succeeded to

178. Except as otherwise provided in this chapter, whenever by the provisions of any statute or law now in force, or that may hereafter be enacted, a duty or jurisdiction is imposed or authority conferred upon any of the bodies, offices, officers, deputies, or employees mentioned in this article, such duty, jurisdiction, and authority are imposed upon and transferred to the Department of Education with the same force and effect as though the title of the Department of Education had been specifically set forth and named therein.

Records and property

179. The Department of Education shall be in possession and control of all records, books, papers, offices, equipment, supplies, moneys, funds, appropriations, land, and other property, real or personal, now or hereafter held for the benefit of the bodies, offices, and officers whose duties, powers, purposes, responsibilities, and jurisdiction are transferred to and vested in the Department of Education.

Administration of laws

180. The Department of Education shall administer and enforce all laws now or hereafter imposing any duty, power, or function upon any of the bodies, offices, officers, deputies, or employees transferred to the Department of Education under the provisions of this article.

Offices abolished

181. The following bodies and offices and the position of all deputies, officers, and employees thereunder are abolished: the boards of trustees of the several State normal schools, or teachers colleges, of the California Polytechnic School, and of the California School for the Deaf and the Blind; but the statutes and laws under which they existed, and all laws prescribing their duties, powers, purposes, responsibilities, and jurisdiction, together with all lawful rules and regulations established thereunder, are expressly continued in force.

Expenditure of money

182. The department may expend the moneys in any appropriation, or in any special fund in the State Treasury now remaining or made available by law for the administration of the provisions of any of the statutes enumerated in this

article or for the use, support, or maintenance of any board, commission, office, or officer that is abolished by the provisions of this article, and whose duties, powers, and functions are, by the provisions of this article, transferred to and conferred upon the Department of Education, excepting that the funds of the State Board of Education in respect to functions retained by it, including such funds as are now or may hereafter be entrusted to the State Board of Education for administration, and the funds of the Superintendent of Public Instruction shall be administered as heretofore.

Appropriations to State Board of Education

183. The Department of Education may expend the moneys in any appropriation heretofore or hereafter made for the support of the State Board of Education.

Gifts and bequests

184. The Director of Education may, with the approval of the Director of Finance, accept on behalf of, and in the name of, the State such gifts, donations, bequests, and devises as may be made to the Department of Education, or to any school or college administered by the Director of Education or the Department of Education, which in his judgment would be of benefit to the State and, if made to a school or college, to the school or college. Gifts, donations, bequests, and devises may be made subject to such conditions or restrictions as the Director of Education may deem advisable.

Official business

185. For the purposes of Political Code Section 352, the following constitute, among other proper purposes of like or different character, State business for officers and employees of the Department of Education for which the officers and employees shall be allowed actual and necessary traveling expenses:

(a) Attending meetings of any National association or organization having as its principal purpose the study of matters relating to education or to a particular field or fields of education, or any agency of such association.

(b) Conferring with officers or employees of the United States, or appearing before committees of either house of the Congress of the United States, relative to problems relating to education in California.

(c) Conferring with officers or employees of other States engaged in the performance of similar duties.

(d) Obtaining information useful to the department in the conduct of its work.

When traveling is outside the State, traveling and expense shall be approved by the Governor and Director of Finance as provided in Political Code Section 352.

The amount expended under the provisions of this section for travel outside the State shall not exceed one thousand five hundred dollars ($1,500) in any one fiscal year.

Divisions

186. In addition to the Division of Libraries and the Division of School House Planning of the Department of Education, established by law, the State Board of Education may, upon recommendation of the Director of Education, establish

such divisions as in the judgment of the board are necessary for the proper transaction of the business of the department.

Chief of division

187. The State Board of Education shall elect an experienced and qualified educator to be the head of each division in the department, to be known as chief of the division. Elections shall be made only on nomination of the Director of Education.

Hearing on nomination

188. The board shall refuse to elect a nominee of the director, if, after a public hearing the board is convinced that the nominee is morally or professionally unfit for the position or is related to the director by marriage or otherwise.

Subordinate positions

189. The board may create such subordinate positions in each division as may be recommended by the chief of the division and approved by the Director of Education.

Selection of subordinates

190. The board shall select persons to fill all such subordinate positions from a list submitted by the State Personnel Board and nominated by the Director of Education.

Salaries of professional employees

191. The board shall fix the salaries of all professional employees subject to approval by the Department of Finance.

Salaries of college and school heads

192. The board shall elect presidents and principals of State colleges and all other schools governed by the State department on nomination of the Director of Education in the manner provided in Sections 187 and 188 for the election of chiefs of divisions.

CHAPTER 2. COUNTY ORGANIZATION

Article 1. County Boards of Education

County board of education

301. Except in a city and county, there shall be a county board of education, which shall consist of a county superintendent of schools and four other members, appointed by the board of supervisors of the county.

Appointment

302. The board of supervisors shall annually, at the last regular meeting preceding the first day of July, appoint two persons to serve on the board of education for the period of two years.

Failure to make appointment

303. If the board of supervisors of any county refuses or neglects to appoint members of the county board of education, the county superintendent of schools shall appoint them.

Qualifications

304. A majority of the members appointed by the board of supervisors shall be experienced teachers holding not lower than elementary school certificates in full force and effect. In any county in which there are one or more high schools at least one of the appointive members of the board of education of the county shall hold a certificate of high school grade.

(Amended by Stats. 1943, Ch. 364.)

[ORIGINAL SECTION]

304. A majority of the members appointed by the board of supervisors shall be experienced teachers holding not lower than grammar school certificates in full force and effect. In any county in which there are one or more high schools at least one of the appointive members of the board of education of the county shall hold a certificate of high school grade

Time for qualifying

305. Members of the county board of education shall qualify within 10 days after receiving notice of their appointment.

(Amended by Stats. 1943, Ch. 364.)

[ORIGINAL SECTION]

305. Members of the county board of education, elected or appointed, shall qualify within 10 days after receiving notice of their election or appointment.

Vacancies

306. The board of supervisors shall appoint a person to fill any vacancy in the county board of education.

Organization

307. The county board of education shall organize on the first meeting subsequent to the first of July in each year by electing one of their number president of the board.

Secretary

308. The county superintendent of schools is ex officio secretary of the board.

Semi-annual meetings

309. Each county board of education shall meet semi-annually at such time as it may determine.

Notice

310. Notice of semiannual meetings shall be given by the secretary at least 10 days prior to the time of meeting.

Special meetings

311. Special meetings may be called by the county superintendent of schools whenever, in his judgment, the exigencies of the schools require them to be held. Upon the request of any three members, in writing, the superintendent shall call a special meeting.

Quorum

312. Three members shall constitute a quorum for the transaction of business.

Vote required for issuance of certificate or approval of books

313. No teacher's certificate shall be issued or renewed, nor shall any books or apparatus be adopted except by an affirmative vote of at least three members of the board.

Voting

314. On the call of any member, the ayes and nays shall be taken upon any proposition, and the vote shall be recorded in the minutes of the board.

Business at special meetings

315. At special meetings, no business shall be transacted other than such as may be specified in the call of the secretary, except that certificates to teach, upon credentials, may be granted, and unexpired certificates to teach may be renewed at any meeting of the board.

Powers

316. County boards of education may:

(a) Adopt rules and regulations not inconsistent with the laws of this State, for their own government.

(b) Keep a record of their proceedings.

(c) Adopt and use an official seal in authentication of their acts.

(d) Have such printing done as may be necessary.

Compensation and expenses

317. The board of supervisors shall allow to each member of the county board of education as compensation five dollars ($5) a day for his services, and the same rate of mileage as is allowed to the members of the board of supervisors of the county.

Mileage

318. If the members of the board of supervisors of any county are not allowed mileage, the board of supervisors of the county shall allow to each member of the county board of education of that county actual and necessary traveling

expenses not exceeding twenty-five cents ($0.25) per mile one way in attending the meetings of the board.

Compensation of secretary

319. The secretary shall be allowed the sum of five dollars ($5) per day for the actual time that the board may be in session.

Funds for payment

320. Compensation of the members of the board, and of the superintendent, shall be payable out of the same fund and in the same manner as the salary of the superintendent of schools.

Printing and incidental expenses

321. Expenses for printing required by the county board of education, and all incidental expenses incurred for stationery or other purposes in the performance of its duties, shall be audited and paid as other claims against the general fund of the county are paid.

Article 2. County Superintendent of Schools

Superintendent as teacher

351. Any school superintendent, who receives an annual salary of one thousand five hundred dollars ($1,500) or more, shall not follow the profession of teaching, or any other vocation that conflicts with his duties as superintendent. Any superintendent receiving less than one thousand five hundred dollars ($1,500) per annum may teach in the public schools of this State.

Duties

352. The superintendent of schools of each county shall:

(a) Superintend the schools of his county.

(b) Visit and examine each school in his county at least once in each year. For each school not so visited the board of supervisors shall, on proof thereof, deduct ten dollars ($10) from his salary.

(c) Distribute all laws, reports, circulars, instructions, and blanks which he may receive for the use of the school officers.

(d) Keep in his office the reports of the Superintendent of Public Instruction.

(e) Keep a record of his official acts, and of all the proceedings of the county board of education, including a record of the standing, in each study, of all applicants for certificates who have been examined, which shall be open to the inspection of any applicant or his authorized agent.

Appointment of school trustees

353. The county superintendent of schools shall appoint trustees in new elementary school districts to hold office until the first day of July next succeeding their appointment.

Appointment of janitor

355. In case of the failure of the governing board of any school district to employ a janitor as provided elsewhere in this code, the county superintendent shall appoint a janitor who shall be paid out of the school fund of the district.

If the governing board of any district fails or refuses to issue an order for the compensation for services provided for in this section, he shall issue his requisition upon the county fund apportioned to the district.

Duties

356. The county superintendent of schools shall also:

(a) Enforce the course of study.

(b) Enforce the use of State textbooks and of high school textbooks regularly adopted by the proper authority.

(c) Enforce the rules and regulations for the examination of teachers, prescribed by the proper authority.

(d) Preserve carefully all reports of school officers and teachers.

(e) Deliver to his successor, at the close of his official term, all records, books, documents, and papers belonging to the office, taking a receipt for them, which will be filed in the office of the county clerk.

(f) Grade each school in the month of July of each year, unless otherwise provided by law, and make a record of the grade in a book to be kept by him in his office for that purpose.

Reports

357. The county superintendent of schools shall make reports, when directed by the Superintendent of Public Instruction, showing such matters relating to the public schools in his county as may be required of him.

If he fails to make full and correct report as required under the provisions of this section at the time fixed by the Superintendent of Public Instruction, he shall forfeit one hundred dollars ($100) of his salary; and the county auditor whose duty it is to draw the warrant for the salary of the superintendent of schools shall deduct this amount from the warrant on receiving notice from the Superintendent of Public Instruction to the effect that the superintendent of schools has failed to make the report as directed.

Attendance reports

358. Each county superintendent of schools shall annually, at such time as is required by the Superintendent of Public Instruction but not later than July 15th, submit to the Superintendent of Public Instruction a complete report of the attendance credited to the public schools of the county for the school year closing June 30th immediately preceding July 15th. Forms for the reports shall be furnished by the Superintendent of Public Instruction. Reports shall contain and be accompanied by such other information and reports relating to the computation of State apportionments as may be required by the Superintendent of Public Instruction.

Financial and other statistics

359. Each county superintendent of schools shall also submit to the Superintendent of Public Instruction a general annual report of financial and other statistics relating to the public schools of the county. The report shall be submitted on forms furnished by, and at the time required by, the Superintendent of Public Instruction.

Additional reports

360. Each county superintendent of schools shall submit such additional reports as may from time to time be required by the Superintendent of Public Instruction.

Traveling expenses

361. Each county superintendent shall receive his actual and necessary traveling expenses. The expenses shall be allowed by the board of supervisors, and be paid out of the county general fund.

Limitation of traveling expenses

362. The amount allowed for traveling expenses shall not exceed ten dollars ($10) per district per annum. In a city and county each 300 pupils, enrolled in the city and county

as shown by the last report to the Superintendent of Public Instruction, shall be considered equal to one school district.

Attendance at conventions

363. Each county school superintendent shall also receive his actual and necessary traveling expenses, when, with the approval of the board of supervisors, he attends any convention or conference to which he is called by the State Board of Education, or the Superintendent of Public Instruction, and when the board of supervisors delegates him to perform services outside of his county either within or without the State.

Stationery, etc

364. The expenses of the office of superintendent of schools for its stationery, blank books, postage, expressage, freight, telephone, telegraphing, and other necessary office expenses shall be allowed by the supervisors of the county and paid out of the general fund of the county in the same manner as other claims against the county are paid.

Deputies

365. Except as otherwise provided by law, every county superintendent may appoint a deputy.

Salary of deputy

366. A deputy appointed pursuant to Section 365 shall not be allowed a salary, payable out of the school fund.

(Amended by Stats. 1943, Ch. 364.)

[ORIGINAL SECTION]

366. A deputy appointed pursuant to Section 363 shall not be allowed a salary, payable out of the school fund.

Compensation in city and county

367. The compensation of each deputy school superintendent of a city and county shall be not less than the minimum received by any high school principal in the city and county.

DIVISION 2. LOCAL ADMINISTRATIVE ORGANIZATION

CHAPTER 1. GOVERNING BOARDS

Article 1. General Provisions

Control of school district

1001. Except when otherwise authorized by law, every school district shall be under the control of a board of school trustees.

Number

1002. The number of school trustees for any school district, except where city boards are otherwise authorized by law, shall be three.

Term

1003. The term of office of school trustees is three years from the first day of July next succeeding their election.

Sex

1004. No persons shall be ineligible to the office of trustee on account of sex.

Maintenance of school by superintendent

1005. If for any reason a majority of the members of the governing board of any school district resigns and the officer whose duty it is to appoint is unable, for fifteen days, to select trustees to fill the vacancies, the superintendent of schools shall assume the power and duties belonging to school trustees, so far as that particular district is concerned. He shall maintain the school until a board of trustees or board of education is appointed or elected.

Liability on contracts and debts

1006. The governing board of any school district is liable as such in the name of the district for salary due any teacher on contract, and for all debts contracted under the provisions of this code.

Liability for personal injury or property damage

1007. The governing board of any school district is liable as such in the name of the district for any judgment against the district on account of injury to person or property arising because of the negligence of the district, or its officers, or employees in any case where a verified claim for damages has been presented in writing and filed with the secretary or clerk of the school district within ninety (90) days after the accident has occurred. The claim shall specify the name and address of the claimant, the date and place of the accident, and the extent of the injuries or damages received.

Payment of judgments

1008. The governing board of any school district shall pay any judgment for debts, liabilities, or damages out of the school funds to the credit of the district, subject to the limitation on the use of the funds provided in the Constitution. If any judgment is not paid during the tax year in which it was recovered:

(a) And if, in the opinion of the board, the amount is not too great to be paid out of taxes for the ensuing tax year, the board shall include in its budget for the ensuing tax year a provision to pay the judgment, and shall pay it immediately upon the obtaining of sufficient funds for that purpose.

(b) If, in the opinion of the board, the amount of the judgment is so great that undue hardship will arise if the entire amount is paid out of taxes for the next ensuing tax year, the board shall provide for the payment of the judgment in not exceeding three annual installments with interest thereon, at a rate not exceeding 4 per cent per annum, up to the date of each payment, and shall include provision for the payment in each budget for not exceeding three consecutive tax years next ensuing. Each payment shall be of an equal portion of the principal of the judgment.

Limitation in amount of contracts

1009. Contracts mentioned in this article shall not be made in excess of the school moneys accruing to the district and usable for the purposes of the contracts during the school year for which the contracts are made. The district shall not be liable for contracts made in violation of this section.

Duty of district attorney to defend suits

1010. The district attorney of the county in which a school district is located shall, without fee or other charge, defend the district in any suit brought for injury to any pupil for any cause.

Disinterest of governing board in contracts

1011. No member of the governing board of any school district shall be interested in any contract made by the board of which he is a member.

Repair of schoolhouse, etc., by member of board

1012. In school districts entitled to not more than two teachers based on average daily attendance, as shown by the teacher's report for the previous school year, a member of the board of trustees may receive a reasonable compensation from the district for necessary work and labor performed by him

for the district in repairing the schoolhouse, fences, and other property, belonging to the district, or in furnishing wood or other necessary supplies. In all such cases the requisition drawn in his favor in payment of services or supplies shall be signed by the other two trustees and shall be subject to approval by the superintendent of schools.

Void contracts

1013. Any contract made in violation of Sections 1011 or 1012 is void.

Unlawful influencing of member's action

1014. The offering of any valuable thing to any member of the governing board of any school district, with the intent to influence his action in regard to the granting of any teacher's certificate, the appointment of any teacher, superintendent, or other officer or employee, the adoption of any textbook, or the making of any contract to which the board of which he is a member is a party, or the acceptance by any member of the governing board of any valuable thing, with corrupt intent, is a misdemeanor.

Void contracts and appointments

1015. Any contract or appointment obtained from the governing board of any school district by corrupt means is void.

Testimony

1016. Any person may be compelled to testify in any lawful investigation or judicial proceeding against any person who is charged with any offense described in Sections 1014 or 1015.

Article 2. Liability and Insurance

Nonliability of member for accidents

1026. No member of the governing board of any school district shall be held personally liable for accidents to children going to or returning from school, or on the playgrounds, or in connection with school work.

Nonliability of member for injury incurred in school work

1027. No member of the governing board of any school district shall be held personally liable for the death of, or injury to, any pupil enrolled in any school of the district, resulting from his participation in any classroom or other activity to which he has been lawfully assigned as a pupil in the school unless negligence on the part of the member of the governing board is the proximate cause of the injury or death.

Duty of district attorney to defend member

1028. If suit is brought against any member of the governing board of any school district as an individual, for any act, or omission, in the line of his official duty as member of the board, or if suit is brought against any employee of any school district for any act performed in the course of his employment, the district attorney of the county shall defend the member of the board or the individual employee upon request of the governing board of the school district, without fee or other charge.

Liability insurance

1029. The governing board of any school district may insure against the liability (other than a liability which may be insured against under the provisions of Divisions 4 and 5 of the Labor Code) of the district and against the personal liability of the members of the board and of the officers, agents, and employees of the board, for damages by reason of death, or injury to person or property, as the result of any negligent

act by the district, or by a member of the board, or any officer, agent, or employee when acting within the scope of his office, agency, or employment. The insurance may be written in any insurance company authorized to transact the business of insurance in the State.

Workmen's compensation insurance

1030. For the purpose of insurance under the workmen's compensation laws of this State, any person employed by a county superintendent of schools to supervise instruction or to give instruction in the school districts under the jurisdiction of the county superintendent of schools shall be deemed an employee of the county. The cost of insuring any person employed to supervise instruction shall be paid by the county superintendent of schools from the county elementary school supervision fund. The cost of insuring any person employed by the county superintendent of schools to give instruction shall be paid by the county superintendent of schools from the unapportioned county elementary school fund.

Group workmen's compensation insurance

1031. The county superintendent of schools of any county may, with the approval of the State Compensation Insurance Fund, insure the liability for compensation of any school districts under his jurisdiction, the governing boards of which consent thereto, with the State Compensation Insurance Fund under one policy or contract of insurance and pay the premium for the insurance from the unapportioned county elementary school fund. Immediately following the payment of the premium the county superintendent of schools shall transfer from the funds of each insured district to the unapportioned county elementary school fund an amount which bears the same ratio to the premium as the pay roll of each district bears to the total pay roll of all the insured districts.

Any dividends earned on the premiums paid under the provisions of this section shall be credited to the individual districts in proportion to the amount of the premium charged to each district.

Article 3. Clerks of Boards

Annual meeting and election of clerk

1041. The board of school trustees shall meet annually on the first day of July and elect one of its members clerk of the district.

Appointment if no clerk elected

1042. If a clerk is not elected on the date prescribed, the superintendent of schools of the county shall appoint one of the members of the board of school trustees district clerk.

Vacancy

1043. If a vacancy occurs in the position of district clerk, the superintendent of schools shall appoint one of the members of the board of school trustees to the position.

Dismissal

1044. If the clerk of the district refuses to keep the minutes, or draw warrants, or perform other duties ordered by the board, the board at a regular meeting may dismiss him and appoint another member clerk. It shall immediately notify the superintendent of schools of the county of its action.

Salary

1045. In any school district organized under the provisions of Article 2 of Chapter 7 of this division, and which is also a high school district, and which districts are governed by a

board of school trustees, and which districts have an average daily attendance in the elementary school district of at least 800, as shown by the last report of the principal of schools in the elementary school district, on file in the office of the county superintendent of schools, the trustees of the school district may appoint a clerk, who shall not be one of their own number, to act for the elementary district trustees and the high school district trustees to hold office at the pleasure of the board of trustees. The board may fix the salary of the clerk at a sum not exceeding twenty-five dollars ($25) per month for the two districts, which shall be paid in the same manner and from the same funds as other incidental expenses of the districts are paid.

Duties

1046. The clerk shall call meetings of the board at the request of two members, act as clerk of the board, and keep a record of its proceedings and an accurate account of the receipts and expenditures of school moneys.

Posting of account of school money

1047. In all districts, excepting city districts having a city board of education, the clerk shall on the first Monday in October, January, March, and June of each school year post in a conspicuous place in each schoolhouse of the school district a complete copy of his account of the receipts and expenditures of the school moneys of the district from the first day of the current school year to the date of his posting of the account.

Records and account books

1048. The clerk shall keep his records and accounts open to the inspection of the electors of the district, in suitable books provided by the board of school trustees for that purpose.

School libraries

1049. The clerk shall place in the library of the school all pamphlets, books, or supplies received by purchase or otherwise for the school district.

Other duties

1050. The clerk shall perform such duties other than those enumerated in this article, as are prescribed by the board.

Article 4. Instructions from Electors

Purposes of meeting

1071. Boards of trustees in school districts, except districts having city boards of education, may, and upon a petition signed by a majority of the electors resident in the district, shall call meetings of the qualified electors of the district for determining or changing the location of the schoolhouse, or for consultation in regard to any litigation in which the district is engaged, or is likely to become engaged, or in regard to any affairs in the district.

(Amended by Stats. 1943, Ch. 696.)

[ORIGINAL SECTION]

1071. Boards of trustees in school districts, except districts having city boards of education, may, and upon a petition signed by a majority of the heads of families resident in the district, shall call meetings of the qualified electors of the district for determining or changing the location of the schoolhouse, or for consultation in regard to any litigation in which the district is engaged, or is likely to become engaged, or in regard to any affairs in the district.

Notice

1072. The meeting shall be called by posting three notices in public places, one of which shall be in a conspicuous place on the schoolhouse, for not less than 10 days prior to the time for which the meeting is called. The notices shall specify the purposes for which the meeting is called, and no other business shall be transacted at the meeting.

Organization of meeting

1073. Any district meeting shall be organized by choosing a chairman from the electors present. The district clerk shall be clerk of the meeting, and shall enter the minutes on the records of the district.

Continuance of meeting

1074. Any district meeting may be adjourned from time to time as found necessary.

Method of voting

1075. All votes instructing the board of trustees shall be taken by ballot, or by "ayes" and "noes" vote as the meeting may determine.

Effect

1076. The board of trustees shall, in all cases, be bound by the instruction of the district meeting in regard to the subjects mentioned in this article.

Powers

1077. A meeting called under the provisions of this article shall be competent to instruct the board of trustees upon the following subjects:

(a) The location or change of location of the schoolhouse. The vote in favor of changing the location of the schoolhouse shall be two-thirds of all the electors voting at the meeting upon the proposition.

(b) The use of the schoolhouse for other than school purposes. In no case shall the schoolhouse be used for purposes which necessitate the removal of any school desks or other school furniture.

(c) The sale and purchase of school sites.

(d) The prosecution, settlement, or compromise of any litigation in which the district is engaged, or is likely to become engaged.

The meeting may vote money not exceeding one hundred dollars ($100) in any one year, for any of these purposes in addition to any amount which may be raised by the sale of district school property, and the insurance of property destroyed by fire, except that the proceeds of the insurance of the library and apparatus shall be paid into the library fund. All funds raised by the sale of school property may be disposed of by direction of a district meeting.

Article 5. Annual Meeting of School Trustees

Counties with more than 20 districts

1101. The superintendent of every county in which there are more than 20 school districts, may hold one trustees meeting in each year. One school trustee of each school district of the county in which the meeting is held shall attend the meeting and participate in its proceedings.

Counties with less than 20 districts

1102. In any county in which there are less than 20 school districts, the county superintendent may hold a meeting as provided in this article.

Selection of trustee

1103. School trustees of each school district shall select the trustee who shall attend the meeting.

Traveling expenses

1104. Each trustee selected to attend the meeting shall be allowed his actual traveling expenses for not to exceed one day incurred in going to and returning from the meeting. The expenses shall be verified by the county superintendent of schools.

Notification

1105. The superintendent shall notify each trustee of the county, at least 10 days prior to calling of the trustees meeting, of the time and place of holding the meeting.

Sessions

1106. Each session of the trustees meeting may be called at any hour on the day specified and may continue for such time as those meeting see fit.

Payment of expenses

1107. The county superintendent shall draw his requisition on the county auditor, who shall draw his warrant on the unapportioned county school fund to pay the expenses of holding the trustees meeting.

CHAPTER 2. SUPERINTENDENTS

District superintendents

1301. The governing board of any school district may employ a district superintendent for one or more schools employing eight teachers or more.

City superintendents

1302. In each city school district governed by a city board of education, the board may employ a city superintendent of schools and such deputy or assistant city superintendents as it deems necessary, and may fix and order paid their compensation, unless otherwise prescribed by law.

Terms

1303. A city superintendent of schools elected by a board of education shall be elected for a term of four years. Any deputy city superintendent of schools, or assistant city superintendent of schools, or district superintendent may be elected for a term of four years.

Qualifications

1304. No person shall be eligible to hold a position as city superintendent, district superintendent, deputy superintendent, or assistant superintendent of schools unless he is the holder of both a valid school administration certificate and a valid teacher's certificate, but any person employed as a deputy or assistant superintendent in a purely clerical capacity shall not be required to hold an administration certificate.

Compensation

1305. Each deputy school superintendent of any city or city and county may receive such compensation as the board of education prescribes, payable in the same manner and out of the same fund as the superintendent of schools.

Duties

1306. The superintendent of each school district shall, in addition to any other powers and duties granted to or imposed upon him:

(a) Be the chief executive officer of the governing board of the district.

(b) Excepting in districts where the governing board has appointed or designated an employee other than the superintendent, or a deputy, or assistant superintendent, to prepare

and submit a budget, prepare and submit to the governing board of the district, at such time as it may direct, the budget of the district for the next ensuing school year, and revise and take such other action in connection with the budget as the board may desire.

(c) Subject to the approval of the governing board, assign all employees of the district employed in positions requiring certification qualifications, to the positions in which they are to serve.

CHAPTER 3. PARTICULAR PROVISIONS RELATING TO DISTRICTS

Article 1. Performance of Services for a District

Supervision by county superintendent

1501. The governing board of any elementary school district having an average daily attendance of 300 or more and the county superintendent of schools having jurisdiction over the district may enter into an agreement for the supervision of instruction in the district by the county superintendent of schools. The county superintendent of schools shall transfer from the funds of the district to the county elementary school supervision fund the amounts set forth in the agreement.

Services by one district for another

1502. One school district may perform school services for another school district, and receive pay from the other school district for the performance of the school service, whenever a contract approved by the county superintendent of schools covering the performance of and the payment for school service has been entered into by and between the governing boards of the school districts concerned. Nothing contained in this section shall be construed to authorize the establishment of separate schools for pupils for any reason other than those set forth in this code.

Interdistrict attendance

1503. The governing board of any school district may admit to the schools or classes maintained in the district any pupils who reside in another school district which maintains schools or classes of the grade level which the pupils desire to attend, whenever an agreement is entered into between the governing board and the governing board of the district of residence stipulating the terms upon which the interdistrict attendance shall be permitted, or, if the terms of a contract can not be agreed upon, whenever the county board of education having jurisdiction over the district of residence gives written authorization permitting the interdistrict attendance on such terms as may be agreed upon by the county board of education and the governing board of the district of proposed attendance.

Pupils may be admitted provisionally for a period of not exceeding two school months, pending decision by the governing boards of the school districts concerned, or by the county board of education relative to their permanent admittance.

Credit for attendance

1504. The average daily attendance of all pupils, excepting pupils attending the seventh and eighth grades of a junior

high school, who reside in one school district and attend school in another school district shall be credited to the district attended for apportionment purposes.

Credit for attendance from suspended district

1505. The attendance of a pupil residing in a suspended elementary school district included within a union or joint union elementary school district and attending school in the union or joint union elementary school district, shall be credited to the elementary school district within the union or joint union elementary school district in which the school attended by the pupil is located.

Article 2. Change of Names of School Districts

Petition

1531. Whenever a petition is presented to the board of supervisors, signed by at least 15 qualified electors of any school district, asking that the name of the district be changed, the board of supervisors shall designate a day upon which it will act upon the petition, which shall not be less than 10 days nor more than 40 days after the receipt of the petition.

Hearing

1532. The clerk of the board of supervisors shall give notice to all parties interested by sending by registered mail to each of the trustees of the school district a notice of the

Notice

time for the hearing of the petition. Notices shall be mailed at least 10 days before the day set for hearing. At the hearing the board shall by resolution either grant or deny the petition, and, if granted, the clerk shall notify the county superintendent of the change of the name of the district.

Article 3. Destruction of District Records

Acceptance of affidavits

1551. Whenever in any school year the school register of any teacher, or other records of any elementary or high school district are destroyed by conflagration or public calamity, preventing the teacher and school officers from making their annual reports in the usual manner and with accuracy, affidavits of the teacher, the school principals, or other officers of the school district, certifying as to the contents of the destroyed register or other records, shall be accepted by all school authorities for all school purposes appertaining to the school district, except that of average daily attendance.

Acceptance of regular annual reports

1552. Whenever the average daily attendance of any elementary or high school district has been materially affected in any school year by conflagration, public calamity, or epidemic of unusual duration and prevalence, the regular annual reports of the teacher, the school principal, or officers of the school district, shall be accepted by all school officers for all school matters appertaining to the school district, except that of average daily attendance.

Article 4. Boundaries of Districts

Ascertainment of boundaries

1571. Every county superintendent shall inquire and ascertain whether the boundaries of the school districts in his county are definitely and plainly described in the records of

the board of supervisors and keep in his office a full and correct transcript of the boundaries.

Correction

If the boundaries of districts are conflicting or incorrectly described, or if, by reason of the resubdivision of land or other change of property lines, the location of the boundaries becomes indefinite or conflicts with lines of assessment, the board of supervisors may correct and relocate the boundaries to follow definite, established property lines, conforming as nearly as practicable to the general location of the former boundaries.

Where boundary lines are corrected or relocated, the relocation of the new lines shall be made in such a manner that the majority of the area of the parcel or property affected determines the district in which the parcel or property is located. Nothing herein contained authorizes the board of supervisors, in relocating the boundaries, to substantially alter the former boundaries of school districts.

Printing

1572. The county superintendent, if he deems it necessary, may order the description of the district boundaries printed in pamphlet form, and pay for the pamphlets out of the unapportioned county school fund of the county.

Article 5. Formation and Changes in Territory and Status of Districts

Date of completion of proceedings

1591. Except as provided in this article, any action undertaken to form a new school district of any type or class, to annex or unite any territory or school district to or with another school district, to withdraw or exclude territory from any school district, to unionize or merge two or more school districts, to disestablish or disincorporate any school district, or to change the boundaries of any school district, shall be completed prior to the first day of February of the school year in which the action was begun and shall be effective on the first day of July next succeeding.

Effective date of attachment of lapsed district

1592. An order of a board of supervisors attaching the territory of any lapsed elementary school district to one or more adjoining districts shall be effective as of the date of the order for all purposes.

Effective date generally

1593. In the case of every other action referred to in this article, the action shall be effective on the date the action is completed for the following purposes:

(a) The determination of the assessed valuation of any district or districts affected by the action.

(b) The appointment or election of members of the governing boards of the school districts affected.

(c) The preparation and submission of school district budgets.

(d) The election or appointment of employees for the ensuing school year.

(e) The calling and conducting of elections for and the issuance and sale of school district bonds.

(f) The exercise by the governing boards of the school districts affected of other powers and duties vested in governing boards of school districts of the same type or class and not inconsistent with other provisions of this code.

(g) The holding of an election to determine whether a newly formed elementary school district, or a district comprised within a newly formed union or joint union elementary school district shall become a part of a high school district.

When territory may not be annexed

1594. Notwithstanding anything in this code to the contrary, no territory shall be taken from any school district having any outstanding bonded indebtedness and made a part of another district where the action, if taken, would so reduce the assessed valuation of the district from which the territory was taken that the outstanding bonded indebtedness of the district would exceed 5 per cent of the assessed valuation remaining in the district. If the territory taken from any school district remains liable for the outstanding bonded indebtedness for which it would have been liable if it had not been taken from any school district, the provisions of this section shall not apply.

Annexation of two or more districts

1595. Whenever provision is made in this code for the annexation of one school district to another, two or more school districts adjoining each other may be annexed simultaneously to a school district contiguous to one or more of the adjoining districts. If one of the adjoining districts is not annexed to the contiguous school district and by reason of the failure to annex the district one or more of the adjoining districts is made noncontiguous to the district to which the district or districts were to be annexed, the annexation of such district or districts shall be void and of no effect.

Noncontiguous territory

1596. No territory which is not contiguous to a school district may be annexed, merged, united, or otherwise attached to, or made a part of, the district except in such cases as are specifically provided for.

Liability for bonded indebtedness

1597. When school districts are created or abolished, or the boundaries changed, the liability to taxation for the outstanding bonded indebtedness of the district is as provided in this article. The authorities whose duty it is to levy taxes for the payment of principal and interest on the outstanding bonds, shall levy the taxes upon the districts affected in such proportions as are provided in or are determined under the authority of this article.

Formation of single district

1598. When any school district is united or in any manner merged with one or more school districts so as to form a single district, the district so formed is liable for all the outstanding bonded indebtedness of the districts united or merged.

Annexation to another district

1599. When territory is taken from one school district and annexed to another, the territory becomes liable to taxation for the bonded indebtedness of the district to which it is annexed.

The board of supervisors of the county in which the territory is situated shall, by order entered on its minutes, within

60 days after the changes, determine what proportion of the outstanding bonded indebtedness of the district from which it was taken was incurred for the acquisition or improvement of school lots or buildings, or fixtures therein, situated in the territory transferred. The district to which the territory was annexed shall thereupon become liable for the proportion of the indebtedness so determined.

Formation of new district from portion of existing district

1600. When any new school district is formed from a portion of the territory of one or more existing districts, either by incorporation of a city, or otherwise, the board of supervisors of the county shall, within 60 days after the formation of the new district, by order entered on its minutes, determine what proportion of the outstanding bonded indebtedness of the district or districts out of which the new district is formed, was incurred for the acquisition or improvement of school lots or buildings, or fixtures therein, situated in the new district. The new district shall thereupon become liable for the proportion of such indebtedness so determined.

In the case of joint districts, the board of supervisors of each county shall in the same manner determine the liability as to the territory in its county.

Withdrawal from existing district

1601. Whenever any territory withdraws from a union elementary or union high school district, the territory withdrawing shall continue to be liable for such portion of the bonded indebtedness of the union elementary school district or union high school district incurred before the withdrawal as it would have been liable for had it not withdrawn.

Effect of repeal

1602. The repeal of Section 2.75 of the School Code shall not impose any liability upon, or affect the liability of, any territory of a lapsed elementary school district situated in one high school district, which during the period when Section 2.75 was effective was attached to an elementary school district lying in another high school district.

Article 6. Districts Partly Within a Chartered City

Control by charter provisions

1621. A school district, a portion of which is embraced within the limits of any city governed by a charter proposed and adopted as provided by Section 8 of Article XI of the Constitution, may be subject to, controlled, and governed by the provisions of the charter relating to and providing for the management of public schools pursuant to this article.

Election

1622. The board of trustees of such school districts may provide for the holding of an election at the time and in the form and manner for holding elections for school trustees, for the purpose of submitting to the electors the question of whether the district shall be governed by the provisions of the charter.

Ballots

1623. The ballots used at the election shall contain the words "Shall the (name of district) be governed by the charter of the city of _____?" and the words "Yes" and "No" so placed that the voters may clearly indicate their choice in this connection.

Election returns

1624. The board having charge of the election shall count the ballots cast on the proposition and make return thereof to the board of trustees of the school district. If it appears from the returns that a majority of the votes cast on the proposition is in favor of the proposal, then the board of trustees shall certify the result to the board of education, provided for in the charter of the city. From and after the date of the certificate the school district shall be governed by the provisions of the charter relating to the establishment, management, and control of the public schools.

Participation in subsequent election

1625. If any school district or portion of any school district is embraced within the corporate limits of a city having a charter, and the electors of the school district have participated in and voted at any school election held subsequent to the adoption of and under the provisions of the charter, they shall be deemed to have submitted to be governed in all matters relating to the management of public schools within the school district or high school district as fully and to all intents and purposes as though the electors of the school district or high school district had by their votes elected to be governed by the provisions of the charter.

Electors

1626. All qualified electors residing in a school district described in this article, whether residing within or without the boundaries of the city, shall be entitled to vote for members of the board of education at any election held for that purpose.

Article 7. Districts in More than One County

Concurrent action of boards of supervisors

1651. When any school district is situated partly in two or more counties, all returns, reports, certificates, estimates, petitions, and other papers of any kind required to be filed with or presented to the board of supervisors by this code relating to schools and school districts, shall be filed with or presented to the supervisors of each county in which any portion of the district is situated. All actions required to be taken by the board of supervisors regarding such matters shall be taken by the concurrent action of the respective boards of supervisors of each county in which any portion of the district is situated.

Jurisdiction

1652. Whenever any school district is situated partly within two or more counties, jurisdiction over it is in the county superintendent of schools of the county in which the schoolhouse in the joint district is located.

Designation of superintendent

1653. When a new district is formed, the board of supervisors of each county in which any part of the district is situated shall designate, in the order creating the district, the county superintendent of the county in which the schoolhouse is, or will be located as the superintendent who shall have jurisdiction thereof.

Article 8. Expenses of School District Elections

Expenses of elections

1671. The expenses of any district election called by the governing board of a school district shall be borne by the entire district, and shall be paid out of its funds.

Chapter 4. Elementary School District Boards

Article 1. Election and Appointment of Boards

Date of election

1801. An election for school trustees shall be held in each school district on the third Friday of May of each year, at the district schoolhouse, if there is one, and if there is none, at a place designated by the board of trustees.

Election of first trustees

1802. In a new school district the school trustees shall be elected on the third Friday of May subsequent to the formation of the district, to hold office for one, two, and three years, respectively, from the first day of July next succeeding their election.

At the first meeting of the governing board of a newly formed district elected under the provisions of this division, the members of the board shall determine, by lot, the term for which each member shall hold office.

Term

1803. Except as otherwise provided in this article, one trustee shall be elected annually, to hold office for three years from the first day of July next succeeding his election, or until his successor shall be elected or appointed and qualified.

Notice of election

1804. Not less than 30 days before the election, the trustees shall post notices in three public places in the district and publish the notice once a week for three weeks in some newspaper of general circulation published in the district. Notices shall specify the time and place of election, the number of trustees to be voted for, the location of the polls, and the hours during which the polls will be kept open. If there is no newspaper of general circulation published in the district, notices of the election shall be given by posting.

Failure to call election

1805. If the trustees neglect or refuse to call the election, then at any time 15 days prior to the date of the election, any three electors of the district may post notices and advertise as provided in Section 1804, except that notices shall be published once a week for two weeks. The cost of posting and advertising shall be a charge against the district.

Precincts and election officers

1806. Trustees or boards of education charged with the calling, conducting, and carrying on of elections, may subdivide the district into election precincts for the holding of the election, and may change and alter the precincts as often as occasion requires. They shall appoint one inspector and two judges of election in each precinct. If none are appointed, or, if those appointed are not present at the time for opening the polls, the electors present may appoint them, and they shall conduct the election.

Compensation

1807. Each inspector and judge of election serving at any school district election the polls at which are required to be

opened at the same hour and kept open until the same hour as were the polls at the last general election may be paid out of the funds of the district as compensation for his services as election officer such sum as the governing board may determine, not to exceed the amount paid from the county treasury to officers of the last preceding general election.

Sample ballots

1808. The governing board of any school district may mail to each registered voter within the district a sample ballot and a notice designating the polling place. The cost thereof may be paid out of the funds of the district. The sample ballot shall be printed on paper of a color different from that of the official ballot and shall be designated "Sample Ballot" upon the face thereof.

Opening of polls

1809. The polls at all school district elections, except where otherwise provided, shall be opened at the same hour and kept open until the same hour as were the polls at the last preceding general election, except that in districts having an average daily attendance of less than 500, as shown by the teachers' registers, the polls shall not be opened before 9 o'clock a.m. nor closed before 5 o'clock p.m. and shall be kept open for not less than four hours. Except where otherwise specifically provided by law, whenever any elementary school district comprises a precinct for the purpose of holding a high school district election or junior college district election, and the elementary district had during the preceding school year an average daily attendance of less than 500, the polls of the precinct shall not be opened before 9 o'clock a.m. nor closed before 5 o'clock p.m. and shall be kept open for not less than four hours.

Qualified electors

1810. Every elector resident of the school district, who is a qualified elector of the county, and who is registered in the precinct, within the school district, where the election is held at least 40 days before the election, may vote at the election.

Place of voting

1811. The elector shall cast his ballot only in the precinct in the district in which his place of residence is located.

Index of registration

1812. At the time the governing board of any school district calls any election, the clerk or secretary of the board shall in writing officially request the county clerk or registrar of voters of the county or city and county within which the school district is situated to furnish the board with as many copies as may be needed, not exceeding four, of the index of the registration book for each precinct contained in whole or in part in the school district, up to and including 40 days prior to the election.

Upon receipt of the request, at least 20 days before the election, the county clerk or registrar of voters shall forward to the clerk or secretary of the governing board the number of copies of the index requested. Copies of the index shall be supplied from any available copies in the custody of the county clerk or registrar of voters. If no copies are available, copies of the index of the registration book or any supplements thereto, shall be prepared by the county clerk or

registrar of voters. The actual expense of the preparation of the index shall be a charge against the school district requiring the index.

Precincts

1813. The governing board of the school district charged with the conduct of the election may divide into precincts or subdivide the municipality or territory within which the election is to be held into special or consolidated election precincts for the holding of the election. In establishing precincts, the governing board shall number the precincts established consecutively. Each precinct shall, for the purpose of the election, be known by the number designated.

Method of voting

1814. Any elector desiring to vote at the election shall write his name and address, or if he is unable to write, shall have his name and address written for him, on a roster of voters provided for that purpose. He shall announce his name and address to one of the election officers, who shall in an audible tone of voice repeat the name and address. If another election officer finds the name on the printed index, and it has not been canceled, he shall in like manner repeat the name and address and deliver to the elector a ballot, which he shall be allowed to vote.

The election clerk having in charge the copy of the index to the register or affidavits of registration shall, in like manner, repeat the name and shall write in the ruled space opposite the name, in figures, the line number designating the position of the name of the voter on the roster.

Statement of candidacy

1815. Any person desiring to become a candidate for office of school trustee shall 30 days prior to the date of the election, file a written statement with the county superintendent of schools substantially as follows:

"I, _____, do hereby declare myself as a candidate for the office of school trustee of _____ district, of the county of _____, and request my name be placed on the official ballots of the district, for the election to be held May _____, 19___.

_____

Address_____."

Nomination by sponsors

1816. In lieu of the method prescribed in Section 1815, the name of any voter in the district shall be placed on the official ballot for election as a school trustee if proposed by written declaration with his consent.

The declaration shall:

(a) Be signed by not less than three nor more than 10 persons each of whom is a parent of a pupil attending a school of the district and a voter in the district.

(b) Give residence and occupation of the signers.

(c) Contain an acceptance of nomination signed by the candidate.

(d) Be filed not less than 30 days prior to the election.

Declaration of candidacy by sponsors

1817. The declaration of parents proposing a candidate for trustee shall be in substantially the following form:

DECLARATION OF CANDIDACY BY SPONSORS

I, the undersigned, am a voter and a parent of a pupil attending a school in the _____ School District. I hereby propose and sponsor _____ who resides at _____ (giving street address and name of city or town of residence, if any) _____ School District, County of _____, State of California, as a trustee of the _____ School District, to be voted for at the election to be held on the _____ day of May, 19___, and I hereby assert as follows:

My knowledge of _____ is sufficient to warrant my urging his election to the office of school trustee, and in my opinion he is fully qualified mentally, morally, and physically for the office and should be elected to fill it.

My residence and occupation are correctly set forth after my signature hereto.

Name	Residence	Occupation
_____	_____	_____
_____	_____	_____
_____	_____	_____

I hereby accept the nomination as above proposed. If elected I will qualify and serve to the best of my ability.

_____

Signature of person proposed as trustee.

Ballot

1818. Each county superintendent of schools shall furnish a uniform ballot for the election of school trustees in his county and no other form of ballot shall be used.

Cost of ballots

1819. The cost of printing and distributing the ballots to the various elementary school districts under jurisdiction of the county superintendent of schools shall be paid by him from the unapportioned county elementary school fund. The cost of printing and distributing the ballots to the various high school and junior college districts under the jurisdiction of the county superintendent of schools shall be paid by him from the county unapportioned high school fund.

Form of ballots

1820. The form of ballots shall be as follows:

"Official ballot provided by the superintendent of schools to be used in the election of school trustees in _____ district in the county of _____.

_____ ☐"

(12 spaces)

The name of the county and school district shall be printed or typewritten in as part of the official ballot.

Immediately following the above there shall be at least 12 spaces for the insertion of names of candidates, each space with a blank square for the expression of the will of the voter. The name of each candidate for school trustees for the district shall be printed or typewritten on the ballot.

Method of voting

1821. In casting his vote the elector shall stamp or write a cross (+) in the square space immediately following the name of the candidate for whom he desires to vote. If the

elector desires to vote for a candidate whose name does not appear on the ballot, he shall himself write the name of the candidate in the space provided for that purpose on the ballot. Where the elector writes the name of a candidate on the ballot he may, but it is not necessary for him to designate his vote by writing or stamping a cross (+) after the name. After properly marking his ballot the elector shall hand it to the inspector who shall, in his presence, deposit the ballot in the ballot box.

Secret ballot

1822. The board of school trustees may arrange for a secret ballot by providing a booth or private room in which the voter may prepare his ballot. In districts employing two or more teachers, they shall arrange for a secret ballot in the manner prescribed in this section.

Electioneering

1823. No electioneering shall be carried on within 100 feet of the polls.

Challenge and oath

1824. Any person offering to vote may be challenged by any elector of the district. The judges of the election shall thereupon administer to the person challenged an oath, in substance as follows: "You do swear that you are a citizen of the United States, that you are 21 years of age, that you have resided in this State one year, in this county 90 days, and in this school district 40 days preceding this election, and that your name is on the great register of this county, and was on the great register of a precinct in this school district at least 40 days before this election, and that you have not before voted this day." If he takes the oath prescribed in this section, his vote shall be received, otherwise his vote shall be rejected.

Roster of voters and tally list

1825. The superintendent of schools of the county shall furnish for the election, in addition to the official ballots, an official roster of voters and tally lists. The heading of the roster of voters shall read: "Official roster of voters of _____ school district for the school election held on the _____ day of May, 19___." Under this heading shall be arranged two columns. The first column shall have printed as its heading: "Write your name as it appears on the great register of this county." The second column shall have printed as its heading: "Write your residence, street and number." The person offering to vote at a school election shall write his name in the first column of the roster of voters, and give his residence in the second column.

Form of tally list

1826. The tally list shall have printed as its heading: "An official tally list of _____ school district for the school election held on _____ day of May, 19___." It shall be arranged in lines so as to give room for at least five candidates and shall be vertically ruled, providing for counting the votes under a tally system. The final column shall have as its heading: "Total votes cast for each candidate." At the bottom of the page shall be provided a space for the signatures of the election officers and over these signatures shall be printed the words: "We hereby certify that this is a correct report of

the election held in _____ school district on _____ of May, 19___."

Canvass by election officers

1827. The officers of election shall publicly canvass the votes immediately after closing the polls, fill out the tally sheet, and certify to the correctness of the canvass made.

Envelope

1828. The superintendent of schools of the county shall furnish with the ballots and roster of voters and tally list an envelope on which shall be printed his name and address, and in the lower left-hand corner the words: "Returns of election held in _____ school district, _____ county, on May _____, 19__."

Canvass by governing board

1829. The officers of election shall fill in the blanks provided on the envelopes and inclose and seal in the envelopes the roster of voters and tally list and ballots cast at the election. The inspector of the election shall take possession of the returns and deliver them to the clerk of the school district who shall receipt him for the returns. On the seventh day after the election at 1 o'clock p.m. the governing board of the district shall meet and canvass the returns and issue certificates of election to the person or persons elected and file duplicates of the certificates with the county superintendent of schools having jurisdiction over the district.

Immediately following its canvass of the returns, the governing board of the district shall forward the returns to the county superintendent of schools having jurisdiction over the district, who shall keep the returns on file for one year.

Elections in union and joint union high school districts

1830. In case of the election for high school trustees in union and joint union high school districts, the returns shall be made as provided in Article 2 of Chapter 10 of this division. The president of the high school board shall seal the returns in envelopes by elementary school districts and forward them to the superintendent of schools of the county with the blanks filled in with the name of the high school district.

Trustees in newly formed districts

1831. When a new district is organized, the trustees of the old district who reside within the boundaries of the new district shall be trustees of the new district until the expiration of the terms for which they were elected.

Trustees in united elementary school districts

1832. When the uniting of two or more elementary school districts lying contiguous to constitute one district becomes effective for the purpose of appointing school trustees, the county superintendent of schools having jurisdiction over the district, shall appoint a board of school trustees of three members for it. Each member appointed shall hold office until the first day of July next succeeding his appointment.

Annual election

1833. The regular annual election of members of the board of school trustees of any school district formed by uniting two or more school districts shall be held at the same time and in the same manner as the regular annual election of school trustees as provided in this article.

First election

1834. The first election for members of the board of school trustees of any school district formed by uniting two or more

school districts shall be held on the first Friday of June subsequent to the appointment of the board of trustees. At the election three members shall be elected to hold office for the respective terms as provided in Section 1802.

Article 2. Boards in Union or Joint Union Districts

Election and term

1861. In every union or joint union school district, the governing board shall be composed of five members who shall be elected at large from the elementary school districts composing it, for the term of three years, except as provided in Section 1868.

Appointment of first board

1862. When any union or joint union school district is formed, the superintendent or superintendents of schools having jurisdiction over the district, shall, within 15 days after the formation, appoint a board of school trustees of five members for it. Each member appointed shall hold office until the first day of July next succeeding his appointment.

Annual election

1863. The regular annual election of members of the union or joint union school district board shall be held at the same time as the regular annual election of school trustees as provided in Article 1 of this chapter.

Election call and polling place

1864. The election shall be called by the governing board of the district. The board shall designate a polling place in the district at a schoolhouse where the electors of the district may vote.

Notice and election officers

1865. The union or joint union school district governing board shall give the same notice of the election and shall appoint the same number of election officers as are required for the election of members of elementary school district governing boards.

Manner of election and returns

1866. The election shall be held in the same manner as are elections of school trustees. The returns of the election shall be at once sent to the clerk of the board.

Canvass and certificates of election

1867. The district board shall meet on the seventh day after the election at 1 o'clock p.m. and canvass the returns and issue certificates of election to the persons elected. They shall file duplicates of the certificates with the superintendent of schools having jurisdiction over the union or joint union school district.

First election

1868. At the first election for members of the board of school trustees of the union or joint union school district one member shall be elected to hold office for one year, two members for two years, and two members for three years from the first day of July next succeeding.

Election of successor

1869. After each member's term expires, his successor shall be elected for the term of three years and until his successor is elected or appointed and qualified.

Appointment upon formation of union district

1870. If, at the election for the formation of a union school district, a majority of the votes cast at the election in each of the school districts petitioning is in favor of the union school district, the county superintendent shall, within 15 days after

receiving the returns of the election, appoint a board of trustees as provided in Section 1862.

Appointment upon formation of joint union district

1871. If, at the election held for the formation of a joint union school district, a majority of the votes cast at the election in each of the school districts petitioning is in favor of the joint union school district, the county superintendents of the counties in which the districts lie, acting together, shall, within 15 days after receiving the returns of the election, appoint a board of trustees as provided in Section 1862.

Appointment by two or more superintendents

1872. The superintendent having the greatest number of pupils in average daily attendance in the elementary schools in the territory of the joint district within his county shall appoint a majority of the board of trustees. The other superintendent or superintendents shall appoint the remainder of the board as may be agreed upon by them.

Article 3. Boards in Joint Districts

Election following formation of district

1901. When joint districts are formed, three trustees shall be elected at the regular school election next succeeding the formation, to hold office for one, two, and three years respectively, from the first day of July next succeeding.

Effect of formation of district

1902. The terms of the trustees in the districts uniting to form the joint district shall expire on the formation of the district. The superintendent of the county, in which the district having the greater average daily attendance lies, shall appoint two trustees, and the superintendent of the county in which the other district lies shall appoint one trustee, to hold office until the first day of July next succeeding the formation of the joint district.

Article 4. Boards in Suspended Districts

Election or appointment

1921. Trustees shall be elected or appointed in a suspended district in the same manner as if it was not suspended.

Article 5. Vacancies and Resignations

Causes of vacancy

1941. Vacancies in the office of school trustees are caused by the happening of any of the events specified in Section 996 of the Political Code, or by failure to elect.

Appointment to fill vacancy

1942. When a vacancy occurs the county superintendent of schools shall appoint a suitable person to fill the vacancy, to hold office for the remainder of the unexpired term.

Vacancies in union or joint union districts

1943. Where the vacancy occurs in a union or joint union school district board, the vacancy shall be filled by appointment by the superintendent of schools having jurisdiction over it.

Resignation

1944. Any resignation shall be in writing addressed to the county superintendent of schools.

Chapter 5. City Boards of Education

Election

2101. Boards of education are elected in cities under the provisions of the laws governing the respective cities, except as otherwise provided in this article.

Election at large

2102. The members of any elective city board of education shall be elected at large from the territory within the boundaries of the school district or districts which are under the jurisdiction of the city board of education, whether sitting as a board of education, high school board, or junior college board, and any qualified elector of the territory shall be eligible to be a member of such city board of education.

(Amended by Stats. 1943, Ch. 175.)

[ORIGINAL SECTION]

2102. The members of any elective city board of education shall be elected at large from the territory within the boundaries of the school district or districts which are under the jurisdiction of the city board of education, whether sitting as a board of education, high school board, or junior college board, unless otherwise provided by the charter of the city.

Compensation in cities of first and one-half class

2103. In any school district situated wholly or partly within a city of the first and one-half class, each member of the city board of education shall receive as compensation for his services the sum of ten dollars ($10) for each meeting of the board actually attended, not to exceed one hundred dollars ($100) in any one calendar month. A member may be paid for any meeting when absent if the board by resolution duly adopted and spread upon its minutes finds that at the time of the meeting he is performing services outside the meeting for the school district or districts. The compensation shall be a charge against the funds of the school district. If the city board of education is the governing board of more than one school district the compensation shall be charged against and paid by the respective school districts in the same proportion as the salary of the city superintendent of schools is charged against them Compensation shall be reduced by an amount equal to any salary or compensation paid to the members of the city board of education from any funds of the city.

Election expenses Where election not held with municipal election

2104. In those cases in which the boundaries of the school district, high school district, or junior college district, governed by a city board of education, are not coterminous with the boundaries of the city, and where elections, either primary, general, or recall, of members of the board of education are by the provisions of the laws governing the cities held at times other than on the day of municipal elections, general or special, the cost and expense of the district elections shall be a legal charge against the funds of the district or districts governed by the board of education. The city shall be reimbursed by the district or districts for its actual cost and expense incurred in the conduct of the election or elections. The cost and expense of conducting the election in territory common to two or more districts shall be borne by the districts in equal shares. In territory within a single district the cost shall be borne by the district.

Election expenses Where election held with municipal election

2105. In those cases in which the boundaries of the school district, high school district, or junior college district, governed by a city board of education, are not coterminous with the boundaries of the city, and where elections, either primary,

general, or recall, of members of the board of education are by the provisions of the laws governing the cities held on the same day as municipal elections, general or special, a proportionate part of the actual cost and expense of the election shall be a legal charge against the school districts governed by the board of education. The city shall be reimbursed for the proportionate cost and expense incurred in the conduct of the election. The cost and expense of the elections within the boundaries of the city shall be apportioned between the city and the districts in the ratio that the total number of offices to be filled and propositions to be voted upon by the electors of the city and the school district or districts, respectively, bears to the total number of offices to be filled and propositions submitted. The cost and expense of the election in territory outside of the municipal boundaries shall be borne by the districts affected. As between the districts, costs and expense shall be apportioned as follows: In territory common to two or more districts the cost of conducting the election shall be borne in equal shares, and in territory within a single district the cost shall be borne by the district.

Consolidation of elections

2106. Elections of members of city boards of education, primary, general, or recall, may be consolidated with municipal elections, primary, general, or special, in accordance with the provisions of Chapter 4 of Part 2 of Division 11 of the Elections Code. In event of consolidation, the cost and expense shall be apportioned between the city and districts, elementary, high school, or junior college, as provided in Section 2105.

CHAPTER 6. POWERS OF GOVERNING BOARDS

Article 1. Powers Generally

Powers and duties

2201. The powers and duties of boards of education in cities are as prescribed in the laws governing the respective cities, except as otherwise provided by this code.

Administrative offices

2202. The governing board of any school district may rent suitable quarters for administrative offices for a period of not to exceed 22 years.

Traveling expenses

2203. The governing board of any school district shall provide in cities, and in cities and counties, having boards of education, and in other districts employing 30 or more teachers, for the payment of the traveling expenses of any representative of the board when performing services directed by the board.

Powers

2204. The governing board of any school district shall:

(a) Prescribe and enforce rules not inconsistent with law or with the rules prescribed by the State Board of Education, for its own government, and for the government of the schools under its jurisdiction.

(b) Transact its business at regular or special meetings called for the purpose.

(c) Fix the time for its regular meetings. Such action shall be proper notice to all members of the board of the regular meetings.

(d) Call special meetings by written notice which shall be given to each member of the board at least 24 hours prior to the time for the meeting, unless at the time of the meeting each member of the board waives written notice.

(e) Make an annual report, on or before the first day of July, to the superintendent of schools in the manner and form and on the blanks prescribed by the superintendent of public instruction.

(f) Visit each school in its district at least once in each term, and examine carefully into the management, conditions, and needs of the schools. In any school district which employs district or city superintendents of schools, it shall either visit the schools or provide that they shall be visited by the district or city superintendent of schools or his assistants.

District board with powers of city board of education

2205. The governing board of any elementary school district having an average daily attendance of 1,000 or more pupils and an assessed valuation of twenty million dollars ($20,000,000) or more may, and upon petition signed by 25 per cent of the heads of families resident in the district, shall call an election to determine whether or not, it shall have the rights, powers, and duties of a city board of education and whether or not the district shall for all purposes be deemed to be a district governed by a city board of education.

Election

Notice and proceedings of the election shall be in accordance with the provisions of this code relating to the election for school trustees, so far as applicable. There shall be elected at the election, to take office if the change in the rights, powers, and duties of the board is approved by majority vote of the qualified electors in the district, two additional members to the board, one to hold office until the first of July next succeeding the election and one to hold office until one year after the first of July next succeeding the election and until the election and qualification of their respective successors who shall hold office for three years. Thereafter, if the change in the rights, powers, and duties of the board is approved, the number of school trustees for the elementary school district shall be five, and they shall be elected in the same manner and for the same term as provided by law for trustees of elementary school districts, except that two trustees may be elected at the same time when the terms of their predecessors terminate in the same year. If the change is approved by a majority vote of the qualified electors of the district, the board shall have the rights, powers, and duties of a city board of education, and the district shall for all purposes be deemed to be a district governed by a city board of education.

Vacancy

If the office of any member of the board becomes vacant prior to the expiration of his term, the vacancy shall be filled by a person appointed by a majority of the remaining members of the board. The person appointed shall serve for the remainder of the unexpired term.

Gifts

2206. The governing board of any school district may accept on behalf of, and in the name of, the district such gifts, donations, bequests, and devises as are made to the district unconditionally and without restriction and shall manage and control the gifts, donations, devises, and bequests.

Lighting in underpass

2207. The governing board of any school district may install and maintain a lighting system in any underpass in the vicinity of a schoolhouse.

Exhibits

2208. The governing board of any school district may install and maintain exhibits of educational programs and activities of the schools of the district at any county fair held in the county in which the district is located in whole or in part, or at any agricultural district fair held in the county in which the agricultural district is located in whole or in part.

All necessary costs including transportation costs, incurred in connection with the installing, maintaining, and returning of the exhibits to the district may be paid out of any funds of the district not required to be used for other purposes.

Mileage

2209. Each member of the governing board of a school district may be allowed for travel necessary to attend annual, regular monthly, and special meetings of the governing board, the same rate of mileage as is allowed members of the county board of education under the provisions of this code. Mileage shall not be allowed to any member to attend any meeting except for travel required in excess of 10 miles. Orders for travel allowances shall be drawn upon the funds of the district and signed by a majority of the governing board exclusive of the payee.

Delegate to conventions

2210. The governing board of each school district may select a member or members of the board to attend meetings of any society, association, or organization for which the school district has subscribed for membership, or any convention to which it may pay the expenses of any employee. The actual expenses of the member or members shall be allowed and paid out of the funds of the district.

Article 2 Powers of Boards of Union and Joint Union Districts

Powers and duties

2231. The powers and duties of boards of trustees of union or joint union school districts are such as are now or may hereafter be assigned by law to boards of school trustees except as otherwise provided by this code.

Executive committee

2232. Boards of trustees of union and joint union districts may appoint an executive committee, consisting of the president, the clerk, and one other member of the board, to attend to the routine business of the board. Their action shall be reported to the board for ratification at its first meeting ensuing.

Bonds, employees and organization

2233. The board of trustees elected or appointed for a union school district may call elections for the issuance of bonds or for special taxes, and may select employees and arrange for the organization of the school for the next ensuing school year

School buildings

2234. At any time after the appointment or election of the board of trustees of a union or joint union school district, and the naming of the school district, the board may secure an option to purchase land for school purposes and may call a bond election for any of the purposes for which elementary school district bonds may be issued. The board may proceed thereafter in accordance with the provisions of this code governing the issuance of elementary school district bonds, with the same effect as though control of the property of the union or joint union district had already been vested in them.

CHAPTER 7. ELEMENTARY SCHOOL DISTRICT ORGANIZATION

Article 1. Names of Districts

Name

2401. Every school district shall be designated by the name and style of "_____ district (using the name of the district), of _____ county" (using the name of the county in which the district is situated).

Suits and property

2402. In the name by which the district is designated the trustees may sue and be sued, and hold and convey property for the use and benefit of the school district.

Number

2403. A number shall not be used as a part of a designation of any school district.

Article 2. Formation of Districts in Cities

Government

2421. Every city except cities of the sixth class, unless subdivided by the legislative authority thereof, constitutes a separate school district, which shall be governed by the board of education or board of school trustees of the city.

Incorporation of city and annexation of territory

2422. Whenever a city is incorporated, except a city of the sixth class, the board of supervisors of the county may annex to the city for school purposes only, the remainder, or any part of the remainder, of the district or districts from which the city was organized, whenever a majority of the electors residing therein petition for such annexation.

(Amended by Stats. 1943, Ch. 696.)

[ORIGINAL SECTION]

2422 Whenever a city is incorporated, except a city of the sixth class, the board of supervisors of the county may annex to the city for school purposes only, the remainder, or any part of the remainder, of the district or districts from which the city was organized, whenever a majority of the heads of families residing therein petition for such annexation.

Annexation of additional territory

2423. The board of supervisors either when the district is formed or subsequently may include more territory than the remainder of the district or districts from which the city was organized, whenever a petition for this purpose is presented to them, signed by the majority of the electors residing in the additional territory.

The territory annexed may be in either the same or a different county than that of the school district to which it is annexed If the territory annexed lies in a county other than the county in which the school district to which the territory

is annexed lies, the school district shall not become a joint school district by reason of the annexation of such territory.

(Amended by Stats. 1943, Ch. 696.)

[ORIGINAL SECTION]

2423. The board of supervisors either when the district is formed or subsequently may include more territory than the remainder of the district or districts from which the city was organized, whenever a petition for this purpose is presented to them, signed by a majority of the heads of families residing in the additional territory.

The territory annexed may be in either the same or a different county than that of the school district to which it is annexed. If the territory annexed lies in a county other than the county in which the school district to which the territory is annexed lies, the school district shall not become a joint school district by reason of the annexation of such territory.

Elections

2424. When outside territory has been annexed to a city, it shall be deemed a part of the city for the purpose of holding the general municipal election, and shall form one or more election precincts, as may be determined by the legislative authority of the city. The qualified electors of the annexed territory shall vote only for the board of education or the board of school trustees.

Inclusion of outside territory

2425. The outside territory shall be deemed to be a part of the city for all matters connected with the school department of the city, for the annual levying and collecting of the property tax for the school fund of the city, and for all purposes specified in Chapter 17 of Division 3 of this code.

Assessment roll

2426. The last assessment roll made by the county assessor shall be the only basis of taxation for the school district on the property outside the corporate limits annexed for school purposes.

Article 3. Formation of Districts Outside Cities

Date of formation

2451. No new school district shall be formed at any other time than between the first day of October and the tenth day of February.

Petition

2452. Except as provided in this article, no new school district shall be formed unless the parents or guardians of at least 15 children between the ages of five and 17 years as shown by the petition, residents of the proposed new district and residing at a greater distance than five miles by a State or county traveled road from the public schoolhouse in the district in which the parents or guardians reside, present a petition to the superintendent of schools, setting forth the boundaries of the proposed new district.

Same

2453. When any number of children less than 15 in number, between the ages of five and 17 years, reside at a distance of seven miles or more by State or county traveled road, or five miles or more where there is no State or county traveled road, from a public school, or where the children are unable to attend the public school for reasons that are deemed good and sufficient by the superintendent of schools of the county or city and county in which the children reside, the parents or guardians of the children may present a petition to the

superintendent of schools for the formation of a new school district, setting forth the boundaries thereof.

Same

2454. The provisions of this article requiring that petitioners shall reside a distance of more than five miles by a State or county traveled road from a public schoolhouse may be dispensed with when the petition is signed by parents or guardians of 50 or more children between the ages of five and 17 years, residents of a district or districts containing an average daily attendance of 200 or more children in the elementary schools of the district, or districts, as shown by the report of the teacher or principal of the school or schools on file in the office of the county superintendent of schools for the school year immediately preceding.

Separate districts in cities

2455. No city shall be divided into separate school districts under the provisions of this article. In the event of the consolidation of territory with any city and county pursuant to the provisions of Subdivisions 6 and 7 of Section 8½ of Article XI of the Constitution, the territory within the territory consolidated with the city and county may be divided into separate school districts. Any school districts within the consolidated territory at the time of consolidation shall continue as separate districts until otherwise changed by law.

Examination

2456. When a petition for a new district is presented to the county superintendent of schools, he shall examine it. If he finds the petition sufficient, and signed as required by this article, he shall set the petition for hearing by the board of supervisors of his county at a regular meeting of the board and shall immediately forward the petition to the Superintendent of Public Instruction for investigation.

Approval

2457. If the Superintendent of Public Instruction finds that a new district is necessary, he shall attach his certificate to the petition approving it and immediately return it to the county superintendent of schools.

Disapproval

2458. If the Superintendent of Public Instruction finds that a new district is not necessary, he shall disapprove the formation of the district, and shall return the petition, together with a statement of his reasons for disapproval, to the county superintendent of schools.

Filing

2459. On receiving the petition with the approval or disapproval of the Superintendent of Public Instruction, the county superintendent of schools shall forthwith file the petition with the board of supervisors of his county, accompanied by his recommendations and the approval or disapproval of the Superintendent of Public Instruction, and a notice containing a general statement of the purpose of the petition and of the boundaries of the proposed new district, and the time and place when and where the petition will be heard.

Appeal

2460. If the Superintendent of Public Instruction does not approve the petition, the county superintendent of schools, or the board of supervisors may appeal to the State Board of Control for a hearing on the matter. The State Board of Control shall review the evidence as presented to it and approve

or disapprove the formation of the district. Thereupon the board of supervisors may establish or refuse to establish the new district as provided in this article.

Effect of disapproval

2461. No State moneys shall be apportioned to a district established under the provisions of this article, unless its establishment has been approved by the Superintendent of Public Instruction, or, upon appeal, by the State Board of Control.

Opening of schoo

2462. After the board of supervisors has made an order creating a new district, the school shall be opened in the district not later than the second Monday of November following. Otherwise the order shall become null and void.

New district joining union district

2463. When any newly created district becomes a part of a union school district prior to the second Monday of November following the date on which the order creating the district was made, the district shall be exempt from the provisions of Section 2462.

New district formed for territory of existing districts

2464. A new elementary school district may be formed in whole or in part from territory lying within either an elementary school district, a union elementary school district, or a joint union elementary school district. Territory lying within an elementary school district, or a union elementary school district, or a joint union elementary school district when formed in whole or in part into a new elementary school district ceases to be a part of the district in which it was formerly included.

Article 4. Annexation of Districts to a City District

Petition

2481. The board of supervisors of a county may annex to an elementary school district situated in whole or in part in any city in the county, other than a city of the sixth class, any contiguous elementary school district situated in the same county lying within or without a high school district, regardless of whether the elementary school district lies in whole or in part in any other city whenever a majority of the electors residing in the district to be annexed petition the board of supervisors in writing for annexation. The governing board of the district annexed ceases to exist upon the effective date of the annexation.

(Amended by Stats. 1943, Ch. 696.)

[ORIGINAL SECTION]

2481. The board of supervisors of a county may annex to an elementary school district situated in whole or in part in any city in the county, other than a city of the sixth class, any contiguous elementary school district situated in the same county lying within or without a high school district, regardless of whether the elementary school district lies in whole or in part in any other city whenever a majority of the heads of families residing in the district to be annexed petition the board of supervisors in writing for annexation. The governing board of the district annexed ceases to exist upon the effective date of the annexation.

Article 5. Change of Boundaries

Date of change

2501. The boundaries of a school district shall not be changed subsequent to the first day of February in any school year.

Petition

2502. The boundaries of school districts may be changed only when at least 10 electors, residing in the districts affected by the proposed change of boundaries, present to the superintendent of schools a petition setting forth the changes of boundaries desired, and the reasons for the changes.

(Amended by Stats. 1943, Ch. 696.)

[ORIGINAL SECTION]

2502. The boundaries of school districts may be changed only when at least 10 heads of families, who are citizens, or who are eligible to citizenship, residing in the districts affected by the proposed change of boundaries, present to the superintendent of schools a petition setting forth the changes of boundaries desired, and the reasons for the changes.

Hearing

2503. When a petition for a change of boundaries is presented, the county superintendent of schools shall examine the petition. If he finds it sufficient and signed as required by law, he shall set the petition for hearing by the board of supervisors at a regular meeting of the board. He shall file the petition with the board of supervisors accompanied by his recommendation and a notice containing a general statement of the purpose of the petition, and of the change of boundaries, and the time and place when and where the petition will be heard.

Article 6. Hearing of Petition for New District or Change of Boundaries

Notice

2531. At least 10 days prior to the date of hearing of a petition for a new district, or for change of boundaries, the county superintendent of schools shall send by registered mail a copy of the notice required to be filed with the board of supervisors to each of the trustees of each school district which will be affected by the proposed change, and shall post or cause to be posted for the same period copies of the notice in at least three public places in the territory proposed to be included in the new district, and in at least three public places in each of the districts affected thereby. One copy of the notice shall be posted at the door of a schoolhouse, if any, of each of the districts. He shall attach to the original notice and submit to the board of supervisors having jurisdiction an affidavit of mailing and posting of the copies.

Jurisdiction

2532. Upon the filing with it of the petition, the recommendations, notice, and affidavit, the board of supervisors has jurisdiction to hear and determine the petition.

Hearing

2533. The board of supervisors shall at the time and place fixed in the notice, hear all persons interested in the petition and may continue the hearing from time to time, but for not more than two weeks in all. If it approves the petition it shall, by an order entered upon its minutes, establish the

district and define its boundaries, or, order the change of boundaries, as the case may be.

Conditions requiring unanimous vote

2533.1. When all the area of a county is located within three union or joint union high school districts, one of which contains more than three-fourths of the area of the county and four times the average daily attendance, and seven times the assessed valuation, of any other high school district located in whole or in part in the county, the board of supervisors of such county may not order any change in the boundaries of any elementary school district which would affect the boundaries of any of such high school districts except by the unanimous vote of all the members of the board of supervisors.

(Added by Stats. 1943, Ch. 836.)

Inclusion of territory

2534. Territory not included in the petition shall not be included in any district until a notice and hearing has been given as required by this article.

Recordation of order

2535. A copy of the order of the board of supervisors, certified by the clerk of the board, shall be recorded in the office of the county recorder of each county in which the new district is situated, or in each county where the district whose boundaries are changed is situated.

Conclusiveness of order

2536. After the expiration of one year from the date of the recording of the order, the order shall be conclusive evidence that the district has been legally organized, or the boundaries legally changed, as the case may be, and no suit shall be maintained which questions the validity of the organization or change of boundaries.

Article 7. Uniting of Districts

Petition

2561. Two or more contiguous elementary school districts may at any time be united to constitute but one district, whenever a petition, signed by a majority of the electors residing in each of the districts is presented to the superintendent of schools. The petition shall be acted upon in the same manner as in the case of the formation of new school districts.

(Amended by Stats. 1943, Ch. 696.)

[ORIGINAL SECTION]

2561. Two or more contiguous elementary school districts may at any time be united to constitute but one district, whenever a petition, signed by a majority of the heads of families residing in each of the districts is presented to the superintendent of schools. The petition shall be acted upon in the same manner as in the case of the formation of new school districts.

Uniting

2562. When the schoolhouse in any school district is within three miles by traveled road from the schoolhouse in an adjoining district, the board of supervisors may, upon recommendation of the superintendent of schools and the supervisor or supervisors in whose district or districts the school districts are located, unite the school districts to constitute one school district.

Property and indebtedness

2563. Whenever two or more elementary school districts are united to constitute but one school district, all funds, property, and obligations of the districts united shall become

the funds, property, and obligations of the district formed. The bonded indebtedness of any elementary school district incurred prior to its uniting with any other elementary school district or districts shall remain the sole obligation of the territory within the elementary school district as it existed prior to its being united with the other elementary school district or districts.

Article 8. Suspension and Lapsation of Districts

Recommendation of county superintendent

2581. If in any elementary school district there has been an average daily attendance of only five or less during the whole school year, the county superintendent of schools having jurisdiction shall report the fact to the board of supervisors at its first meeting in July or August with his recommendation that the district be suspended or lapsed.

Average daily attendance

2582. The average daily attendance of pupils residing in an elementary school district and attending the seventh and eighth grades of a junior high school, and credited to the elementary school district, constitutes average daily attendance in the elementary school district for all the purposes of this article.

Suspension or lapsation

2583. The board of supervisors shall at the meeting at which the report and recommendation of the county superintendent of schools is received suspend or lapse the district as he may recommend.

Merger with adjoining district

2584. A suspended district may be merged with one or more adjoining districts whenever a petition signed by the majority of electors residing in the suspended district is presented to the board of supervisors. The petition shall be filed with the county superintendent and by him presented to the board of supervisors with such suggestion as he thinks best.

(Amended by Stats. 1943, Ch. 696.)

[ORIGINAL SECTION]

2584. A suspended district may be merged with one or more adjoining districts whenever a petition signed by the majority of heads of families residing in the suspended district is presented to the board of supervisors. The petition shall be filed with the county superintendent and by him presented to the board of supervisors with such suggestion as he thinks best

Attachment to adjoining district

2585. After a district has been declared lapsed, the territory of the district shall be attached by the board of supervisors to one or more of the adjoining districts in such manner as they consider most convenient for the residents of the lapsed district.

Conditions requiring unanimous vote

2585.1. When all the area of a county is located within three union or joint union high school districts, one of which contains more than three-fourths of the area of the county and four times the average daily attendance, and seven times the assessed valuation, of any other high school district located in whole or in part in the county, the board of supervisors of such county may not annex the territory of any suspended or lapsed elementary school district to an elementary school district in a high school district other than that in which such

elementary school district is located except by the unanimous vote of all the members of the board of supervisors.

(Added by Stats. 1943, Ch. 836.)

Property

2586. When any district has been declared lapsed, the board of supervisors shall, in such manner and upon such terms and conditions as it shall by resolution prescribe, sell or otherwise dispose of the property belonging to the district. All necessary instruments shall be executed in the name of the district by the chairman and clerk of the board of supervisors, and the consideration for the sale or other disposition shall be placed in the county treasury to the credit of the district.

Indebtedness

2587. After the sale of the property, the superintendent shall determine all outstanding indebtedness of the lapsed district, and shall draw his requisition upon the county auditor in payment of the indebtedness.

Balance of moneys

2588. Any balance of moneys remaining to the credit of the lapsed district after all indebtedness has been paid shall be transferred by the superintendent to the credit of the district into which the lapsed district has been merged.

Same

2589. If the lapsed district has been attached to more than one of the adjoining districts, the superintendent shall apportion the moneys remaining to the credit of the lapsed district to the several districts in proportion to the number of pupils in average daily attendance in the respective districts, as shown by the teacher's report for the preceding school year.

Insufficient funds

2590. If there are not sufficient funds to the credit of the lapsed district to liquidate all of the outstanding indebtedness, the superintendent shall draw his requisition upon the county auditor pro rata for the several claims.

Joint union districts

2591. In the case of a joint union elementary school district, the county superintendent of schools and the county board of supervisors of each county in which a district comprising a part of the joint union elementary school district is wholly situated, shall for the purposes of this article be the county superintendent of schools and county board of supervisors having jurisdiction over the district comprising a part of the joint union elementary school district.

Reestablishment

2592. At any regular meeting between July 1st and November 20th of any year, the board of supervisors may reestablish a suspended school district upon proper showing of the residents, or board of school trustees of the district, that there are eight or more pupils of the district ready to attend school.

Lapsation

2593. If a district is not reestablished within two years after having been suspended the board of supervisors shall, except as herein otherwise provided, declare the district lapsed. During a National emergency declared by the President of the United States of America no suspended district shall be lapsed except with the prior approval of the county superintendent of schools.

(Amended by Stats. 1943, Ch. 65.)

[ORIGINAL SECTION]

2593. If a district is not reestablished within two years after having been suspended the board of supervisors shall declare the district lapsed.

Article 9. Inclusion of Territory in Indian Reservation

Territory in Indian reservation

2601. The territory in any Indian reservation of the United States Government may be formed into an elementary school district in the manner provided for the formation of new elementary school districts, or may be included in whole or in part as a part of any new elementary school district hereafter formed in the same manner as other territory may be included in a new elementary school district.

Article 10. Inclusion of Land Owned by United States of America

Land owned by United States

2621. Any land owned by the United States and lying within the boundaries of any school district is a part of the school district and has been continuously a part of the school district from the time the land first lay within the boundaries of the school district.

Chapter 8. Elementary Joint District Organization

Date of formation

2701. Joint districts may be formed at any time between the first day of October and the tenth day of February.

Petition

2702. To form a joint district a petition signed by the parents or guardians of at least 15 children between the ages of five and 17 years as shown by the petition, residents of the proposed joint district, and residing at a greater distance than five miles by State or county traveled road from any public schoolhouse, shall be presented to the superintendent of schools of each county affected by the proposed formation of the joint district.

Same

2703. The provisions of Section 2702 requiring that the petitioners shall reside a distance of more than five miles by a State or county traveled road from a public schoolhouse may be dispensed with when the petition is signed by the parents or guardians of 50 or more children, between the ages of five and 17 years as shown by the petition, residents of a school district or of school districts containing an average daily attendance of 200 or more in the elementary schools of the district or districts, as shown by the reports on file in the office of the superintendent of schools for the school year immediately preceding.

Formation of district

2704. Excepting as otherwise provided in this chapter, joint elementary school districts shall be formed in the same manner as is prescribed by Article 3 of Chapter 7, of this division for the formation of elementary school districts.

Concurrent action

2705. All actions pursuant to this chapter relative to the formation of joint districts shall be by concurrent action of the superintendent of schools and the board of supervisors of each county affected. By concurrent action of the board of supervisors and the county superintendents of schools, contiguous school districts or parts of contiguous school districts lying in different counties may, on proper petitions and approval be united to form a joint school district.

Formation of new county

2706. Whenever any school district has been or is hereafter intersected by any county boundary line in the formation of any new county, or in changing the boundary of any county, and portions of the district then lie in different counties, the district shall, by operation of law, constitute and become established as a joint school district, at the time of the intersection, unless otherwise provided.

Property

2707. All school property within territory united pursuant to this chapter shall become the property of the newly formed joint school district.

Textbooks and rules

2708. The textbooks to be used, and the rules governing the school in a joint district, shall be those adopted by the board of education of the county in which the schoolhouse in the joint district is located.

Reports of trustees

2709. The trustees of a joint district shall make to the superintendents of each county in which the district is located, reports which other trustees shall make.

CHAPTER 9. ELEMENTARY UNION AND JOINT UNION DISTRICT ORGANIZATION

Article 1. Formation of Union Districts

Date of formation

2801. Proceedings for the formation of a union school district may be begun at any time.

Petition

2802. A majority of the electors who reside in two or more contiguous elementary school districts, or union elementary school districts, lying in the same county, and who have children attending school as shown by the teachers' registers in the schools of the districts for the current or next preceding term may unite in a petition to the county superintendent of schools for the formation of a union elementary school district, to comprise the districts petitioning. The superintendent of schools shall within 20 days after receiving the petition, call an election for the determination of the question and shall appoint three qualified electors in each of the districts petitioning or, if the districts are union elementary school districts, in each of the districts comprising the union elementary school districts, to conduct the election.

(Amended by Stats. 1943, Ch. 696.)

[ORIGINAL SECTION]

2802 A majority of the heads of families who reside in two or more contiguous elementary school districts, or union elementary school districts, lying in the same county, and who have children attending school as shown by the teachers' registers in the schools of the districts for the current or next preceding term may unite in a petition to the county superintendent of schools for the formation of a union elementary school district, to comprise the districts petitioning. The superintendent of schools shall within 20 days after receiving the petition, call an election for the determination of the question and shall appoint three qualified electors in each of the districts petitioning or, if the districts are union elementary school districts, in each of the districts comprising the union elementary school districts, to conduct the election.

Notice of election

2803. The election shall be called by posting notices in three of the most public places in each district, one of which shall be a public schoolhouse in each district, if there is one, at least 10 days before the election.

Election

2804. The election shall be held separately and simultaneously in each of the districts petitioning. The election shall be conducted by the officers appointed for that purpose in the manner provided for conducting elections for members of governing boards of elementary school districts.

Ballots and voting

2805. Ballots at the election, in each district, shall contain the words, "For the Union School District." The voter shall write or print after the words on his ballot the word "yes," or the word "no."

Canvass and report of election

2806. The election officers in each district shall canvass the vote at the election and report the result to the county superintendent of schools within five days after the election.

Notice of formation

2807. If a majority of the votes cast at the election in each and every one of the school districts is in favor of the union school district, the county superintendent shall, within 15 days after receiving the returns of the election, notify the county assessor, the county clerk, and the county auditor of the formation of the union school district.

Name

2808. The trustees shall name the union school district.

Article 2. Formation of Joint Union Districts

Definition

2831. A union school district formed of elementary school districts not all in the same county is designated a joint union school district.

Date of formation

2832. Proceedings for the formation of a joint union school district may be begun at any time.

Petition

2833. A majority of the electors residing in two or more contiguous school districts not all in the same county and who have children attending the schools in the district as shown by the teachers' registers for the current or next preceding school term, may unite in a petition to the county superintendents of their respective counties for the formation of a joint union school district, to comprise the districts petitioning. Each of the superintendents shall, within 20 days after receiving the petition, call an election in the district or districts in his county petitioning, for the determination of the question and shall appoint three qualified electors in each of the petitioning districts, to conduct the election.

(Amended by Stats. 1943, Ch. 696.)

[ORIGINAL SECTION]

2833. A majority of the heads of families residing in two or more contiguous school districts not all in the same county and who have children attending the schools in the district as shown by the teachers' registers for the current or next preceding school term, may unite in a petition to the county superintendents of their respective counties for the formation of a joint union school district, to comprise the districts petitioning. Each of the superintendents shall, within 20 days after receiving the petition, call an election in the district or districts in his county petitioning, for the determination of the question, and shall appoint three qualified electors in each of the petitioning districts, to conduct the election.

Election

2834. The election shall be called and conducted in all respects as specified in Article 1 of this chapter except that the form of the ballot shall be: "for the Joint Union School District." The result of the election shall be reported by the election officers in each district to the superintendent of the county in which the district is situated within five days after the election.

Name

2835. The trustees shall meet at a time and place to be agreed upon among themselves, and name the joint union school district.

Article 3. Districts Composing Union or Joint Union Districts as Separate Entities

Teachers' reports and apportionment of money

2861. For the purposes of teachers' reports and for estimating the number of teachers and the amount of money to which each district is entitled, the several districts uniting to form a union or joint union elementary school district and the several districts of the union elementary school districts uniting to form a union elementary school district shall continue their separate existence. They may also continue their separate existence for high school connections as provided for in Article 13 of Chapter 11 of this division.

Attendance reports

2862. Each teacher shall keep the enrollment and attendance of each district separate from that of the other districts composing the union or joint union district. At the close of the term, or year, a report shall be made of the attendance of each district composing the union or joint union elementary school district separately. These separate reports shall be combined in a principal's report. In case of a joint union school district, each teacher shall send a copy of the report to the county superintendent having jurisdiction over the district.

Governing board

2863. Elementary school districts uniting to form a union or joint union elementary school district, and union elementary school districts uniting to form a union elementary school district, under the provisions of this chapter, shall remain under the control of their respective boards of trustees until the first day of July next succeeding the formation of the union or joint union district and the location of the union or joint union school, or schools.

(Amended by Stats. 1943, Ch. 364.)

[ORIGINAL SECTION]

2863. Elementary school districts uniting to form a union or joint union elementary school district, and union elementary school district, under the provisions of this chapter, shall remain under the control of their respective boards of trustees until the first day of July next succeeding the formation of the union or joint union district and the location of the union or joint union school, or schools

Effect of formation

2864. After the time set forth in Section 2863 the districts uniting to form the union or joint union district shall cease to exist, except for the purposes specified in this chapter, and the terms of office of the school trustees of the districts shall expire.

Property

2865. When the districts uniting to form the union or joint union school district cease to exist, the district property of each district uniting shall vest in the union or joint union school district and pass to the control of the board of trustees of the district to be held and disposed of by them pursuant to the provisions of this code relating to the powers and duties of boards of school trustees.

Indebtedness

2866. The proceeds of any sale by the board of trustees of the union or joint union school district of school property that originally belonged to any of the original districts shall first be applied to the discharge of any bonded or other indebtedness of the original district.

Balance of funds

2867. Any balance on hand in any fund remaining to the credit of the elementary districts uniting to form a union or joint union school district shall be transferred to the credit of the union school district.

Article 4. Annexation of Districts

Agreement for annexation

2891. Any school district may be admitted at any time to a union or joint union school district by action of the board or boards of supervisors of the county or counties in which the union or joint union school district is located, upon such terms as may be agreed upon between its board of trustees and the board of trustees of the union or joint union school district.

Petition

2892. If the petitioning school district and the union or joint union school district are not wholly situated in the same county, then the petition shall be presented in duplicate to the board of supervisors of each county in which any part of either of the districts is situated and the annexation shall be made only by concurrent action of all the boards of supervisors.

Same

2893. Before the board of supervisors may act, a majority of the electors residing in the district, and who have children enrolled in the school, as is shown by the teachers' registers for the current or next preceding term, shall present to the board of supervisors a petition for annexation. The petition shall be accompanied by an agreement to the annexation, signed by a majority of the members composing the board of trustees of the union or joint union district to which admission is desired.

(Amended by Stats. 1943, Ch. 696.)

[ORIGINAL SECTION]

2893 Before the board of supervisors may act, a majority of the heads of families residing in the district, and who have children enrolled in the school, as is shown by the teachers' registers for the current or next preceding term, shall present to the board of supervisors a petition for annexation. The petition shall be accompanied by an agreement to the annexation, signed by a majority of the members composing the board of trustees of the union or joint union district to which admission is desired.

Notice of hearing

2894. Upon presentation of the petition, the board of supervisors shall set the petition for hearing at a regular meeting of the board, and shall publish in a newspaper of general circulation in the county for two successive weeks, a notice containing a general statement of the purpose of the meeting and the time and place when and where the petition will be heard. The board of supervisors shall require the clerk of the board of supervisors to mail a copy of the notice to each of the trustees of the school district at least 10 days prior to the hearing.

Hearing and order

2895. The board of supervisors shall at the time and place mentioned in the notice hear the persons interested in the petition and after the hearing may make an order annexing the petitioning school district to the union or joint union school district.

Portion of school district

2896. A portion of a school district may be added to a district which is a part of a union or joint union school district pursuant to Article 7 of Chapter 7 of this division.

Article 5. Withdrawal of Districts

Procedure

2921. Any school district contained in a union or joint union school district may withdraw from the union or joint union district by action of the board or boards of supervisors of the county, or counties, in which the union or joint union district is located. A district may withdraw in the same manner as provided in Article 4 of this chapter for annexation to union or joint union school districts.

Petition

2922. Before the board or boards of supervisors may act, a majority of the electors residing in the union or joint union district, including two-thirds of the electors who reside in the district wishing to withdraw and who have children attending the school as shown by the teacher's register, shall present to the board or boards of supervisors a petition for withdrawal. The petition shall be accompanied by a written consent to the withdrawal, signed by a majority of the members composing the board of trustees of the union or joint union district and setting forth the terms for the withdrawal of the district agreed upon by a majority of the electors of the district wishing to withdraw and by the board of school trustees of the union or joint union school district.

(Amended by Stats. 1943, Ch. 696.)

[ORIGINAL SECTION]

2922 Before the board or boards of supervisors may act, a majority of the heads of families residing in the union or joint union district, including two-thirds of the heads of families who reside in the district wishing to withdraw and who have children attending the school as shown by the teacher's register, shall present to the board or boards of supervisors a petition for withdrawal. The petition shall be accompanied by a written consent to the withdrawal, signed by a majority of the members composing the board of trustees of the union or joint union district and setting forth the terms for the withdrawal of the district agreed upon by a majority of the electors of the district wishing to withdraw and by the board of school trustees of the union or joint union school district.

Article 6. Lapsation and Suspension

Procedure

2941. If the average daily attendance from any one of the school districts composing a union or joint union school district falls to five or less for the entire year, the county superintendent shall report the fact to the board of supervisors, as provided in Article 8 of Chapter 7 of this division, and the board of supervisors shall lapse or suspend the district.

Article 7. Dissolution of Districts

Procedure

2961. Any union or joint union school district formed under this chapter, and which has been in existence three years or more, may be dissolved in the manner prescribed by this article.

Petition

2962. A petition signed by two-thirds of the electors residing in the district and who have children attending the school as shown by the teacher's register, or as may be shown by a census of the district ordered by the board of school trustees, shall be presented to the county superintendent of schools of the county in which the district is situated, setting forth briefly the reasons for dissolution and praying that the question be submitted to the voters in the district.

(Amended by Stats 1943, Ch. 696.)

[ORIGINAL SECTION]

2962. A petition signed by two-thirds of the heads of families residing in the district and who have children attending the school as shown by the teacher's register, or as may be shown by a census of the district ordered by the board of school trustees, shall be presented to the county superintendent of schools of the county in which the district is situated, setting forth briefly the reasons for dissolution and praying that the question be submitted to the voters in the district.

Districts in more than one county

2963. If the petitioning district is not wholly situated within the same county, the petition shall be presented in duplicate to the superintendent of each county having territory within the district.

Election

2964. Where the petitioning district is wholly situated within one county, the superintendent upon receiving the petition shall, within 20 days, call an election in the district, submitting to the voters of the district the question of dissolution.

Same

2965. Where the district is not wholly situated within the same county, each superintendent petitioned shall, within 20 days after receiving the petition, call an election in the territory within his county and forming part of the district. He shall appoint three electors, resident within the territory, to conduct the election.

Notice

2966. The election shall be held throughout the district on the same day and during the same hours. Notice of the election shall be given by posting the written or printed notices in at least three of the most public places in the district for at least 12 days next before the day set for the election. If the district is not wholly situated in the same county, the notice shall be posted for the prescribed time in three of the most public places in the portion of the district in each county.

Conduct of election

2967. The election shall be conducted in the manner provided for conducting school elections.

Ballots and voting

2968. The ballots shall have printed on them the words, "For dissolution." The voters shall write or print after the words on the ballot, the word "yes" or the word "no."

Report of result

2969. The election officers shall report the result of the election within five days after the election to the county superintendent of schools of the county of which they are residents.

Unfavorable vote

2970. If a majority of all the votes cast at the election is opposed to dissolution, no further petition shall be entertained or election ordered for a similar purpose within three years following the election.

Order of dissolution

2971. If the district in which the election is held is wholly situated in one county, and if two-thirds of all the votes cast at the election are in favor of dissolution the county superintendent of the county shall forthwith certify the result of the election to the board of supervisors of the county, and the board shall, at its first regular meeting after the election, make an order declaring the union district dissolved. The order shall take effect at the end of the current school year, except as provided in this article.

Districts in more than one county

2972. If the district in which the election is held is not wholly situated in one county, each of the county superintendents of the counties having territory in the district, shall immediately certify to the others the result of the election in his county. If two-thirds of all the votes cast at the election are in favor of dissolution all of the county superintendents shall jointly forthwith certify the result of the election to the board of supervisors in each of the counties. The boards of supervisors shall, at the first regular meetings after the election, make an order declaring the joint union district dissolved. The order shall take effect at the end of the current school year, except as provided in this article.

Property

2973. When a union or joint union school district has been dissolved, the property of the district shall be sold by the board of supervisors of the county in which the property is situated. The proceeds of the sale, together with any moneys in the treasury to the credit of the dissolved district, shall be apportioned to and placed to the credit of the school districts that compose the dissolved district in proportion to the value of property of each of the school districts as determined by the last previous assessment in the district for school purposes. The board or boards of supervisors of the county or counties in which the dissolved district is situated shall make such orders, and such transfers from county to county, as may be necessary or proper to effect the apportionment.

Revival of original districts

2974. From and after the time of making of the order or orders provided for in this article, declaring a union or joint union school district dissolved, the original school districts composing the district, with such additional territory as has been annexed to them, shall be considered to be in existence again as separate districts and subject to the provisions of

this code relating to elections of school trustees. The first elections in each of the districts shall be held as in the case of a newly formed district.

Effect of dissolution

2975. The order or orders declaring a union or joint union district dissolved shall not affect the continuance of the union or joint union board of trustees or the maintenance of the union or joint union school, until the end of the current school year. At the expiration of the current school year, the board and school shall cease to exist.

Same

2976. Whenever the number of districts comprising a union or joint union elementary school district has been reduced to one, the union or joint union elementary school district shall cease to be a union or joint union elementary school district and the district comprising the union or joint union elementary school district shall revert to the status possessed by it prior to the time it became a part of the union or joint union elementary school district.

The governing board of the union or joint union elementary district shall cease to exist when the union or joint union elementary school district ceases to exist. The county superintendent of schools having jurisdiction over the district comprising the union or joint union elementary school district prior to the cessation of its existence shall appoint the governing board of the surviving district to serve until the next succeeding first day of July.

CHAPTER 10. HIGH SCHOOL DISTRICT BOARDS

Article 1. Governing Boards in Cities and Districts

Management and control of high school

3101. In every high school district formed and existing in any city, or in a single school district, the board of education or board of school trustees of the city or school district shall constitute the high school board, and shall have the management and control of the high school in the district unless otherwise provided in the charter governing the city.

City board of education

3102. When the boundaries of an elementary school district governed by a city board of education are coterminous with the boundaries of a high school district other than a city high school district, the city board of education may call and hold an election to determine the question of whether the city board of education shall also be the governing board of the high school district. The election shall be called, held, and conducted in as nearly the same manner as may be practical as are elections for members of boards of school trustees. The words to appear on the ballot shall be: "For the government of high school district by the city board of education—Yes" and "For the government of high school district by the city board of education—No," and the returns shall be made to the city board of education. If it appears after the votes have been canvassed that a majority of the votes cast is in favor of the government of the high school district by the city board of education, the then existing high school board is

Election

thereupon abolished and the city board of education is thereafter the governing board of the high school district.

First meeting of governing board

3103. Upon the formation of any high school district described in this article, the superintendent of schools having jurisdiction over the district shall call a meeting of the board of education or board of school trustees of the city or school district, within 15 days after receiving the returns of the election, by giving at least 10 days notice by registered mail to every member of the board of education or board of school trustees.

Organization

3104. The board of education or board of school trustees shall, at the meeting, formally organize as the high school board by electing a president from its members and a clerk, and may transact other business relating to the affairs of the high school district.

Article 2. Governing Boards in Union or Joint Union Districts

Membership

3121. In every union or joint union high school district, the high school board shall be composed of five members who shall be elected from the high school districts at large for the term of three years, except as provided in this article.

Election for formation of district

3122. When any union or joint union high school district is formed, the superintendent of schools who has jurisdiction over it, shall, within 15 days, call an election in the district for the purpose of electing a high school board.

Voting place and election officers

3123. The election shall be held at the schoolhouse of each school district in the high school district, and the superintendent of schools shall appoint the same number of officers of election for each school district.

Notice

3124. The superintendent of schools shall give the same notice of election as is required for the election of school trustees.

Manner of holding election

3125. The election shall be held in the same manner as are elections of school trustees, except that the returns shall be at once sent to the superintendent of schools, and he shall canvass them and issue certificates of election to the persons elected.

Terms of members

3126. One member of the high school board shall be elected to hold office from the day of receiving his certificate of election until the first day of July next succeeding; two members shall be elected to hold office from the day of receiving their certificates of election until the first day of the second succeeding July; and two members shall be elected to hold office from the day of receiving their certificates of election until the first day of the third succeeding July.

First meeting and organization

3127. Within 20 days after the election, the superintendent of schools shall call a meeting of the high school board, by giving at least 10 days notice by registered mail to each member, for the purpose of organizing the board. At the meeting the high school board shall organize by electing a president

from its members and a secretary, and may transact any other business relating to the affairs of the district.

Annual election

3128. The regular annual election of members of the high school board shall be held at the same time as the regular annual election of the school trustees.

Call and polling places

3129. The election shall be called by the high school board, who shall, for that purpose designate a polling place in each of the school districts composing the high school district at which the electors of the school district shall vote.

Notice and election officers

3130. The high school board shall give the same notice of the election and appoint the same number of election officers in each school district as are required for the election of school trustees.

Manner of holding election

3131. The election shall be held in the same manner as are elections of school trustees, except that the returns of the election shall be at once sent to the high school board.

Canvass

3132. The high school board may meet at the high school on the fourth day after the election, and shall meet not later than the seventh day after the election, at 1 o'clock p.m. and canvass the returns and issue certificates of election to the persons elected and file duplicates of the certificates with the superintendent of schools having jurisdiction over the high school district.

Election of successor

3133. As the term of each member of the high school board expires, his successor shall be elected in the manner provided for in this article for the term of three years and until his successor is elected or appointed and qualified.

Article 3. Governing Boards of County Districts

Government of district

3151. When a county high school district is established in any county it shall be governed by a high school board which shall be elected in the same manner as boards of trustees of union and joint union high school districts are elected.

First governing board

3152. The county superintendent of schools shall, within 10 days after the formation of a county high school district, appoint a high school board of five members who shall hold office until their successors have been elected and have qualified.

Notice of meeting

3153. Within 20 days after the appointment of the high school board, the county superintendent of schools shall call a meeting of the board by giving at least five days notice by registered mail to each member, for the purpose of organizing the board.

Organization

3154. At the meeting, the high school board shall organize by electing a president from its members and a clerk, and may transact any other business relating to the affairs of the county high school.

Powers

3155. The high school board of a county high school district shall have the same powers and duties in regard to the county high school district as high school boards of other high school districts.

Article 4. Vacancies

Appointment

3189. Vacancies on high school boards shall be filled by appointment by the superintendent of schools having jurisdiction over the high school district. The appointee shall hold office for the remainder of the unexpired term.

Article 5. Meetings

First meeting and organization

3191. Each district, union, and joint union high school district governing board shall meet on the first day of July of each year at 12 o'clock noon, and organize by electing a president from its members and a clerk.

Regular meetings

3192. Every high school board shall hold regular monthly meetings at such times as are provided in the rules and regulations adopted by them for their own government. In union or joint union high school districts the regular meetings may be quarterly.

Special meetings

3193. Special meetings may be held at the call of the president of the board. Upon the request, in writing, signed by a majority of the board, the president shall call a meeting. The members of the board shall have at least two days notice of all special meetings, issued and served by the clerk. At special meetings no business shall be transacted other than that specified in the call for the meeting.

Open meetings

3194. All meetings of the high school board shall be open to the public.

Place of meetings

3195. Meetings of the high school board shall be held in the high school building. If there is no high school building in the high school district, or if in the judgment of the board, the interests of the district may be better served by holding its meetings elsewhere, it may meet at such other place in the high school district as it may by resolution determine.

Article 6. Reorganization of Boards

New district

3221. Whenever a new school district becomes a part of any union or joint union high school district, the newly added school district shall be entitled to participate in all elections of members of the high school boards thereafter held.

Increase in number of districts

3222. Whenever the number of school districts in a high school district is increased from one to two or more, the superintendent of schools having jurisdiction of the high school district shall, within 15 days call an election as in the case of an election for boards of trustees of newly formed union or joint union high school districts. Thereafter the high school board shall be elected and organized in the same manner as boards of trustees of union and joint union high school districts are elected and organized.

Decrease in number of districts

3223. Whenever the number of school districts in a high school district is decreased from two or more to one, the superintendent of schools having jurisdiction over the high school district shall within 15 days call a meeting of the school trustees of the remaining district, as provided in Article 1

of this chapter. At the meeting the high school board shall organize as provided in Article 1. Upon the reorganization of the board the terms of office of the members of the high school board in office when the decrease was made shall cease.

Article 7. Powers of Boards

Powers

3251. Except as otherwise provided, high school boards have the same powers and duties as boards of education, or boards of school trustees in school districts.

High schools not supported by district taxes

3252. The duties, powers, purposes, responsibilities, and jurisdiction of the governing board of any high school district with respect to any high school established in the district prior to August 14, 1929, and not supported in whole or in part by any funds derived from the levy of any district tax may, with the approval of the State Board of Education, acting upon the recommendation of the Superintendent of Public Instruction, be transferred to the Chief of the Division of Vocational Education in the State Department of Education who may appoint any qualified person to exercise immediate supervision over the school.

Chapter 11. High School District Organization

Article 1. General Provisions

Definition

3401. Whenever "high school district" is used in this code, unless a contrary intent appears, it includes union high school districts, joint union high school districts, and county high school districts.

Formation and government

3402. High school districts may be formed, organized, and maintained pursuant to this code.

3403. (Repealed by Stats. 1943, Ch. 696.)

[ORIGINAL SECTION]

3403. Whenever by the provisions of this code relating to high schools and high school districts, the signatures of heads of families or of electors are required to any petition, any person, who, at the time of signing the petition, is the head of a family, or any elector is competent to sign a petition.

Affidavit

3404. The superintendent of schools may require an affidavit from one or more of the petitioners as to the correctness of the facts given in the petition.

Conclusiveness of certificate

3405. The certificate of the county superintendent relating to the formation or organization and establishment of high school districts, when filed with the county clerk, shall after the expiration of one year from the date of filing be conclusive evidence that the high school district has been legally formed, when the result of the election, as declared in the certificate, is in favor of the formation of the district.

Separation of territory

3406. Whenever, by reason of any action taken in accordance with law, territory is removed from a high school district, and the high school district is separated into two or more noncontiguous parts, the validity of the high school district shall

not be affected by the withdrawal of the territory, and the rights, powers, duties, responsibilities, and jurisdiction of the high school district shall not be affected by reason of the separation of the high school district into two or more noncontiguous parts.

Article 2. Formation of High School Districts

Petition

3431. A majority of the electors residing in a single elementary school district in which the average daily attendance in the elementary schools of the district is 100 or more, as shown by the last reports of the teachers in the district, may unite in a petition for the formation of a high school district under a name specified in the petition. They shall present the petition to the superintendent of schools of the county, or in case of a joint school district to the superintendent of schools of the county in which the greater number of electors of the district reside.

(Amended by Stats. 1943, Ch. 696.)

[ORIGINAL SECTION]

3431. A majority of the electors residing in a single elementary school district in which the average daily attendance in the elementary schools of the district is 100 or more, as shown by the last reports of the teachers in the district, may unite in a petition for the formation of a high school district under a name specified in the petition. They shall present the petition to the superintendent of schools of the county, or in case of a joint school district to the superintendent of schools of the county in which the greater number of heads of families of the district reside.

Election call

3432. Within 20 days after receiving the petition, the superintendent of schools shall verify the signatures to the petition, and if he finds them sufficient, shall call an election in the city including any territory annexed to the city under the provisions of this code, or in the school district, for the determination of the question, and shall appoint three qualified electors of the district to conduct the election.

Notice

3433. The election shall be called by posting notices in three public places in the city or school district at least two weeks before the election, and by publishing the notice at least once a week for two successive weeks in a newspaper of general circulation published therein at least as often as once a week, if there is such a newspaper. The first publication shall be not less than two weeks before the election.

Conduct of election

3434. The election shall be conducted in the manner prescribed for the conducting of elections of school trustees.

Ballots and method of voting

3435. The ballot used at the election shall contain the words "High School District—Yes" and "High School District—No". The electors voting at the election shall make a cross with pencil, ink, or rubber stamp after the answer they desire to give.

Canvass

3436. The election officers shall canvass the vote at the election as soon as the polls are closed, and report the result of the election to the superintendent of schools within five days after the election.

Certificate of result

3437. Within 10 days after receiving the returns of the election the superintendent of schools shall record the result of the election in a book kept by him for that purpose. If the majority of the votes cast at the election is in favor of the high school district, he shall make and file with the county clerk of every county in which any part of the proposed high school district lies, a certificate showing the number of votes cast at the election for and against the high school district, and declaring the result of the election.

Recordation

3438. The county clerk shall record the certificate in full in a book to be kept by him for that purpose and designated the record of high school districts.

Date of formation

3439. If it appears from the certificate filed by the superintendent of schools that a majority of the votes cast at the election is in favor of the formation of the high school district, the high school district is formed from the time of filing of the certificate.

Article 3. Formation of Union High School Districts

Name

3461. A high school district composed of two or more high school districts lying wholly in the same county shall be known as a union high school district, and such designation shall be part of its name.

Petition

3462. A majority of the electors residing in each of two or more contiguous school districts in the same county, having an average daily attendance in the aggregate in the elementary schools of 100 pupils or more, may unite in a petition to the superintendent of schools of the county, for the formation of a union high school district under a name specified in the petition. The superintendent of schools shall, within 20 days after receiving the petition, verify the signatures thereto, and if he finds them sufficient, call an election for the determination of the question. He shall appoint three qualified electors in each of the districts petitioning, to conduct the election.

(Amended by Stats. 1943, Ch. 696.)

[ORIGINAL SECTION]

3462. A majority of the heads of families, or a majority of the electors residing in each of two or more contiguous school districts in the same county, having an average daily attendance in the aggregate in the elementary schools of 100 pupils or more, may unite in a petition to the superintendent of schools of the county, for the formation of a union high school district under a name specified in the petition. The superintendent of schools shall, within 20 days after receiving the petition, verify the signatures thereto, and if he finds them sufficient, call an election for the determination of the question. He shall appoint three qualified electors in each of the districts petitioning, to conduct the election.

Notice

3463. The election shall be called by posting notices in three public places in each district, one of which shall be a public schoolhouse, at least two weeks before the election, and by publishing the notice at least once a week for two successive weeks in a newspaper of general circulation published at least as often as once a week in the proposed union high school district, if there is such a newspaper. The first publication shall be not less than two weeks before the election.

Place of election

3464. The election shall be held separately and simultaneously at a public schoolhouse in each of the districts petitioning.

Election officers

3465. The election shall be conducted by the officers appointed for that purpose, in the manner provided by law for conducting elections of school trustees.

Ballots and method of voting

3466. The ballots used at the election in each district shall contain the words "Union High School District—Yes" and "Union High School District—No". The electors voting at the election shall make a cross with pencil, ink, or rubber stamp after the answer they desire to give.

Canvass and report of result

3467. The election officers in each district shall canvass the vote as soon as the polls are closed, and report the result to the superintendent of schools within five days after the election.

Declaration of result

3468. Within 10 days after receiving the returns of the election, the superintendent of schools shall combine the votes "for" and "against" the formation of a union high school district, declare the result, and record it, with the details of the vote in each district, in a book kept by him for that purpose.

Certificate of result

3469. If a majority of the votes cast at the election is in favor of the formation of the union high school district, he shall file with the county clerk of the county, a certificate showing the total number of votes cast in each district in favor of the union high school district, the total number of votes in each district against the union high school district, the aggregate result of the election, and the boundaries of the proposed district.

Date of formation

3470. If it appears from the certificate filed by the superintendent of schools that a majority of the votes cast at the election is in favor of the formation of the district, the union high school district is formed from the time of the filing of the certificate.

Recordation

3471. The county clerk shall record the certificate in full in his record of high school districts.

Article 4. Formation of Joint Union High School Districts

Name

3491. A high school district composed of two or more high school districts lying wholly or in part in more than one county shall be known as a joint union high school district and such designation shall be part of its name.

Petition

3492. A majority of the registered electors residing in each of two or more contiguous school districts, having in the aggregate at least 100 pupils in average daily attendance in the elementary schools of the district, may unite in a petition to the superintendent of schools of the county who will have jurisdiction over the joint union high school district if formed for the formation of a joint union high school district, under a name specified in the petition. The superintendent shall within 20 days after receipt of the petition, verify the signatures, and, if he finds them sufficient, the same proceeding shall be had on the petition as in the case of the formation of a union high school district, except that the county superintendent of schools

shall file his certificate of the result of the election with the county clerk in each county in which any part of the joint union high school district is situated.

Date of formation

3493. If it appears from the certificate filed by the superintendent of schools that a majority of the votes cast at the election is in favor of the formation of the district, the joint union high school district is formed from the time of filing of the certificate.

Recordation

3494. The county clerk shall record the certificate in full in his record of high school districts.

Article 5. Formation of County High School Districts

Petition

3521. A petition, signed by 50 or more qualified electors and taxpayers of any county, may be presented to the board of supervisors, asking for the establishment of a county high school district. The board of supervisors shall submit the question of establishing a county high school district to the qualified electors of the county, at the next general election, or at a special election to be called by the board for that purpose.

Notice of election

3522. If a special election is called, notice shall be given by publication in a newspaper of general circulation published in the county, for at least two weeks before the election, or if there is no such newspaper, by posting the notice conspicuously in five public places in the county, at least two weeks before the election.

Special elections

3523. The special election shall be conducted in the manner prescribed by law for conducting special elections.

Ballots and method of voting

3524. The ballots used in the election shall contain the words "County High School District—Yes" and "County High School District—No". The voters shall express their choice by marking a cross with pencil, ink, or rubber stamp after the answer they desire to give.

Exclusion of existing districts

3525. The electors of any high school district existing in the county at the time of the submission of the proposition, shall be excluded from voting on the proposition, unless, in addition to the petition mentioned in Section 3521, there is also presented to the board of supervisors the petition of two-thirds of the qualified electors residing in the high school district, or, in case of a union high school district, the petition of two-thirds of the qualified electors residing in each school district composing the union high school district. If such a petition is presented, the electors of the high school district or districts from which the petitions are presented, shall also be entitled to vote upon the proposition.

Establishment of district

3526. If a majority of all votes cast upon the question of establishing a county high school district is in the affirmative, the board of supervisors shall make an order declaring the county high school district established, and shall also declare the high school districts which participated in the election to be lapsed. The property of the lapsed high school districts shall be held or sold by the board of supervisors for the benefit of the county high school district.

Recordation

3527. The order of the board in regard to the lapsed districts shall be entered by the county clerk in his records of high school districts.

Annexation

3528. An elementary district lying partly within and partly without a county and contiguous to a county high school district may be annexed to the county high school district in the manner provided for the annexation of elementary districts to high school districts, and the elementary district when annexed is a part of the county high school district.

Article 6. Formation of Union High School Districts from Territory in County High School Districts

Elementary schools

3551. Whenever one or more city, district, or union high school districts, have been organized in any county maintaining one or more county high schools, all elementary school districts not included in any city, district, union, or joint union high school district shall constitute a union high school district, and shall be governed by a high school board elected in the same manner as are boards of trustees of union and joint union high school districts.

Apportionment of funds

3552. All funds standing to the credit of the county high school district at the time of the reorganization, or that may be credited to the district during the current fiscal year, shall be apportioned by the county superintendent of schools to the union high school district or districts in the manner provided in this article.

Same

3553. If only one union high school district is formed out of the territory not included in any city, district, union, or joint union high school district, the county superintendent shall apportion the entire amount to the union high school district.

Same

3554. If two or more union high school districts are formed out of the territory, the county superintendent shall apportion one-third of the entire amount among the union high school districts, irrespective of the number of pupils enrolled or in average daily attendance in the districts. He shall apportion the remaining two-thirds among the schools pro rata upon the basis of average daily attendance during the preceding school year as shown by the last official annual reports of the principals on file in the office of the county superintendent of schools.

Property

3555. After the organization of the first high school board in any union high school district formed under this article, all property belonging to the county high school district and located in the union high school district, shall be the property of the union high school district.

Article 7. Formation of High School Districts From Territory in Existing High School District

Election call

3571. Whenever a union high school district maintains two or more high schools separated by a distance of 20 or more miles by the nearest traveled road, where each school is located in a

city, the governing board of the high school district may call an election for the purpose of submitting to the qualified electors of the district the question of whether a new high school district shall be formed from the territory of the high school district to include one of the high schools and to have such boundaries as the governing board of the high school district shall determine. No separation of school districts shall leave the remaining part of the district from which the separation is made with less than twenty-five per cent (25%) of the assessed valuation of the entire district.

Notice

3572. The election shall be called by posting a notice at least two weeks before the election in not less than three public places in each elementary school district within the high school district, one of which shall be at the entrance to each schoolhouse in the elementary school district, and by publishing the notice at least once a week for two successive weeks in a newspaper published at least as often as once a week and having a general circulation in the proposed new high school district. The first publication shall be not less than two weeks before the election. The notice shall contain:

(a) A statement of the purpose of the election.

(b) The time and place, or places, of holding the election.

(c) The names of the officers appointed to conduct the election.

(d) The hours during which the polls will be open.

(e) A description by metes and bounds of the boundaries of the proposed new high school district.

Conduct of election and ballots

3573. The election shall be held separately and simultaneously in each elementary school district in the union high school district. The election shall be conducted by the officers appointed for that purpose, in the manner provided by law for conducting elections of school trustees. The ballots used at the election shall contain the words "Shall a new high school district be formed from territory within the (Insert name of district) High School District of (Insert name of county) County? Yes ☐ No ☐."

Canvass

3574. The election officers in each district shall canvass the vote at the election as soon as the polls are closed, and report the result to the county superintendent of schools having jurisdiction over the high school district within five days after the election.

Within 10 days after receiving the returns of the election, the superintendent of schools shall combine the votes "for" and "against" the formation of the new high school district, declare the result, and record it, with the details of the vote in each district, in a book kept by him for that purpose.

Certificate of result

3575. If a majority of the votes cast at the election is in favor of the formation of the new high school district, the superintendent of schools shall file with the county clerk of the county within 15 days after the election a certificate showing the total number of votes cast in the district in favor of the new high school district, the total number of votes cast in the

district against the new high school district, the aggregate result of the election and the boundaries of the proposed new high school district.

Date of formation

If it appears from the certificate filed by the superintendent of schools that a majority of the votes cast at the election is in favor of the formation of the district, the new high school district is formed from the first day of July following the filing of the certificate.

The county clerk shall record the certificate in full in his record of high school districts.

Liability for bonded indebtedness

3576. The territory within a new high school district formed under this article shall continue to be liable for the same proportion of the outstanding bonded indebtedness of the high school district from which the new district was formed as it would have been had the new high school district not been formed.

Article 8. Exclusion of Elementary School Districts From High School Districts and Subsequent Formation Into High School Districts

Petition

3591. A majority of the electors residing in an elementary school district or union elementary school district having 600 or more units of average daily attendance in the elementary or union elementary schools of the district as shown by the last reports of the teachers in the district and a total assessed valuation of at least eight million five hundred thousand dollars ($8,500,000), which is a part of any high school district, as shown by the affidavits of one or more of the petitioners, may present to the superintendent of schools having jurisdiction over the elementary or union elementary school district, a petition asking for the organization of a high school district to be composed of the district represented in the petition, specifying in the petition the name of the proposed high school district. The county superintendent of schools shall within 20 days after receiving the petition verify the signatures to the petition. If he finds them sufficient he shall submit the petition to the State Board of Education for approval.

(Amended by Stats. 1943, Ch. 696.)

[ORIGINAL SECTION]

3591. A majority of the heads of families or of the electors residing in an elementary school district or union elementary school district having 600 or more units of average daily attendance in the elementary or union elementary schools of the district as shown by the last reports of the teachers in the district and a total assessed valuation of at least eight million five hundred thousand dollars ($8,500,000), which is a part of any high school district, as shown by the affidavits of one or more of the petitioners, may present to the superintendent of schools having jurisdiction over the elementary or union elementary school district, a petition asking for the organization of a high school district to be composed of the district represented in the petition, specifying in the petition the name of the proposed high school district. The county superintendent of schools shall within 20 days after receiving the petition verify the signatures to the petition If he finds them sufficient he shall submit the petition to the State Board of Education for approval.

Approval

3592. The petition shall not be approved by the State Board of Education (a) unless it appears from a certified statement of the county assessor of the county or counties within which the high school district is situated from which the elementary or union elementary school district is withdrawing, that the assessed valuation of the territory remaining in the high school district after the withdrawal of the elementary or union elementary school district will be in excess of twenty million dollars ($20,000,000), and (b) unless it appears from a certified statement of the county superintendent of schools having jurisdiction over the high school district that the average daily attendance in the high schools of the high school district after the withdrawal of the elementary or union elementary school district will be in excess of 1,000.

Election call

3593. If the State Board of Education approves the petition, the superintendent of schools shall within 20 days after receipt of the approval call an election for the determination of the question. He shall appoint three qualified electors in the elementary district or in each elementary district comprising the union elementary district petitioning to conduct the election

Notice

3594. The election shall be called by posting notices in three public places in the district, one of which shall be a public schoolhouse of the district, at least two weeks before the election, and by publishing the notice at least once a week for two successive weeks in a newspaper of general circulation published within the proposed high school district, if there is such a newspaper The first publication shall be not less than two weeks before the election.

Polling place

3595. The election shall be held at a public schoolhouse in the district petitioning.

Conduct of election

3596. The election shall be conducted by the officers appointed for that purpose in the manner provided for conducting elections of school trustees.

Ballots and method of voting

3597. The ballots used in the election shall contain the words "High school district—Yes" and "High school district —No". The electors voting at the election shall make a cross with pencil, ink, or rubber stamp after the answer they desire to give.

Canvass and report

3598. The election officers shall canvass the vote as soon as the polls are closed, and report the result to the superintendent of schools within five days after the election.

Declaration of result

3599. Within 10 days after receiving the returns of the election, the superintendent of schools shall declare and record the result, with the details of the vote, in a book kept by him for that purpose.

Certificate of result

3600. If a majority of the votes cast at the election is in favor of the formation of the high school district, the superintendent of schools shall file with the county clerk of the county, or of each county in which any part of the elementary or union elementary school district is situated, a certificate showing the total number of votes cast in the district in favor of the high

school district, the total number of votes cast in the district against the high school district, the aggregate result of the election, and the boundaries of the proposed district.

Order of exclusion

3601. If it appears from the certificate filed by the superintendent of schools that a majority of the votes cast at the election is in favor of the formation of the district, the board of supervisors having jurisdiction shall make an order excluding the elementary or union elementary school district from the high school district of which it was a part.

Denial of exclusion

3602. No order excluding territory from any high school district shall be made if the exclusion of the territory will reduce the assessed valuation of the high school district to twenty million dollars ($20,000,000) or less.

Bonded indebtedness

3603. Any elementary or union elementary school district electing to withdraw from a high school district shall continue to be liable for the same proportion of the bonded indebtedness of the high school district, incurred before the withdrawal, as it would have been liable for had it not withdrawn.

Entry of order

3604. The order of the board of supervisors excluding the elementary or union elementary school district from the high school district shall be entered by the clerk of the board of supervisors in his record of high school districts. He shall send a copy of the order to the county clerk of each county in which any part of the high school district is situated, who shall enter it in his record of high school districts.

Recordation

3605. The board of supervisors, after making the order of exclusion, shall make an order establishing the high school district asked for in the petition, and the county clerk shall record the certificate of the county superintendent of schools and the orders of the board of supervisors in full in his record of high school districts.

Article 9. Uniting of High School Districts

Procedure

3631. Two or more contiguous high school districts in the same county or in adjoining counties may be united to form a single union or joint union high school district pursuant to this article.

Petition

3632. A petition, signed by two-thirds of the high school board in each of two or more contiguous high school districts, asking that the high school districts be united to form a single union or joint union high school district under a name stated in the petition, and stating the location of the high school agreed upon by the high school boards, may be presented to the superintendent of schools who would have jurisdiction of an original petition for the formation of a high school district out of the territory comprised in the high school district proposed to be formed. The superintendent of schools shall, within 20 days after receiving the petition, call an election for the determination of the question.

Separate elections

3633. The election shall be held separately in each of the school districts composing the high school districts petitioning.

Conduct of election

3634. The election shall be called and held as in the case of the formation of a union high school district, except that the ballots shall state the location of the high school as described in the petition to the superintendent of schools and shall contain the words "For the union of high school districts—Yes" and "For the union of high school districts—No".

Canvass and certificate of result

3635. The superintendent of schools shall canvass the returns and file a certificate of result in the same manner as provided in the case of an election for the formation of a union high school district.

Date of formation

3636. If a majority of the votes cast at the election in each of the high school districts is in favor of the union of the high school districts, the high school districts, from the time of filing the certificate, are united to form a single union or joint union high school district under the name stated in the petition.

Election of governing board

3637. After the formation of the union or joint union district, the high school board of the district shall be elected and organized as provided by this code.

Bonded indebtedness

3638. The new high school district shall be liable for the outstanding bonded indebtedness of any of the high school districts united.

Article 10. Uniting of Elementary School Districts to Form Union or Joint Union High School Districts

Petition

3661. A majority of the electors residing in each of two or more elementary school districts having in the aggregate 500 or more units of average daily attendance in the elementary schools, as shown by the last reports of the teachers in the districts, and having a total assessed valuation of at least five million dollars ($5,000,000), and lying two and one-half miles or more from any public high school building by the nearest traveled road, which elementary school districts or a majority thereof are (a) a part of one or more union or joint union high school districts of the county, as shown by the affidavits of one or more of the petitioners, or (b) a part of a city high school district, and no part of which is included in any city, except a city of the sixth class, as shown by the affidavits of one or more of the petitioners,

May present to the superintendent of schools who has jurisdiction over the elementary school districts, or a majority of them, a petition asking for the organization of a union high school district, or joint union high school district, as the case may be, to include all of the elementary school districts represented in the petition. The petition shall specify the name of the proposed union or joint union high school district. The county superintendent of schools shall, within 20 days after receiving the petition, verify the signatures and, if he finds them sufficient, submit the petition to the State Board of Education for approval.

(Amended by Stats. 1943, Ch. 664.)

[ORIGINAL SECTION]

3661. A majority of the heads of families or of the electors residing in each of two or more elementary school districts having in the aggregate

500 or more units of average daily attendance in the elementary schools, as shown by the last reports of the teachers in the districts, and having a total assessed valuation of at least five million dollars ($5,000,000), and lying two and one-half miles or more from any public high school building by the nearest traveled road, which elementary school district or a majority thereof is (a) a part of one or more union or joint union high school districts of the county, as shown by the affidavits of one or more of the petitioners, or (b) a part of a city high school district, and no part of which is included in any city except a city of the sixth class, as shown by the affidavits of one or more of the petitioners, may present to the superintendent of schools who has jurisdiction over the elementary school districts, or a majority of them, a petition asking for the organization of a union high school district, or a joint union high school district, as the case may be, to include all of the elementary school districts represented in the petition. The petition shall specify the name of the proposed union or joint union high school district. The county superintendent of schools shall, within 20 days after receiving the petition, verify the signatures and, if he finds them sufficient, call an election for the determination of the question. He shall appoint three qualified electors in each of the districts petitioning to conduct the election.

Approval

3661.1. Should the State Board of Education approve the petition, the county superintendent of schools shall within 20 days after receiving notice from the State Board of Education of its approval of the petition, call an election for the determination of the question and shall appoint three qualified electors in each of the districts petitioning, to conduct the election therein.

(Added by Stats. 1943, Ch. 664.)

Notice

3662. The election shall be called by posting notices in three public places in each district, one of which shall be a public schoolhouse of the district, at least two weeks before the election, and by publishing the notice at least once a week for two successive weeks in a newspaper of general circulation published within the proposed union or joint union high school district, if there is such a newspaper. The first publication shall be not less than two weeks before the election.

Separate election

3663. The election shall be held separately and simultaneously at a public schoolhouse in each of the districts petitioning.

Election officers

3664. The election shall be conducted by the officers appointed for that purpose in the manner provided for conducting elections of school trustees.

Ballots and method of voting

3665. The ballots used in the election in each district shall contain the words "Union High School District—Yes" and "Union High School District—No"; or "Joint Union High School District—Yes" and "Joint Union High School District—No" as the case may be. The electors voting at the election shall make a cross with pencil, ink, or rubber stamp after the answer they desire to give.

Canvass

3666. The election officers in each district shall canvass the vote of the election as soon as the polls are closed, and report the result to the superintendent of schools within five days after the election.

Declaration of result

3667. Within 10 days after receiving the returns of the election, the superintendent of schools of the county, or, in

the case of a joint union high school district, the superintendent of the county who will have jurisdiction over the proposed district if formed, shall combine the votes "for" and "against" the formation of the union or joint union high school district and declare and record the result, with the details of the vote in each district, in a book kept by him for that purpose.

Certificate of result

3668. If a majority of the votes cast at the election is in favor of the formation of the union or joint union high school districts, the superintendent of schools shall file with the county clerk of the county, or of each county in which any part of the elementary school districts is situated, a certificate showing the total number of votes cast in each district in favor of the union or joint union high school district, the total number of votes in each district against the union or joint union high school district, the aggregate result of the election, and the boundaries of the proposed district.

Order of exclusion

3669. If it appears from the certificate filed by the superintendent of schools that a majority of the votes cast at the election is in favor of the formation of the district, the board of supervisors shall make an order excluding any elementary school district in its county, taking part in the election, from the high school district of which it is a part.

Denial of exclusion

3670. No order excluding territory from any union or joint union high school district shall be made if the exclusion of the territory will reduce the assessed valuation of the union or joint union high school district to three million five hundred thousand dollars ($3,500,000) or less.

Bonded indebtedness

3671. All bonded indebtedness of the union or joint union high school district and all interest thereon shall be paid by the district which incurred the indebtedness as though the exclusion had not occurred.

Entry of order

3672. The order of the board of supervisors excluding the elementary school districts from a joint or joint union high school district shall be entered by the clerk of the board of supervisors in his record of high school districts. He shall send a copy of the order to the county clerk of each county in which any part of the high school district is situated, who shall enter it in his record of high school districts.

Establishment of district

3673. The board of supervisors, after making the order of exclusion, shall make an order establishing the union or joint union high school district asked for in the petition, and the county clerk shall record the certificate of the county superintendent of schools and the orders of the board of supervisors in full in his record of high school districts.

Article 11. Exclusion From Union or Joint Union High School Districts

Petition

3691. A majority of the electors residing in any union or joint union high school district, and two-thirds of the electors residing in any school district which is a part of the union or joint union district, as shown by the affidavit of one or more

of the petitioners, may present to the superintendent of schools who has jurisdiction over the high school district a petition asking for the exclusion of the school district from the high school district. The petition shall be accompanied by an agreement signed by a majority of the high school board of the high school district and a majority of the trustees of the school district, consenting to the exclusion and setting forth the terms of the exclusion. The superintendent of schools shall, after verifying the signatures and finding them sufficient, transmit the petition and agreement to the board of supervisors of his county, with his recommendation.

(Amended by Stats. 1943, Ch. 696.)

[ORIGINAL SECTION]

3691. A majority of the heads of families, or a majority of the electors residing in any union or joint union high school district, and two-thirds of the heads of families or of the electors residing in any school district which is a part of the union or joint union district, as shown by the affidavit of one or more of the petitioners, may present to the superintendent of schools who has jurisdiction over the high school district a petition asking for the exclusion of the school district from the high school district. The petition shall be accompanied by an agreement signed by a majority of the high school board of the high school district and a majority of the trustees of the school district, consenting to the exclusion and setting forth the terms of the exclusion. The superintendent of schools shall, after verifying the signatures and finding them sufficient, transmit the petition and agreement to the board of supervisors of his county, with his recommendation.

Order of exclusion

3692. The board of supervisors after receiving the petition and agreement from the superintendent of schools, together with his recommendation, may make an order excluding the school district from the high school district upon the terms agreed upon.

Denial of exclusion

3693. No school district shall be excluded from a high school district having an outstanding bonded indebtedness where the exclusion would so reduce the amount of taxable property in the high school district that the outstanding bonded indebtedness would exceed 5 per cent of the taxable property of the high school district, after the exclusion, as shown by the last equalized assessment of the county or counties in which the high school district is located.

Entry of order

3694. The order of the board of supervisors excluding the school district from a high school district shall be entered by its clerk in his record of high school districts. He shall send a copy of the order to the county clerk of each county in which any part of the high school district is situated, who shall enter it in his record of high school districts.

Article 12. Annexation of a Union High School District to a City High School District

Procedure

3721. A union high school district which lies contiguous to or adjoining the high school district of any city in any county, may be annexed to, consolidated, and merged with the high school district of the city as provided in this article.

Petition

3722. A majority of the electors residing in any union high school district which lies contiguous to or adjoining a high school district in any city in the same county, may present to the superintendent of schools of the county a petition asking for the annexation, consolidation, and merger of the union high school district with the high school district of the city. The petition shall be accompanied by an agreement signed by a majority of the members of the board of education or board of school trustees of the city, consenting and agreeing to the annexation, consolidation, and merger, and setting forth the terms and conditions upon which the annexation, consolidation, and merger shall be made. The superintendent of schools shall, after verifying the signatures and finding them sufficient, transmit the petition and agreement to the board of supervisors of the county with his recommendation.

(Amended by Stats. 1943, Ch. 696.)

[ORIGINAL SECTION]

3722. A majority of the heads of families residing in any union high school district which lies contiguous to or adjoining a high school district in any city in the same county, may present to the superintendent of schools of the county a petition asking for the annexation, consolidation, and merger of the union high school district with the high school district of the city. The petition shall be accompanied by an agreement signed by a majority of the members of the board of education or board of school trustees of the city, consenting and agreeing to the annexation, consolidation, and merger, and setting forth the terms and conditions upon which the annexation, consolidation, and merger shall be made. The superintendent of schools shall, after verifying the signatures and finding them sufficient, transmit the petition and agreement to the board of supervisors of the county with his recommendation.

Order

3723. The board of supervisors may upon receipt of the petition make an order annexing, consolidating, and merging, for high school purposes, the union high school district with the high school district of the city. The merged, consolidated, and combined district shall take the name and be known by the same name as the high school district of the city.

Date

3724. The annexation, consolidation, and merger may be made at any time irrespective of any provision of this code.

Bonded indebtedness

3725. All bonded indebtedness of either of the districts and all interest thereon shall be paid by the district which incurred the indebtedness, as though the consolidation and merger had not occurred.

Completion of annexation

3726. The consolidation and merger of the union high school district with the high school district of the city upon the terms stated in the petition and agreement, shall be complete and valid by virtue of the order of the board of supervisors duly entered in its minutes.

Effect

3727. After the union high school district has been annexed to, consolidated, and merged with the high school district of any city, the territory of the union high school district so merged and consolidated shall be deemed a part of the city for high school purposes, and all matters connected with the high school

department of the city, and for the purpose of assessing, levying, and collecting property taxes for the high school funds of the city, and for the purposes specified in Chapter 17 of Division 3 of this code.

Government

3728. Whenever a union high school district is annexed to, consolidated, and merged with a high school district of any city as provided in this article, the governing power and control of the union high school district is merged and vested in the board of education or board of school trustees of the city.

Property and indebtedness

3729. All funds belonging to the union high school district shall be transferred by requisition of the school superintendent of the county upon the county auditor to the credit of the proper funds of the city with which the union high school district has been merged, consolidated, and annexed. Thereafter the high school district of the city shall have the benefit of and may enforce and collect in its own name all obligations and contracts existing in favor of the union high school district, and shall also assume and be responsible for the payment or performance of all debts, obligations, and contracts, outstanding or existing against the union high school district, excepting only the bonded indebtedness outstanding and existing against the union high school district, and shall govern and control all the property of the union high school district.

Article 13. Annexation of a District Comprising a Part of a Union or Joint Union High School District

Procedure

3741. If a union or joint union district holds an election to determine the question of becoming a part of a union or joint union high school district as provided for in Article 19 of this chapter, and if at the election the union or joint union district votes not to become a part of a high school district, then at any time after the election and prior to the first day of the following September any of the districts composing the union or joint union district may hold an election to determine whether or not the district shall become a part of a union or joint union high school district.

Request for election

3742. If the trustees of any district comprising a part of the union or joint union districts, or a majority of the electors who reside in the district and have children attending school, as shown by the teacher's register, deem it advisable to hold an election they shall so notify the county superintendent of schools and request him to call an election.

(Amended by Stats. 1943, Ch. 696.)

[ORIGINAL SECTION]

3742. If the trustees of any district comprising a part of the union or joint union districts, or a majority of the heads of families who reside in the district and have children attending school, as shown by the teacher's register, deem it advisable to hold an election they shall so notify the county superintendent of schools and request him to call an election.

Election call

3743. The county superintendent of schools, within 20 days after receiving the request from the trustees, or from a majority of the electors, shall call an election for the determination

of the question in the particular district and shall appoint three qualified electors in the district to conduct the election.

(Amended by Stats. 1943, Ch. 696.)

[ORIGINAL SECTION]

3743. The county superintendent of schools, within 20 days after receiving the request from the trustees, or from a majority of heads of families, shall call an election for the determination of the question in the particular district and shall appoint three qualified electors in the district to conduct the election

Notice

3744. The election shall be called by posting notices at least 10 days prior to the election in three of the most public places in the district, one of which shall be the public schoolhouse of the district.

Conduct of election

3745. The election shall be held in the public schoolhouse of the district, and shall be conducted by the officers appointed for that purpose in the manner provided for conducting school elections.

Ballots and method of voting

3746. The ballot at the election shall contain the words "Shall the (name of district) become a part of the (name) union or joint union high school district?" The voter shall write or print after the words on his ballot, the word "yes" or the word "no".

Canvass

3747. The election officers shall canvass the vote at the election as soon as the polls are closed and report the result to the superintendent of schools within five days after the election.

Declaration of result

3748. Within 10 days after receiving the returns of the election, the superintendent of schools shall declare and record the result of the election in a book kept by him for that purpose.

Certificate of result

3749. If a majority of the votes cast at the election is in favor of the district becoming a part of the union or joint union high school district, the superintendent of schools shall file with the county clerk of the county a certificate showing the number of votes cast in favor of the district becoming a part of the union or joint union high school district, the total number of votes against the question, and the result of the election.

Inclusion of district

3750. If it appears from the certificate filed by the superintendent of schools that a majority of the votes cast at the election is in favor of the district becoming a part of the union or joint union high school district, the district shall be included as a part of the union or joint union high school district.

Article 14. Annexation of Elementary School Districts to High School Districts on Petition of Electors

(Heading amended by Stats. 1943, Ch. 696.)

[ORIGINAL HEADING]

Article 14. Annexation of Elementary School Districts to High School Districts on Petition of Heads of Families or Electors

Petition

3761. A majority of the electors residing in any school district contiguous to a high school district, in the same or adjoining counties, as shown by the affidavits of one or more of the petitioners, may present to the superintendent of schools, who has jurisdiction over the high school district, a petition for the annexation of the school district to the high school district.

The petition shall be accompanied by an agreement signed by a majority of the members of the high school board of the district to which annexation is desired, and by a majority of the trustees of the school district, consenting to the annexation and setting forth the terms of the annexation. The superintendent of schools shall, after verifying the signatures and finding them sufficient, transmit the petition and agreement to the board of supervisors of his county with his recommendations.

(Amended by Stats. 1943, Ch. 696.)

[ORIGINAL SECTION]

3761. A majority of the heads of families, or a majority of the electors residing in any school district contiguous to a high school district, in the same or adjoining counties, as shown by the affidavits of one or more of the petitioners, may present to the superintendent of schools, who has jurisdiction over the high school district, a petition for the annexation of the school district to the high school district. The petition shall be accompanied by an agreement signed by a majority of the members of the high school board of the district to which annexation is desired, and by a majority of the trustees of the school district, consenting to the annexation and setting forth the terms of the annexation. The superintendent of schools shall, after verifying the signatures and finding them sufficient, transmit the petition and agreement to the board of supervisors of his county with his recommendations.

Order of annexation

3762. After receiving the petition together with the recommendations of the superintendent, the board of supervisors may make an order annexing the school district to the high school district upon the terms agreed upon.

Assumption of bonded indebtedness

3763. Whenever it appears that the terms agreed upon by the trustees of the district seeking to be annexed and the high school board include the assumption by the district to be annexed of its pro rata portion of any bonded indebtedness existing against the high school district, the board of supervisors shall call an election in the district proposing to assume the indebtedness for the purpose of determining whether the indebtedness shall be authorized and assumed.

Election

3764. The election shall be held in the same manner as are high school district bond elections, except that the returns shall be made to the board of supervisors.

Annexation

3765. If it appears from the returns of the election that two-thirds of the votes cast at the election are in favor of the assumption by the district seeking to be annexed of its pro rata portion of the bonds, the district shall be annexed to the high school district.

Tax levy

3766. If the bonded indebtedness is assumed by the annexed district, all levies of taxes made for the payment of the bonds and interest thereon, shall be upon the property of the annexed district at the same rate as levied upon the property of the original high school district.

Recordation

3767. The order of the board of supervisors annexing the school district to a high school district shall be entered by its clerk in his record of high school districts. He shall send a copy of the order to the county clerk of each county in which

any part of the high school district is situated, who shall enter it in his record of high school districts.

Article 15. Annexation of Elementary School Districts to High School Districts on Petition From a High School Board

Petition

3781. Whenever the principal of a high school in any high school district presents to the high school board of the high school district a statement, made under oath, that the average daily attendance in the high school of pupils from three or more families whose parents reside in an elementary school district lying wholly within the county and contiguous to the high school district, was an average of three or more for the two school years next preceding setting forth the names of the pupils, the high school board of the high school district may petition the board of supervisors of the county to annex the elementary school district to the high school district.

Election

3782. Upon presentation of the petition accompanied by the sworn statement of the high school principal concerning the attendance and residence of the pupils, and a verification of the statement by the county superintendent of schools, the board of supervisors shall call an election in the elementary school district proposed to be annexed for the purpose of determining whether the elementary school district shall be annexed to the high school district.

Conduct of election

3783. The election shall be held in the same manner as are the elections of governing boards of elementary school districts, except that the returns shall be made to the board of supervisors.

More than one district

3784. Whenever the high school board of each of two or more high school districts petitions the board of supervisors for the annexation of the same elementary school district, the board of supervisors shall refer the matter to the county superintendent of schools who shall make a recommendation upon the matter. After receiving the recommendation of the superintendent the board of supervisors may make an order annexing the elementary school district to one of the high school districts, petitioning for its annexation, after notice and hearing.

Bonded indebtedness

3785. Whenever an elementary school district is annexed to a high school district pursuant to this article, the territory annexed to the high school district shall not be liable for any bonded indebtedness existing against the high school district, and all levies of taxes made for the payment of the bonded indebtedness shall be upon the property of the territory of the original high school district.

Union district

3786. Whenever an elementary school district is annexed pursuant to this article to any high school district having the same boundaries as a single elementary school district, except a city high school district, the high school district shall thereafter constitute a union high school district and shall be governed by a high school board elected in the same manner

as boards of trustees of union or joint union high school districts.

Property

3787. After the organization of the first high school board in any union high school district formed as provided in this article, all property belonging to the original high school district, shall become the property of the union high school district so formed.

Effect of annexation

3788. Whenever one or more elementary school districts are annexed pursuant to this article to a city high school district, the annexation shall be for high school purposes only.

Participation in elections

3789. The territory annexed to a city high school district shall be deemed a part of the city for the purpose of holding the general municipal election, at which any member of the board of education is to be elected, and shall form one or more election precincts, as may be determined by the legislative authority of the city. The qualified electors of the annexed territory shall vote only for the board of education.

Effect of annexation to city district

3790. The territory annexed to a city high school district shall be deemed to be a part of the city or city high school district, for all matters connected with the high school, for the annual levying and collecting of the property tax for the high school fund of the city or city high school district, and for all purposes specified in Chapter 17 of Division 3 of this code.

Assessment roll

3791. The last assessment roll made by the county assessor shall be the only basis of taxation for the city high school district on the property outside the corporate limits of the city annexed for high school purposes.

Annexation to surrounding district

3792. If any elementary school district becomes entirely surrounded by territory included in a single high school district through the annexation of elementary school districts pursuant to this article, the board of supervisors may make an order annexing the elementary school district to the high school district after notice and hearing.

Article 16. Annexation of Elementary School Districts to High School Districts by Supervisors

Districts not in high school district

3821. Not later than July 31st of each year the board of supervisors of each county or city and county in which there are one or more high school districts, and in which there are one or more elementary school districts not members of any high school district may, upon recommendation of the county superintendent of schools, and the member of the board of supervisors representing the district, annex each of the elementary school districts to that high school district whose high school is most easily accessible to the children of the elementary school district.

Recommendation

3822. No elementary school district shall be annexed pursuant to the provisions of this article to a high school district without the recommendation of the county superintendent of schools, and the supervisor or supervisors in whose district or districts the elementary school district is located.

Distance

3823. No elementary school district shall be annexed pursuant to this article unless the nearest point of the elementary school district lies within 10 miles of a high school district.

Notice

3824. For the purpose of giving notice to all persons interested the board of supervisors shall publish a notice at least once a week for two successive weeks in some newspaper of general circulation published in the county, or, if there is no such paper, then in some newspaper of general circulation, circulated in the county. The notice shall state the time when, and the place where, the board of supervisors will act and shall give the names of the elementary school districts which will be affected by the action of the board.

Determination as between districts

3825. Every school district affected by this article may upon request of its governing board, or a petition by a majority of the electors residing in the district, determine the high school district to which it shall be annexed. An election for that purpose shall be held as provided for in the case of the formation of a union high school district, except that the ballots used at the election in each district shall contain the words "For annexation to _____ high school district." Electors voting at the election shall write in the name of the high school district to which they prefer to be annexed. Printed ballots containing the name of the high school district may be used and counted. A majority of the votes cast at the election determines the choice of the high school district to which the school district shall be annexed.

(Amended by Stats. 1943, Ch. 696.)

[ORIGINAL SECTION]

3825. Every school district affected by this article may upon request of its governing board, or a petition by a majority of the heads of families residing in the district, determine the high school district to which it shall be annexed. An election for that purpose shall be held as provided for in the case of the formation of a union high school district, except that the ballots used at the election in each district shall contain the words "For annexation to _____ high school district" Electors voting at the election shall write in the name of the high school district to which they prefer to be annexed. Printed ballots containing the name of the high school district may be used and counted. A majority of the votes cast at the election determines the choice of the high school district to which the school district shall be annexed.

Denial of annexations

3826. Where the high school district which is most accessible to a majority of the pupils of the elementary school district attending high school is governed by an appointive school board, the board of supervisors shall not annex the elementary school district to that high school district.

Article 17. Annexation of Elementary School Districts to City High School Districts

Procedure

3841. The board of supervisors of a county may annex to a high school district, other than a union or joint union high school district, situated in whole or in part in a city located in the county, other than a city of the sixth class, any contiguous elementary school district lying within or without a high school district situated in the same county, regardless of

whether the elementary school district lies in whole or in part in any other city, whenever a majority of the electors residing in the district proposed to be annexed petition the board of supervisors in writing for annexation.

(Amended by Stats. 1943, Ch. 696.)

[ORIGINAL SECTION]

3851. The board of supervisors of a county may annex to a high school district, other than a union or joint union high school district, situated in whole or in part in a city located in the county, other than a city of the sixth class, any contiguous elementary school district lying within or without a high school district situated in the same county, regardless of whether the elementary school district lies in whole or in part in any other city, whenever a majority of the heads of families residing in the district proposed to be annexed petition the board of supervisors in writing for annexation.

Article 18. Transfer of Elementary School Districts From One High School District to Another

Petition

3851. Two-thirds of the electors residing in any elementary school district which is part of any high school district, and the nearest part of which is more than six miles by traveled road from the high school building of the high school district, as shown by the affidavit of one or more of the petitioners, may present to the county superintendent of schools having jurisdiction over the high school district, a petition asking that the elementary school district be excluded from the high school district and annexed to a contiguous high school district. The petition shall be accompanied by an agreement signed by the high school board of the high school district to which annexation is sought, agreeing to the annexation. The superintendent of schools shall verify the signatures. If he finds them sufficient, he shall transmit the petition and agreement, with or without his recommendation, to the board of supervisors of the county in which the elementary school district is situated.

Agreement

(Amended by Stats. 1943, Ch. 696.)

[ORIGINAL SECTION]

3851. Two-thirds of the heads of families residing in any elementary school district which is part of any high school district, and the nearest part of which is more than six miles by traveled road from the high school building of the high school district, as shown by the affidavit of one or more of the petitioners, may present to the county superintendent of schools having jurisdiction over the high school district, a petition asking that the elementary school district be excluded from the high school district and annexed to a contiguous high school district. The petition shall be accompanied by an agreement signed by the high school board of the high school district to which annexation is sought, agreeing to the annexation. The superintendent of schools shall verify the signatures. If he finds them sufficient, he shall transmit the petition and agreement, with or without his recommendation, to the board of supervisors of the county in which the elementary school district is situated.

Denial of exclusion

3852. (a) If, by the exclusion of the elementary school district, the assessed valuation of the property of the high school district would be less than ten million dollars ($10,000,000), except where an elementary school district has become severed from the other districts comprising the high school

district, or, (b) if by the exclusion of the elementary school district the outstanding bonded indebtedness of the district would exceed 5 per cent of the value of the taxable property remaining in the district, the board of supervisors shall refuse to call an election for the purpose of determining whether the elementary school district shall be excluded.

Election call

3853. If the calling of an election is not prohibited, the board of supervisors may, within 30 days after the receipt of the petition and agreement, call an election in the district petitioning, and shall appoint three qualified electors of the district to conduct the election.

Notice

3854. The election shall be called by posting notices at least 15 days before the election in three public places in the district, one of which shall be at the public schoolhouse, if there is one in the district. The board of supervisors shall also publish the notice once a week for two weeks in a newspaper published in the district, or, if there is none, in a newspaper in general circulation in the district.

Conduct of election

3855. The election shall be held at the public schoolhouse of the district petitioning, and shall be conducted by officers appointed for that purpose in the manner provided for conducting school elections.

Ballots and method of voting

3856. The ballots at the election shall contain the words "For exclusion from _____ high school district and annexation to _____ high school district." The name of the high school district from which exclusion is sought, and the name of the high school district to which annexation is desired shall be printed on the ballot. The elector shall stamp or make a cross after the word "yes" or the word "no," also printed on the ballot.

Canvass

3857. The election officers shall canvass the vote of the election and report the result to the board of supervisors within five days after the election.

Notification and protest

3858. If two-thirds of the votes cast at the election are in favor of the exclusion and annexation, the board of supervisors shall, within 15 days after receiving the notice, notify the governing board of the high school district of the result of the election. If the high school board does not protest the exclusion of the district from the high school district within 30 days after receiving the notice, the board of supervisors shall exclude the territory from the high school district and annex it to the contiguous high school district.

Board of review

3859. If the governing board of the high school district protests the exclusion and annexation, the board of supervisors shall notify the Superintendent of Public Instruction of the election and its result, and of the protest of the high school board. Upon receipt of the notice the Superintendent of Public Instruction shall create a board of review composed of three county superintendents of schools of counties not contiguous to the county or counties in which is located the high school district from which the elementary school district desires separation.

Survey and hearing

3860. The board of review shall, upon a date set by the Superintendent of Public Instruction, survey the situation and conduct a public hearing on the question as to whether or not the elementary school district shall be excluded from the local high school district and annexed to a contiguous high school district.

Notice

3861. The Superintendent of Public Instruction shall notify the county superintendents concerned and the county superintendents shall notify the interested high school and elementary school boards of the date of the inspection and the date and place of the public hearing, and shall give publicity to the meeting by printing an announcement of the hearing in a newspaper published in the high school district, or, if there is none, in a newspaper in general circulation in the district.

Conduct of hearing

3862. The hearing shall be held at the high school building of the high school district to which the territory desiring exclusion at the time belongs. The hearing shall be conducted under such rules of procedure as may be prescribed by the board of review, which may require any or all evidence and information to be submitted under oath administered by a member of the board.

Recommendation

3863. In arriving at its conclusion, the board of review shall take into consideration the present and future effect on public welfare only. The board shall, before it adjourns, recommend in writing to the board of supervisors either that the petition of the elementary school district be granted or denied.

Order

3864. The board of supervisors shall within 15 days after the hearing, act in accordance with the recommendations of the board of review, entering upon its minutes an order excluding the territory of the elementary school district from the high school district and annexing it to the contiguous high school district, or denying exclusion and annexation of the elementary school district.

Entry of order

3865. A certified copy of the order of the board of supervisors shall be entered by its clerk in his record of high school districts. He shall send copies of the order to the county clerks of each county in which any part of the elementary school district or high school district is situated who shall enter it in their records of high school districts.

Bonded indebtedness

3866. Any district withdrawing pursuant to this article shall not be released from responsibility for any of the bonded indebtedness incurred while it was a part of the high school district from which it has withdrawn.

Superintendent of schools

3867. Superintendents of schools shall perform the duties prescribed in this article.

Traveling expenses

3868. The governing board of any high school district in which the Superintendent of Public Instruction has ordered a review of the petition of an elementary school district to be excluded from a high school district and annexed to a contiguous high school district, shall pay the actual and necessary traveling expenses of the members of the board of review.

Article 19. Change of Boundaries

Date of change

3891. The boundaries of a high school district shall not be changed subsequent to the first day of February in any school year.

Inclusion in high school district

3892. Except as otherwise provided in this code, a school district shall not lie partly within a high school district and partly without.

Added territory

3893. In all cases where the boundaries of a school district comprised within any high school district are for any cause changed to include territory not previously in the school district, the territory added to the school district shall become and constitute a part of the high school district.

Excluded territory

3894. In all cases where the boundaries of the school district comprised within any high school district are changed so as to exclude territory from the district, the excluded territory shall, except as provided in this article, be excluded from the high school district.

Continuance in high school district

3895. Where a new school district is formed from territory situated wholly within one high school district, the new school district shall continue to be a part of the high school district.

Choice of districts

3896. Where a new school district is formed from territory situated in two or more high school districts, or situated partly in a high school district and partly in no high school district, the electors of the new school district shall decide by a majority vote to which high school district the new school district shall belong, or whether the new school district shall be part of the high school district. The election shall be held within 30 days after the formation of the school district, and called by the superintendent of schools of the county in which the school district is situated in the manner provided in Article 3 of this chapter. The result of the election shall be certified by the superintendent of schools to the county clerk of the county in which the school district is situated, and to the clerk of every other county in which any part of the high school district, selected by the electors, is situated, and entered in the clerk's record of high school districts.

Refusal to join high school district

3897. If an election is held in consequence of two or more school districts having been formed into a union or joint union elementary school district, and if the election results in the new union or joint union elementary school district not becoming a part of a high school district, then elections may be held in the separate districts which form the union or joint union elementary school district pursuant to Article 13 of this chapter.

Annexation to district in another high school district

3898. Whenever an elementary school district situated in a high school district is annexed or admitted, to a union elementary school district situated in another high school district, the boundaries of the high school districts are not changed.

Article 20. Change of Name

Petition

3921. A petition may be presented to the superintendent of schools having jurisdiction of any high school district signed by at least two-thirds of the members of the high school board asking that the name of the district be changed and stating the new name desired. The superintendent of schools shall transmit the petition to the board of supervisors of his county. The board of supervisors shall designate a day upon which they will act upon the petition which shall be not less than 10 nor more than 40 days after the receipt of the petition.

Notice

3922. The clerk of the board of supervisors shall give notice to all persons interested, by publication in a newspaper published within the high school district, or, if there is none, then in any newspaper published in the county, of the time set for the hearing of the petition. The notice shall be published at least twice before the day set for hearing.

Hearing

3923. On the day set for the hearing of the petition the board of supervisors shall, by resolution, either grant or deny the petition. If the petition is granted, the clerk of the board of supervisors shall notify the county superintendent of schools of the change of name of the district.

Entry of order

3924. The change shall be certified to the county clerk of each county in which any part of the high school district is situated and entered by him in his record of high school districts.

Article 21. Suspension and Lapsation

Suspension and report

3941. When the average daily attendance of pupils in any high school district during the whole of any school year, after the first school year, is 10 or less, the superintendent of schools having jurisdiction over the high school district shall suspend the high school in the district and shall report the fact to the board of supervisors of his county.

Lapsation

3942. Upon receiving the report from the superintendent of schools, the board of supervisors shall declare the high school district lapsed and shall cause the property of the district to be sold.

Property

3943. All moneys received from the sale of the property of the high school district, and all moneys in the treasury to the credit of the district, shall be distributed by the superintendent of schools to the school districts composing the high school district in proportion to the assessed valuation of property in the districts, according to the last completed county assessment rolls. The portions of the proceeds belonging to the districts in other counties shall be transferred to the county or counties within which the school districts are situated.

Article 22. Disincorporation

Procedure

3961. Any high school district may, after the expiration of three years from its formation, or after it has been acting as a district for three years, disincorporate and be dissolved pursuant to this article.

Petition

3962. A petition signed by two-thirds of the electors of each school district composing the high school district, as shown by affidavit of one or more of the petitioners, shall be presented to the superintendent of schools having jurisdiction over the high school district.

(Amended by Stats. 1943, Ch. 696.)

[ORIGINAL SECTION]

3962. A petition signed by two-thirds of the heads of families, or two-thirds of the electors of each school district composing the high school district, as shown by affidavit of one or more of the petitioners, shall be presented to the superintendent of schools having jurisdiction over the high school district.

Same

3963. The petition shall set forth briefly the reasons for disincorporation and shall pray that the question be submitted to the voters in the district.

Election

3964. Upon receiving the petition the superintendent of schools shall verify the signatures to the petition. If he finds them sufficient, he shall call an election in each school district of the high school district, and shall submit to the voters of the district the question of disincorporation of the high school district. At the time of calling the election, which shall be held in all the school districts of the high school district upon the same day, the superintendent of schools shall appoint three electors in each school district within the high school district to conduct the election.

Notice

3965. Notice of the election shall be given by posting and publication as provided in case of an election for the formation of a union high school district.

Conduct of election

3966. The election shall be conducted in the manner provided by law for conducting elections of school trustees.

Ballots and method of voting

3967. The ballots shall have printed on them the words "Disincorporation—Yes" and "Disincorporation—No". Each elector voting at the election shall make a cross with pencil, ink, or rubber stamp opposite the answer he desires to give.

Report of result

3968. The election officers shall report the result of the election within five days after the election to the superintendent of schools.

Refusal to disincorporate

3969. If the majority of all the votes cast at the election is opposed to disincorporation, no further petition shall be entertained or election ordered for a similar purpose within three years following the election.

Suspension

3970. If two-thirds of all votes cast at the election are in favor of disincorporation, the superintendent of schools shall suspend the high school district at the end of the existing school year, and report the result of the election and the fact of the suspension to the board of supervisors of his county.

Order of disincorporation

3971. Upon receiving the report, the board of supervisors shall, at the first meeting thereafter, make an order declaring the high school district duly disincorporated and dissolved, to take effect at the end of the existing school year.

Property

3972. When a high school district has been disincorporated, its property shall be sold by the board of supervisors and the proceeds of the sale, together with any moneys in the

treasury, to the credit of the disincorporated district, shall be disposed of as though the district were lapsed.

Bonded indebtedness

3973. If a high school district which is disincorporated has an outstanding bonded indebtedness, taxes shall be levied and collected on all property in the territory constituting the high school district at the time of its disincorporation, for the purpose of paying principal and interest of the bonds, in the same manner and at the same time as if the district had not been disincorporated.

CHAPTER 12. JUNIOR COLLEGE DISTRICT BOARDS

Article 1. Composition of Boards

Members in districts comprising one high school district

4101. In every junior college district coterminous with a single high school district, of any type, the governing board of the high school district shall constitute the junior college board and after organizing as a junior college board shall have the management and control of the junior college in the district.

Same in districts comprising more than one high school district

4102. In every junior college district composed of two or more high school districts, the junior college board shall be composed of five members elected at large from the district for a term of three years, except as provided in this article.

Election by wards

4103. In every junior college district composed of two or more high school districts, excepting in districts in which the governing board is a city board of education elected under a city charter, the junior college board may divide the district into five wards of nearly equal population and provide that one member of the board shall be elected from each ward.

Qualifications

4104. Where members of junior college boards are elected from wards, only a resident of the ward is eligible for election from each ward.

Article 2. Appointment and Election of Boards

Appointment of first board

4121. When any junior college district composed of two or more high school districts is formed, the county superintendent of schools having jurisdiction over the district shall, within 15 days after the formation appoint a junior college board for the district.

Terms of first members

4122. The members of a junior college board appointed pursuant to Section 4121 shall hold office until their successors have been elected and have qualified.

Date of election

4123. The regular annual election of members of the junior college board in junior college districts composed of two or more high school districts shall be held at the same time as the regular annual election of school trustees.

Election call

4124. The election shall be called by the junior college board.

Polling place

4125. The junior college board shall designate a polling place in each of the school districts composing the junior college district, at one of the schoolhouses of the district, at which the electors of the school district shall vote.

Notice and election officers

4126. The junior college board shall give the same notice of the election and appoint the same number of election officers in each school district as are required for the election of school trustees.

Elections

4127. The election shall be held in the same manner as are elections of school trustees, except that the returns shall be at once sent to the junior college board. The junior college board shall meet at the junior college building on the seventh day after the election at 2 o'clock p.m., and canvass the returns and issue certificates of election to the persons elected. They shall file duplicates of the certificates of election with the superintendent of schools having jurisdiction over the junior college district.

Terms

4128. At the first regular annual election of members of the governing board of a junior college district, one member of the board shall be elected to hold office from the day of receiving his certificate of election until the first day of July next succeeding; two members of the board shall be elected to hold office from the day of receiving their certificates of election until the first day of the second succeeding July; and two members of the board shall be elected to hold office from the day of receiving their certificates of election until the first day of the third succeeding July. Thereafter each of their successors shall be elected for a term of three years pursuant to this article.

Article 3. Organization of Boards

First meeting

4151. Within 20 days after the appointment of the junior college board provided for by Section 4121, the superintendent of schools shall call a meeting of the board by giving at least 10 days' notice by registered mail to each member, for the purpose of organizing the junior college board.

Organization

4152. At the meeting the junior college board shall organize by electing a president from its members and a secretary, and may transact any other business relating to the affairs of the junior college district.

Annual organization

4153. Junior college boards shall meet on the first day in July of each year at 11 o'clock a.m., and organize by electing a president from its members, and a secretary.

Article 4. Meetings

Regular meetings

4171. Every junior college board shall hold regular monthly meetings at such times as may be provided in the rules and regulations adopted by them for their own government, except that in junior college districts composed of two or more high school districts, the regular meetings may be quarterly.

Special meetings

4172. Special meetings may be held at the call of the president of the board or upon a call issued in writing and signed by a majority of the members of the board, except that by unanimous consent a special meeting may be convened at any time.

Date 4173. The date set for special meetings shall be at least two full days subsequent to the completion of the call.

Business 4174. No business shall be transacted at a special meeting other than that specified in the call, except that by unanimous consent any business matter may be transacted at any special meeting.

Meeting place 4175. All meetings of the junior college board shall be held at the junior college building. If no junior college building exists in the district, or if the junior college consists of a single high school district, the junior college board may meet at any place in the district as it may by resolution determine.

Article 5. Vacancies

Appointment 4191. Vacancies on the governing board of a junior college district composed of two or more high school districts, shall be filled by appointment by the superintendent of schools having jurisdiction over the junior college district. The appointee shall hold office for the remainder of the unexpired term.

Article 6. Powers of Boards

Powers 4211. Except as otherwise provided in this code, the powers and duties of junior college boards are such as are assigned to high school boards.

Chapter 13. Junior College District Organization

Article 1. Formation

Territory 4231. A junior college district shall include all the territory in one high school district or in two or more contiguous high school districts.

Procedure 4232. Junior college districts shall be formed pursuant to this article.

Standards 4233. The State Board of Education shall establish minimum standards for the formation of junior college districts. The standards shall include, in addition to such others as the board may establish, a requirement that the assessed valuation of the area proposed to be included in a junior college district shall be an amount which, through the levy of a district tax not in excess of twenty cents ($0.20) on each one hundred dollars ($100) of the estimated true wealth of taxable property as computed from the last preceding report of the State Board of Equalization will yield an amount which, when added to the available State financial aid for junior college education, will be deemed adequate for a junior college in the proposed area.

Survey 4234. Whenever the governing board of any high school district or the governing boards of two or more contiguous high school districts present to the State Board of Education a petition in the form prescribed by the Superintendent of Public Instruction, asking permission to call an election for the formation of a junior college district to include all the

territory in the high school district or districts, as the case may be, the Superintendent of Public Instruction shall make or cause to be made a survey of the proposed junior college district and of high school districts contiguous to the proposed junior college district, which may appropriately be included in the proposed district.

Cost of survey

4235. The cost of the survey shall be borne by the high school district, the governing board of which signed the petition, or, if there are two or more high school districts petitioning the cost shall be borne by the high school districts in proportion to their assessed valuation. The cost of the survey to a high school district is a proper charge against the maintenance fund of the district.

Findings and recommendations

4236. Upon the completion of the survey the Superintendent of Public Instruction shall report the findings to the State Board of Education together with his recommendations as to the action to be taken on the petition.

Approval

4237. If the State Board of Education approves the petition, it shall within 30 days after approval notify the superintendent of schools of the county in which the greatest area of the proposed junior college district lies.

Election

4238. Within 30 days after receiving the notice the superintendent of schools of the county within which the greatest area of the proposed junior college district lies, shall call an election to be held in every elementary district in the proposed junior college district. He shall appoint three qualified electors in each elementary district to conduct the election.

Precincts

4239. In city school districts the county superintendent of schools shall divide the city school district into precincts and appoint three qualified electors in each precinct to conduct the election.

Notice

4240. The election shall be called by posting notices in three public places in each district, one of which shall be a public schoolhouse of the district, at least two weeks before the election, and by publishing the notice at least once a week for two successive weeks in a newspaper having a general circulation in the proposed junior college district. The first publication shall be not less than two weeks before the election. The notice shall specify the polling places, and, in cities, the precinct lines.

Expense

4241. The expenses of printing notices and ballots and other necessary expenses incurred in the calling, holding, and conducting of the election shall be paid by the board of supervisors out of the county general fund.

Conduct of election

4242. The election shall be held separately and simultaneously at a public schoolhouse in each elementary school district or in each precinct, and shall be conducted in the manner provided for conducting elections of governing boards of elementary school districts.

Ballots and method of voting

4243. The ballots used at the election in each district shall contain the words "Junior college district—Yes" and "Junior college district—No". Each elector voting at the election

shall make a cross with a pencil, ink, or rubber stamp after the answer he desires to give.

Canvass

4244. The election officers in each district or precinct shall canvass the vote of the election as soon as the polls are closed. They shall report the result to the superintendent of schools who called the election within five days after the election.

Declaration of result

4245. Within 10 days after receiving the returns of the election, the superintendent of schools shall combine the votes "for" and the votes "against" the formation of the junior college district and declare and record the result, with the details of the vote in each district, in a book kept by him for that purpose.

Certificate of result

4246. If a majority of the votes cast at the election is in favor of the formation of the junior college district, he shall file with the county clerk of the county or of each of the counties in which the proposed junior college district lies, a certificate showing the total number of votes cast in each district in favor of the junior college district, the total number of votes in each district against the junior college district, the aggregate result of the election, and the boundaries of the proposed district.

Formation of district

4247. If it appears from the certificate filed by the superintendent of schools that a majority of the votes cast at the election is in favor of the formation of the junior college district, the junior college district is formed from and after the first day of July next succeeding the election. The county clerk shall record the certificate in full in his record of school districts.

Article 2. Uniting of Junior College Districts

Procedure

4271. Two or more contiguous junior colleges may be united to form a single junior college district in the same manner as provided in this code for the uniting of two or more contiguous elementary school districts.

Article 3. Annexation of High School Districts Upon Petition of Heads of Families or Electors

Petition

4281. A majority of the electors residing in any high school district contiguous to a junior college district, in the same or adjoining counties, as shown by the affidavits of one or more of the petitioners, may present to the superintendent of schools who has jurisdiction over the junior college district, a petition for the annexation of the high school district to the junior college district. The petition shall be accompanied by an agreement, signed by a majority of the members of the governing board of the junior college district to which annexation is desired, and by a majority of the trustees of the high school district, consenting to the annexation and setting forth the terms of the annexation. The superintendent of schools shall, after verifying the signatures and finding them sufficient, transmit

the petition and agreement to the board of supervisors of his county with his recommendations.

(Amended by Stats. 1943, Ch. 696.)

[ORIGINAL SECTION]

4281. A majority of the heads of families or a majority of the electors residing in any high school district contiguous to a junior college district, in the same or adjoining counties, as shown by the affidavits of one or more of the petitioners, may present to the superintendent of schools who has jurisdiction over the junior college district, a petition for the annexation of the high school district to the junior college district. The petition shall be accompanied by an agreement, signed by a majority of the members of the governing board of the junior college district to which annexation is desired, and by a majority of the trustees of the high school district, consenting to the annexation and setting forth the terms of the annexation. The superintendent of schools shall, after verifying the signatures and finding them sufficient, transmit the petition and agreement to the board of supervisors of his county with his recommendations.

Order

4282. The board of supervisors, after receiving the petition and agreement, and the recommendation of the superintendent, may make an order annexing the high school district to the junior college district upon the terms agreed on.

Assumption of bonded indebtedness

4283. Whenever it appears that the terms agreed upon by the trustees of the high school district seeking to be annexed and the junior college board include the assumption by the high school district of its pro rata portion of any bonded indebtedness existing against the junior college district, the board of supervisors shall call an election in the high school district proposing to assume the indebtedness for the purpose of determining whether the indebtedness shall be authorized and assumed.

Election

4284. The election shall be held in the same manner as are elections for the issuance of high school district bonds, except that the returns shall be made to the board of supervisors.

Annexation

4285. If it appears from the returns of the election that two-thirds of the votes cast at the election are in favor of the assumption by the district seeking to be annexed of its pro rata portion of the bonds, the high school district shall be annexed to the junior college district.

Tax levy

4286. If the bonded indebtedness is assumed by the annexed high school district, all levies of taxes made for the payment of the bonds and interest thereon, shall be upon the property of the annexed high school district at the same rate as levied upon the property of the original junior college district.

Recordation of order

4287. The order of the board of supervisors annexing the high school district to a junior college district shall be entered by the clerk of the board in his record of junior college districts. He shall send a copy of the order to the county clerk of each county in which any part of the junior college district is situated, who shall enter it in his record of junior college districts.

Article 4. Annexation of High School Districts Upon Petition of Junior College Boards

Petition

4311. Whenever a principal of a junior college in any junior college district presents to the governing board of the

junior college district a statement made under oath that the average daily attendance in the junior college of pupils whose parents reside in a high school district contiguous to the junior college district, was an average of three or more for the two school years next preceding, setting forth the names of the pupils, the governing board of the junior college district may petition the board of supervisors of the county the superintendent of schools of which has jurisdiction over the high school district, to annex the high school district to the junior college district.

Notice of hearing

4312. Upon presentation of the petition, accompanied by the sworn statement of the principal of the junior college concerning the attendance and residence of the pupils, and the verification of the facts by the county superintendent of schools having jurisdiction over the junior college district, the board of supervisors shall set the petition for hearing at a regular meeting of the board and shall publish in a newspaper of general circulation in the county once each week for at least two weeks prior to the hearing a notice containing a general statement of the purpose of the petition and the time and place when and where the petition will be heard. The clerk of the board of supervisors shall mail a copy of the notice to each of the trustees of the high school district at least 10 days prior to the hearing.

Protests

4313. The board of supervisors shall at the time and place named in the notice meet to receive any protest which interested persons may present. If no protest is filed it shall make an order annexing the high school district to the junior college district.

Election

4314. If a petition protesting against the annexation, signed by 20 per cent or more of the qualified electors of the high school district, as shown by the affidavit of one of the petitioners, is filed at the meeting, the board of supervisors shall order an election to be held in the high school district within 30 days after the making of the order, to determine the question. The election shall be called and held in the same manner as the elections for high school district bonds, except that the words to appear upon the ballot shall be "For annexation to (insert name of) junior college district—Yes" and "For annexation to (insert name of) junior college district—No," and except that the returns shall be made to the board of supervisors.

Order of annexation

4315. If it appears that a majority of the votes cast at the election is in favor of the annexation, the board of supervisors shall make an order annexing the high school district to the junior college district. The order shall be entered by the clerk of the board in his record of high school districts. He shall send a copy of the order to the county clerk of each county in which any part of the junior college district is situated, who shall enter it in his record of junior college districts.

Refusal of annexation

4316. If it appears that a majority of the votes cast at the election is against the annexation, no other election shall be called on the question of annexation until one year from the date of the filing of the original petition.

Determination between districts

4317. Whenever the governing board of each of two or more junior college districts, under the provisions of this article, petitions the board of supervisors having jurisdiction for the annexation of the same high school district, the board shall refer the matter to the county superintendent of schools having jurisdiction over the high school district. The county superintendent shall make a recommendation on the matter, after which the board of supervisors shall make an order stating to which of the junior college districts the high school district may be annexed.

Bonded indebtedness

4318. Whenever a high school district is annexed to a junior college district pursuant to this article, the territory annexed to the junior college district shall not be liable for the payment of any part of the interest on, or principal of any bonded indebtedness of the junior college district theretofore incurred, unless a pro rata portion of the indebtedness is assumed pursuant to this article. Whenever a high school district is annexed to any junior college district, the junior college district shall constitute the same type of junior college district as if the district were newly formed and shall be governed and administered as such.

Property

4319. After the annexation of a high school district pursuant to this article, all property belonging to the original junior college district, is the property of the new junior college district so formed.

Article 5. Exclusion of High School Districts

Petition

4341. On or before the first day of February in any school year a majority of the electors residing in a junior college district, and two-thirds of the electors residing in any high school district which is a part of the junior college district, as shown by the affidavit of one or more of the petitioners, may present to the superintendent of schools who has jurisdiction over the junior college district, petitions asking for the exclusion of the high school district from the junior college district for the purpose of permitting the territory in the high school district to be formed into a junior college district or to become a part of another junior college district. The petitions shall be accompanied by an agreement signed by a majority of the governing board of the junior college district, and a majority of the trustees of the high school district consenting to the exclusion and setting forth the terms of the agreement. The superintendent of schools shall, after verifying the signatures to the petitions and agreements and finding them sufficient, transmit the petitions and agreement to the board of supervisors of his county with his recommendations.

(Amended by Stats. 1943, Ch. 696.)

[ORIGINAL SECTION]

4341. On or before the first day of February in any school year a majority of the heads of families, or a majority of the electors residing in a junior college district, and two-thirds of the heads of families, or of the electors residing in any high school district which is a part of the junior college district, as shown by the affidavit of one or more of the petitioners, may present to the superintendent of schools who has jurisdiction over the junior college district, petitions asking for the exclusion of the high school district from the junior college district for the purpose of permitting the territory in the high school district to be formed into a junior college district or to become a part of another junior college district. The petitions shall be accompanied by an agreement signed by a majority of the governing board of the junior college district, and a majority of the trustees of the high school district consenting to the exclusion and setting forth the terms of the agreement. The superintendent of schools shall, after verifying the signatures to the petitions and agreements and finding them sufficient, transmit the petitions and agreements to the board of supervisors of his county with his recommendations.

Order of exclusion

4342. The board of supervisors, after the receipt of the petitions and agreements, together with the recommendations of the superintendent of schools, may make an order excluding the high school district from the junior college district upon the terms agreed on. The order withdrawing the high school district from the junior college district shall not become effective until the high school district becomes a junior college district or becomes a part of a junior college district.

Bonded indebtedness

4343. Any high school district excluded from a junior college district shall continue to bear its proportionate share of the bonded indebtedness of the junior college district incurred prior to the exclusion of the high school district, as though the exclusion had not taken place.

Recordation of order

4344. The order of the board of supervisors excluding a high school district from a junior college district shall be entered by the clerk of the board in his record of junior college districts. He shall send a copy of the order to the county clerk of each county in which any part of the junior college district is situated, who shall enter it in his record of junior college districts.

Article 6. Formation From Unified Districts

Procedure

4361. A junior college district may be formed to comprise two or more unified school districts in the same manner as the formation of other junior college districts, except that a majority vote in favor of the formation of the district in each unified school district is required.

Governing board

4362. Each junior college district comprising two or more unified school districts shall be governed by a board of five members who shall be elected in the same manner, for the same terms, and at the same time as are members of governing boards of other junior college districts.

Within 15 days after the formation of a junior college district comprising two or more unified school districts, the county superintendent of schools having jurisdiction over the junior college district shall appoint a board of five members to govern the district until the next succeeding election.

Apportionment of State funds

4363. Each unified school district created under Chapter 14 of this division which includes a junior college district shall be considered as a junior college district for purposes of the apportionment of State junior college funds and for purposes of nonresident county junior college tuition.

Formation from single district

4364. A junior college district may be formed to comprise a single unified school district in the same manner as the formation of other junior college districts, except that a majority vote in favor of the formation of the district is required.

Effect of formation

4365. A junior college district formed to comprise a single unified school district shall be considered a junior college district only for the purposes of State apportionments and nonresident county junior college tuition. For all other purposes it shall be considered an integral part of the unified school district and shall be governed by the governing board of the unified school district.

Article 7. Jurisdiction Over Junior College Districts

Jurisdiction

4381. In each junior college district, the superintendent of schools of the county in which the junior college buildings are located shall have jurisdiction over all matters in which his office is concerned.

Chapter 14. Unification of Districts

Article 1. General Provisions

Name

4601. Every school district created under the provisions of this chapter shall be given the name selected for it by the governing board of the district and shall be designated as the "_____ (using the name of the district) Unified School District." In the name by which the district is designated the governing board of the district may sue and be sued, and hold and convey property for the use and benefit of the school district. A number shall not be used as a part of the designation of any school district.

Application of code

4602. All provisions of this code applicable to the government, maintenance, support, functions, and administration of elementary, high school, and junior college districts are applicable to the government, maintenance, support, and administration of unified school districts, excepting in so far as such provisions are in conflict with, or inconsistent with this chapter.

Stats. 1933, p. 1533

Inclusion of districts

4603. The provisions of Section 11 of an act entitled "An act to provide for the replacement and/or the reconstruction in whole or in part of all city, county, school district, or other special district buildings wholly or partially destroyed by earthquakes since January, 1933, declaring the urgency thereof and providing that this act shall take effect immediately," approved May 26, 1933, shall not operate to prevent the inclusion of any elementary school district, high school

district, or junior college district, in whole or in part, in any unified school district created under the provisions of this chapter.

Article 2. Governing Boards

Members of board

4621. Each unified school district which is coterminous with or includes within its boundaries a chartered city or city and county shall be governed by the board of education provided for in the charter of the city or city and county.

If the charter of any city or city and county fails to provide for a board of education, the unified school district with which the city or city and county is coterminous, or in which it is included, shall be governed by an elective board of education of five members. The members of the governing board of any elementary school district merged into a unified school district of the type described in this section shall become members of the governing board of the unified school district and shall serve as such for the unexpired term for which they were elected or appointed as members of the governing board of the elementary school district.

Same

4622. Each unified school district which is coterminous with or includes within its boundaries any city of the first to fifth classes, inclusive, or which had an average daily attendance during the school year preceding the effective date of its formation of 1,500 or more, shall be governed by an elective board of education of five members.

The members of the governing board of any elementary school district which is merged into a unified school district of the type described in this section shall become members of the governing board of the unified school district and shall serve as such for the unexpired term for which they were elected or appointed as members of the governing board of the elementary school district. If the governing board of the elementary school district consists of only three members, the county superintendent of schools having jurisdiction over the unified school district shall appoint two additional members to the board to serve until the members elected at the next succeeding election for members of the governing board of the unified school district take office.

Same

4623. Each unified school district which is not coterminous with and does not include within its boundaries a chartered city or city and county, or a city of the first to fifth classes, inclusive, and which had an average daily attendance during the preceding school year of less than 1,500 shall be governed by an elective board of trustees of five members.

The members of the governing board of any elementary school district which is merged into a unified school district of the type described in this section shall become members of the governing board of the unified school district and shall serve as such for the unexpired term for which they were elected or appointed as members of the governing board of

the elementary school district. If the governing board of the elementary school district consists of only three members, the county superintendent of schools having jurisdiction over the unified school district shall appoint two additional members to the board to serve until the members elected at the next succeeding election for members of the governing board of the unified school district take office.

Election

4624. On the day prescribed by this code for the holding of elections for members of boards of trustees of elementary school districts during each school year, an election shall be held in each unified school district which is not coterminous with and does not include within its boundaries a chartered city or city and county the charter of which provides for a board of education, for the election of members of the governing board of the unified school district. The election shall be called, held, and conducted as are elections for members of boards of trustees of elementary school districts.

Terms

The members of the governing board of the unified school district shall serve for four years except as provided in this section. The members elected at the first election following the creation of a unified school district into which was merged an elementary school district having a governing board of three members shall so classify themselves by lot that the term of two will expire at the end of three years and the term of one shall expire at the end of four years.

Where at the first election following the creation of a unified school district into which was merged an elementary school district having a governing board of five members, but one vacancy is to be filled, the term of the member elected shall expire at the end of three years and at the next succeeding election the two members elected to fill the vacancies shall so classify themselves by lot that the term of one will expire at the end of three years and the term of the other will expire at the end of four years.

Where at the first election following the creation of a unified school district into which was merged an elementary school district having a governing board of five members two vacancies are to be filled, the two members elected shall so classify themselves by lot that the term of one will expire at the end of three years and the term of one will expire at the end of four years.

Qualifications

4625. The members of all elective governing boards of unified school districts shall be elected at large. Every qualified elector residing within the unified school district shall be eligible to vote at the election.

Vacancies

4626. Vacancies occurring on the governing board of any unified school district not governed by a board of education under the provisions of a city or city and county charter, the charter of which provides another method of filling vacancies on the board, shall be filled by appointment by the county superintendent of schools having jurisdiction over the district.

Appointees shall serve for the unexpired terms of the persons whom they succeed.

Powers and duties

4627. The governing board of each unified school district shall have the same powers and duties as are by law granted to the governing boards of the elementary school districts, the high school districts, and the junior college districts merged into the unified school district.

Same

4628. The governing board of a unified school district, in addition to the powers conferred by Section 4627 has such powers and duties as are granted by law to governing boards of all junior college districts.

Same

4629. Whenever a unified school district has within its boundaries a chartered city or a city of the first to the fifth classes, inclusive, or whenever the average daily attendance of a unified school district is 1,500 or more, the governing board of the district has all the powers and duties of a city board of education.

Article 3. Formation of Unified Districts

Date of formation

4641. On the first day of July succeeding the date upon which the boundaries of an elementary district, high school district, and junior college district become coterminous, and the districts are governed by governing boards of identical personnel, the districts shall be merged into a new district to be known as the "_____ Unified School District" and the elementary district, high school district, and junior college district shall cease to exist except for such purposes as are set forth in this chapter.

Same

4642. On the first day of July next succeeding the date upon which the boundaries of an elementary school district and high school district become coterminous, and the districts are governed by governing boards of identical personnel, the districts shall be merged into a new district to be known as the "_____ Unified School District" and the elementary school district and high school district shall cease to exist except for such purposes as are set forth in this chapter.

4643. (Repealed by Stats. 1943, Ch. 704.)

[ORIGINAL SECTION]

4643. The board of supervisors having jurisdiction over any unified school district shall annex to the unified district any contiguous school district of any kind or class within the same or any adjoining county whenever the majority of the qualified electors of the contiguous school district voting at an election called for that purpose vote in favor of the annexation. The elections shall be called, held, and conducted in the same manner as elections for members of governing boards of unified school districts.

Article 4. Change of Boundaries. Merger and Annexation of Districts

Date of change

4661. The boundaries of a unified school district may be changed not later than February 10th of any school year in the same manner as boundaries of elementary school districts. Change of boundaries shall not become effective until the first day of July next succeeding, except that, for the purpose of

assessing the property contained in the territory or school districts affected by the change of boundaries for determining the rate of school district tax to be levied, the change of boundaries shall become effective on the first Monday in March next succeeding the change of boundaries.

Effect of merger

4662. Two or more adjoining unified school districts may merge at any time during a school year, but not later than the tenth day of February, to form a single unified school district in the same manner as elementary school districts may be united. Whenever a unified school district is merged with another unified school district, the resulting district is a single unified school district. The merger shall become effective on the first day of July next succeeding, except that for the purpose of assessing the property contained in the territory or school districts affected by the merger for determining the rate of school district tax to be levied, the merger shall become effective on the first Monday in March next succeeding the merger.

Annexation

4663. One or more contiguous elementary or high school districts, one of which is contiguous to a unified school district, may be annexed to the unified school district not later than the first day of February in any school year by the board of supervisors of the county having jurisdiction over the unified school district whenever a majority of the qualified electors in each of the elementary or high school districts voting at an election held for that purpose vote in favor of the annexation and the governing board of the unified school district has filed its approval of the annexation, in writing, with the board of supervisors. The election shall be called by the county superintendent of schools having jurisdiction over the unified school district whenever a majority of the heads of families residing in each of the elementary or high school districts petition the county superintendent of schools to call the election.

Notice

4664. An election for the annexation of an elementary school district or high school district to a unified school district shall be called by posting notices in three public places in the elementary school district or high school district not less than 15 days before the election and by publishing the notice at least once a week for two consecutive calendar weeks before the election in a newspaper having general circulation in the elementary or high school district. The notice shall contain:

(a) The election precincts, if any, established for the election and the time and place, or places, of holding the election.

(b) The names of the officers of the election appointed to conduct the election.

(c) The hours during the day which the polls will be open.

(d) The purposes for which the election is to be held.

The election shall be conducted in the same manner as are elections of school trustees, except that the returns of the election shall be made to the county superintendent of schools calling the election.

Certificate of result

4665. The county superintendent of schools shall record the result of the election in a book kept by him for that purpose. If a majority of the votes cast at the election is in favor of the annexation, he shall make and file with the county clerk of every county in which any part of the unified school district and the district annexed lies, a certificate declaring the results of the election. Each county clerk shall record the certificate in a book to be kept by him for that purpose.

Effect of annexation

4666. If it appears from the certificate filed by the county superintendent of schools that a majority of the votes is cast in favor of the annexation, the annexation shall become effective on the first day of July next succeeding, except that for the purpose of assessing the property contained in the territory or school districts affected by the annexation for determining the rate of school district tax to be levied, the annexation shall become effective on the first Monday in March next succeeding the annexation. Elementary and high school districts which have been annexed to a unified school district shall cease to exist except for such purposes as are specified in this chapter.

Bonded indebtedness

4667. The bonded indebtedness of any elementary, high school, or junior college district incurred prior to the inclusion of all or any part of the district in a unified school district shall continue to be an obligation of the territory within the annexed district as it existed prior to the inclusion of all or any part of the district in a unified school district.

Assumption of bonded indebtedness

4668. Upon petition of 10 per cent of the qualified electors residing in any elementary school district, high school district, or junior college district which has been included in a unified school district requesting him to do so, the county superintendent of schools having jurisdiction of the district shall call an election in the unified school district for the purpose of permitting the qualified electors to vote upon the question of whether or not the unified school district shall assume the bonded indebtedness of the elementary school district, high school district, or junior college district, as the case may be. The election shall be called, held, and conducted as are elections for the issuance of school district bonds excepting that the notice for the election shall contain the following:

(a) The time and place, or places of holding the election.

(b) The names of the officers of the election appointed to conduct the election.

(c) The hours of the day during which the polls will be open.

(d) The amount of the bonded indebtedness and the interest rate thereon proposed to be assumed by the unified school district.

The ballot at the election shall contain the words "Assumption of Bonded Indebtedness—Yes" and "Assumption of Bonded Indebtedness—No," or words of similar import.

No bonded indebtedness shall be assumed by a unified school district unless two-thirds of the qualified electors voting at the election vote in favor of the assumption.

Property

4669. Whenever any unified school district is created, all funds, property, and obligations of the elementary, high school, or junior college districts lying wholly within the unified school district shall become the funds, property, and obligations of the unified school district except as provided in Sections 4667 and 4668.

Same

4670. Whenever any elementary school district is annexed to a unified school district, all property, funds, and obligations of the elementary school district shall become the property, funds, and obligations of the unified school district.

Same

4671. Whenever any portion of an elementary school district is annexed to a unified school district, all property of the elementary school district situated in the portion annexed shall become the property of the unified school district.

Same

4672. Whenever the entire territory of an elementary school district is annexed to two or more unified school districts, all property of the elementary district situated in the portion annexed to any unified school district shall become the property of the unified school district, and a portion of the funds to the credit of the elementary school district shall be transferred to the credit of each unified school district after any outstanding obligations of the elementary school district have been discharged which bears the same ratio to the total amount of the funds to the credit of the elementary school district as the assessed valuation of the portion of the district made a part of the unified school district bears to the total assessed valuation of the entire elementary school district.

Same

4673. Whenever by reason of the annexation of the elementary school district or districts composing a high school district to a unified school district the high school district ceases to exist, all property, funds, and obligations, except as otherwise provided, of the high school district shall become the property, funds, and obligations of the unified school district.

Same

4674. Whenever an elementary school district or portion of an elementary school district lying within a high school district is annexed to a unified school district, all property of the high school district which is located in the annexed territory shall become the property of the unified school district.

Same

4675. Whenever all territory in an elementary school district lying within a high school district is annexed to two or more unified school districts, all property of the high school district which is located in any portion of the elementary school district shall become the property of the unified school district to which the portion is annexed, and a portion of the funds to the credit of the high school district shall be transferred to the credit of each unified school district after any outstanding obligations of the high school district have been discharged, which bears the same ratio to the total amount of the funds to the credit of the high school district as the

assessed valuation of the portion of the high school district merged or annexed to each unified school district bears to the total assessed valuation of the entire high school district.

Article 5. Employees

Permanent employees

4691. Every permanent employee of a school district which becomes in its entirety a part of a unified school district, and every permanent employee of a school district employed in a school located in a portion of a district which becomes a part of a unified school district, where the whole of the district does not become a part of a unified school district, shall become a permanent employee of the unified school district.

Probationary employees

4692. Every probationary employee of a school district which becomes in its entirety a part of a unified school district and every probationary employee of a school district employed in a school located in a portion of a school district which becomes a part of a unified school district, where the whole of the district does not become a part of a unified school district, shall become a probationary employee of the unified school district. The service of the probationary employee in the annexed district shall be considered as service in the unified school district for the purpose of any law relating to the classification of persons employed in school districts in positions requiring certification qualifications.

Article 6. Schools Maintained

Elementary and high schools

4701. Each unified school district shall maintain at least one elementary school and one four-year high school, or in lieu of one four-year high school, one junior high school and one senior high school.

Kindergartens

4702. Kindergartens may be maintained by the governing board of a unified school district. The kindergartens maintained by an elementary school district at the time it became a part of the unified school district shall be continued, except that the kindergartens may be discontinued or additional kindergartens may be established as prescribed in this code. In any elementary school district or portion of elementary school district included in a unified school district, in which a kindergarten was not maintained at the time of the merger of the elementary school district or portion of elementary school district into a unified school district, a kindergarten may be established by the governing board of the unified school district as provided in this code.

Article 7. Financial Provisions

Apportionment of State funds

4711. Apportionments of State funds to unified school districts for the support of elementary schools, high schools, and district junior colleges shall be computed and made in the same manner and from the same funds, except as in this chapter provided, as apportionments to elementary school districts,

high school districts, and junior college districts for the maintenance of elementary schools, high schools, and district junior colleges respectively.

Computation of teacher units

4712. In each unified school district, each elementary school district or portion of a district constituting a part of the unified school district shall be considered a separate school district for the purpose of computing teacher units for State apportionments to the unified school district in the same manner as provided in this code for union elementary school districts.

Additional teacher units

4713. One additional teacher unit shall be allowed to each unified school district for each 300 units of average daily attendance in the aggregate in the elementary schools of the district during the next preceding school year. All moneys received by a school district under this section shall be expended exclusively for the salaries and necessary expenses of supervisors of instruction and for the preparation and coordination of courses of study as prescribed in Article 8 of this chapter.

Bond limitations

4714. The total amount of bonds issued by any unified school district for elementary school purposes, high school purposes, or junior college purposes, respectively, shall not exceed, for each of such purposes, 5 per cent of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the unified school district is located.

Article 8. Educational Supervision

Supervisors of instruction

4726. Except as provided in this article, funds apportioned directly to a district under the provisions of Section 4713 shall be used exclusively for the payment of salaries and necessary expenses of supervisors of instruction for elementary schools of the district.

Elementary schools

4727. The county superintendent of schools of each county may expend such amounts as may be necessary of the county elementary school supervision fund for the preparation and coordination of courses of study.

Unified districts

4728. The governing board of any unified school district may enter into a contract with the county superintendent of schools having jurisdiction over the district for the supervision of instruction and for the preparation and coordination of courses of study for the schools of the district. The county superintendent of schools shall transfer to the county elementary school supervision fund from the funds apportioned to the district under the provisions of Section 4713, and shall transfer from the secondary school funds of the district to the county secondary school supervision fund, which fund is continued in the county treasury, such sums as may be agreed upon by the governing board of the district and the county superintendent of schools

Secondary schools

4729. The county secondary school supervision fund shall be used by the county superintendent of schools for the supervision of instruction in the secondary schools of the unified school districts contracting, and for the preparation and coordination of courses of study in those schools.

Contracts

4730. The governing board of any unified school district may enter into an agreement with the governing board or boards of one or more other school districts, for the joint employment of supervisors of instruction.

Article 9. Suspension and Lapsation of Elementary Districts in Unified Districts

Procedure

4741. The individual elementary school districts, or portions of districts, composing a unified school district shall be subject to suspension and lapsation in the same manner as provided for the suspension and lapsation of the individual elementary school districts composing a union elementary school district, except that any elementary school district so lapsed shall be attached to another elementary school district in the unified school district for computing teacher units.

Article 10. Jurisdiction Over Unified Districts

Jurisdiction

4751. The county superintendent of schools of the county in which the greatest part of the assessed valuation of any unified school district lies has jurisdiction over the unified school district for the purposes specified in this code.

CHAPTER 15. MISCELLANEOUS ADMINISTRATIVE PROVISIONS

Article 1. Printing and Publications

Printing and binding

4801. All printing or binding required by the Superintendent of Public Instruction or the State Board of Education, or by any educational institution, except the University of California, supported entirely out of State funds, and all school registers and blank forms prescribed by the Superintendent of Public Instruction for the use of officers charged with the administration of the laws relating to the public schools, including blank teachers' certificates, and diplomas of graduation from elementary schools in districts not governed by city boards of education, shall be performed by the Department of Finance in the form and manner and at the prices of other State printing, and be paid for in like manner.

Publications

4802. With the approval of the Department of Finance, the State Department of Education may fix the price for the sale of any bulletin or publication of the department, or any institution of the department.

Free copies

4803. When the Department of Education fixes the price of any publication, it shall specify the class of persons or institutions that may receive copies of the publication free of charge.

Purchase

4804. Any county, or any school district, in this State may purchase the publications described in this article from the State Department of Education.

4805. All moneys received from the sale of publications shall be deposited in the State Treasury to the credit of the fund against which the cost of printing the publications was charged. Proceeds of sales

Article 2. Audial and Visual Education

4821. The Director of Education may conduct experimental work in education through various media, including radio and vision. Experimental work

4822. The Director of Education may develop audial and visual curriculum materials, evolve means and methods, and prescribe standards, for the use of such materials in the public elementary and secondary schools. Use

Article 2.1. Consultant Services for Hard of Hearing Children

(Article 2.1 added by Stats. 1943, Ch. 915.)

4824. The Director of Education shall provide consultant services in connection with the education of hard of hearing children in areas where said services are not available. The services shall be provided through an expert in the fields of organization and planning for the education of the hard of hearing who shall be employed for that purpose by the Director of Education. Consultant service

(Added by Stats. 1943, Ch. 915.)

NOTE.—Stats. 1943, Ch. 915, contained the following provision:

SEC. 4. Out of any moneys in the State Treasury, not otherwise appropriated, there is hereby appropriated the sum of twelve thousand dollars ($12,000) to be expended for the purposes of this act during the Ninety-fifth and Ninety-sixth Fiscal Years.

Article 3. Instruction in Institutions

4831. The State Board of Education may:

(a) Establish at the request of the governing authorities of any State institution, courses of instruction for the inmates of the institution. Courses of study in State institutions

(b) Examine under arrangements with the governing authorities of the institution the progress of students taking the courses and grant certificates of progress or completion as the State Board of Education may determine.

Article 4. Administration of Oaths

4841. The Superintendent of Public Instruction, Deputy and Assistant Superintendents of Public Instruction, secretary of the Superintendent of Public Instruction, county superintendents of schools, school trustees, members of boards of education, secretaries and assistant secretaries of boards of education, city superintendents of schools, district superintendents of schools, assistant superintendents of schools, deputy superintendents of schools, principals of schools, and every other officer charged with the performance of duties Power to administer oaths

under the provisions of this code may administer and certify oaths relating to officers or official matters concerning public schools.

Article 5. Membership of Schools in Educational Organizations

Schools

4861. The governing board of any school district and the governing board of any junior college district may subscribe for membership for any school under its jurisdiction in any society, association, or organization which has for its exclusive purpose the promotion and advancement of public education through research and investigation and the publication of reports on educational problems. The State Board of Education shall approve a list of societies, associations, and organizations in which membership may be taken. No payment shall be made out of school funds for membership in any society, association, or organization whose name does not appear in the list approved by the State Board of Education. The total amount paid on account of all such memberships shall not exceed fifty dollars ($50) for any school during any school year.

(Amended by Stats. 1943, Ch. 812.)

[ORIGINAL SECTION]

4861. The governing board of any school district may subscribe for membership for any school under its jurisdiction in any society, association, or organization which has for its exclusive purpose the promotion and advancement of public education through research and investigation and the publication of reports on educational problems. The State Board of Education shall approve a list of societies, associations, and organizations in which membership may be taken. No payment shall be made out of school funds for membership in any society, association, or organization whose name does not appear in the list approved by the State Board of Education. The total amount paid on account of all memberships shall not exceed thirty dollars ($30) for any school during any school year.

Governing boards

4862. The governing board of any school district may subscribe for membership in, or otherwise become a member of, any State or local organization of governing boards of school districts or members thereof which has for its primary purpose the promotion and advancement of public education through research and investigation, and the cooperation with persons and associations whose interests and purposes are the betterment of the educational opportunities of the children of the State.

DIVISION 3. FINANCIAL SUPPORT OF THE SCHOOL SYSTEM

CHAPTER 1. GENERAL PROVISIONS

Prohibition of fees

5001. Notwithstanding anything to the contrary in Section 4290 of the Political Code, no assessor, tax collector, city, city and county, or county treasurer shall charge or receive any fees or compensation for assessing, collecting, receiving,

keeping, or disbursing any school moneys, but the whole moneys collected shall be paid to the city, city and county, or county treasurer.

Deposit of money

5002. The governing board of every school district shall pay all moneys received or collected by it from any source and all moneys apportioned to it from taxes levied and collected under the authority of city councils for school purposes, into the county treasury to be placed to the credit of the proper fund of its district. All money collected by the city council or other governing body of any municipality from taxes levied for school purposes when received shall be paid into the county treasury to the credit of the school district for the schools of which the taxes were levied.

Funds

5003. All moneys received by any school district or paid into the county or city and county treasury to the credit of the district from State apportionments, county, district or municipal taxes, other than moneys required to be placed in a special accumulative building fund, a building fund or bond interest and sinking fund, and moneys authorized to be paid into a cafeteria fund or account, shall be deposited in the general fund of the district, which fund is continued in existence in each county and city and county treasury.

Nothing in this section shall be construed as discontinuing, nor as affecting the disposition of moneys in emergency cash funds, in revolving funds for warehouse stock, in cafeteria funds or accounts, in special accumulative building funds, in building funds, or in bond interest and sinking funds created or established under this code.

Budgetary accounting

5004. Excepting only as provided in this article, all constitutional and statutory limitations on the purposes for which moneys derived from particular specified sources may be expended, and all statutory provisions relative to the establishment of specified school district funds, shall be administered by county superintendents of schools, or in the discretion of county auditors, by county superintendents of schools and county auditors by means of budgetary accounting and not by the establishment and maintenance in the county or city and county treasury of special school district funds.

Excess expenditures

5005. Except as provided in this section, any election held for the purpose of permitting a school district to exceed the expenditure of school district funds fixed by the Constitution or by the statutes of the State shall be called, held, and conducted as nearly as possible as are elections for the issuance of school district bonds.

Election

The notice of election shall contain only the following:

(a) The time and place or places of holding the election.

(b) The names of the officers appointed to conduct the election.

(c) The hours during the day in which the polls will be open.

(d) The amount by which it is proposed to increase the expenditures of the district during the school year.

(c) The total amount of proposed expenditures of the district, including the proposed increase, for the school year.

The ballots used at the election shall contain the following language: "Shall the total authorized expenditures of the district be increased from____(naming the sum) to____(naming the sum) for the school year____ (naming the school year)?"

The hours during which the polls at the election are open shall be fixed in accordance with the provisions of Section 1809.

Employees' bonds

5006. The governing board of every school district shall require each employee of the district, whose duty it is to handle funds of the district, to provide a suitable bond indemnifying the district against loss. The boards shall pay from the funds of the district the cost of the premium necessary to provide the bond.

Investment of funds

5007. The governing board of any school district which now has, or hereafter shall have, funds in a special accumulative building fund of the district or any surplus moneys not required for the immediate necessities of the district, is hereby authorized to invest all or any part of such funds in bonds issued by the United States of America. Any bonds so purchased may be sold and the proceeds reinvested in similar bonds of the United States of America or placed in the county treasury for credit to the fund of the district from which purchased. This section shall not be construed as in any way limiting or modifying the application of any other law providing for or authorizing the investment of any funds of a school district.

(Added by Stats. 1943, Ch. 814.)

CHAPTER 2. STATE ELEMENTARY SCHOOL SUPPORT

Article 1. State School Fund

Computation

5151. The State Controller shall during each school year transfer from the General Fund of the State to the State School Fund such sums, in addition to the sums accruing to the State School Fund from other sources, as shall provide in the State School Fund for distribution during the school year a total amount to be computed as follows:

(a) There shall first be provided an amount not less than thirty dollars ($30) per pupil in average daily attendance in the day and evening elementary schools in the public school system during the next preceding school year, as certified by the Superintendent of Public Instruction.

(b) In addition there shall be provided such sum as the Superintendent of Public Instruction shall certify as necessary to reimburse the elementary school districts for one-half the excess cost of educating physically handicapped pupils. The amount shall not exceed one hundred dollars ($100) for each unit of average daily attendance during the next preceding school year of the physically handicapped pupils.

(c) To these amounts there shall be added such sum as the Superintendent of Public Instruction shall certify as necessary to reimburse the several counties for one-half the amount apportioned to elementary school districts on account of special schools or classes for the children of migratory laborers. The amount certified by the Superintendent of Public Instruction shall not exceed seventy-five dollars ($75) per calendar month per teacher employed in the special schools or classes during the next preceding school year.

(See Section 5151.1.)

5151.1. The State Controller shall during each school year transfer from the General Fund of the State to the State School Fund such sums, in addition to the sums accruing to the State School Fund from other sources, as shall provide in the State School Fund for distribution during the school year a total amount to be computed as follows: Same

(a) There shall first be provided an amount not less than thirty-three dollars ($33) per pupil in average daily attendance in the day and evening elementary schools in the public school system during the next preceding school year, as certified by the Superintendent of Public Instruction.

(b) In addition there shall be provided such sum as the Superintendent of Public Instruction shall certify as necessary to reimburse the elementary school districts for one-half the excess cost of educating physically handicapped pupils. The amount shall not exceed one hundred dollars ($100) for each unit of average daily attendance during the next preceding school year of the physically handicapped pupils.

(c) To these amounts there shall be added such sum as the Superintendent of Public Instruction shall certify as necessary to reimburse the several counties for one-half the amount apportioned to elementary school districts on account of special schools or classes for the children of migratory laborers. The amount certified by the Superintendent of Public Instruction shall not exceed seventy-five dollars ($75) per calendar month per teacher employed in the special schools or classes during the next preceding school year.

(Added by Stats. 1943, Ch. 1085. Supersedes Section 5151 until June 30, 1945. See note below.)

NOTE—Stats. 1943, Ch. 1085, contained the following provisions:

SEC. 17. The money appropriated under the provisions of this act shall not be in excess of eight million two hundred fifty thousand dollars ($8,250,000) of the amount which otherwise would have been paid from the General Fund in the State treasury had this act not been enacted.

SEC. 18. Any moneys apportioned to the elementary school districts under this act which is in excess of the money which otherwise would have been apportioned under the provisions of Sections 4.1, 4.781, 4.782, 4.784, 4.791, 4.793, 4.794, and 4.796 of the School Code, or Sections 5151, 6952, 6953, 6957, 6972, 6974, 6975 and 6977 of the Education Code, shall be used only for the salaries of certificated employees of the elementary school districts.

SEC. 20. The sections added to the Education Code by this act shall remain in effect until June 30, 1945, and while they are in effect shall supersede any existing provisions of law with which they are in conflict; but such provisions are not repealed by said sections and after said sections

are no longer effective shall have the same force as though these sections had not been enacted.

Pursuant to Sections 16 and 34 of the Constitution, the Governor approved Senate Bill 307 (Stats. 1943, Ch. 1085) subject to the following

I hereby reduce the appropriation made in S. B. 307 by reducing the limit of $8,250,000 specified in Section 17 thereof to $4,500,000. With this reduction I approve the bill. The reason for making this reduction is that it is my intention and belief that the amount of $4,500,000 should and will be fully sufficient to provide for the additional expenditures contemplated by the other sections of this bill during the ensuing fiscal year, and before the start of the second year of the biennium I anticipate that the Legislature will again be in session and will undoubtedly consider the need for providing further funds for the same purpose for the last one-half of the biennium.

EARL WARREN, *Governor*

June 8, 1943.

Transfer

5152. The State Treasurer shall transfer from the General Fund to the State School Fund the sums certified, to him by the State Controller under the provisions of this article.

Account

5153. The Controller shall keep a separate account of the School Fund, and of the interest and income thereof, together with such money as is raised by special tax or otherwise for school purposes.

Report

5154. The Controller shall, on the first Monday in January and on the first Monday in July in each year, report to the Superintendent of Public Instruction a statement of the securities belonging to the School Fund, of the money in the Treasury subject to apportionment, and the several sources from which it accrued.

Payments

5155. The Controller shall draw warrants on the State Treasurer in favor of the county treasurer of each county in the months of September, October, November, December, January, February, March, April, May, and June of each school year in such amounts as to provide in each warrant one-tenth of the total amount certified by the Superintendent of Public Instruction as apportioned from the State School Fund to the county during the school year. The payment of the amounts required to be paid to the several counties during any one of the months mentioned may be postponed by the Controller for not to exceed 30 days, but the total amounts due the several counties during any school year shall be paid within the school year. The warrants shall be paid by the State Treasurer from the State School Fund and are not subject to the provisions of Article 18, of Chapter 3, of Title 1, of Part 3, of the Political Code.

Use

5156. The State School Fund shall be used for no other purpose than the payment of the salaries of teachers of primary and grammar schools.

Article 2. Payments From General Funds for Elementary Schools

(Article 2 added by Stats. 1943, Ch. 72, as part of codification.)

Method of payment

5171. At the same time and in the same manner as provided for the drawing and payment of warrants on the State School Fund, the Controller shall draw warrants on the State Treasurer in favor of the county treasurer of each county for the amounts certified by the Superintendent of Public Instruction as

required to be apportioned for elementary schools to each county in accordance with the provisions of Section 15, Article 13, of the Constitution. The State Treasurer shall pay the warrants from the General Fund of the State. The warrants are not subject to the provisions of Article 18, of Chapter 3, of Title 1, of Part 3, of the Political Code.

Article 3. Unapportioned County Elementary School Fund

Estimate of county superintendent

5181. The county superintendent of schools of every county shall on or before the fifteenth day of July in each year furnish to the Superintendent of Public Instruction an estimate in writing of the minimum amount of the unapportioned county elementary school fund needed for the current school year.

Amount

5182. The county superintendent of schools shall include in his estimate of the amount of the unapportioned county elementary school fund such sums as are necessary to meet the expenses charged against the fund as provided in this code, together with such amounts as he estimates as necessary for emergency apportionments to the elementary school districts of the county. The total amount estimated shall be subject to the approval of the Superintendent of Public Instruction and shall in no event exceed an amount equal to 10 per cent of the moneys apportioned to the county during the preceding school year from the State School Fund.

Transfer

5183. During July or August of each year the county superintendent of schools shall transfer to the unapportioned county elementary school fund, 80 per cent of any excessive balance or unnecessary surplus in any school fund of any elementary school district; and also 80 per cent of any excessive balance or unnecessary surplus in the county elementary school supervision fund, after the salary and expenses of the school supervisors for the preceding school year have been paid. Funds raised by school district taxes shall not be transferred.

Forest service receipts

5184. The county auditor of any county, receiving money from the Government of the United States pursuant to any act of Congress providing for the distribution and payment to states and territories of a fixed and definite percentage of the money received by the Government of the United States from the forest reserves established therein, shall apportion 50 per cent of the money received to the credit of the unapportioned county elementary school fund of the county.

The money thus added to the unapportioned county elementary school fund shall be apportioned by the county superintendent of schools in the same manner as other county school fund money. All or any portion of the money thus apportioned to the credit of the unapportioned county elementary school fund shall upon the request of the county superintendent of schools be transferred to the forest reserve

school fund, which shall be used by the county superintendent of schools for the benefit of school districts of the county lying within or adjacent to the United States Forest Reserve. The fund is available for any purpose for which county funds may be spent.

Use

5185. The unapportioned county elementary school fund shall be employed by the county superintendent of schools to pay such charges against this fund as are provided in this code; and to provide, with the approval of the county board of education, additional apportionments to such elementary school districts of the county for the purpose of providing emergency teachers, instructional materials and pupil transportation as, (a) have levied the maximum district tax specified in Section 6357 for purposes other than building purposes and in which the annual average current cost per pupil does not exceed the annual average current cost per pupil for all districts within the county or under the jurisdiction of the county superintendent of schools or, (b) need additional apportionments for such purposes because of temporary emergency conditions.

Article 4. County Elementary School Supervision Fund

Use

5216. There shall be in each county treasury a fund known as the county elementary school supervision fund, into which shall be paid all moneys apportioned to the fund. The county elementary school supervision fund shall be expended by the county superintendent of schools, except as otherwise provided by this code, exclusively for the payment of the salaries and necessary expenses of supervisors to supervise instruction in the elementary school districts of the county having less than 300 units of average daily attendance during the next preceding school year, and for the furnishing of such clerical help, supplies, and equipment to the supervisors as the county superintendent of schools deems necessary.

Chapter 3. State High School Support

Article 1. State High School Fund

(Article 1 added by Stats. 1943, Ch. 73, as part of codification.)

Computation

5301. The State Controller shall during each school year transfer from the General Fund of the State to the State High School Fund an amount to be computed as follows:

(a) There shall first be transferred an amount not less than thirty dollars ($30) per pupil in average daily attendance in the day and evening high schools in the public school system during the next preceding school year, as certified by the Superintendent of Public Instruction.

(b) In addition there shall be transferred such sum as the Superintendent of Public Instruction shall certify as necessary to reimburse the high school districts for one-half the

excess cost of educating physically handicapped pupils. The amount shall not exceed one hundred dollars ($100) for each unit of average daily attendance of the physically handicapped pupils.

Transfer

5302. The State Treasurer shall transfer from the General Fund of the State to the State High School Fund the sums certified to him by the State Controller pursuant to this article.

Time of payment

5303. The Controller shall draw warrants on the State Treasurer in favor of the county treasurer of each county in the months of September, October, November, December, January, February, March, April, May, and June of each school year in an amount equal to one-tenth of the total amount certified by the Superintendent of Public Instruction as apportioned from the State High School Fund to the county during the school year. The payment of the amounts required to be paid to the several counties during any one of the months mentioned may be postponed by the controller for not to exceed 30 days, but the total amounts due the several counties during any school year shall be paid within the school year. The warrants shall be paid by the State Treasurer from the State High School Fund and are not subject to the provisions of Article 18, of Chapter 3, of Title 1, of Part 3, of the Political Code.

Article 2. Payments from General Funds for High Schools

(Article 2 added by Stats. 1943, Ch. 74, as part of codification.)

Method of payment

5321. At the same time and in the same manner as provided for the drawing and payment of warrants on the State High School Fund, the Controller shall draw warrants on the State Treasurer in favor of the county treasurer of each county for the amounts certified by the Superintendent of Public Instruction as required to be apportioned for high schools to each county in accordance with the provisions of Section 15, of Article XIII, of the Constitution. The State Treasurer shall pay the warrants from the General Fund of the State. The warrants are not subject to the provisions of Article 18, of Chapter 3, of Title 1, of Part 3, of the Political Code.

Article 3. Unapportioned County High School Fund

Estimated by county superintendent

5336. The county superintendent of every county shall, on or before the fifteenth day of July in each year furnish to the Superintendent of Public Instruction an estimate in writing of the minimum amount of the unapportioned county high school fund needed for the current school year.

Amount

5337. The county superintendent of schools shall include in his estimate of the amount of the unapportioned county high school fund such sums as will be necessary to meet the expenses charged against the fund, together with such amounts as he estimates are necessary for emergency apportionments

to the high school districts of his county. The total amount estimated shall be subject to the approval of the Superintendent of Public Instruction and shall not exceed a sum equal to 10 per cent of the amount apportioned to the county during the preceding school year from the State High School Fund.

Transportation and tuition of pupils

5338. In those counties in which no high school is maintained the county superintendent of schools may submit to the Superintendent of Public Instruction an estimate of the amount of money needed for the unapportioned county high school fund of his county in order to meet the expenses charged against the fund for the payment of the transportation and tuition of pupils residing within the county and attending high school in other counties in the State, and for such other purposes as are specified in this code. The amount of the estimate shall be subject to the approval of the Superintendent of Public Instruction.

Apportionment

5339. The Superintendent of Public Instruction shall apportion to the unapportioned county high school fund in those counties in which no high school district is located, from the State High School Fund, one-third of the approved amount estimated as needed for the unapportioned county high school fund. From the State General Fund he shall apportion the remaining two-thirds of the amount estimated as needed for the unapportioned county high school fund.

Use

5340. The unapportioned county high school fund shall be employed by the county superintendent of schools to pay such charges as are stipulated in this code, and to provide, with the approval of the county board of education, additional apportionments to the high school districts of the county for current expenses because of temporary emergency conditions arising in the districts.

Transportation of pupils

5341. The superintendent of schools shall apportion from the unapportioned county high school fund to each high school district within his county an amount sufficient to reimburse the high school district for money actually expended for transportation of pupils residing in territory in the county not included in any high school district, and attending the high school district during the preceding school year. The amount apportioned shall not exceed five dollars ($5) per month for each pupil.

Article 4. County High School Tuition Fund

Apportionment

5361. The average daily attendance of pupils residing in any county of this State and attending high school in an adjoining State shall be reported by the county superintendent of schools in his annual report to the Superintendent of Public Instruction, who shall include such average daily attendance in the average daily attendance in all the duly established high schools of the State for the last preceding school year certified by him to the State Controller.

The Superintendent of Public Instruction, in making the apportionments of the State High School Fund, shall apportion to each county on account of the average daily attendance of pupils residing in the county and attending high school in an adjoining State an amount equal to that apportioned to the high school districts of this State on account of the average daily attendance in the districts during the preceding school year. The amounts apportioned to a county under this section shall be deposited in the county treasury to the credit of the county high school tuition fund.

Attendance of pupils outside State

5362. The county superintendent of schools of any county contiguous to an adjoining State may grant permission to pupils residing in the county to attend high school in a high school district of the adjoining State and may provide for the transportation of the pupils to the high school.

Transportation

5363. The county superintendent of schools shall pay for the transportation and tuition of high school pupils residing in his county and attending high school in an adjoining State from the county high school tuition fund of his county pursuant to this article. The payment for transportation shall not exceed twenty dollars ($20) per month per pupil transported.

Method of payment

5364. Any costs incurred by the county superintendent of schools for the transportation of high school pupils to a high school in an adjoining State, not to exceed twenty dollars ($20) per month per pupil transported, shall be paid by him by requisition drawn against the county high school tuition fund.

Certificate of costs

5365. The superintendent of schools of any high school district, or the principal of any high school, in an adjoining State attended by pupils residing in an adjoining county in this State shall certify to the county superintendent of schools of the county not later than July 2d of each year the average daily attendance of pupils from the county attending the high school and the current expenditure, including transportation, incurred for the education of the high school pupils. Certification shall be made on forms furnished by the Superintendent of Public Instruction.

Amount

5366. The county superintendent of schools shall verify the certificates of attendance and cost of education of pupils attending high schools in adjoining States and shall certify to the county auditor and the board of supervisors the amount of money required to be levied as a county high school tuition tax. The amount shall not include any costs for the transportation of the pupils in excess of twenty dollars ($20) per month per pupil transported. The amount shall be determined by subtracting from the total cost of the tuition and transportation allowed under this article, the amount to be apportioned by the Superintendent of Public Instruction to the county high school tuition fund during the school year.

High school tuition tax

5367. The board of supervisors shall levy a county high school tuition tax upon the taxable property of the county sufficient to produce the amount required by this article.

Report

5368. The county auditor shall report to the county superintendent of schools all amounts received from county high school tuition taxes.

Payment of transportation and tuition

5369. The county superintendent of schools shall pay all costs of transportation and all verified claims for tuition of high school pupils attending high school in adjoining States allowed under this article, by requisition drawn against the county high school tuition fund.

Approval

5370. All requisitions drawn by the county superintendent of schools under this article shall be approved by the county auditor and paid by the county treasurer.

Unused funds

5371. The county superintendent of schools may with the approval of the county auditor transfer any unnecessary surplus in the county high school tuition fund to the unapportioned county high school fund whenever in his judgment the surplus will not be needed for the payment of high school tuition.

CHAPTER 4. SUPPORT OF JUNIOR COLLEGES

Article 1. State Junior College Fund

(Article 1 added by Stats. 1943, Ch. 75, as part of codification.)

Acceptance of grant 30 U S C 191

5451. The assent of the State is given to the provisions in the act of Congress entitled "An act to promote the mining of coal, phosphate, oil, oil shale, gas and sodium on the public domain," and approved by the President, February 25, 1920.

State Junior College Fund

5452. All money derived from bonuses, royalties, and rentals under the act of Congress referred to in Section 5451, and apportioned under the act to the State, shall be received by the State Treasurer and by him credited to the State Junior College Fund which is continued in existence.

Additional appropriation

5453. If the amount received by the State Treasurer is insufficient to provide the amount required to be apportioned to junior college districts, the State Controller shall transfer during the school year from the General Fund of the State to the State Junior College Fund such amounts as when added to the balance already in the State Junior College Fund shall equal ninety dollars ($90) for each unit of average daily attendance during the preceding school year in junior colleges maintained by junior college districts, and in addition two thousand dollars ($2,000) for each junior college maintained by a junior college district during the preceding school year.

Certificate

5454. The Superintendent of Public Instruction shall on or before September 15th of each year certify to the State Treasurer and to the State Controller the total number of students in average daily attendance in the junior college districts of the State during the next preceding school year and the total amount of money that should be set aside to be apportioned to the junior colleges.

5455. The State Treasurer shall notify the State Controller of all amounts that may be set aside for the junior college fund. Notification

5456. The State Controller shall keep a separate account of the State Junior College Fund and shall on the first Monday in January and on the first Monday in July of each year report to the Superintendent of Public Instruction a statement of all money belonging to the fund. Statement of fund

5457. The Controller shall draw warrants on the State Treasurer in favor of the county treasurer of each county in the months of September, October, November, December, January, February, March, April, May, and June of each school year in an amount equal to one-tenth of the total amount certified by the Superintendent of Public Instruction as apportioned from the State Junior College Fund to the county during the school year. The payment of the amounts required to be made to the several counties during any one of the months mentioned may be postponed by the Controller for not to exceed 30 days but the total amount due the several counties during any school year shall be paid within the school year. The warrants shall be paid by the State Treasurer from the State Junior College Fund and are not subject to the provisions of Article 18, Chapter 3 of Title 1 of Part 3 of the Political Code. The treasurer of each county shall immediately place the amount received by him on account of each junior college district to the credit of the district. Time of payment

Article 2. Junior College Tuition Fund

5476. Not later than the twentieth day of July of each year the superintendent of schools of each county in which there is not a county junior college shall certify to the board of supervisors and to the county auditor of the county the total cost of education during the next preceding school year of all junior college pupils residing in the county and not in any junior college district, nor in any high school district maintaining junior college courses, and the estimated amount needed for that purpose for the current year. Tuition of nonresident students

The total cost shall not include outlays for permanent construction or improvements, nor, in the case of junior college districts, money received from State apportionment, nor, in the case of high school districts maintaining junior college courses, money received from State and county apportionments, but shall include sixty-five dollars ($65) per unit of average daily attendance for the use of buildings and equipment.

5477. The board of supervisors with whom the certificate is filed shall at the time of making the tax levy for that year for county purposes, levy a special tax upon all taxable property in the county not situated in any junior college district nor in any high school district maintaining junior college courses, sufficient in amount to defray the costs, during the Tax

preceding school year, of educating all junior college students residing in the county and not in any junior college district nor in any high school district maintaining junior college courses.

Failure of supervisors

5478. If the board of supervisors fails to make the tax levy the auditor of the county shall make the levy.

Credit to fund

5479. The tax when collected shall be paid into the county treasury and placed in the junior college tuition fund which fund is continued in existence.

Apportionment

5480. The auditor shall not later than the last Monday in December and the last Monday in May of each year notify the superintendent of schools of the amount in the funds, and the superintendent of schools shall thereupon apportion the funds to the several junior college districts, and high school districts maintaining junior college courses, in his county or in other counties, in proportion to the total cost to each of the districts of educating junior college students who reside in his county but not in any junior college district nor in any high school district maintaining junior college courses, as shown in his report for the preceding school year, and certify the apportionment to the auditor.

Deposit

5481. The amount apportioned to each junior college district or high school district maintaining junior college courses shall be paid into the treasury of the county whose superintendent of schools has jurisdiction over the junior college district or high school district maintaining junior college courses to the credit of the special fund of the district, and shall be paid out in the same manner as other junior college and high school funds.

Payment to another county

5482. The superintendent of schools of a county having junior college pupils attending junior college in another county shall draw his order on the county auditor in favor of the superintendent of schools of the county in which the students attend junior college for any money belonging to any junior college outside of his county as provided in this article.

Same

5483. The county auditor shall draw his warrant as directed by the superintendent of schools and the county treasurer shall pay it.

Same

5484. A superintendent of schools in whose favor the order is drawn shall pay the money into the county treasury to the credit of the junior colleges educating the students from the county paying the money.

CHAPTER 5. SPECIAL STATE SUPPORT

(Chapter 5 added by Stats 1943, Ch. 76, as part of codification.)

Acceptance of grant 30 U S C 285

5601. The assent of the State is given to the provisions in the act of Congress entitled "An act to promote the mining of potash on the public domain," and approved by the President, February 7, 1927.

Payment

5602. All money derived from bonuses, royalties, and rentals under the provisions of the act of Congress referred to

in Section 5601 and apportioned under the act to the State shall be received by the State Treasurer and by him paid to the school districts of the State as provided in this chapter.

Apportionment

5603. The money shall be apportioned among the school districts in which potash leases or deposits are situated in the proportion which the total amount of rents, royalties, and other payments made to the United States from potash leases or deposits in each district bears to the total amount paid to the United States from leases or deposits in all districts.

Same

5604. If any potash deposit or lease or any part thereof is wholly located within the boundaries of two or more school districts, the districts shall share equally in the apportionments made under Section 5603 which are attributable to the lease or deposit or part thereof situated within their boundaries.

Deposit

5605. The payments shall be deposited in the general fund of the districts and shall be in addition to any other moneys paid or credited to the districts.

CHAPTER 6. VOCATIONAL EDUCATION FUND

(Chapter 6 added by Stats. 1943, Ch. 77, as part of codification.)

Article 1. Establishment of Fund

Custody of Federal funds

5701. The State Treasurer as required by the Federal acts relating to vocational education, referred to in Article 11 of Chapter 7 of Division 4, is custodian of all Federal funds received by the State pursuant to the acts.

Custody of State funds

5702. The State Treasurer is also custodian of all State funds appropriated in this article for the purpose of cooperating with the Federal Government in the promotion of vocational education.

Duties

5703. The State Treasurer shall receive and provide for the proper custody of all money provided under this article and the Federal act.

Report

5704. The State Treasurer, upon receiving any apportionment of funds from the Federal Government on account of the Vocational Education Fund, shall report the fact immediately with the amount received, to the State Controller and the State Board of Education and deposit the amount received to the credit of the Vocational Education Fund which fund is continued in existence.

Transfer

5705. Thereupon the State Controller and the State Treasurer shall transfer from the General Fund of the State to the Vocational Education Fund an amount which equals the amount apportioned to the State of California under the provisions of the Federal acts.

Appropriation

5706. The money transferred into the Vocational Education Fund is appropriated without reference to fiscal years for the purpose of cooperating with the Federal Government in promoting vocational education in this State.

Article 2. Care of Fund

Warrants

5726. The money constituting the Vocational Education Fund shall be paid out by the State Treasurer on warrants drawn by the Controller and requisitioned by the State Board of Education in carrying out the provisions of this code relating to vocational education, the Federal acts, and the rules and regulations of the State board.

Exemption

5727. The money transferred into the Vocational Education Fund is exempt from the provisions of Article 18, of Chapter 3, of Title 1, of Part 3, of the Political Code.

CHAPTER 7. VOCATIONAL REHABILITATION FUND

(Chapter 7 added by Stats. 1943, Ch. 78, as part of codification.)

Article 1. Establishment of Fund

Custody of Federal funds

5801. The State Treasurer, as required by the Federal act relating to vocational rehabilitation referred to in Article 10 of Chapter 7 of Division 4, shall receive and provide for the proper custody of all funds apportioned to the State under that act.

Custody of State funds

5802. The State Treasurer shall also receive and provide for the proper custody of all money appropriated by this article, of all money that may be hereafter appropriated for the purpose of carrying out the provisions of this article, and of all money that may be received by the State Board of Education under the provisions of this chapter.

Appropriation

5803. For each fiscal year, the sum of seventy thousand dollars ($70,000) is appropriated out of any money in the State Treasury not otherwise appropriated to be used in whole or in part by the State Board of Education for the purpose of carrying out the provisions of this article.

Same

5804. In addition to any other sums provided for in this article, there is appropriated from any funds in the State Treasury not otherwise appropriated, for each fiscal year, the sum of one hundred ten thousand dollars ($110,000), or so much thereof as will equal such amount in excess of sixty-five thousand dollars ($65,000) as is received by the State from the Federal Government or any agency thereof during the fiscal year for the purposes of this chapter.

Vocational Rehabilitation Fund

5805. The money mentioned in this article constitutes the Vocational Rehabilitation Fund of the State Board of Education, which fund is continued in existence.

Reversion

5806. The unexpended balance of any money appropriated under Sections 5803 and 5804 which remains unmatched by money received from the Federal Government or any agency thereof at the end of each fiscal year shall revert to the General Fund.

(Added by Stats. 1943, Ch. 990.)

Article 2. Gifts and Endowments

Custody

5826. The State Board of Education may receive and provide for the proper custody of gifts and donations, either from public or private sources as may be offered unconditionally, or as may be offered under conditions that are, in the judgment of the State board, proper and consistent with the purposes and provisions of this code relating to vocational rehabilitation.

Investment

5827. Any endowments placed in the hands of the State Board of Education, only the incomes of which may be applied to vocational rehabilitation, may be invested by the board under such agreements as have been entered into with the donors, or under the provisions and regulations customary in handling other permanent State funds.

Annual report

5828. A full report of all money offered and accepted, together with the names of donors and the respective amounts contributed by each, shall be submitted annually to the Governor by the State board.

Article 3. Expenditure of Fund

Warrants

5841. Money in the Vocational Rehabilitation Fund shall be paid out by the State Treasurer on warrants drawn by the Controller as requisitioned by the State Board of Education in carrying out the provisions of this code relating to vocational rehabilitation, the Federal act, and the rules and regulations of the State board.

Income from endowments

5842. Money received by the State Board of Education as income from endowments or as direct contributions shall be expended as conditioned by the several donors, or if not conditioned, as deemed necessary by the board, to provide for the vocational rehabilitation of persons disabled in industry or otherwise, to provide for the support of such persons and their dependents while undergoing rehabilitation, and to conduct such investigations as are considered necessary in order to promote the establishment and maintenance of vocational rehabilitation.

Annual report

5843. A full report of all disbursements of money and donations offered and accepted, made under this chapter, shall be submitted annually to the Governor by the State board.

Chapter 8. District Funds

Article 1. Emergency Cash Fund

Establishment

5901. The governing board of any school district, high school, or junior college district may, with the consent of the county superintendent of schools, establish an emergency cash fund for the use of the chief accounting officer of the district, by adopting a resolution setting forth the necessity for the emergency cash fund, the officer for whom and the purposes for which the emergency cash fund shall be available, and

the amount of the fund. The amount of the fund shall not be more than 1 per cent of the district's estimated expenditures for the current fiscal year and shall not in any event exceed five hundred dollars ($500). Two certified copies of the resolution shall be transmitted to the county superintendent of schools. If he approves the establishment of the fund, the county superintendent shall indorse his consent on the resolution and return one copy to the governing body of the district.

Bond of officer

5902. The officer for whose use the emergency cash fund is created shall file with the governing body of the district a bond in favor of the district, executed by him as principal and by a surety company authorized under the laws of the State to execute bonds as surety, in an amount not less than double the amount of the emergency cash fund. The bond shall be conditioned upon the faithful administration of the emergency cash fund and upon the willingness and ability of the principal to account for and pay over the emergency cash fund at any time upon the demand of the governing board of the district. The premium on the bond shall be a legal charge against the district, payable from the funds of the district.

Payment

5903. The governing board of the district shall draw an order, on the form and in the manner required by law for order, requisition, and warrant for the payment of school moneys, payable from the county or special fund of the district, in favor of the officer for whose use the emergency cash fund is created, for the amount of the emergency cash fund, and transmit the order to the county superintendent of schools accompanied by the bond and a certified copy of the resolution. Upon his approving the order, the county superintendent of schools shall detach and retain the bond. Upon his allowing and signing the warrant, the county auditor shall detach and retain the certified copy of the resolution and the county treasurer shall pay the warrant.

Use

5904. The person entrusted with the emergency fund shall not be authorized to expend any portion of the fund except for services or material, the securing or purchasing of which is a legal charge against the district, and no expenditure shall be made unless a receipt is obtained therefor setting forth the date and the purpose of the expenditure and the amount expended. A bill shall be presented to the district monthly, or oftener if necessary, for the reimbursement of the fund in the same manner as other bills are presented. Bills shall be supported by the receipts required. All sums received in payment of the bills shall be returned to the emergency cash fund and each person entrusted with the emergency cash fund shall, upon demand of the county superintendent of schools or the county auditor or of the governing board of the district, give an account of the fund.

Reduction and discontinuance

5905. The governing board of the district may at any time reduce or discontinue any emergency cash fund established by

its order. Whenever the fund is ordered reduced the person using it shall immediately return to the county treasury the amount necessary to reduce the fund, as ordered by the board. If the fund is discontinued, the person using it shall immediately refund the amount thereof to the county treasurer. In either event a reasonable time shall be allowed the person to reimburse himself by bills presented to the school district for expenditures legally made from the fund.

Article 2. Revolving Fund for Warehouse Stock

Establishment

5921. The governing board of any elementary school district, high school district, or junior college district may, if the school district maintains a stock of merchandise for school use, establish a revolving fund for budget control and stock accounting purposes, by adopting a resolution setting forth the necessity for the revolving fund, the purpose for which it shall be used and the amount thereof. Three certified copies of the resolutions shall be submitted to the county superintendent of schools, who, if he approves the establishment of the fund, shall indorse his consent upon the resolution, return one copy to the governing board of the school district and transmit one copy to the county auditor.

Whenever two or more school districts have governing boards of identical personnel, the boards may, if the school districts maintain a stock of merchandise for school use, establish a common revolving fund for budget control and stock accounting purposes, by adopting a resolution of each district setting forth the necessity for the revolving fund, the purpose for which it shall be used and the amount thereof. Three certified copies of the resolutions shall be submitted to the county superintendent of schools, who, if he approves the establishment of the fund, shall indorse his consent upon the resolution, return one copy to the governing board of the school districts and transmit one copy to the county auditor.

Amount

5922. The amount of the revolving fund shall be determined as follows: The inventory of stores on hand of each school district at the time of the establishment of the fund, which have been paid for from school district funds and reported to the county superintendent, shall be the amount to constitute the revolving fund of each district.

Where a common revolving fund has been established for two or more school districts governed by governing boards of identical personnel, the amount shall be determined as follows: The inventory of stores on hand of each school district at the time of the establishment of the fund which have been paid for from school district funds and reported to the county superintendent of schools shall be the amount to constitute the revolving fund, and each district shall retain its equity in the common fund.

The fund is established through the sale of stores to the school districts, which shall be paid by warrant. The warrants

shall be made payable to the "revolving fund of ____ ____." (Here insert name or names of the school district or school districts establishing the fund.)

Use

5923. The revolving fund, when established, shall be used for the purchase of stores to be placed in stock. Purchases shall be made in the manner prescribed by law. Nothing contained in this article shall be construed as repealing any other provisions of law relating to school district funds.

Custody

5924. The revolving fund shall be kept by the county treasurer as a separate fund and shall be subject to such uses only as are provided by law.

School district charge

5925. The warehouse is a school plant and the costs of maintaining and operating it is a legal charge of the school district, and shall be audited and paid as other claims against the funds of the district.

Article 3. Temporary Transfers From County Funds

Transfer

5941. Whenever prior to the receipt by any school district of its State, county, city and county, or district funds, any school district of a county or city and county does not have sufficient money to its credit to meet current expenses of maintenance, the board of supervisors of the county or city and county shall order, and the auditor and treasurer of the county or city and county shall make a temporary transfer from any funds of the county or city and county not immediately needed to pay claims against them to the school fund of the district of the amount needed, not exceeding 85 per cent of the amount of money which will accrue to the school district during the fiscal year. Upon the making of the transfer the auditor shall immediately notify the superintendent of schools of the county or city and county of the amount transferred. Each transfer of funds requested under this section shall be granted in order of receipt by the board of supervisors, regardless of whether sufficient county funds are available for transfer to meet pending or anticipated requests of school districts.

Retransfer

The funds transferred under this section to the credit of a school district shall be re-transferred by the auditor and treasurer to the fund from which they were taken from the first moneys accruing to the school district and before any other obligation of the school district is paid from the money accruing.

Article 4. Special Building Fund

Purpose

5961. The governing board of a school district may, in the manner prescribed in this article, provide for the accumulation over a period not exceeding five school years of funds derived from the receipts of taxes levied for the district and not required to be used for other than capital outlay purposes.

Survey and recommendation

5962. The Division of Schoolhouse Planning of the State Department of Education upon making a survey of the building needs of any school district shall upon request of the governing board of the district recommend to the board the

establishment of a special accumulative building fund of the district in the county treasury, the total amount of money that should be accumulated for capital outlay purposes, and the amount that should be placed in the fund each year.

Establishment

5963. Upon request of the board, the Chief of the Division of Schoolhouse Planning, with the written approval of the governing board of the district, the Superintendent of Public Instruction, and the county superintendent of schools having jurisdiction over the district, shall make and file with the auditor and treasurer of the county, the superintendent of schools of which has jurisdiction over the district, identical affidavits setting forth the total amount of money to be accumulated in the special accumulative building fund of the district, the school year in which the accumulation is to begin, and the amount to be paid into the fund for each school year. The affidavits when filed shall establish in the county treasury the special accumulative building fund of the district, and shall become an order on the auditor and treasurer to transfer to the fund during each school year the amounts set forth therein.

Expenditure

5964. During the last school year funds are accumulated in the special accumulative building fund of the district or during the next succeeding school year, the money in the fund shall be expended for capital outlays in accordance with the recommendations of the Chief of the Division of Schoolhouse Planning and the county superintendent of schools having jurisdiction over the district.

Alteration of plan

5965. If at any time during the period of time covered by the affidavits, it becomes necessary or desirable to alter the plan set forth therein for the accumulation of moneys in the special accumulative building fund of the district, affidavits may be filed with the auditor and treasurer in the form and manner provided in Section 5963, setting forth the plan as altered, and the affidavits when filed shall supersede the affidavits first filed and shall constitute an order on the auditor and treasurer to transfer to the fund during each school year the amounts set forth therein.

Continuance of existing funds

5966. Special accumulative funds created by Section 4.292 of the School Code are continued in existence, and shall be administered pursuant to this article.

Limitation of expenditure

5967. The payment of moneys into, or the expenditure of moneys from, the special accumulative building fund of a school district shall not be subject to any law heretofore or hereafter enacted by the Legislature limiting the expenditures of budgets of school districts.

Excess money

5968. Any moneys remaining in the special accumulative building fund of the district after all expenditures have been made therefrom shall be transferred to the general fund of the district by the auditor and treasurer upon written request of the governing board of the district, and the auditor and treasurer shall notify the county superintendent of schools of the transfer and the amount thereof.

CHAPTER 9. WARRANTS AND ORDERS

Article 1. Orders, Requisitions and Warrants Generally

Payments

6101. Except as otherwise provided in this code, money shall be paid from the funds of any school district for the payment of the expenses of the district, only as provided in this article.

Orders

6102. All payments from the funds of a school district shall be made by written order of the governing board of the district. Orders shall be on forms prescribed by the county superintendent of schools and approved by the Superintendent of Public Instruction. Forms shall be printed and furnished by the board of supervisors.

Signatures

6103. Each order drawn on the funds of a school district shall be signed by at least a majority of the members of the governing board of the district, or by a person or persons authorized by the governing board to sign orders in its name. No person other than an officer or employee of the district shall be authorized to sign orders.

Same

6104. The governing board of each school district shall be responsible for filing or causing to be filed with the county superintendent of schools the verified signature of each person, including members of the governing board, authorized to sign orders in its name. No order on the funds of any school district shall be approved by the county superintendent of schools unless the signatures are on file in his office and he is satisfied that the signatures on the order are those of persons authorized to sign the order.

Contents of orders

6105. Each order drawn against the funds of a school district shall be numbered and shall state: (a) the particular fund or funds of the district against which it is drawn, (b) the purpose and amount of the payment to be made from each fund, and (c) the rate of salary and the period of service of any employee of the district for whom an order is issued for payment of salary or wages. If drawn for any purpose other than the payment of salaries or wages of school district employees, the order shall be accompanied by an itemized bill showing the separate items, and the price of each.

Approval by county superintendent

6106 Each order drawn against the funds of a school district shall be transmitted to the county superintendent of schools, and, if approved and signed by him shall become a requisition on the county auditor.

Same

6107. The county superintendent of schools shall examine each order on school district funds transmitted to him, in the order in which it is received in his office. If it appears that the order is properly drawn for the payment of legally authorized expenses against the proper funds of the district, and that there are sufficient moneys in the fund or funds against which the order is drawn to pay it, he shall indorse upon it "examined and approved," and shall, in attestation

thereof, affix his signature and number and date the requisition and transmit it directly to the county auditor, in the order in which the order is received in his office.

Disapproval

6108. If the order is disapproved by the county superintendent of schools, it shall be returned to the governing board of the school district, except as otherwise provided in this code for the registration of warrants, with a statement of his reasons for disapproving the order.

Approval by auditor

6109. The county auditor shall examine each order and requisition on school district funds transmitted to him by the county superintendent of schools. If he allows the order and requisition, he shall indorse thereon "examined and allowed," and shall date, number, and sign it, whereupon it shall become a warrant on the county treasurer. The auditor shall detach any bill attached to the requisition, and shall number the bill, giving it the same number which he gives the warrant, and file it in his office. He shall thereupon return the order, requisition, and warrant to the county superintendent of schools who shall transmit it to the governing board of the school district for issuance to the payee or to his order.

Any requisition of the county superintendent of schools, whether based upon written order of the governing board of a school district or authorized by law, shall constitute full authority for the signature for allowance thereof by the county auditor as a warrant on the county treasurer, and no other authority shall be necessary or required for such action by the county auditor.

"Requisition," as used in this section, includes any order or demand signed by the county superintendent of schools directing the county auditor to draw his warrant on the county treasurer.

Pay roll orders

6110. The governing board of any school district may, with the approval of the county auditor and county treasurer, in lieu of issuing single orders for the payment of the salary or wages of each employee, issue pay roll orders, on forms prescribed by the county superintendent of schools and approved by the Superintendent of Public Instruction, for the payment of the salaries or wages of two or more employees. Pay roll orders may be drawn only for the payment of salaries and wages of employees, and shall constitute requisitions on the county auditor and warrants on the county treasurer when approved and signed by the county superintendent of schools and allowed and signed by the county auditor, respectively.

Contents

6111. Each pay roll order drawn pursuant to this article shall be drawn, approved, and issued in the same manner and shall contain the same minimum content as prescribed for single orders. Each pay roll order shall list the names of all employees in whose favor the order is drawn and shall state the amount of money due each. In the case of an attachment of the salary or wages of any employee listed on the order, the attachment shall affect only the salary or wages of the particular employee.

Attachment

Register of warrants

6112. The superintendent of schools of each county shall keep, open to the inspection of the public, a register of warrants, showing the fund upon which the requisitions have been drawn, the number, in whose favor, and for what purpose they were drawn.

Payment

6113. Orders for the payment of wages and pay roll orders for the payment of wages of employees employed full time in positions not requiring certification qualifications shall be drawn twice during each calendar month on days designated in advance by the governing board of each school district to which this section is made applicable. Labor performed between the first and fifteenth days, inclusive, of any calendar month shall be paid for between the sixteenth and twenty-sixth day of the month during which the labor was performed, and labor performed between the sixteenth and the last day inclusive, of any calendar month, shall be paid for between the first and tenth day of the following month.

The governing board of every school district which has an average daily attendance of 5,000, or more, shall make the provisions of this section applicable to the board, whenever a majority of the employees of the district employed full time in positions not requiring certification qualifications petition the board in writing to do so.

The governing board of a district which has an average daily attendance of less than 5,000 may, on the petition in writing of a majority of the employees of the district, employed full time in positions not requiring certification qualifications, make the provisions of this section applicable to the board.

Pay roll

6114. In any county, except counties having a population in excess of 1,000,000, the county superintendent of schools, with the approval of the State Superintendent of Public Instruction, the county board of education and the county auditor, may prescribe a pay roll procedure, to be followed by all districts in the county, under which the school district governing boards, by use of pay roll orders, shall authorize and direct the county superintendent of schools and the county auditor to draw separate pay roll warrants in the names of the individual district employees for the respective amounts set forth therein to the end that each employee may be furnished with a statement of the amount earned and an itemization of the amounts withheld therefrom under requirements of the law or by direction of the employee.

Such pay roll warrants shall show the closing date of the pay period for which issued and the date of issue, the name of the district by which the payee was employed and a statement that it is drawn by order of the governing board of the district and shall bear the signatures of the county superintendent of schools and the county auditor.

The pay roll order may direct the transfer from the districts' funds to a clearing fund in the county treasury, to be known as the schools pay roll revolving fund, of the total of the

amount of the pay roll warrants to be issued under the order to the end that pay roll warrants for all districts may be drawn against a single revolving fund. The pay roll order may further direct the transfer from the districts' funds of the totals of the various deductions set forth therein to the trust funds in the county treasury entitled to receive credit for them and may further direct the proper disbursement of such trust amounts.

(Added by Stats. 1943, Ch. 694.)

Article 2. Cancellation of Warrants

Failure to present

6136. Whenever any warrant issued by the governing board of a school district is not presented for payment within two years after the due date of the warrant, or whenever any order, demand, or warrant issued by the governing board of a school district but not approved by the county superintendent of schools for want of funds is not presented for payment within two years after notice that the order, demand, or warrant will be approved upon presentation has been given, the order, demand, or warrant shall be canceled by the governing board of the district issuing it, and the county superintendent of schools shall be notified of the cancellation.

New order

6137. Upon the demand of the owner of any order, demand, or warrant so canceled the governing board of the school district which issued it shall draw a new order in the same amount, in the name of the same person and payable out of the same fund as the order, demand, or warrant canceled.

Records

6138. The county superintendent of schools shall keep a record of all orders, demands, or warrants canceled and of all orders, demands, or warrants issued in lieu of those canceled.

Article 3. Lost or Destroyed Warrants

Affidavit and bond

6151. Whenever any warrant legally drawn on the funds of a school district is lost or destroyed before payment by the county treasurer, the amount due on it may be recovered by the legal owner or custodian thereof, by filing with the county auditor:

(a) An affidavit setting forth the facts of the loss or destruction of the warrant, giving the number, date, amount, and name of the payee, together with all material facts relative to its loss or destruction.

(b) A bond of indemnity, with two good and sufficient sureties, in double the amount of the face of the particular warrant, which shall be referred to the county auditor and to the district attorney, county counsel, or other officer who is the legal adviser of the governing board of the school district, for approval or rejection.

Approval

6152. The county auditor and the district attorney, county counsel, or other officer who is the legal adviser of the governing board of the school district shall examine and pass upon

the sufficiency of the bond and approve or reject it within 30 days after it is filed with the county auditor.

Duplicate warrant

6153. Upon the filing of the approved bond, the county auditor shall issue and deliver to the legal owner or claimant, on demand, a duplicate warrant for the full amount of the original warrant. The county treasurer shall pay the duplicate, in lieu of the original warrant. When the legal owner or claimant is the State, a city, county, city and county, school district, or other political subdivision of the State, no bond shall be required.

Records

6154. The auditor and the treasurer shall each make the proper entries on their books showing the warrants to have been lost or destroyed and the issuance of duplicate warrants in lieu thereof.

Article 4. Registration of Orders on District Funds

Lack of funds

6171. When any order against the funds of a school district is presented to the county superintendent of schools, and the order constitutes a valid claim against the funds of the district, and moneys are not available in the funds of the district from which to pay the order, he shall indorse on the order the words "Not approved for want of funds" and shall register the order in the records of his office.

Method of registration

6172. The county superintendent of schools shall number and date the registered order and shall transmit the registered order to the governing board of the school district which drew the order, and it shall deliver the registered order to the payee or his order. From the date of registration the registered order shall bear interest at the rate of 5 per cent per annum until the date upon which notice is given, pursuant to this article, that the county superintendent of schools is ready to approve the registered order.

Notice of availability of funds

6173. Whenever moneys are available for the payment of the registered order the county superintendent of schools shall give notice, in a newspaper published in the county, or if there is no newspaper, by written notice posted at the courthouse, stating that he is ready to approve the order. The notice may list any number of registered orders of one or more districts for the payment of which moneys are available, giving the name or names of the district or districts and listing the registered orders in the order of registration for each district.

Presentation

6174. At the time of giving the notice the county superintendent of schools shall set aside in the funds of each district for a period of 60 days the amount necessary for the payment of the registered orders of the district listed in the notice. If any registered order is not presented to the county superintendent of schools for payment within 60 days after the notice has been given, and moneys are not available to pay the registered order at the time of presentation, it shall not be approved until money becomes available for that purpose and

notice is again given that the county superintendent of schools is ready to pay it.

Approval and payment

6175. The county superintendent of schools shall approve the registered orders of each district, and sign them as requisitions on the county auditor, in the order of their presentation. He shall enter on each the amount of interest due and the total amount, including principal and interest, payable. Each approved registered order shall thereupon be governed by the procedure established in this code relative to payments from school district funds.

Alternative method of approval and payment

6176. As an alternative to the method provided in Section 6175, when any corporation, firm, or person presents two or more registered orders for payment at the same time, registered on the same date, and issued against the funds of the same district, the registered orders may be approved, allowed, and consecutively numbered by the county superintendent of schools and the county auditor as requisitions and warrants on the funds of the district, and a special interest requisition may be issued by the county superintendent of schools against the funds of the district for the total amount of the interest payable on the registered orders.

Special interest requisition

6177. The special interest requisition shall bear upon its face substantially the following notation: "In full payment of interest due on warrants numbered _____ to _____, inclusive, of the _____ school district."

Numbering

6178. The special interest requisition shall be numbered by the county superintendent of schools and county auditor, being given the number immediately succeeding the number assigned to the last of the requisitions and warrants referred to in Section 6176.

Report of interest

6179. The county superintendent of schools shall report to the county treasurer and the county auditor within 10 days after the end of each month the amount of the interest computed pursuant to this article. The report shall show each district for which interest has been computed, the numbers of the registered orders for which the interest is to be paid, and the total amount of the interest charged to each district. He shall also, upon transmitting to the governing board of any school district registered orders which have been approved and allowed as warrants against the funds of the district, report in writing to the clerk or secretary of the district the amount of interest computed on the registered orders and the numbers of the registered orders for which the interest is to be paid.

Article 5. Optional Method of Registering Warrants

Alternative method of registration

6191. In lieu of the method provided in Article 4 of this chapter for the registration of school district orders, the provisions of this article may be followed upon resolution adopted by the county board of supervisors of any county.

Indorsement and approval

6192. When any order on school district funds is received by the county superintendent of schools and there is insufficient money in the fund or funds against which the order is drawn to pay the order in full, the county superintendent shall indorse on the order "to be registered for lack of sufficient funds," sign, date, and number it as a requisition on the county auditor, and transmit the requisition to the county auditor. The county auditor shall indorse on the order "examined and allowed," sign, date, and number it as a warrant on the county treasurer, and return the warrant to the county superintendent of schools who shall transmit it to the governing board of the school district for issuance to the payee or to his order.

Procedure

6193. When the warrant is presented to the county treasurer for payment, he shall indorse, register, advertise, and pay it, with interest at the rate of 5 per cent per annum, in the manner prescribed, as nearly as may be, for county warrants in Sections 4105, 4106, 4107, 4108 and 4110 of the Political Code.

Failure to present

6194. If the warrants are not again presented for payment within 60 days from the time the notice provided for in Section 4106 of the Political Code is given, the fund set aside for the payment of the warrants shall be applied by the treasurer to the payment of unpaid warrants next in order of registry.

Report of interest

6195. Within 10 days after the end of each month, the county auditor shall report to the superintendent of schools the amount of interest added to registered warrants and paid during the preceding month. The report shall show each district to whose registered warrants, paid during the month covered by the report, interest was added and the amount of the interest for the district. The superintendent of schools shall immediately report, in writing, to the clerk or secretary of each district for which interest was paid, the amount of the interest paid for the district.

CHAPTER 10. LOCAL TAXATION

Article 1. District Budgets

Contents

6301. (a) The governing board of each school district shall submit annually on or before the first day of July to the county superintendent of schools a school budget, showing all the purposes for which the school district will need money and the amount of money that will be needed for each of the purposes for the next ensuing school year.

(b) The budget shall also contain an amount to be known as the general reserve in such sum as the governing board of the district deems sufficient for the school year subsequent to that for which the budget is intended to apply to meet the cash requirements to which the district's credit may be legally extended for that portion of the subsequent school year prior to the receipt of taxes levied for the district.

(c) The budget may also contain an amount to be known as the undistributed reserve. The funds in the undistributed reserve shall be available for appropriation by a two-thirds vote of the members of the governing board, to cover expenditures that have not been provided for or that may have been insufficiently provided for, or for unforeseen requirements as they may arise.

Same

6302. The budget shall show the estimated cash balances on hand for the school district according to the records of the county auditor, exclusive of receipts from bond sales and gifts or donations by reason of bond sales, and appropriations from the State School Fund, the State High School Fund, the State Junior College Fund, the State Vocational Education Fund, and the State General Fund according to the demand upon the State Controller made by the Superintendent of Public Instruction. The budget shall also show other known income and estimates of income not definitely known.

Form

6303. The budget shall be made in quadruplicate in the form and upon blanks prescribed by the Superintendent of Public Instruction. Blanks shall be furnished by the county superintendent of schools.

Recommended changes

6304. The county superintendent of schools shall examine the budget and after indicating thereon such changes and corrections as he deems desirable or necessary, shall return the budget to the governing board on or before the fifteenth day of July.

Changes

6305. The governing board shall make such changes in the budget as it deems desirable or necessary, and not later than the twentieth day of July shall return the budget to the county superintendent of schools.

Approval

6306. The governing board of each school district in which a public hearing on the budget is required by this code shall resubmit its budget as finally adopted subsequent to the public hearing not later than the tenth day of August. The county superintendent of schools shall approve the budget of each school district as officially adopted and submitted by its governing board and, not later than the fifteenth day of August, shall file one copy of the approved budget of each school district with the board of supervisors and one copy with the auditor of his county, together with a statement showing the amount of school district taxes required by each school district of the county.

Failure to make budget

6307. If the governing board of any school district neglects or refuses to make a school district budget as prescribed by this article, the county superintendent of schools shall not make any apportionment of State or county school money for the particular school district for the current school year.

Limitation on expenditures

6308. The total amount budgeted as the proposed expenditure of the school district for each major classification of school district expenditures listed in the school district budget forms prescribed by the Superintendent of Public

Instruction shall be the maximum amount which may be expended for that classification of expenditures for the school year. Transfers may be made from the undistributed reserve to any expenditure classification or between expenditure classifications at any time by written resolution of the board of education of any school district governed by a board of education, when filed with the county superintendent of schools and the county auditor, or by written resolution of the board of trustees of any school district not governed by a board of education, when approved by the county superintendent of schools and filed with the county auditor. Nothing in this section shall be construed as affecting the provisions of Sections 6358 and 6359.

Allocation of public money

6309. Notwithstanding any provision of law to the contrary, whenever money is allocated or apportioned to a school district by the Government of the United States or any agency thereof, or by the State or any agency thereof, through the Department of Education, the Director of Education, Superintendent of Public Instruction, the State Board of Education, the State Board for Vocational Education, or any of them, and no provision for the expenditure of the moneys has been made in the budget of the district, the moneys nevertheless shall be placed in the county treasury to the credit of the district and may be expended for the purposes for which the money was allocated to the district during the school year in which it is received, as though the expenditure of the money were provided for in the budget of the district.

Kindergarten

6310. The governing board of every school district in which a kindergarten is maintained shall include in the budget required to be submitted to the county superintendent of schools an estimate of the amount of money which will be required for kindergarten maintenance for the ensuing school year.

Article 2. Financial Reports

Annual statement

6331. On or before the first day of August of each year the governing board of each school district shall prepare and keep on file for public inspection a statement of all receipts and expenditures of the district for the preceding fiscal year and a statement of the estimated total expenses for the district for the current fiscal year.

Itemization

6332. The statements shall be itemized according to the form of budget prescribed for school districts by the Superintendent of Public Instruction.

Budget

6333. The budget of the governing board for the current fiscal year shall be a part of the statement.

Publication of budget

6334. Except in districts where no district tax is levied and in elementary districts employing but one teacher, the proposed budget for the ensuing school year or a summary of the budget, containing such items as may be applicable to the particular district, shall be published by the county superintendent of schools at least once in a newspaper of general

circulation published within the district, or if there is no newspaper in the district, then in a newspaper published nearest to the district, prior to its adoption. The cost of the publication shall be a proper and legal charge against the school district or districts for which the publication is made, and shall not exceed the rate fixed by the board of supervisors for official advertising. Publication shall be made during the last week in July of each year, and shall contain a notice that a public hearing will be held before the governing board of the school district, in a schoolhouse in the district, or in some other place conveniently accessible to the residents of the district, during the first week of August, at which any taxpayer in the district may appear and object to the proposed budget or any item of the budget. The budget shall not be finally adopted by the trustees until after the public hearing has been held. Public hearing

6335. Any violation of this article or a failure to comply with its provisions by the county superintendent of schools or by the governing board of any school district is punishable under Section 176 of the Penal Code. Violation.

6336. The governing board of any school district may print and distribute in pamphlet form an annual financial statement of the receipts and expenditures of the school district, and may include in the pamphlet a general report concerning the conduct and condition of the schools of the district. Similar information of value to the public regarding the school system may be printed and distributed from time to time, or published not oftener than once a year, in a newspaper of general circulation published within the district. Pamphlet financial statement

Article 3. District Taxes

6351. After approving the budget of a school district, the county superintendent of schools shall determine the amount of money which must be provided by a school district tax. Determination of tax

6352. He shall determine this amount by deducting from the total estimated needs of the school district as shown by its budget the total estimated income of the school district from all sources other than a school district tax for the current school year as estimated in the budget. The remainder, if any, shall be the minimum amount of the school district tax to be levied by the board of supervisors for the particular school district. Method of determination

6353. The board of supervisors of each county or city and county shall annually at the time and in the manner of levying county or city and county taxes levy and cause to be collected a district tax for each school district whose budget shows a district tax to be necessary. Tax levy

6354 If the board of supervisors refuses or neglects to make the tax levy pursuant to this article, the levy shall be made by the county auditor. Failure of supervisors

Rate of tax

6355. The board of supervisors shall fix such a rate for the district tax as will produce the amount of district tax money requested by the particular district.

Fixing of rate

6356. The board of supervisors shall determine the rate of district tax necessary to be levied as follows:

They shall deduct 10 per cent from the equalized value of the last general assessment roll for the district. The rate is, the amount required to be raised, divided by the remainder of the assessment roll.

Maximum rates

6357. Except as otherwise provided in this code, the maximum rate of school district tax which may be levied for all school purposes, exclusive of bond interest and redemption, for any school district in any school year on each one hundred dollars ($100) of assessed valuation within the district shall be as follows:

(a) In any separate elementary school district the boundaries of which are not coterminous with those of a high school district, eighty cents ($0.80) for elementary school purposes, or ninety cents ($0.90) for combined kindergarten and elementary school purposes.

(b) In any separate high school district, the boundaries of which are not coterminous with those of an elementary school district or with those of a junior college district, seventy-five cents ($0.75) for high school purposes, or one dollar ($1) for combined high school and junior college purposes.

(c) In any separate junior college district, the boundaries of which are not coterminous with those of a high school district, thirty-five cents ($0.35) for junior college purposes.

(d) In any unified school district one dollar and fifty cents ($1.50) for combined elementary school and high school purposes; or one dollar and sixty cents ($1.60) for combined kindergarten, elementary school, and high school purposes; or one dollar and seventy-five cents ($1.75) for combined elementary school, high school, and junior college purposes; or one dollar and eighty-five cents ($1.85) for combined kindergarten, elementary school, high school, and junior college purposes.

(e) In any high school and junior college district the boundaries of which are coterminous and which are governed by the same governing board, one dollar and ten cents ($1.10) for combined high school and junior college purposes.

Income beyond maximum

6358. Any maximum rate of tax for any district may be increased by a majority vote of the qualified electors of the school district at an election which may be called by the governing board of the school district of its own motion and shall be called whenever a petition requesting that an election be called and signed by 10 per cent of the qualified electors of the district is presented to the governing board. The election shall be called, held, and conducted in as nearly the same manner as is practicable as are elections for governing boards. The ballot used in the election shall contain the words "For the proposed increase in the maximum tax rates from _____

to _____, to provide money for the purpose of _____, such rate to be in effect in the _____ school district for the year (or years) 19___ to 19___,—Yes" and "For the proposed increase in the maximum tax rates from _____ to _____, to provide money for the purpose of _____, such rate to be in effect in the _____ school district for the year (or years) 19___ to 19___,—No." Each voter shall stamp or print a cross after the answer he desires to give.

Effective period

6359. Any such increase in tax rates shall remain in effect only for the period specified on the ballot.

Apportionment

6360. The county auditor shall apportion school district tax collections to each school district as follows: (a) He shall apportion to each school district all money collected from sources other than school district taxes as shown in its budget. (b) From each school district's tax collections he shall apportion an amount which, when added to the money apportioned from all other sources, will equal the total amount of the school district budget.

He shall not apportion to any school district any money that will cause the school district to receive more than the total amount of its budget.

Excess funds

6361. All money accruing to the school district in excess of the apportionments shall be kept by the county auditor in reserve for the school district, and shall not be available for withdrawal by the school district except by the following procedure. The governing board of the school district shall, by formal action of the board, pass a resolution setting forth the need for any portion of the reserve. The resolution shall be submitted to the county superintendent of schools. If the resolution is approved by the county superintendent of schools it shall, if it involves a sum in excess of one thousand dollars ($1,000), be published in the same manner as the budget of the school district concerned is published. Upon the approval of the resolution and, where its publication is required, following its publication, the auditor shall apportion from the reserve to the credit of the school district the sum of money set forth in the resolution.

On the first day of July of each year, the county auditor shall place to the credit of the school district all money that has been accumulated in the reserve during the preceding year, together with any remaining balance of current tax collections, and the school district shall include all money so credited in the balance shown in the budget for the ensuing fiscal year.

Article 4. Taxes on Districts in Two or More Counties

Assessed valuation

6381. When any school district is situated partly in two or more counties the assessor of each of the counties shall annually certify to the board of supervisors of each of the counties the assessed value of all taxable property in the county situated in the school district as shown by the last assessment roll of his county.

Certificate

6382. The certificate of the assessor shall be made in the same manner and at the same time as is required for school districts located wholly within the boundaries of one county.

Determination of rate

6383. The board of supervisors of each county, after receiving the certificate of the assessor, shall thereupon determine the rate of taxation necessary to be levied upon the property in the school district situated in the county.

Rate

6384. The rate of taxation shall be sufficient to meet the proportion of taxes necessary to be raised in the county for the purpose of paying the principal and interest of the bonds of the district and all other expenses of the district as shown by the estimate of the county superintendent of schools having jurisdiction over the district.

Procedure

6385. The taxes shall be assessed, levied, and collected in the same manner and at the same time as county taxes are assessed, levied, and collected.

Deposit of money

6386. The money received shall be deposited in the county treasury of the county whose superintendent of schools has jurisdiction over the school district, and such county treasury shall be the legal depositary of the school district.

Expenditure

6387. The money deposited shall be placed in the school fund of the school district to be expended in the same manner as money of other school districts.

CHAPTER 11. PARENTAL SCHOOL FUNDS

Article 1. Funds for City Parental School Facilities

Estimates of costs

6501. Whenever any board of education determines that it is necessary or expedient for the city or the city and county to establish and maintain a parental school, the board shall furnish to the city council, or other governing body of the city or city and county all necessary and required information and statistics. If, after consideration, the city council or other governing body grants its consent for the establishment of a parental school, the board of education shall furnish to the authorities whose duty it is to levy taxes in the city or city and county 30 days before the time specified by law for fixing the annual tax rate, an estimate of the cost of purchasing or renting a suitable site, and also an estimate of the cost of renting or erecting a suitable building and equipping it for occupancy as a parental school, and the cost to the city or city and county, other than for salaries of teachers and for school supplies, of conducting the school for the remainder of the current school year.

Tax levy

6502. When the estimates have been made and furnished by the board of education of any city or city and county, the authorities, whose duty it is to levy taxes in the city or city and county at the time of levying the taxes shall levy a special tax upon all taxable property of the city or city and county sufficient in its judgment to provide the facilities requested by the board of education, and for which the estimates have been furnished.

Article 2. Funds for Maintenance of City Parental School

Annual estimate of expenses

6521. The board of education, yearly, after the provisions of Article 1 of this chapter have been complied with, shall present to the authorities of the city or city and county whose duty it is to levy taxes on or before the first Monday in July an estimate of the moneys required for conducting the parental school for the school year, other than that for the salaries of teachers and for school supplies.

Tax levy

6522. When the estimate has been presented, the authorities of the city or city and county shall levy a special tax upon the taxable property of the city or city and county sufficient to maintain the school for the year, exclusive of salaries of teachers and expenses of school supplies.

Article 3. Funds for District Parental Schools

Procedure

6541. The board of trustees of any school district in which a parental school may be established may raise money for the establishment and maintenance of a parental school for the district, in the manner provided in Articles 1 and 2 of this chapter. The estimates shall be transmitted to the board of supervisors of the county in which the district lies.

Article 4. Funds for Joint Parental Schools

Powers of governing board

6561. The board of trustees of any joint parental school district has the same power and duties in the securing of funds for a joint parental school, and in the management of, and the securing of funds for, the support of a joint parental school as are conferred or imposed upon boards of school trustees, or boards of education of any city or city and county in the management of, and the securing of funds for, a parental school within a city, city and county, or school district.

Estimates

6562. In estimating the expense of maintenance of a joint parental school the amount of money needed for the payment of teachers' salaries and for the furnishing of school supplies shall be included in the estimate of expenses.

Transmittal

6563. The estimates shall be transmitted to the board of supervisors of the county which has jurisdiction over the joint parental school.

Tax levy

6564. When the estimates have been transmitted to them, the board of supervisors shall levy a special tax upor the taxable property within the boundaries of the joint parental school district sufficient to provide the facilities requested by the board of trustees of the joint parental school district and for which the estimates have been furnished.

Annual estimates and tax levy

6565 The estimates of the total expense of the maintenance of the joint parental school and increased facilities shall be furnished annually to the board of supervisors, who shall levy a special tax sufficient to maintain the school for the year.

Article 5. Care of Funds

Tax procedure

6581. All taxes provided for in this chapter shall be computed, entered upon the tax roll, and collected, in the same manner as other taxes are computed, entered, and collected.

"Parental school fund"

6582. The taxes when collected shall be placed in a separate fund known as the "parental school fund," and shall be paid out on the order of the board of education for the purposes set forth in this chapter.

"Parental school building fund"

6583. All money collected for the purchase of sites or buildings, or the erection or equipment of buildings for parental school purposes, shall be placed in a separate fund, known as the "parental school building fund," and shall be used solely for the purpose or purposes for which collected. After the accomplishment of the purpose or purposes, the residue of the fund, if any, may be transferred to the parental school fund.

District parental school fund

6584. The moneys raised under the provisions of Article 3 of this chapter shall be paid into the county treasury, and shall constitute "a parental school fund" for the district. The money of the fund shall be used for no other purpose than as is indicated in Article 3 of this chapter. Money shall be drawn from the fund by the trustees of the district in the same manner as money is drawn from other school funds.

Procedure

6585. All taxes levied pursuant to Article 4 of this chapter shall be computed and entered upon the tax roll and collected in the manner prescribed for the collection of taxes in this article.

Apportionment

6586. The taxes provided for in Article 4 of this chapter shall be collected by the county tax collector and apportioned to the credit of the joint parental school district, and placed in the fund for which they were specifically collected. If the taxes are for sites or buildings, the moneys shall be placed in the joint parental school building fund and shall be used exclusively for the purposes for which they were collected, as provided in Section 6582.

CHAPTER 12. APPORTIONMENT OF STATE AND COUNTY MONEYS

Article 1. Use of School Moneys

Support of schools

6701. The governing board of any school district shall use the school money received from the State and county apportionments exclusively for the support of schools for that year, until at least an eight months' school has been maintained.

Unused balance

6702. If at the end of any year during which an eight months' school has been maintained, there is an unexpended balance of school money received from the State and county apportionments, it may be used for the payment of claims against the district outstanding, or it may be used for the year succeeding.

Any balance remaining on hand at the end of any school year in which school has not been maintained eight months, shall be reapportioned by the superintendent of schools as other money is apportioned.

If a district has been prevented from maintaining a school for eight months in any year in consequence of fire, flood, prevailing epidemic, or other cause which may upon investigation by the superintendent of the county, be determined a good and sufficient one, the balance shall not be reapportioned.

County school money

6703. Except as otherwise provided, the governing board of any school district may use 40 per cent of the county school money, as defined in Section 6706, for any of the purposes authorized by this code.

Teachers' salaries

6704. All the State school money and not less than 60 per cent of the county school money, as defined in Section 6706, shall be applied exclusively to the payment of teachers' salaries of the public schools.

Superintendent and supervising principals

6705. Any superintendent of public schools or supervising principal of public schools who holds a teacher's certificate in force for the full time for which the requisition is drawn may be paid out of the same money or fund used for the payment of teachers' salaries of the elementary schools.

"County school money"

6706. All money received by school districts or counties pursuant to the provisions of Section 15, of Article XIII, of the Constitution shall be considered as county school money. Whenever "county school money" or "county apportionments" are employed in this code they shall be construed to include money so received.

Article 2. Insufficient Apportionments

Teachers' salaries

6721. If the apportionment of the money for teachers' salaries pursuant to Article 1 of this chapter is at any time insufficient to pay the salaries of the teachers or the expenses connected with the care and maintenance of, and supplies for, the school buildings, the governing board of any school district may use so much of the surplus in the county fund of the district, or so much of the surplus in any building fund of the district created before May 23, 1909, as is necessary to meet the deficiency.

Same

6722. Nothing in this article shall be construed as lessening the amount set aside pursuant to this chapter for teachers' salaries.

Article 3. Districts Not Entitled to Apportionments

Maintenance of school

6736. No school district, except one newly formed, shall receive any apportionment of State or county school money unless it has maintained a public school for at least 1'0 days of actual teaching during the next preceding school year.

Newly formed district

6737. A school district is newly formed up to the close of the school year in which it is formed.

Teachers' certificate

6738. No school district shall receive any apportionment of State or county school money unless the teachers employed in the schools of the district hold legal certificates of fitness for teaching, in full force and effect.

Provision for education of pupils

6739. An elementary school district which during any school year provides for the education of pupils residing within the district under the provisions of this code, for not less than 170 days shall be deemed to have maintained school for not less than 170 days of actual teaching during the school year.

Public emergency

6740. A district which is prevented from maintaining a school for the length of time designated in this article by fire, flood, or prevailing epidemic, or by any order of any military officer of the United States or of the State to meet an emergency created by war, or of any civil officer of the United States, of the State, or of any county, city and county, or city thereof authorized to issue such order to meet an emergency created by war, or other extraordinary conditions, or a district that has not been able to secure or hold a teacher, or a district in which the illness of the teacher has prevented the holding of the required number of days of school, which fact shall be shown to the satisfaction of the Superintendent of Public Instruction by the affidavits of the members of the board of school trustees and the county superintendent of schools, is nevertheless entitled to its apportionment of State and county school money.

Article 4. Average Daily Attendance

Annual report by Superintendent of Public Instruction

6756. The Superintendent of Public Instruction shall report to the Controller, on or before the tenth day of September of each year the total average daily attendance during the preceding school year in all elementary school districts, high school districts, and junior college districts, together with the amount needed to reimburse the several counties for one-half the excess moneys actually expended by the school districts thereof for the education of physically handicapped children.

Attendance records

6757. Attendance upon schools of elementary and secondary grade shall be kept according to regulations prescribed by the State Board of Education.

Evening schools and special classes

6758. A full day's attendance upon evening schools and special day and special evening classes of elementary and high school grade shall be four 60 minute hours.

Article 5. Average Daily Attendance When Schools Are Closed

Public emergency

6771. Where a school in a district maintaining more than one school is closed for a part of a term by order, as provided in Section 6740, the average daily attendance of the school shall be estimated separately, as provided in Section 6787, and

added to the average daily attendance of the other schools of the district.

Computation of average daily attendance

6772. The units of average daily attendance of any school shall be determined by dividing the total number of days of pupils' attendance upon school by the number of days actually maintained in the school during the year but in no case shall the divisor be less than 170.

Article 6. Emergency Average Daily Attendance

Lost or destroyed attendance records

6786. The Superintendent of Public Instruction shall estimate the average daily attendance in any school or classes the attendance records of which have been lost or destroyed, making it impossible for local school officials to render an accurate report on average daily attendance for any school year. The estimated average daily attendance shall be employed as the actual average daily attendance for that school year for all apportionment purposes.

Public emergency

6787. The average daily attendance of any school district in which the average daily attendance has been materially decreased during any school year, because of conflagration, impassable roads, or other public calamity or because of epidemic of unusual duration and prevalence, or because of an order, as provided in Section 6740, shall be estimated by the Superintendent of Public Instruction in such manner as to credit to the school district for apportionment purposes approximately the total average daily attendance which would have been earned had the conflagration, other public calamity, epidemic, or emergency not occurred.

Same

6788. In case of conflagration or other public calamity, or because of the inability to maintain any school or schools, or class or classes, because of an order, as provided in Section 6740, the Superintendent of Public Instruction shall decide whether the attendance of the district has been affected sufficiently to justify the application of the provisions of this article and shall notify the superintendent of schools of the county in which the school district is situated of his decision.

Estimate of State Board of Health

6789. In case of epidemic the State Board of Health upon request of the Superintendent of Public Instruction shall investigate the duration and prevalence of the epidemic in any school district and decide whether the duration and prevalence of the epidemic was sufficient to justify the application of the provisions of this article, and shall notify the Superintendent of Public Instruction of its decision. Thereupon the Superintendent of Public Instruction shall notify the superintendent of the county in which the school district is situated.

CHAPTER 13. APPORTIONMENT OF ELEMENTARY SCHOOL FUNDS

Article 1. Average Daily Attendance

School day

6901. The governing board of each elementary school district shall fix the length of the school day for the several

grades and classes of the kindergartens and elementary schools maintained in the district.

Maximum day: Kindergarten

6902. No pupil in a kindergarten or in grades one or two shall be kept in school more than four hours per day exclusive of recesses.

Minimum day Kindergarten

6903. A minimum school day's attendance for pupils of kindergarten shall be 120 minutes.

Same: Grades 1, 2 and 3

6904. A minimum school day's attendance for pupils of grades one, two, and three of the elementary schools shall be 200 minutes.

Same: Grades 1, 5, 6, 7 and 8

6905. A minimum school day's attendance for pupils of grades four, five, six, seven, and eight in elementary schools shall be 240 minutes.

Intermissions and recess

6906. The minimum school day's attendance shall in each case be exclusive of noon intermissions and recesses.

Deductions

6907. In regular full-time day kindergarten and elementary school classes 5 per cent shall be deducted from the attendance of any pupil for each period of absence which is equal to one-twentieth of the school day established for his grade or class by the governing board of the school district.

Total days of attendance

6908. The total days of attendance of a pupil upon a regular full-time day kindergarten or elementary school class during the school year shall be the number of days school was actually taught during the school year less the sum of his absences.

Total average daily attendance

6909. The total average daily attendance in any elementary school district shall be the quotient obtained by dividing the total number of days of pupils' attendance in all grades and classes of the elementary school district during the school year by the number of days school was actually taught in the regular elementary day schools of the district during the school year.

One day's attendance

6910. In the computation of average daily attendance no pupil shall be credited with more than one day's attendance during any calendar day.

Emergency schools

6911. Average daily attendance in an emergency school maintained by the county superintendent of schools shall be computed by dividing the total number of days of pupil attendance credited to the emergency school by the actual number of days taught or by 170 if the actual number of days taught is less than 170.

Article 2. Teacher Units

Elementary school district

6926. One teacher unit shall be allowed to each elementary school district for each 35 or fraction of 35 units of average daily attendance of pupils in the school during the preceding school year, exclusive of the average daily attendance of pupils in emergency schools maintained within the school district by the county superintendent of schools.

Additional units

6927. One additional teacher unit shall be allowed to each union elementary school district and to each elementary school

district which is not a part of a union elementary school district for each 300 units of average daily attendance in the aggregate during the preceding school year, exclusive of the average daily attendance of pupils in emergency schools maintained within the school district by the county superintendent of schools.

New schools

6928. One teacher unit shall be allowed to each elementary school district which was organized during the preceding school year and in which school was not maintained during the school year.

County elementary school supervision fund

6929. One teacher unit shall be allowed to the county elementary school supervision fund of each county for the first 300 or major fraction of 300 units of average daily attendance in the aggregate in all the elementary districts of the county, including union elementary school districts, having less than 300 units of average daily attendance during the preceding school year and in the emergency schools maintained within the elementary school districts of the county by the county superintendent of schools during the preceding school year. One teacher unit shall be allowed to the fund for the next 300, or any fraction of 300, units of average daily attendance, and one teacher unit shall be allowed to the fund for each succeeding 300, or major fraction of 300, units of average daily attendance.

Emergency schools

6930. One teacher unit shall be allowed to the unapportioned county elementary school fund of each county for each 35 or fraction of 35 units of average daily attendance of pupils in attendance upon emergency schools maintained in each elementary school district of the county by the county superintendent of schools during the preceding school year.

Article 3. Apportionment of State School Fund

(Article 3 added by Stats. 1943, Ch. 79, as part of codification.)

Apportionment

6951. The Superintendent of Public Instruction shall apportion the State School Fund, and furnish an abstract of the apportionment to the State Controller, the Department of Finance, and to the county and city and county auditors, county and city and county treasurers, and to the county and city and county superintendents of schools of the several counties and cities and counties of the State.

Elementary school district

6952. The Superintendent of Public Instruction shall apportion from the State School Fund to each elementary school district seven hundred dollars ($700) for each teacher unit allowed to the district by the report of the county, or city and county, superintendent of schools for the preceding school year.

(See Section 6952.1.)

Same

6952.1. The Superintendent of Public Instruction shall apportion from the State School Fund to each elementary school district seven hundred eighty-five dollars ($785) for each teacher unit allowed to the district by the report of the

county, or city and county, superintendent of schools for the preceding school year.

(Added by Stats. 1943, Ch. 1085. Supersedes Section 6952 until June 30, 1945. See note to Section 5151.1.)

County elementary school supervision fund

6953. He shall apportion from the State School Fund to the county elementary school supervision fund of each county seven hundred dollars ($700) for each teacher unit allowed to the fund by the report of the county superintendent of schools for the preceding school year.

(See Section 6953.1.)

Same

6953.1. He shall apportion from the State School Fund to the county elementary school supervision fund of each county seven hundred eighty-five dollars ($785) for each teacher unit allowed to the fund by the report of the county superintendent of schools for the preceding school year.

(Added by Stats. 1943, Ch. 1085. Supersedes Section 6953 until June 30, 1945. See note to Section 5151.1.)

Physically handicapped children

6954. He shall apportion from the State School Fund to each elementary school district an additional amount equal to one-half the excess cost of educating physically handicapped children during the preceding school year as reported by the county superintendent of schools. The apportionment shall not exceed one hundred dollars ($100) for each unit of average daily attendance of physically handicapped children in the district during the school year.

Counties maintaining 24-hour elementary schools

6955. The Superintendent of Public Instruction shall apportion to every county in which one or more 24-hour elementary schools are established, an amount equal to one-half of the excess cost of educating pupils in the schools during the next preceding school year as computed by the various county superintendents of schools. The apportionment shall not exceed one hundred dollars ($100) per pupil for each pupil in average daily attendance at the school during the year.

There shall be set aside from the moneys so received an amount sufficient to provide the necessary supervision by the State Board of Education. Apportionments made under this section shall be in addition to any other apportionments made from the State School Fund on account of the average daily attendance at such schools. No money shall be so apportioned unless the 24-hour elementary schools meet the requirements of the Superintendent of Public Instruction based upon educational standards and standards established by State agencies authorized by law to inspect or supervise child-caring institutions.

On or before the thirtieth day of June and the thirty-first day of December in each year, the State Controller shall transfer from the General Fund of the State, to the State School Fund, such sum, in addition to the funds already provided by law, as the Superintendent of Public Instruction certifies is required to reimburse the several counties for one-half the excess moneys actually expended by the elementary school districts of the county for the education of pupils in 24-hour

elementary schools. The added amount shall not exceed one hundred dollars ($100) per pupil in average daily attendance during the next preceding school year.

The State Treasurer shall transfer from the General Fund to the State School Fund the sum as certified to him by the State Controller.

Districts maintaining 24-hour elementary schools

6956. The county superintendent of schools of every county shall apportion from the State and county school moneys for the elementary grades of his county, to each school district establishing and maintaining a 24-hour elementary school, an amount equal to the excess cost of educating pupils in 24-hour elementary schools in the district during the next preceding school year as computed by him. The apportionment shall not exceed one hundred dollars ($100) per pupil for each pupil in average daily attendance at the school during the year. The apportionment made under this section shall be in addition to any other apportionment made on account of average daily attendance of pupils at the schools.

Emergency schools

6957. The Superintendent of Public Instruction shall apportion from the State School Fund to the unapportioned county elementary school fund of each county seven hundred dollars ($700) for each teacher unit allowed to the fund on account of emergency schools maintained in the elementary school districts of the county during the preceding school year by the county superintendent of schools.

(See Section 6957.1.)

Same

6957.1. The Superintendent of Public Instruction shall apportion from the State School Fund to the unapportioned county elementary school fund of each county seven hundred eighty-five dollars ($785) for each teacher unit allowed to the fund on account of emergency schools maintained in the elementary school districts of the county during the preceding school year by the county superintendent of schools.

(Added by Stats. 1943, Ch. 1085. Supersedes Section 6957 until June 30, 1945. See note to Section 5151.1.)

Balance of fund

6958. After making all other apportionments required from the State School Fund the Superintendent of Public Instruction shall apportion the balance of the fund to the several elementary school districts of the State and to the several unapportioned county elementary school funds pro rata on the total average daily attendance credited to the districts and funds during the preceding school year as reported by the county superintendent of schools.

Payment

6959. The Superintendent of Public Instruction shall certify his apportionment of the State School Fund to the State Controller who shall draw his warrants during the school year in favor of the treasurer of each county in payment of the amount apportioned for the county.

Credit

6960. All money received by the treasurer of any county from the apportionments of the State School Fund shall be immediately credited by the treasurer to the county elementary school supervision fund and to the special school funds of the

several elementary school districts of the county, exactly as apportioned by the Superintendent of Public Instruction.

Article 4. Apportionments From State General Fund

(Article 4 added by Stats. 1943, Ch. 80, as part of codification.)

Apportionment

6971. The Superintendent of Public Instruction, at the time and in the manner prescribed for the apportionment of the State School Fund, shall certify apportionments from the State General Fund to the several counties for elementary schools in accordance with the provisions of Section 15, of Article XIII, of the Constitution.

Computation

6972. He shall compute the total amount to be apportioned from the State General Fund to each county for elementary schools as follows:

He shall compare the amount to be apportioned to the county from the State School Fund with an amount equal to thirty dollars ($30) for each unit of average daily attendance in the day and evening elementary schools of the county during the preceding school year. The larger of the two amounts shall be the amount to be apportioned from the State General Fund to the county for elementary schools.

(See Section 6972.1.)

Same

6972.1. He shall compute the total amount to be apportioned from the State General Fund to each county for elementary schools as follows:

He shall compare the amount to be apportioned to the county from the State School Fund with an amount equal to thirty-three dollars ($33) for each unit of average daily attendance in the day and evening elementary schools of the county during the preceding school year. The larger of the two amounts shall be the amount to be apportioned from the State General Fund to the county for elementary schools.

(Added by Stats. 1943, Ch. 1085. Supersedes Section 6972 until June 30, 1945 See note to Section 5151.1.)

Payment

6973. The total amount apportioned to each county from the State General Fund for elementary schools shall be paid to the treasurer of the county by the State Treasurer, on warrant drawn by the State Controller, to the credit of the several elementary school districts and county school funds pursuant to this article.

Elementary school district

6974. The Superintendent of Public Instruction shall allow to each elementary school district seven hundred dollars ($700) for each teacher unit allowed to the elementary school district.

(See Section 6974.1.)

Same

6974.1. The Superintendent of Public Instruction shall allow to each elementary school district seven hundred eighty-five dollars ($785) for each teacher unit allowed to the elementary school district.

(Added by Stats 1943, Ch. 1085. Supersedes Section 6974 until June 30, 1945. See note to Section 5151.1.)

6975. He shall allow to the county elementary school supervision fund of each county seven hundred dollars ($700) for each teacher unit allowed to the fund. County elementary school district fund

(See Section 6975.1.)

6975.1. He shall allow to the county elementary school supervision fund of each county seven hundred eighty-five dollars ($785) for each teacher unit allowed to the fund. Same

(Added by Stats. 1943, Ch. 1085. Supersedes Section 6975 until June 30, 1945. See note to Section 5151.1.)

6976. He shall allow to each elementary school district an additional amount equal to one-half the excess cost of educating physically handicapped children. The apportionment shall not exceed one hundred dollars ($100) for each unit of average daily attendance of physically handicapped children in the district during the school year. Physically handicapped children

6977. He shall allow to the unapportioned county elementary school fund of each county seven hundred dollars ($700) for each teacher unit allowed to the fund on account of emergency schools maintained in the elementary school districts of the county during the preceding school year by the county superintendent of schools, together with such additional amounts as shall be estimated by the county superintendent of schools and approved by the Superintendent of Public Instruction as the amount needed in the unapportioned county elementary school fund for the current school year. Emergency schools

(See Section 6977.1.)

6977.1. He shall allow to the unapportioned county elementary school fund of each county seven hundred eighty-five dollars ($785) for each teacher unit allowed to the fund on account of emergency schools maintained in the elementary school district of the county during the preceding school year by the county superintendent of schools, together with such additional amounts as shall be estimated by the county superintendent of schools and approved by the Superintendent of Public Instruction as the amount needed in the unapportioned county elementary school fund for the current school year. Same

(Added by Stats. 1943, Ch. 1085. Supersedes Section 6977 until June 30, 1945. See note to Section 5151.1.)

6978. He shall prorate the remainder of the apportionment to each county from the State General Fund to the several elementary school districts of the county and to the unapportioned county elementary school fund on the basis of the total average daily attendance credited to the districts and fund during the preceding school year. Remainder of apportionment

6979. All moneys received by the treasurer of any county from the apportionments of the State General Fund shall be immediately credited by the treasurer to the county elementary supervision fund, to the unapportioned county elementary school fund, and to the special school funds of the several elementary school districts of the county exactly as apportioned by the Superintendent of Public Instruction. Credit

Article 5. Apportionment for High School Classes in Elementary Schools

(Article 5 added by Stats. 1943, Ch. 80, as part of codification.)

Elementary school districts

6991. State apportionments computed on the basis of the average daily attendance of pupils in high school courses maintained by the governing boards of elementary school districts shall be made to the elementary school districts maintaining the high school courses.

CHAPTER 14. APPORTIONMENT TO HIGH SCHOOL DISTRICTS

(Chapter heading added by Stats. 1943, Ch. 364.)

Article 1. Apportionment of State High School Fund

(Article 1 added by Stats. 1943, Ch. 81, as part of codification.)

Apportionment

7101. The money in the State High School Fund shall be apportioned during the school year to the high school districts of the State by the Superintendent of Public Instruction pursuant to this article.

Day high school and junior college

7102. He shall apportion to each high school district five hundred fifty dollars ($550) for each year of the six-year course covering grades 9 to 14, inclusive, maintained in each day high school or junior college during the preceding school year.

Evening high school and junior college

7103. He shall apportion to each high school district two thousand two hundred dollars ($2,200) for each evening high school and one thousand one hundred dollars ($1,100) for each evening junior college maintained during the preceding school year. The apportionment shall be made only for evening high schools and junior colleges which comply with all requirements made by the State Board of Education.

New district

7104. He shall apportion two thousand two hundred dollars ($2,200) to each high school district during the first school year in which its organization becomes effective.

Special classes

7105. He shall apportion to each high school district on account of each separate high school, each combined junior high school and senior high school, each separate junior college, and each combined high school and junior college maintained eighty dollars ($80) for each unit or major fraction of a unit of the first 10 units of average daily attendance in special day classes, special evening classes, evening high school classes, and evening junior college classes, including compulsory continuation classes for persons under 18 years of age, maintained in connection with each school during the preceding school year; sixty dollars ($60) for each unit or major fraction of a unit of the second 10 units of average daily attendance; and forty dollars ($40) for each unit or major fraction of a unit of the third 10 units of average daily attendance.

Physically handicapped children

7106. He shall apportion to each high school district an additional amount equal to one-half the excess cost of educating physically handicapped children during the preceding school year as reported by the superintendent of schools of the county. The apportionment shall not exceed one hundred dollars ($100) for each unit of average daily attendance of physically handicapped children in the district during the school year.

County without high school

7107. He shall apportion to the unapportioned county high school fund of each county in which no high school district is located an amount equal to one-third of the approved amount estimated as needed for the fund.

Balance of fund

7108. After making all other apportionments required from the State High School Fund, he shall apportion the balance of the fund to the several high school districts and to the unapportioned county high school funds of the State pro rata on the total average daily attendance credited to the districts and funds during the preceding school year as reported by the county superintendent of schools.

Payment

7109. Upon making the apportionments the Superintendent of Public Instruction shall certify to the State Controller the amount apportioned to each high school district. The State Controller shall draw a warrant in favor of the treasurer of each county or city and county for the amount apportioned to the high school districts of that county or city and county.

Credit

7110. The treasurer of the county or of the city and county shall immediately place the amount received on account of each high school district in his county to the credit of the account of the district.

Article 2. Apportionment from State General Fund

(Article 2 added by Stats. 1943, Ch. 82, as part of codification.)

Apportionment

7131. The Superintendent of Public Instruction, at the time and in the manner prescribed for the apportionment of the State High School Fund, shall certify apportionments from the State General Fund to the several counties for high schools in accordance with the provisions of Section 15, of Article XIII, of the Constitution.

Computation

7132. He shall compute the total amount to be apportioned from the State General Fund to each county for high schools as follows:

He shall compare an amount equal to twice the amount of the apportionment to be made from the State High School Fund to the county with an amount equal to sixty dollars ($60) for each unit of average daily attendance in the day and evening high schools of the county during the preceding school year. The larger of the two amounts shall be the amount to be apportioned from the State General Fund to the county for high schools.

Payment

7133. The total amount apportioned to each county from the State General Fund for high schools shall be paid to the treasurer of the county by the State Treasurer, on warrant drawn by the State Controller, to the credit of the several high school districts of the county pursuant to this article.

New district

7134. The Superintendent of Public Instruction shall allow one thousand dollars ($1,000) for each high school district during the first school year in which its organization becomes effective.

Day high school and junior college

7135. He shall allow for each high school district two hundred fifty dollars ($250) for each year of the six-year course covering grades 9 to 14, inclusive, maintained in each day high school or junior college during the preceding school year.

Evening high school and junior college

7136. He shall allow for each high school district one thousand dollars ($1,000) for each evening high school, and five hundred dollars ($500) for each evening junior college maintained during the preceding school year. The apportionment shall be made only for evening high schools and junior colleges which comply with all requirements made by the State Board of Education.

Special classes

7137. He shall allow to each high school district on account of each separate high school, each combined junior high school and senior high school, each separate junior college, and each combined high school and junior college maintained forty dollars ($40) for each unit or major fraction of a unit of the first 10 units of average daily attendance in special day classes, special evening classes, evening high school classes, and evening junior college classes, including compulsory continuation classes for persons under 18 years of age, maintained in connection with each school during the preceding school year; thirty dollars ($30) for each unit or major fraction of a unit of the second 10 units of average daily attendance; and twenty dollars ($20) for each unit or major fraction of a unit of the third 10 units of average daily attendance.

Physically handicapped children

7138. He shall allow to each high school district an additional amount equal to one-half the excess cost of educating physically handicapped children during the preceding school year. The apportionment shall not exceed one hundred dollars ($100) for each unit of average daily attendance of physically handicapped children in the district during the school year.

Unapportioned high school fund

7139. He shall allow to the unapportioned county high school fund of each county an amount equal to the sum estimated by the county superintendent of schools as the amount of the unapportioned county high school fund for the current school year. In the case of each county in which no high school district is located he shall allow to the unapportioned county high school fund an amount equal to two-thirds of the approved amount estimated as needed for the fund.

7140. He shall prorate the remainder of the apportionment to each county from the General Fund to the several high school districts and to the unapportioned county high school fund of the county on the basis of the total average daily attendance credited to the districts and fund during the preceding school year. Remainder of apportionment

7141. The treasurer of the county shall immediately place the amount received on account of each high school district in his county to the credit of the account of the district. Credit

CHAPTER 15. APPORTIONMENT TO JUNIOR COLLEGE DISTRICTS

(Chapter heading amended by Stats. 1943, Ch. 364.)

[ORIGINAL CHAPTER HEADING]

CHAPTER 15. APPORTIONMENT TO HIGH SCHOOL DISTRICTS

Article 1. Apportionment of State Junior College Fund

7201. The Superintendent of Public Instruction shall apportion the State Junior College Fund pursuant to this article. Procedure

7202. He shall apportion to each junior college district for each accredited junior college maintained during the preceding school year two thousand dollars ($2,000) as the junior college allotment. Junior college allotment

7203. He shall apportion the balance in the State Junior College Fund to the several junior college districts of the State pro rata on the total average daily attendance during the preceding school year. Total average daily attendance

7204. An accredited junior college is one which complies with the standards prescribed by the State Board of Education. Accredited junior college

7205. No junior college district shall receive any apportionment from the State Junior College Fund for any junior college which has failed for three consecutive years to comply with the standards prescribed by the State Board of Education for accredited junior colleges. Failure to comply with standards

Article 2. Attendance

7226. The attendance of students enrolled in a junior college shall be kept according to regulations prescribed by the State Board of Education. No pupil shall be credited, for purposes of apportionment, with more than 15 hours of attendance during any one calendar week. Attendance credit

CHAPTER 16. COMPUTATION OF AVERAGE DAILY ATTENDANCE IN SECONDARY SCHOOLS

7301. Subject to the provisions of this code, the State Board of Education shall adopt uniform regulations governing the keeping of attendance in all secondary schools. Uniform regulations

High schools

7302. Units of average daily attendance in high schools are the quotient arising from dividing the total number of days of pupils' attendance in the regular day high schools, the evening high schools, summer schools, the special day and evening classes of high schools, and the part-time vocational courses of the district for the school year by the number of days school was actually taught in the regular day high schools of the district during the year.

(Amended by Stats. 1943, Ch. 1083.)

[ORIGINAL SECTION]

7302. Units of average daily attendance in high schools are the quotient arising from dividing the total number of days of pupils' attendance in the regular day high schools, the evening high schools, the special day and evening classes of high schools, and the part-time vocational courses of the district for the school year by the number of days school was actually taught in the regular day high schools of the district during the year

Three terms

7303. Where a high school, junior college, trade school, or elementary school maintains during the school year four terms of school of at least 12 weeks each, and where the course of instruction is so arranged that students may complete a full year's work in any three of these terms, the total number of days of pupils' attendance shall be divided by the greatest number of days school was actually taught in any three of the four terms, but in no case shall the divisor be less than 175.

Days of attendance

7304. If, in making up the aggregate attendance, the number of days of attendance of any pupil for the fiscal year exceeds the divisor prescribed in Sections 7302 and 7303, the number of days which may be included on account of the pupil's attendance shall equal the divisor.

High school maintained in elementary district

7305. The average daily attendance of any high school district which during the school year 1941-1942 had an average daily attendance of 500 or less credited to it for apportionment purposes in each high school maintained by the district shall, for the school year 1942-1943 and for each subsequent school year, be deemed to be, for all the purposes of this division, not less than 80 per cent of the actual average daily attendance of such district for the school year 1941-1942 exclusive of the average daily attendance in special day and evening classes maintained by such district. For all other purposes the average daily attendance of the district shall be the actual average daily attendance of the district.

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature. While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section; but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

(Amended by Stats. 1943, Ch. 1078.)

[ORIGINAL SECTION]

7305. A high school course maintained by a high school district in an elementary school located in an elementary school district within the high school district shall be considered as a high school and apportionments

shall be made on account of the high school course on the same basis as apportionments for other high schools.

One day's attendance

7306. In the computation of average daily attendance no pupil shall be credited with more than one day's attendance during any calendar day.

Junior colleges

7307. Units of average daily attendance in separate junior colleges, or in junior college classes maintained in connection with a high school, in a high school district shall be computed by dividing the total number of days of pupil attendance in the junior colleges or junior college classes, including days of pupil attendance in summer school, by the number of days, exclusive of days taught in summer school, taught therein during the school year.

(Amended by Stats. 1943, Ch. 1082.)

[ORIGINAL SECTION]

7307. Units of average daily attendance in separate junior colleges, or in junior college classes maintained in connection with a high school, in a high school district shall be computed by dividing the total number of days of pupil attendance in the junior colleges or junior college classes by the number of days taught therein during the school year.

CHAPTER 17. BONDS

Article 1. Election

Purposes

7401. Except as otherwise provided by law, the governing board of any school district may, when in its judgment it is advisable, and shall, upon a petition of the majority of the qualified electors residing in the school district, call an election and submit to the electors of the district the question whether the bonds of the district shall be issued and sold for the purpose of raising money for the following purposes:

(a) The purchasing of school lots.

(b) The building or purchasing of school buildings.

(c) The making of alterations or additions to the school building or buildings other than such as may be necessary for current maintenance, operation, or repairs.

(d) The repairing, restoring, or rebuilding of any school building damaged, injured, or destroyed by fire or other public calamity.

(e) The supplying of school buildings with furniture or necessary apparatus of a permanent nature.

(f) The permanent improvement of the school grounds.

(g) The refunding of any outstanding valid indebtedness of the district, evidenced by bonds.

Any one or more of the purposes enumerated, except that of refunding any outstanding valid indebtedness of the district evidenced by bonds, may, by order of the governing board entered in its minutes, be united and voted upon as one single proposition.

Notice

7402. The election shall be called by posting notices, signed by a majority of the governing board of the district in at least three public places in the district, not less than 20

days before the election. If there is a newspaper of general circulation published in any county in which any part of the district is situated, the notice shall be published therein at least once in each calendar week for three successive calendar weeks prior to the election.

Contents of notice

7403. The notice shall contain:

(a) The election precincts, if any, established for the election and the time and place, or places, of holding the election.

(b) The names of the officers of the election appointed to conduct the election.

(c) The hours during the day which the polls will be open.

(d) The purposes for which the bonds are to be issued.

(e) The amount of the bonds and the denominations thereof.

(f) The rate of interest, not to exceed 5 per cent.

(g) The number of years, not exceeding 25, the whole or any part of the bonds are to run.

When two or more elections are consolidated as provided in Section 7409, it shall not be necessary to set forth the precincts, place or places of holding the election, and the names of the officers appointed to conduct the election, in more than one of the notices, but reference may be made to the particular notice which sets forth the data.

Conduct of election

7404. The election shall be conducted as elections for school trustees of elementary school districts, except as otherwise provided in this chapter. The election shall be held at the place or places designated by the governing board of the district. The polls shall be kept open only during the hours specified in the notice of the bond election. The polls shall not be opened before 6 o'clock a.m. nor kept open later than 8 o'clock p.m., and shall be kept open for not less than four hours.

Method of voting

7405. The words to appear upon the ballots shall be "Bonds—Yes" and "Bonds—No," or words of similar import. Each elector voting at the election shall mark a cross with a pencil, ink, or rubber stamp after the answer he desires to give. A brief statement of the proposition, setting forth the amount of the bonds to be voted upon, the maximum rate of interest, and the purposes for which the proceeds of the sale of the bonds are to be used, may be printed upon the ballot. No defect in the statement other than in the statement of the amount of the bonds to be authorized shall invalidate the bonds.

Canvass

7406. On the seventh day after the election, if the returns have been made to the governing board of the school district, the board shall meet at its usual meeting place and publicly canvass the returns. If all the returns have not then been received, the board shall adjourn from day to day until the returns are all received, and shall then proceed to canvass them. The canvass may be continued from day to day until completed.

(Amended by Stats. 1943, Ch. 408.)

[ORIGINAL SECTION]

7406. On the seventh day after the election, at 1 o'clock p.m., if the returns have been made to the governing board of the school district, the board shall meet at its usual meeting place and publicly canvass the returns. If all the returns have not then been received, the board shall adjourn from day to day until the returns are all received, and shall then proceed to canvass them. The canvass may be continued from day to day until completed.

Approval of bond issue

7407. If it appears that two-thirds of the votes cast at the election are in favor of issuing the bonds, the governing board of the school district shall cause an entry of that fact to be made upon its minutes. The governing board shall then certify to the board of supervisors of the county whose superintendent of schools has jurisdiction over the district, all proceedings had in the premises. Thereupon the board of supervisors shall issue the bonds of the school district in accordance with the proceedings, payable out of the interest and sinking fund of the district, naming the district.

Sample ballots

7408. The governing board of any school district may mail to each registered voter within the school district a sample ballot and a notice designating the polling place, and the cost thereof may be paid out of the funds of the district. The sample ballot shall be printed on paper of a color different from that of the official ballot and shall be designated "Sample ballot" upon its face.

Elections in more than one district

7409. When the governing boards of any two or more school districts have the same personnel, and call elections in two or more districts to submit to the electors of the respective districts on the same day, in the same territory or in territory which is in part the same, the question whether bonds of the respective districts shall be issued and sold, the elections may be consolidated by order of the governing boards. Within the territory affected by the order of consolidation, the election precinct polling places, and voting booths, shall, in every case, be the same. There shall be only one set of election officers in each precinct. The propositions to be voted upon within the respective districts may be set forth on one ticket or ballot. All proceedings had in the premises shall be recorded in one set of election papers, and the elections shall be held in all respects as though there were only one election.

Article 2. Issuance and Sale

Bond limitation

7431. The total amount of bonds issued shall not exceed 5 per cent of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located.

Denomination of bonds

7432. The denomination of each of the bonds shall not be less than one hundred dollars ($100) nor more than one thousand dollars ($1,000)

Interest rate

7433. The bonds shall not bear a rate of interest greater than 5 per cent per annum, payable annually or semi-annually.

Term

7434. The number of years the whole or any part of the bonds are to run shall not exceed 25 years.

Form and expenses

7435. The board of supervisors by an order entered upon its minutes shall prescribe the form of the bonds and of the interest coupons attached thereto, if any. All expense incurred for the preparation, sale, and delivery of the school bonds is a legal charge against the funds of the school district issuing the bonds.

Sale

7436. The bonds shall be sold at the times and in the amounts prescribed by the board of supervisors, but for not less than par. The proceeds of the sale of the bonds, exclusive of any premium received, shall be deposited in the county treasury to the credit of the building fund of the school district. The proceeds deposited shall be drawn out as other school moneys are drawn out. The bond proceeds withdrawn shall not be applied to any other purposes than those for which the bonds were issued. Any premium or accrued interest received from the sale of the bonds shall be deposited in the interest and sinking fund of the district.

Bids

7437. Before selling the bonds, or any part of them, the board of supervisors shall advertise for bids at least two weeks in some daily or weekly newspaper of general circulation published in the county, or if there is no such newspaper published in the county, in a newspaper published in some other county in the State having a general circulation in the county.

Award or rejection

7438. If satisfactory bids are received, the bonds offered for sale shall be awarded to the highest responsible bidder. If no bids are received, or if the board determines that the bids received are not satisfactory as to price or responsibility of the bidders, the board may reject all bids received, if any, and either readvertise or sell the bonds at private sale.

Article 3. Payment

Order fixing term

7461. The board of supervisors by an order entered upon its minutes shall fix the time when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 25 years from the date of the order.

Place of payment

7462. The board of supervisors may make the principal and interest of the bonds payable at the office of the treasurer of the county, or at any other place within the United States which the board may designate, or at the office of the county treasurer, or at any other designated place at the option of the bondholder. The place of payment shall be specified in the bonds. The expense of paying the bonds elsewhere than at the office of the treasurer shall be a proper charge against the district to be paid out of the tax levied and collected for the payment of the bonds.

Effect of error

7463. No error, irregularity, or omission which does not affect the substantial rights of the taxpayers within the district or the electors voting at any election at which bonds of any district are authorized to be issued shall invalidate the election or any bonds authorized.

7464. The principal and interest on the bonds shall be paid by the county treasurer of the county, the superintendent of schools of which has jurisdiction of the district in behalf of which the bonds were issued, at the place required by the terms of the bonds, upon presentation and surrender of warrants drawn by the county auditor in payment thereof, after he has canceled the bonds and coupons, or upon the receipt of the registered owner, if the bonds are registered, after a proper warrant has been drawn by the auditor, out of the fund provided for their payment. Payment

7465. Any money remaining in the interest and sinking fund of any district after the payment of all bonds and coupons payable from the fund, or any money in excess of an amount sufficient to pay all unpaid bonds and coupons payable from the fund, shall be transferred to the general fund of the district upon the order of the auditor. Excess money

Article 4. Purchase of Bonds

7491. The governing board of a school district may purchase in the open market bonds issued by the district. The cost of bonds purchased may be paid out of any funds of the district not required by law to be set aside for teachers' salaries. Purchase by district

Article 5. Tax for Payment

7516. The board of supervisors of the county, the superintendent of schools of which has jurisdiction over any district shall annually at the time of making the levy of taxes for county purposes, levy a tax for that year upon the property in the district for the interest and redemption of all outstanding bonds of the district. The tax shall not be less than sufficient to pay the interest on the bonds as it becomes due and to provide a sinking fund for the payment of the principal on or before maturity. The tax shall be sufficient to provide funds for the payment of the interest on the bonds as it becomes due and also such part of the principal as is to become due before the proceeds of a tax levied at the time for making the next general tax levy can be made available for the payment of the principal. Tax levy

7517. All taxes levied, when collected shall be paid into the county treasury of the county whose superintendent of schools has jurisdiction over the school district in behalf of which the tax was levied, to the credit of the interest and sinking fund of the school district, and shall be used for the payment of the principal and interest of the bonds and for no other purpose. Deposit of money

Article 6. Tax For Payment When District Is Situated in Two or More Counties

7531. In case of a district lying in two or more counties, the assessor of each of the counties in which the district lies, shall annually as soon as the county assessments have been Tax levy

equalized by the State Board of Equalization, certify to the board of supervisors of each of the counties in which any portion of the district is situated, the assessed value of all taxable property in the county situated in the school district. The tax shall be levied according to the ratio which the assessed value of the property in the school district in any county bears to the total assessed value of the property in the district. Each board of supervisors shall levy upon the property of the district and within its own county such rate of tax as will be sufficient to raise not less than the amount needed to pay the interest and such portion of the principal of the bonds as is to become due during the year.

Collection and deposit

7532. The tax shall be entered upon the assessment roll and collected in the same manner as other school taxes.

The tax when collected shall be paid into the county treasury of the county. The treasurer of any county, other than the one whose superintendent of schools has jurisdiction over the school, shall, upon order of the county auditor, pay the sum collected on account of the tax into the treasury of the county whose superintendent of schools has jurisdiction over the school.

Article 7. Cancellation of Unsold Bonds

Petition

7551. If any bonds authorized under the provisions of this chapter have not been offered for sale for one year from the date of their issuance or remain unsold for a period of six months after having been offered for sale in the manner prescribed by the board of supervisors, the governing board of the district, for which the bonds were issued, may petition the board of supervisors to whom the proceedings were certified to cause the unsold bonds to be canceled.

Notice

7552. Upon receiving the petition, signed by a majority of the members of the governing board, the board of supervisors shall fix a time for hearing it, which shall not be more than 30 days after receipt of the petition, and shall cause a notice stating the time and place of the hearing, and the object of the petition in general terms, to be published for 10 days prior to the hearing, in a newspaper published in the school district, if there is one, and if there is no newspaper published in the school district, in a newspaper published at the county seat of the county.

Hearing

7553. At the time and place designated in the notice, or at any subsequent time to which the hearing may be postponed, the board of supervisors shall hear any reasons that may be submitted for or against the granting of the petition.

Order

7554. If the board of supervisors deem it for the best interests of the school district named in the petition that the unsold bonds be canceled, it shall make and enter an order in the minutes of its proceedings that the unsold bonds be canceled. Upon the entry of the order the bonds and the vote by which they were authorized to be issued shall cease to be of any validity.

Bonds purchased by district

7555. When any bonds issued by a district have been purchased by the governing board of the district, the bonds shall be deemed canceled and of no further validity. The governing board of the district shall immediately, after purchasing the bonds, notify the board of supervisors of its action, describing the bonds purchased. At its first meeting thereafter the board of supervisors shall note the purchase and cancellation of the bonds in the minutes of its proceedings.

Article 8. Form of Bonds

Coupon or registered bonds

7571. Whenever under the provisions of this chapter any bonds are issued, the bonds may be issued either in the form of coupon bonds, or in the form of registered bonds, or some in the form of coupon bonds and some in the form of registered bonds, as may be provided in the proceedings for the issuance of the bonds, and notwithstanding any language or provision to the contrary contained in any statute authorizing the issuance of the bonds, or in any other law.

Signatures

7572. If any officer whose signature, countersignature, or attestation appears on any school bonds or coupons ceases to be an officer before the delivery of the bonds to the purchaser, the signature, countersignature, or attestation either on the bonds or the coupons, or on both, is nevertheless valid and sufficient for all purposes the same as if the officer had remained in office until the delivery of the bonds, and the signature upon the coupons of the person who is auditor at the date of the bonds, is valid although the bonds themselves may be attested by a different person who is auditor at the time of delivery of the bonds.

Effect of change

7573. Any bonds executed in the manner provided by the board of supervisors shall be valid, notwithstanding any change in the officers who signed the bonds or the coupons, or in the seal of the board of supervisors, occurring after the execution.

Article 9. Registration

Procedure

7591. Whenever the owner of any coupon bond or of any bond payable to bearer presents the bond to the treasurer or other officer of the county in which the district is located, who by law performs the duties of treasurer, with a request for the conversion of the bond into a registered bond, the treasurer or other officer, shall cut off and cancel the coupons of the coupon bond, and shall stamp, print, or write upon the coupon bond or other bond payable to the bearer, either upon its back or upon its face, as may be convenient, a statement to the effect that the bond is registered in the name of the owner and that thereafter the interest and principal of the bond are payable to the registered owner.

Transfer after registration

7592. After registration any bond may be transferred by the registered owner in person, or by attorney duly authorized, on presentation of the bond to the treasurer or other officer performing the duties of treasurer. The bond may be again

registered as before, a similar statement being stamped, printed, or written thereon.

Form

7593. The statement stamped, printed, or written upon the bond may be substantially in the following form:

(Date, giving month, day, and year.)

This bond is registered pursuant to the statute in such cases made and provided in the name of (insert name of owner) and the interest and principal thereof are hereafter payable to the owner.

Treasurer (or other officer)

Payment

7594. After any bond has been registered as provided in this article, the principal and interest of the bond shall be payable to the registered owner.

Register book

7595. The treasurer or other officer shall keep in his office a book or books which shall at all times show what bonds are registered and in whose name respectively.

DIVISION 4. SYSTEM OF PUBLIC INSTRUCTION

CHAPTER 1. TYPES OF SCHOOLS

Article 1. Public Schools

Definition

8001. The public schools other than those supported exclusively by the State, are day and evening elementary, and day and evening secondary schools.

Equality of rights

8002. The governing board of any school district shall maintain all of the elementary day schools established by it, and all of the day high schools established by it with equal rights and privileges as far as possible.

Separation of races

8003. The governing board of any school district may establish separate schools for Indian children, excepting children of Indians who are wards of the United States Government and children of all other Indians who are descendants of the original American Indians of the United States, and for children of Chinese, Japanese, or Mongolian parentage.

Same

8004. When separate schools are established for Indian children or children of Chinese, Japanese, or Mongolian parentage, the Indian children or children of Chinese, Japanese, or Mongolian parentage shall not be admitted into any other school.

Maintenance of free schools

8005. The county superintendent of schools shall, when there is sufficient money in the fund of any school district to maintain a free school in the district for 170 days of actual teaching, if the trustees neglect or refuse to employ a teacher, appoint a teacher, and open and keep the school. He may draw his requisition upon the county auditor, who shall draw his warrant upon the fund of the district for the expense incurred.

Maintenance of schools outside districts

8006. The governing board of any school district, may establish and maintain outside of the boundaries of the district, for persons in the service of the United States or of the State assigned to, or serving at any camp, post, or other place under

the jurisdiction of the United States or of the State, or for persons evacuated from the district by order of any military officer of the United States or of the State to meet an emergency created by war, or of any civil officer of the United States, the State, or any county, city and county, or city authorized to order such evacuation to meet an emergency created by war, any schools or classes which the board may lawfully establish and maintain within the boundaries of the district.

The governing board of the district shall not maintain any school or class for other than persons evacuated from the district, under the provisions of this section in any other school district without the consent of the governing board of the other district.

Article 2. Education of Indian Children

Indian school reimbursement fund

8026. There is in the county treasury of each county receiving Federal funds for the education and care of Indian children in accordance with contracts between the State Department of Education and the United States Government a special fund known as the county Indian school reimbursement fund, which fund is continued in existence.

Same

8027. The county superintendent of schools shall credit to the county Indian school reimbursement fund any money received from the Federal Government or from the State Department of Education under the terms of any contract between the Federal Government and the State Department of Education for the education and care of Indian children.

Temporary transfer of funds

8028. The county superintendent of schools of each county may make temporary transfers from the unapportioned county elementary school fund and from the unapportioned county high school fund of his county in such amounts and at such times as he deems necessary to meet expenses incurred with the approval of the Superintendent of Public Instruction for the education and care of Indian children attending the public schools of the county. The amounts transferred shall be repaid to the unapportioned county school funds from the apportionments of Federal funds subsequently received in the county Indian school reimbursement fund.

Expenditure

8029. Such portion of the money received in the county Indian school reimbursement fund as is not required for repayment of temporary transfers made from the unapportioned county school funds may be expended by the county superintendent of schools for the education and care of Indian children attending the public schools of the county in accordance with the provisions of a contract between the State Department of Education and the Federal Government and subject to the approval of the Superintendent of Public Instruction.

Bonds of officers

8030. Whenever by the provisions of any agreement entered into between the State or any officer or agency thereof and the Government of the United States or any officer or agency thereof under the authority of any law for the education and

welfare of Indian children, a school district or the governing board of a school district is required to execute a bond in favor of the Government of the United States, or any officer or agency thereof, the bond may be executed by the governing board of the district and the cost shall be a proper charge against the funds of the district.

CHAPTER 2. SCHOOL TERMS

Article 1. Generally

School year

8101. The school year begins on the first day of July and ends on the last day of June.

School month

8102. A school month is 20 days or four weeks of five days each, including legal holidays.

Equality of term

8103. Except where a school has been closed by order of a city or a county board of health, or of the State Board of Health, on account of contagious disease, or where the school has been closed on account of fire, flood, or other public disaster, the governing board of any school district shall maintain all of the elementary day schools established by it for an equal length of time during the year and all of the day high schools established by it for an equal length of time during the year.

Maintenance in different locations

8104. When it is necessary for the convenience of the residents of any district that the school be maintained a part of the year in one portion of the district, and a part of the year in another portion of the district, the aggregate of the time the school is maintained in the different portions of the district shall be the time for which a school has been maintained in the district during a school year.

Article 2. Closing of Schools and Postponement of Openings

State of war

8121. During the continuance of a state of war between the United States and any foreign power, the Superintendent of Public Instruction, with the approval of the Governor, may, whenever in his opinion it is necessary for the planting or harvesting of crops or for other agricultural or horticultural purposes and is for the welfare of the State, make an order closing, for such time as may be specified, any or all educational institutions supported wholly or in part by the State, or any grade or class thereof, and may, in like manner, by similar order, postpone the opening of any or all such educational institutions, or any grade or class thereof, during the continuance of a state of war.

(Amended by Stats. 1943, Ch. 178.)

[ORIGINAL SECTION]

8121. During the continuance of a state of war between the United States and any foreign power, the State Board of Education, with the approval of the Governor, may, whenever in the opinion of a majority of its members it is necessary for the planting or harvesting of crops or for other agricultural or horticultural purposes and is for the welfare of the State, make an order closing, for such time as may be specified, any or all educational institutions supported wholly or in part by the State, or any

grade or class thereof, and may, in like manner, by similar order, postpone the opening of any or all such educational institutions, or any grade or class thereof, during the continuance of a state of war.

Minimum term

8122. The annual school term shall not be reduced to less than six months pursuant to this article.

Teachers' salaries

8123. Whenever any educational institution is closed, or the opening is delayed pursuant to this article, the salary of any teacher regularly employed shall be paid according to any written contract between the governing board of the educational institution and the teacher, or, if there is no written contract, according to any salary schedule adopted by the board. If there is neither contract nor salary schedule, the total salary paid for any school year in which the order closing or postponing the opening of schools is made shall not be less than the salary paid by the governing board of the educational institution for similar services during the preceding school year.

Application of order

8124. An order issued under this article may be made applicable to any district, city, city and county, county or any group thereof, as the Superintendent of Public Instruction may determine and specify, and may be altered, amended, or rescinded from time to time.

(Amended by Stats. 1943, Ch. 178.)

[ORIGINAL SECTION]

8124. An order issued under this article may be made applicable to any district, city, city and county, county, or any group thereof, as the State Board of Education may determine and specify, and may be altered, amended, or rescinded from time to time.

Apportionment of funds

8125. Nothing contained in this article shall in any manner affect the amount of money apportioned to any school district during any school year.

Article 3. Holidays and Observances

School holidays

8151. The public schools shall, unless otherwise provided, close on Saturday, Sunday, the first day of January, the twelfth day of February, the twenty-second day of February, the thirtieth day of May, the fourth day of July, the ninth day of September, the eleventh day of November, the twenty-fifth day of December, and on every day appointed by the President or the Governor for a public fast, thanksgiving, or holiday. The Governor in appointing any day for a holiday may provide whether or not the public schools shall close on the holiday.

Power of governing board

8152. The governing board of any school district may declare a holiday in the public schools under its jurisdiction when good reason exists.

Lincoln's and Washington's birthdays

8153. February 12th, the birthday of Abraham Lincoln, and February 22d, the birthday of George Washington, are legal holidays. All public schools throughout the State shall hold sessions in the afternoon of the school day next preceding these holidays in order to allow the customary exercises in

memory of Lincoln and Washington, respectively. When February 12th or February 22d falls on a Sunday, the Monday following is a legal holiday and shall be so observed.

Exercises

8154. Except as otherwise provided, the public schools shall continue in session on all legal holidays and shall hold proper exercises commemorating the day.

Anniversary of adoption of Constitution

8155. All public schools and educational institutions shall include in the school work on or near the anniversary of the adoption of the Constitution of the United States exercises and instruction for pupils suitable to their ages in the purpose, meaning, and importance of the Constitution of the United States, including the Bill of Rights.

Conservation, Bird and Arbor Day

8156. March 7th of each year, the anniversary of the birthday of Luther Burbank, is set apart and designated Conservation, Bird, and Arbor Day.

All public schools and educational institutions shall observe Conservation, Bird, and Arbor Day not as a holiday, but by including in the school work of the day, suitable exercises having for their object instruction as to the economic value of birds and trees, and the promotion of a spirit of protection toward them, and as to the economic value of natural resources, and the desirability of their conservation.

Susan B Anthony Day

8157. February 15th of each year, the anniversary of the birthday of Susan B. Anthony, is designated and set apart as Susan B. Anthony Day.

All public schools and educational institutions shall observe this day with suitable exercises, directing attention to the development of the political and economic status of women in the United States, through the efforts of Susan B. Anthony.

Saturday classes junior colleges

8158. The governing board of any junior college may provide for the maintenance of classes on Saturday.

Same High schools

8159. The governing board of any high school district or unified school district may provide for the maintenance on Saturday of special day and evening classes.

Same National defense

8160. The governing board of any high school district or unified school district may provide for the maintenance on Saturday of special day and evening classes in vocational training authorized or provided for by any program of National defense of the Federal Government, or any agency thereof, acting through the State Department of Education.

No apportionments from State funds based upon average daily attendance in such special day or evening classes shall be made where the total cost of the classes is borne by the Federal Government, or any agency thereof.

Maintenance of school

8161. The governing board of a school district may, in its discretion, maintain schools and classes on any days other than Sunday, the twenty-fifth day of December, the first day of January, the fourth day of July, and any day appointed by the President of the United States of America or of the Governor of this State for a public thanksgiving.

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of

the Legislature, or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect, it shall supersede any existing provisions of law which are in conflict with it, but such provisions are not repealed by this section, and after this section is no longer effective shall have the same force as though this section had not been enacted.

(Added by Stats. 1943, Ch. 8.)

CHAPTER 3. INSTRUCTION GENERALLY

Article 1. Required Instruction

English language

8251. All schools shall be taught in the English language

Health

8252. Attention shall be given to such physical exercises for the pupils as may be conducive to health and to vigor of body, as well as mind, and to the ventilation and temperature of schoolrooms.

Manners and morals

8253 Instruction shall be given in all grades of school and in all classes during the entire school course, in manners and morals, and upon the nature of alcohol and narcotics and their effects upon the human system, as determined by science.

Alcohol and narcotics

8254. All persons responsible for the preparation or enforcement of courses of study shall provide for instruction on the subjects of alcohol and narcotics.

Article 2. Prohibited Instruction

Race, color and creed

8271. No teacher in giving instruction, nor entertainments permitted in or about any school, shall reflect in any way upon citizens of the United States because of their race, color, or creed.

Same

8272. No textbook, chart, or other means of instruction adopted by the State, county, city, or city and county boards of education for use in the public schools shall contain any matter reflecting upon citizens of the United States because of their race, color, or creed.

Sectarian, partisan or denominational publications

8273. No publication of a sectarian, partisan, or denominational character, shall be used or distributed in any school, or be made a part of any school library, nor shall any sectarian or denominational doctrine be taught in any school. Any school district or city, the officers of which knowingly allow any schools to be taught in violation of this section, forfeits all right to any State or county apportionment of school moneys, and upon satisfactory evidence of any violation, the Superintendent of Public Instruction and school superintendent shall withhold both State and county apportionments.

Propaganda and solicitation of funds

8274 (a) No bulletin, circular, or other publication of any character whose purpose is to spread propaganda or to foster membership in or subscriptions to the funds of any organization not directly under the control of the school authorities, or to be used as the basis of study or recitation or to supplement the regular school studies shall be distributed or suffered to be distributed or shown to the pupils of

any public school, on the school premises during school hours or within one hour before the time of opening or within one hour after the time of closing of the school. (b) No pupils of the public school shall be solicited by teachers or others to subscribe to the funds of, or work for, any organization not directly under the control of the school authorities. (c) No instruction shall be given through lectures or other means, unless the material contained in the bulletin, circular, or publication, or the purpose of the subscription or instruction has been approved by the State Board of Education, or by the county board of education, or by the governing board of the school district in which the school is situated.

No prohibition of this section shall apply to bulletins or circulars concerning the meetings of their organizations issued by any parent-teacher association or by any organization of parents formed for the purpose of cooperating with the school authorities in improving school conditions in the district.

Article 3. Supplementary Instruction

(Article 3 added by Stats. 1943, Ch. 367.)

Moral and religious instruction

8286. Pupils, with the written consent of their parents or guardians, may be excused from school in order to participate in religious exercises or to receive moral and religious instruction at their respective places of worship or at other suitable place or places designated by the religious group, church, or denomination, which shall be in addition and supplementary to the instruction in manners and morals required elsewhere in this code. Such absence shall not be deemed absence in computing average daily attendance, if all of the following conditions are complied with:

(a) The governing board of the district of attendance, in its discretion, shall first adopt a resolution permitting pupils to be absent from school for such exercises or instruction.

(b) The governing board shall adopt regulations governing the attendance of pupils at such exercises or instruction and the reporting thereof.

(c) Each pupil so excused shall attend school at least the minimum school day for his grade for elementary schools, and as provided by the relevant provisions of the rules and regulations of the State Board of Education for secondary schools.

(d) No pupil shall be excused from school for such purpose on more than four days per school month.

It is hereby declared to be the intent of the Legislature that this section shall be permissive only.

(Added by Stats. 1943, Ch. 367.)

Chapter 4. Kindergartens

Power of governing board

8401. The governing board of any school district shall, upon petition of the parents or guardians of 25 or more children between the ages of four and one-half and six years,

residing within any city, city and county, or school district, establish and maintain a kindergarten.

Time of establishment

8402. The order of the board establishing a kindergarten shall be made only between the first day of June and the first day of August in any year.

Number

8403. After the first year in which any kindergarten has been established and maintained, the number of kindergartens which shall be maintained in any city, city and county, or school district, during any particular school year, shall be determined by the governing body of the schools of the city, city and county, or school district.

Age of pupils

8404. A child shall be admitted to a kindergarten in any term during the first school month of the term, if he is of the age prescribed. For good cause the governing board of a school district may permit a child of proper age to be admitted to a class after the first school month of the school term.

If there is but one term during the school year, the child shall be four and one-half years of age on or before September 1st, of the current school year. If there are two terms maintained during the school year the child shall be four years and nine months of age on or before September 1st, of the current school year, before he may be admitted in the first term of the school year, or four years and nine months of age on or before February 1st, of the current school year, before he may be admitted in the second term of any school year.

Reports

8405. The reports for the kindergarten classes shall be kept and made separate from other school reports.

Discontinuance

8406. If the average daily attendance in any kindergarten in any school district, is 10 or less for the school year, the governing body of the school district, shall, at the close of the school year, discontinue the kindergarten, or, at the discretion of the governing board of the district, shall be combined with the first grade of an elementary school of the district, but in such case the attendance of the children enrolled in the kindergarten shall be counted as attendance upon a kindergarten.

(Amended by Stats. 1943, Ch. 649.)

[ORIGINAL SECTION]

8406. If the average daily attendance in any kindergarten in any city, city and county, or school district, is 10 or less for the school year, the governing body of the city, city and county, or school district, shall at the close of the school year, discontinue the kindergarten.

Reversion of funds

8407. If a city, city and county, or school district maintains but one kindergarten, and the kindergarten is discontinued, the funds of the kindergarten shall immediately revert to the elementary schools of the city, city and county, or school district in which the kindergarten is located.

Same

8408. If any city, city and county, or school district maintains two or more kindergartens the property and funds of the kindergarten which is discontinued shall revert to the kindergarten or kindergartens which are still in operation in the city, city and county, or school district.

CHAPTER 5. ELEMENTARY SCHOOLS

Article 1. Admission

Age of pupils

8501. The day elementary school of each school district shall be open for the admission of all children between six and 21 years of age residing within the boundaries of the district.

Adults

8502. The day elementary schools of each school district may be open for the admission of adults if the governing body of the district deems the admission advisable.

Minimum age

8503. A child shall be admitted to the first grade of an elementary school during the first month of any school term if he is of the age prescribed in this section. For good cause, the governing board of a school district may permit a child of proper age to be admitted to a class after the first school month of the school term.

If there is but one term during the school year, the child shall be five and one-half years of age on or before September 1st, of the current school year. If there are two terms maintained during the school year, the child shall be five years and nine months of age on or before September 1st, of the current school year, before he may be admitted in the first term of the school year, or five years and nine months of age on or before February 1st, of the current school year, before he may be admitted in the second term of any school year.

Newly formed district

8504. The children residing in any newly formed district, in any district whose boundaries have been changed, or in any joint district, may attend the school in the district or districts from which the newly formed district was constituted, until the first day of July next succeeding the formation or change.

Article 2. Graduation

Diplomas

8521. County boards of education may provide for the conferring of diplomas of graduation, by examination, and may issue diplomas of graduation from the elementary schools of the county and from special day and evening classes of elementary grade maintained by a district of any type or class, excepting schools or classes maintained by a district governed by a city board of education or by a board composed, by law, of the members of a city board of education.

Accredited schools

8522. Nothing in this article shall be construed as prohibiting the county board of education from issuing diplomas of graduation without examination to the pupils in any school which has been accredited by the county board of education.

Completion of prescribed course of study

8523. The diplomas of graduation from elementary schools shall be conferred only upon the pupils who have completed the course of study prescribed by the county board of education.

Blanks

8524. All diplomas granted by the county board of education shall be on blanks furnished by the Superintendent of Public Instruction, and shall be signed by the president and secretary of the board.

Article 3. Postgraduate Courses

Prescribed course of study

8541. The county board of education, upon request of the board of trustees of any elementary school district, not included in any city, district, union, or joint union high school district, and when the request has been approved by the county superintendent of schools, shall prescribe for the elementary school district, a postgraduate course of study requiring one or two years for completion, as may be desired by the board of trustees.

Same

8542. An elementary school district located within a union, joint union, or county high school district may, with the approval of the principal of the high school of the district involved, establish and maintain a postgraduate course of study pursuant to Section 8541.

Qualifications of students

8543. Postgraduate courses of study shall be open to students who have graduated from the elementary schools or who may be admitted upon examination by the principal of the school offering the postgraduate course.

Approval of county superintendent

8544. No student who has not graduated from the elementary schools shall be admitted, except upon the approval of the county superintendent of schools.

Statement of course taken and standing

8545. Whenever a student, enrolled in a postgraduate elementary school course, ceases to attend school, the principal of the school shall, upon request, give to the pupil a written statement showing the subjects studied, the time devoted to each subject and the standing obtained in each subject.

Diploma

8546. Whenever a student has successfully completed a postgraduate elementary school course embracing two years, the county board of education shall issue to him a postgraduate elementary school diploma.

Examination

8547. County boards of education may determine whether the student is entitled to the postgraduate elementary school diploma, by a written examination or otherwise.

Article 4. Contracts With State Colleges

Education by State colleges

8571. The governing board of any elementary school district within which a State college is located may contract with the State college for the education by the State college of pupils eligible to attend school in the elementary school district. The pupils educated by the State college under the contract may be housed on the campus of the State college or in a building of the school district.

Chapter 6. Secondary Schools

Article 1. General Provisions

Establishment and maintenance

8701. Secondary schools may be established and maintained pursuant to this code.

Definition

8702. The secondary schools of the State are designated as high schools, technical schools, and junior colleges.

Designation of high school.

8703. The high schools of the State are designated as four-year high schools, junior high schools, senior high schools, and evening high schools.

Summer school

8703.1. The governing board of a district maintaining one or more high schools may maintain a summer school at any of such high schools during the period between the close of one academic year and the beginning of the succeeding academic year.

"Academic year"

The term "academic year" as used herein means that portion of the school year during which the regular day high school is maintained, which period must include not less than the number of days of teaching required to entitle the district, to apportionments of State funds.

(Added by Stats. 1943, Ch. 1083.)

Article 2. High Schools

Permitted schools

8721. Each high school district may, in accordance with law, establish and maintain any of the secondary schools mentioned in this chapter.

Mandatory schools

8722. Each high school district shall establish and maintain for the convenience of the day pupils of the district at least one four-year high school, or in lieu thereof, at least one junior high school, and one senior high school, or if the high school district is situated within a junior college district maintaining a four-year junior college, at least one junior high school providing for the education of pupils of grades seven to 10, inclusive.

A high school district which is coterminous with an elementary school district and which is a part of a junior college district maintaining a junior college offering four years of work including the eleventh, twelfth, thirteenth, and fourteenth grades may, at the option of the governing board, maintain only one or more junior high schools.

No junior high school or system of junior high schools may be established in a high school district under the provisions of this section except as authorized by Article 3 of this chapter.

County high schools

8723. If the qualified electors of any county deem it expedient to establish and maintain more than one county high school, the additional schools may be established and maintained in the manner prescribed in this chapter for establishing and maintaining a county high school.

Student qualifications

8724. Any graduate of the elementary schools of this State and any other person who furnishes to the principal of the high school and to the county or to the city superintendent of schools having immediate jurisdiction over the high school, satisfactory evidence of his fitness for high school work, may attend high school in the district in which he resides under such regulations as the high school board may prescribe.

Non-residents

8725. Any person who is eligible to attend high school and who does not reside in a high school district or in a unified school district may attend high school in any high school dis-

trict or unified school district in the county in which he resides or in another county.

Tuition

8726. No charge for tuition shall be made in any high school district of this State, except as provided in this article.

Certification

8727. Whenever a person residing in an elementary school district but not in any high school district or in any unified school district attends a high school in any district within the State, the governing board of the district maintaining the high school shall on or before July 15th of the succeeding school year certify, separately, to the county superintendent of schools having jurisdiction over the elementary school district the amount chargeable to the elementary school district and the amount chargeable to the unapportioned county high school fund under the jurisdiction of the county superintendent of schools, as tuition for the education of the person during the preceding school year.

Computation

8728. The tuition for the education of any such person shall be computed by adding to the total current expenditures of the high school district or unified school district, as defined by the State Department of Education, for the preceding school year the payment of principal and interest of the bonded indebtedness of the high school district or unified school district made during the preceding school year, from which sum shall be subtracted the entire income of the high school or unified school district from the apportionments received from the State, and the remainder shall be divided by the total number of units of average daily attendance of the high school district or unified school district during the preceding school year.

The total tuition chargeable to any elementary school district shall be computed by multiplying the resulting quotient by the units of average daily attendance during the preceding school year of persons residing in the elementary school district, and not residing on a military reservation of the United States and attending the high schools of the high school district or unified school district.

The total amount chargeable against the unapportioned county high school fund of any county shall be determined by multiplying the quotient by the units of average daily attendance during the preceding school year of persons residing in the elementary school district, and on a military reservation of the United States, and attending the high schools of the high school district or unified school district.

Transmittal of certificate

8729. The county superintendent of schools shall transmit a copy of the certificate certifying the amount chargeable against any elementary school district under his jurisdiction not later than the succeeding July 20th to the board of supervisors of each county within which any part of the elementary school district is located.

Tax levy

8730. If the elementary school district is located entirely within one county, the board of supervisors shall at the time and in the manner prescribed by Article 3 of Chapter 10 of

Division 3 of this code levy a tax on all taxable property in the elementary school district sufficient to raise the amount set forth in the certificate. If the elementary school district is located in more than one county, the tax shall be determined, levied, and collected at the time and in the manner prescribed by Articles 3 and 4 of Chapter 10 of Division 3 of this code. The maximum rate of school district tax which may be levied pursuant to this section for any high school district or unified school district in any school year on each one hundred dollars ($100) of assessed valuation within the elementary school district shall be seventy-five cents ($0.75) if the average daily attendance of high school pupils living within the elementary school district and attending a high school in such high school district or unified school district during the preceding school year did not exceed 15.

(Amended by Stats. 1943, Ch. 810.)

[ORIGINAL SECTION]

8730. If the elementary school district is located entirely within one county, the board of supervisors shall at the time and in the manner prescribed by Article 3 of Chapter 10 of Division 3 of this code levy a tax on all taxable property in the elementary school district sufficient to raise the amount set forth in the certificate. If the elementary school district is located in more than one county, the tax shall be determined, levied, and collected at the time and in the manner prescribed by Articles 3 and 4 of Chapter 10 of Division 3 of this code.

Credit of amount

8731. The receipts of the tax shall be credited by the county treasurer of each county to the credit of the high school district or unified school district, except that if the county superintendent of schools of another county has jurisdiction over the high school district or unified school district, the county auditor of each county in which any portion of the tax is collected shall determine the amount of the receipts of the tax and shall direct the county treasurer of his county to transmit the amount to the county treasurer of the county of which the superintendent of schools has jurisdiction, who shall credit the amount to the credit of the high school district or unified school district. The county treasurer of any county crediting the receipts of the tax to a high school district or unified school district shall notify the county superintendent of schools and county auditor of the county and the governing board of the high school district or unified school district of the fact, naming the amount credited.

Payment

8732. The county superintendent of schools shall pay to each high school district and unified school district from the unapportioned county high school fund under his jurisdiction, the amount chargeable to the fund as shown by the certificate of the governing board of the high school district or unified school district.

Article 3. Junior High Schools

Establishment in cities

8751. In any high school district governed by a city or a city and county board of education, one or more junior high

schools may be established at any time by resolution of the board.

Establishment in districts

8752. The governing board of a county, a union, or joint union high school district may establish a junior high school or a system of junior high schools only when a majority of the boards of trustees of the elementary school districts comprising the high school district approve the organization of the course in writing, and file a statement of approval with the high school board, or, when at an election called for that purpose in the same manner as the election for the formation of the high school district, a majority of the qualified electors voting thereat vote in favor of the junior high school. The ballots used at the election shall contain the words "Junior High School—Yes" and "Junior High School—No." The result of the election shall be determined and certified to the superintendent of schools as provided in case of the election for the formation of the district.

Same Election

8753. The governing board of any high school district comprising a single elementary school district and not governed by a city or city and county board of education may establish a junior high school or junior high schools when at an election called for that purpose in the same manner as the election for the formation of the high school district, a majority of the qualified electors voting thereat vote in favor thereof The ballots used at the election shall contain the words "Junior High School—Yes" and "Junior High School—No." The result of the election shall be determined and certified to the superintendent of schools as provided in the case of the election for the formation of the district.

Qualifications of pupils

8754. All minors who have completed the work of the sixth grade and such other minors as are, in the judgment of the principal of the junior high school and of the superintendent having immediate jurisdiction thereof, capable of doing the required work, may be admitted to a junior high school.

Tuition

8755. The board of education of any city or of any city and county or the board of school trustees of any school district situated within a high school district maintaining a junior high school shall permit pupils who have completed the sixth year of the elementary school to attend the junior high school and shall pay to the high school district for the education of the pupils a tuition charge which shall be agreed upon by the board of education or board of school trustees and the high school board maintaining the junior high school.

Same

8756. If the agreement to pay the tuition charge is not reached before the time fixed for the county superintendent of schools to submit the budgets of the districts to the board of supervisors, the county superintendent shall compute the amount of the tuition and shall incorporate the amount in the budgets of the districts concerned.

Failure to pay tuition

8757. If the trustees in any school district fail to draw warrants for tuition due to a high school district, the county superintendent of schools shall draw his warrant therefor.

Amount

8758. A board of education or board of school trustees shall not pay to any high school board for educating the pupils residing in the elementary school district and attending the junior high school a tuition charge greater than the average net cost per pupil for educating pupils in the first six years of the elementary school in the elementary school district.

Termination of payments

8759. The tuition charge shall cease to be paid after the pupil has completed two years of work in the junior high school.

Attendance records

8760. The average daily attendance of all pupils from a district paying the tuition provided for, enrolled in the first two years of the junior high school, shall be kept separate and shall be credited to the elementary school district in which the pupils reside.

Non-residents

8761. The board of trustees of any school district not situated in a high school district maintaining a junior high school may permit pupils of their district who have completed the sixth year of the elementary school to attend any junior high school in any high school district, and may pay to the high school district for the education of the pupils by order of the county superintendent of schools, a tuition charge which shall be agreed upon by the board of school trustees and the high school board maintaining the junior high school.

Tuition

8762. The board of school trustees shall not pay a tuition charge greater than the average net cost per pupil for educating pupils in the first six years of the elementary school district in which they reside, as ascertained by the county superintendent of schools, and the tuition charge shall cease to be paid after the pupil has completed two years of work in the junior high school.

Attendance records

8763. The average daily attendance of all pupils from a district paying the tuition provided for, enrolled in the first two years of the junior high school, shall be kept separate and shall be credited to the elementary school district in which the pupils reside.

Lapsation

8764. Whenever the average daily attendance of pupils enrolled in the first two years of the junior high school of a district is less than 25 for any school year, the junior high school shall lapse.

Article 4. High School Courses in Elementary Schools

Application

8781. The board of school trustees of any elementary school district not included in any high school district, the school of which is situated more than 10 miles from any high school by the nearest traveled road, may, with the approval of the county superintendent of schools, ask the county board of education to outline a course of study to include subjects usually taught in the first and second years of the high school.

Outline of courses

8782. The county board of education on receiving the application shall outline for the elementary district a course

of study for pupils who are entitled to attend a high school, to include the first and second years of the regular high school work.

Notification

8783. The secretary of the county board of education shall notify the board of school trustees applying for permission to teach high school subjects that permission has been granted.

Teachers

8784. When the course of study is established it shall be taught only by a teacher holding a full high school certificate.

Article 5. Junior Colleges

Procedure

8811. Junior colleges shall be established and maintained in high school districts and in junior college districts pursuant to this article.

High school districts

8812. The governing board of any high school district having an assessed valuation of five million dollars ($5,000 000) or more may, with the approval of the State Board of Education, establish and maintain one or more junior colleges. The State Board of Education shall not act to approve the establishment and maintenance of a junior college by any high school district without first having requested and received the recommendation of the Superintendent of Public Instruction as to the establishment and maintenance of one or more junior colleges by such high school district. The Superintendent of Public Instruction shall make his recommendation within 90 days after the State Board of Education shall have requested it.

(Amended by Stats. 1943, Ch. 645.)

[ORIGINAL SECTION]

8812 The governing board of any high school district having an assessed valuation of five million dollars ($5,000,000) or more may, with the approval of the State Board of Education, establish and maintain one or more junior colleges.

Junior college districts

8813. The governing board of each junior college district shall establish and maintain one or more junior colleges.

Contracts

8814. The governing board of any school district which is authorized to maintain a junior college may contract with the Director of Education for the maintenance of a junior college in a State college situated in the district. Any contract executed pursuant to this section shall include among its provisions a requirement that all expenditures incurred for junior college maintenance shall be payable only on order of the governing board as all other expenditures of the district are payable, and an additional provision that the president of the State college shall serve as principal of the junior college and in that capacity shall be responsible to the governing board through the superintendent of schools of the district if there is one. Otherwise he shall be responsible directly to the governing board.

Term

8815. Junior colleges or junior college classes maintained in a high school district may be maintained for such period and at such times during the school year as the governing board of the high school district may determine, but in no case shall the

total number of days of actual teaching in the junior colleges or junior college classes be less than 170 in any school year.

Classes outside district

8816. The governing board of any school district which maintains a junior college may conduct junior college classes and acquire the necessary property and erect the necessary buildings therefor, outside of the boundaries of the school district if all of the following conditions exist:

(a) The proposed location is within the State.

(b) The activities, trades, businesses, or work to be carried on at the proposed location is such as to offer educational opportunities in the subject or all of the subjects proposed to be taught at that location, and facilities for such instruction are not available either at the location of the principal buildings of the junior college, or elsewhere within the district.

Classes outside State

8817. The governing board of any district which maintains a junior college may establish and maintain junior college classes outside of the State, comprising a part of an air craft pilot training program conducted by the district under an agreement with the Federal Government or any agency thereof, during the time that it is unlawful by reason of any law or order of the Federal Government or any agency thereof for such classes to be maintained within the district.

The governing board may make such expenditures and do such things in connection with the establishment and maintenance of classes under this section as it could do were the classes established and maintained within the district.

Education

8818. Each junior college shall provide for the education of pupils in the thirteenth and fourteenth grades and for the education of such adults and minors as may properly be admitted but who are not classifiable by grade.

Four-year junior colleges

8819. With the approval of the Superintendent of Public Instruction and the State Board of Education, the governing board of any district authorized to establish and maintain a junior college may, by resolution establish one or more four-year junior colleges for the education of pupils in grades 11 to 14, inclusive. In any junior college district embracing two or more high school districts, the resolution shall be approved in writing by a majority of the members of the governing board of each high school district before the four-year junior college may be established.

Summer school

8819.1. The governing board of a district maintaining one or more junior colleges may maintain a summer school at any of such junior colleges during the period between the close of one academic year and the beginning of the succeeding academic year.

"Academic year"

The term "academic year" as used herein means that portion of the school year during which the regular day junior college is maintained, which period must include not less than the number of days of teaching required to entitle the district, to apportionments of State funds.

(Added by Stats. 1943, Ch. 1082.)

Separate schools

8820. Junior colleges may be maintained as separate day or evening junior colleges or in conjunction with any day or evening high school.

Qualifications of pupils

8821. The principal of any two-year junior college shall admit to the junior college any high school graduate and any other person over 18 years of age who in his judgment is capable of profiting from the instruction offered.

Same

8821.1. The board of a unified school district may permit a high school pupil who has attained the age of 17 years and who has not completed his last year of high school and who lacks sufficient credits for graduation to attend a junior college and, in addition to courses leading to high school graduation, take junior college courses and receive credit for the courses he completes.

The principal of a junior college may admit such high school pupils.

This act shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section; but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

(Added by Stats. 1943, Ch. 809.)

Same

8822. The principal of any four-year junior college shall admit to the junior college any pupil who has completed the work of the tenth grade and any other person over 16 years of age who in his judgment is capable of profiting from the instruction offered.

Minimum standards

8823. The State Board of Education shall adopt rules and regulations fixing minimum standards entitling districts to receive State aid for the support of junior colleges.

Annual investigation

8824. The State Department of Education shall annually investigate each junior college to determine whether it has met the standards.

Cost accounting

8825. The State Department of Education shall provide for a uniform system of cost accounting for all junior colleges.

Financing of four-year colleges

8826. Four-year junior colleges shall be financed in the same manner and from the same funds as provided for the financing of two-year junior colleges. The provisions of Article 2 of Chapter 4 of Division 3 of this code relating to the Junior College Tuition Fund shall not be applicable in the case of pupils attending the eleventh and twelfth grades in any four-year junior college.

CHAPTER 7. SPECIAL CLASSES AND COURSES OF INSTRUCTION

Article 1. Special Day and Evening Classes in Elementary Schools

Regular course of study

8951. The governing body of any elementary school district may establish and maintain, in connection with any school

under its jurisdiction, special day and evening classes for the purpose of giving instruction in any of the branches of study prescribed and authorized for the elementary schools.

Term

8952. These classes may be convened at such hours and for such length of time during the school day or evening, and at such period and for such length of time during the school year as may be determined by the governing authority.

Qualifications of pupils

8953. The evening elementary schools and the special day and evening classes of the elementary schools of any school district shall be open for the admission of such minors and adults as in the judgment of the governing board of the school district maintaining the schools or classes may profit from the instruction offered.

Article 2. Special Classes for Elementary Pupils

Special course of study

8971. The board of education of any city school district, upon the recommendation of the city superintendent of schools, or the board of school trustees of any elementary school district, upon recommendation of the county superintendent of schools, may establish and maintain separate classes for pupils who would profit more from a course other than the regular course of study prescribed for the elementary schools, and may substitute for the regular course of study other types of school work or study approved by the superintendent of schools as being better adapted to the mental needs of the pupils.

Textbooks

8972. Pupils enrolled in such classes shall be required to use the State series of textbooks only in so far as the textbooks are adapted to the work of the classes. All textbooks and materials required in the classes shall be furnished free.

Article 3. Special Day and Evening High School Classes

Courses for minors and adults

8991. The governing board of any district maintaining a high school, subject to the provisions of this code relating to courses of study for high schools, may establish and maintain, in connection with any high school under its jurisdiction special day and evening classes, for the purpose of giving instruction to such minors or adults as in the judgment of the governing board of the districts may profit by the instruction.

Term

8992. These classes may be convened at such hours and for such length of time during the school day or evening, and at such period and for such length of time during the school year as may be determined by the governing authority.

Article 4. High School Vocational Courses

Cooperative courses

9016. The governing board of any high school district, subject to the provisions of this code relating to courses of study for high schools, may establish and maintain, in connection with any high school under its jurisdiction, cooperative courses in accordance with standards prescribed by the State Board of Education.

Transportation

9017. The governing board of any high school district maintaining an agriculture course may transport pupils, instructors, or supervisors of classes to and from any classes or places where the work of the classes is being done, whether within or without the district, in the same manner and subject to the same limitations as in transporting pupils to and from school.

Article 5. Continuation Education Classes in High Schools

Minors subject to compulsory continuation education

9031. The governing board of each high school district shall establish and maintain a program of guidance, placement, and follow-up for all minors within the district subject to compulsory continuation education.

Number of pupils

9032. The governing board of each high school district shall establish and maintain special continuation education classes whenever there are 50 or more minors residing within the high school district who are subject to compulsory continuation education.

Minimum hours

9033. Special continuation education classes shall provide at least four 60-minute hours of instruction per week for each minor within the high school district who is subject to compulsory continuation education.

Hours of instruction

9034. Such classes shall be maintained between the hours of 8 a.m. and 5 p.m.

Same

9034.1. The Governor may issue a permit authorizing the governing board of a school district to maintain continuation education classes between hours other than those set forth in this article.

An application for such a permit shall be filed with the Superintendent of Public Instruction by the governing board of any district desiring such permit. The Superintendent of Public Instruction shall within 15 days after the filing of the application, recommend to the Governor the issuance or denial of such permit. If he recommends the issuance of such a permit, he shall incorporate the terms and conditions upon which it is recommended that the permit be issued. After receipt of the recommendation from the Superintendent of Public Instruction, the Governor shall within five days either issue or deny the permit requested. If a permit is issued, the Governor shall specify therein the terms and conditions fixed by him upon which the permit is granted.

The Governor may at any time revoke, suspend or modify such permit. Upon proof being made that the terms and conditions of any such permit have been violated, the Superintendent of Public Instruction may recommend to the Governor that the permit be suspended, modified or revoked.

This section shall remain in effect until the 91st day after the final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect it shall supersede any

existing provisions of law which are in conflict with this section; but such provisions are not repealed by this act and after this section is no longer effective shall have the same force as though this act had not been enacted.

(Added by Stats. 1943, Ch. 756.)

Courses

9035. Such classes shall provide suitable instruction for the various individuals for whose benefit they are established.

Standards

9036. The State Board of Education shall prescribe and enforce standards and regulations for the organization and administration of programs of guidance, placement and follow-up, for programs of coordination and instruction in continuation education, for the special reimbursement thereof, and for the certification of teachers and coordinators for continuation education.

Article 6. Classes for Adults Deficient in English

Establishment. Upon demand

9051. Upon application of 20 or more persons above the age of 21 years residing in a high school district who can not speak, read, or write the English language to a degree of proficiency equal to that required for the completion of the sixth grade of the elementary schools, the governing board of the high school district shall establish special classes in English.

Same Without demand

9052. The board may establish the classes without demand and with a less number of students.

Time of application

9053. Application for classes shall be made in time to permit the board to arrange to meet the expenses of the classes.

Classes

9054. The classes shall be held at least twice a week for a two-hour period.

Discontinuance

9055. If the enrollment in any class falls to 10 or less for a one-month period, the governing board may discontinue the class for that year.

Article 7. Classes in Citizenship and English for Minors

Establishment

9071. The governing board of each high school district in which there are living, within a radius of three miles of any high school, located in the district, 20 or more persons over 18 and under 21 years of age who expect to remain in the district for a period of two or more months, who are not in attendance for at least four 60-minute hours per week upon regular full-time public or private day schools or suitable part-time classes, and who can not speak, read, or write the English language, to a degree of proficiency equal to that required for the completion of the sixth grade of the elementary schools, shall establish and maintain special classes in evening schools or special evening classes under the administration of day schools.

Classes

9072. Classes shall provide instruction in citizenship for at least four 60-minute hours per week for at least 36 weeks of the school year.

Courses

9073. The board shall provide, for persons who can not speak, read, or write the English language to a degree of proficiency equal to that required for the completion of the

sixth grade of the elementary schools, instruction in the English language and in the duties and responsibilities of citizenship.

Article 8. Classes in Citizenship for Persons Seeking Citizenship

List of names

9091. The county clerk in each county or city and county shall furnish to the superintendent of schools of the county or city and county on or before the tenth day of each month the names and addresses of all persons filing during the previous month their declarations of intention to become citizens of the United States or their petitions for naturalization.

Same

9092. In counties in which the United States district courts are located, the superintendent of schools of the county or city and county shall obtain monthly from the clerk of the United States district court the names and addresses of all persons filing their declarations of intention to become citizens of the United States or their petitions for naturalization.

Notice

9093. The superintendent of schools of the county or city and county, after obtaining the names and addresses of the applicants, shall send a written or printed notice to the applicants, stating that this article authorizes the governing board of any school district to establish upon application classes in training for citizenship. The form of this notice shall be furnished by the Superintendent of Public Instruction.

Application

9094. Upon application of 25 or more persons desiring training for citizenship and residing in a high school district, the governing board shall establish special classes in training for citizenship. Upon demand the board may establish the classes with a less number of applicants.

Time of application

9095. Application for classes shall be made in time to permit the governing board to arrange to meet the expenses of the classes.

Failure to establish classes

9096. Upon satisfactory evidence that any school district required to do so has failed to establish and maintain classes in training for citizenship, the Superintendent of Public Instruction and county superintendent of schools may withhold 5 per cent of State and county apportionments until the district has complied with the provisions of this article.

Courses

9097. The course of study in training for citizenship shall consist of the teaching of United States history, State and community civics, and the Constitution of the United States, with special reference to those sections in the Constitution which relate directly to the duties, privileges, and rights of the individual, and such allied subjects, including English for foreigners, or activities as will properly prepare the applicants to understand and assume the responsibilities of citizenship.

Term

9098. The classes shall be held at least twice a week for three months. At the close of this period, if the enrollment in any class has fallen to 10 or less for the month, the governing board of the district may discontinue the class for that year.

Article 9. Home Teaching

"Home teachers"

9121. The governing board of any school district may employ teachers known as "home teachers" not exceeding one teacher for every 500 units of average daily attendance in the elementary or high schools of the district as shown by the report of the county superintendent of schools for the next preceding school year.

Duties

9122. The home teacher shall work in the homes of the pupils, instructing children and adults in matters relating to school attendance and preparation therefor, in sanitation, in the English language, in household duties, such as purchase, preparation, and use of food and clothing, and in the fundamental principles of the American system of government and the rights and duties of citizenship.

Article 10. Vocational Rehabilitation

Acceptance of grant 29 U S C 34

9141. The people of the State accept the provisions and benefits of the act of Congress entitled "An act to provide for the promotion of vocational rehabilitation of persons disabled in industry or otherwise and their return to civil employment," approved June 2, 1920.

Compliance with act

9142. In accepting the provisions and benefits of the act of Congress referred to in Section 9141, the people of the State agree to observe and comply with all of its requirements.

Cooperative

9143. The State Board of Education is designated as the board for the purpose of cooperating with the Federal board for vocational education, in carrying out the provisions and purposes of the Federal act providing for the vocational rehabilitation of persons disabled in industry or otherwise.

Duties of State Board of Education

9144. The State Board of Education shall cooperate with the Federal Board for Vocational Education in the administration of the act of Congress and provide for the supervision and support of such courses of vocational rehabilitation as it may deem essential, in order to carry out the provisions of the Federal act and of this article, including the furnishing of instructional supplies and equipment which the State Board of Education may permit to be retained by any trainee to whom furnished if essential to permit him to enter upon and follow an occupation.

(Amended by Stats 1943, Ch. 162.)

[ORIGINAL SECTION]

9144 The State Board of Education shall cooperate with the Federal Board for Vocational Education in the administration of the act of Congress and provide for the supervision and support of such courses of vocational rehabilitation as it may deem essential, in order to carry out the provisions of the Federal act and of this article.

Plan of cooperation

9145. The State Board of Education and the Industrial Accident Commission shall formulate a plan of cooperation in accordance with the provisions of the Federal act, and of this article. The plan shall become operative when approved by the Governor.

9146. The State Board of Education shall direct its program of vocational rehabilitation through the Director of Education. Director of Education

9147. The State Board of Education may appoint all necessary professional assistants and teachers and such other assistants as may be necessary, fix and pay the compensation of the employees, and perform any other duties necessary in order to carry out the provisions of the Federal act and of this article. Assistants, etc

Article 11. Vocational Education

9161. The people of the State accept the provisions of, and each of the funds provided by, the act of Congress entitled "An act to provide for the promotion of vocational education; to provide for cooperation with the States in the promotion of such education in agriculture and the trades and industries; to provide cooperation with the States in the preparation of teachers in vocational subjects; and to appropriate money and regulate its expenditure," and approved February 23, 1917. Acceptance of grant 20 U S C 16

9162. The people of the State accept the provisions of, and each of the funds provided by, the act of Congress entitled "An act to provide for the further development of vocational education in the several States and Territories" and approved June 8, 1936. Acceptance of grant 20 U S C 15m

9163. In accepting the benefits of the acts of Congress referred to in Sections 9161 and 9162 the people of the State agree to comply with all of their provisions and to observe all of their requirements. Compliance with act

9164. The State Board of Education is designated as the State board to carry out the purposes and the provisions of the acts of Congress, and is given all necessary power and authority to cooperate with the Federal Board for Vocational Education in the administration of the provisions of the Federal acts and of this article. Duties of State Board of Education

Article 12. Education in Connection with National Defense

(Article 12 added by Stats. 1943, Ch. 83, as part of codification.)

9176. Whenever by the provisions of any act of Congress providing for education, the program is to be administered in the State by the Superintendent of Public Instruction, Director of Education, Department of Education, State Board of Education, State Board for Vocational Education, or any one or more of such officers, or agencies, the officers and agencies designated in the act of the Congress are authorized to administer the program in this State. Such officers and agencies are vested with all necessary power and authority to cooperate with the Government of the United States, or any agency or agencies thereof in the administration of the act of Congress and rules and regulations lawfully adopted thereunder. Administration

(Amended by Stats. 1943, Ch. 705.)

[ORIGINAL SECTION]

9176 Whenever by the provisions of any act of Congress providing for the education of persons in connection with any program of National defense, the program is to be administered in the State by the Superintendent of Public Instruction, Director of Education, Department of Education, State Board of Education, State Board for Vocational Education, or any one or more of such officers, or agencies, the officers and agencies designated in the act of the Congress are authorized to administer the program in this State. Such officers and agencies are vested with all necessary power and authority to cooperate with the Government of the United States, or any agency or agencies thereof in the administration of the act of Congress and rules and regulations lawfully adopted thereunder.

Custodian

9177. The State Treasurer is designated as the custodian of all funds received by the State from the Government of the United States or of any agency or agencies thereof and he is authorized to receive, and provide for the proper custody of, all moneys so received.

Expenditure

9178. The funds received by the State under the provisions of this article shall be expended by the officers or agency administering the program to carry out the provisions of the act of the Congress and rules and regulations lawfully adopted thereunder. Such funds are exempt from the provisions of Article 18 of Chapter 3 of Title 1 of Part 3 of the Political Code and shall be paid out by the Treasurer on warrants drawn by the State Controller on claims submitted by the Director of Education.

Article 13. Tuition Charge for Adults

Amount

9191. Adults enrolled in special day or evening classes, except classes maintained in English and citizenship for foreigners and classes in elementary subjects, may be required by the governing board of the district to pay a tuition not to exceed six dollars ($6) a term.

Same

9192. The charge per pupil shall not exceed the estimated cost to the district per pupil for maintaining the class.

CHAPTER 8. SPECIAL SCHOOLS

Article 1. Parental Schools

Purposes

9301. The board of education of any city, or of any city or county, or the board of trustees of any school district having at least 300 children, according to the official school record of the preceding school term, may establish schools pursuant to this article, or set apart in public school buildings a room or rooms for children between eight and 15 years of age, who are habitual truants from instruction upon which they are lawfully required to attend, or who are insubordinate or disorderly during their attendance upon instruction, or irregular in attendance. The school or room shall be known as a parental school.

Consent of governing body

9302. Before establishing a parental school in a city or city and county, the consent of the city council, or other governing body of the city or city and county shall be granted.

Elementary school

9303. A parental school shall be one of the elementary schools of the city, city and county, or school district.

Pupils

9304. The parental school shall be established and maintained specially for the instruction of such pupils, between the ages of eight and 15 years, as are committed thereto as provided by this code, and no pupil shall be committed to, or required to attend, the school except as provided in this article.

Powers of governing board

9305. Any governing board establishing and maintaining a parental school may make such special rules and regulations for its government as are consistent with the provisions and purposes of this article, and not contrary to law. The board may provide for the detention, maintenance, and instruction of children committed to the school.

Order to attend

9306. The county superintendent of schools or boards of education or boards of school trustees, or the city superintendent of schools in any city or city and county may, after reasonable notice to any child subject to the provisions of this article, and an opportunity for the child to be heard, and with the consent of the parent, guardian, or other person having control or charge of the child, order the child to attend a parental school, or to be detained and maintained therein for such period and under such rules and regulations as the boards may prescribe, not exceeding the remainder of the school year. If the parent, guardian, or person having control or charge of the child does not consent to the order, the child may be proceeded against pursuant to this article.

Complaint

9307. If any child in any city, city and county, or school district, in which a parental school is established, is a habitual truant or is irregular in attendance at school, within the meaning of these terms, as defined by this code, or is insubordinate or disorderly during attendance at school, the supervisor of attendance or the secretary of the board of education or clerk of the board of trustees, if there is no supervisor of attendance, shall make and file a complaint against the child in the proper court, charging the fact, and shall see that the charge is prosecuted by the proper authority.

Commitment

9308. If the court, upon the hearing of the complaint, finds that the charge is sustained, it shall render judgment that the child be committed to, and be detained and maintained in a parental school in the city, city and county, or school district for a term not to exceed the remainder of the current school year.

Purpose

9309. The confinement of any child in a parental school shall be conducted with a view to the improvement of the child, and to his restoration, as soon as practicable, to the school in which he would, if not confined, be required to attend.

Parole

9310. The city superintendent of schools, or, if there is no city superintendent, the board of education of any city or city and county or county superintendent of schools, may, in his discretion, parole at any time any child committed to, or

ordered to attend, a parental school, except when the commitment is by judgment or order of a court.

Same

9311. When the commitment to a parental school of any child is by judgment or order of a court, the court may, on the recommendation of the city superintendent of schools or the board of education or county superintendent of schools, make an order paroling the child, upon such terms and conditions as are specified in the order.

Expenses

9312. The expense incurred by any city, city and county, or school district in purchasing or renting a school site, erecting or renting a building and equipping it for the maintenance of a parental school, shall be paid out of funds other than those collected for the maintenance of schools.

Same

9313. The salaries of teachers and the expense for all school supplies in a parental school shall be paid out of the same funds from which similar salaries and expenses are paid for elementary schools. All other expenses incurred in the maintenance of the parental schools shall be paid out of the parental school fund.

Article 2. Joint Parental Schools

Procedure

9331. Two or more school districts or cities may unite, pursuant to this article, to form a joint district for the maintenance of a joint parental school.

Consent of governing body

9332. When the governing board of any school district has secured the consent of the legislative body of the city or school district, in which the governing board holds office, for the union of two or more districts to form a joint parental school district, the governing board shall transmit the information to the board of supervisors of the county of which the city or school district or districts forms a part, setting forth the cities or districts with which the city or district seeks to unite for the maintenance of a joint parental school.

Resolution

9333. When the information has been received by the board of supervisors from all the cities or school districts seeking to be united, the board of supervisors, by resolution, shall declare the cities or school districts united for the maintenance of a joint parental school, to be known as the "Joint Parental School District of (give the names of the school districts uniting)."

Board of trustees

9334. When the districts have been united, the governing boards of the cities or school districts uniting shall appoint a board of trustees for the joint parental school district, to consist of five members, unless the number of cities or school districts uniting exceeds five, who shall be appointed from the membership of the boards of the several districts or cities uniting, by the respective boards in approximate proportion to the census of children between five and 17 years of age in the district uniting. Each district shall be represented by at least one member on the board of trustees of the joint parental school district.

Term

9335. The members of the board of trustees of the joint parental school district so appointed shall serve for the remainder of the term of office for which they were elected on their respective boards of education or boards of trustees.

Vacancies

9336. When vacancies occur on the board of trustees of a joint parental school district, they shall be filled by the board making the original appointment.

Superintendents of Schools

9337. The superintendents of schools of each of the cities, or school districts uniting, shall be ex officio members of the board of trustees of a joint parental school district without the right to vote.

Secretary

9338. The board of trustees of joint parental schoo districts shall organize by the election of one of their number as chairman and by the election of a secretary. The secretary shall be the city superintendent of schools, or the secretary of a board of education, or the clerk of one of the boards of education, boards of trustees of the cities, or school districts united. The secretary shall serve without additional salary.

Powers

9339. All the powers and duties of boards of school trustees or boards of education of any city or city and county in the management of and the securing of funds for a parental school within a city or school district, are conferred and imposed upon the board of trustees of any joint parental school district in the management of and the securing of funds for the support of a joint parental school.

Article 3. Cosmopolitan Schools

Establishment

9361. The board of education in every city of the first and first and one-half classes shall establish and maintain in each of the cities of the first and first and one-half classes at least one public school in which shall be taught the French, Spanish, Italian, and German languages, or any of them in connection with the studies in the English language prescribed and authorized to be taught in the elementary schools.

Same

9362. The schools provided for by this article may be established by the board of education of any city or city and county when the board deems it necessary or advisable.

Rules

9363. Schools established pursuant to this article shall be designated as cosmopolitan schools, and shall be subject to such rules and regulations as may be prescribed by the boards of education of cities of the first and first and one-half classes in which the schools are established and maintained.

Article 4. Adjustment Schools

Purpose

9381. This article shall be construed in conformity with the intent as well as the expressed provisions thereof, and the governing board of any adjustment school may do all those lawful acts which it deems necessary to promote the prosperity of the adjustment school, or to promote the well-being and education of all minors entrusted to its charge.

Juvenile Court Law

9382. The terms and provisions of Article 10 of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code shall, so far as applicable, govern and control proceedings under this article.

Establishment

9383. The boards of supervisors or other governing bodies of counties and cities and counties may organize, establish, equip, and maintain, including the purchase of suitable sites and the construction of suitable buildings, adjustment schools in each county or city and county for the purpose of furnishing to minors under the age of 18 years pursuant to this article, care, custody, education, training, and adjustment to good citizenship, which shall be continuous and uninterrupted during the period the minors remain in school.

Same

9384. The boards of supervisors of two or more counties may by regularly adopted resolutions or ordinances duly entered on the minutes or proceedings of their respective boards, unite in the organization, establishment, equipment, and maintenance of adjustment schools for the respective counties. In that event, the schools shall be located in one or more of the counties as shall be mutually agreed upon and designated in the resolutions or ordinances.

Governing board

9385. If adjustment schools are organized by only one county or city and county, the government and management shall be vested in a governing board which shall be either the board of education, or similar school governing body, or the county probation committee of the juvenile court, or a board of trustees composed of seven members selected from both the board of education and the probation committee, as may be determined or chosen in the exercise of a sound discretion by the board of supervisors or other governing body of the county or city and county.

Same

9386. If adjustment schools are organized by the joint action of two or more counties, the boards of supervisors of the counties may by concerted action by duly adopted resolutions entrust the government and management to a governing board, which shall be any of the following:

(a) The board of education of the county in which at least one adjustment school is located.

(b) The probation committee of the juvenile court of the county in which at least one adjustment school is located

(c) A board of trustees composed of seven members who shall represent all of the counties and each of whom may be selected from either the county board of education or the probation committee of the juvenile court of his respective county as shall be determined in the joint resolutions of the boards of supervisors.

Term

9387. If a board of trustees is chosen to govern and manage the adjustment school the term of office of the trustees shall be six years, except that of the seven trustees first selected, two shall hold office for two years, two shall hold office for four years, and three shall hold office for six years. Each of the

two, four, and six year terms shall be assigned by lot to each of the seven trustees.

Powers

9388. The governing board shall make all needful rules and regulations for the transaction of business and for the management and government of the adjustment school under its jurisdiction, and it shall see that proper care, custody, education, and training are provided for the minors under its care, to the end that the minors shall be adjusted to good citizenship and prepared to become honorable, self-supporting members of society.

Same

9389. The governing board shall make all contracts for the organization, establishment, including the purchase of a suitable site and the construction of suitable buildings, equipment, operation, and maintenance of the adjustment school that may be necessary or advisable. In no event shall the amount of money appropriated for any such purpose or other limitation prescribed by law or by order of the governing board, be exceeded or violated.

Contracts

9390. No member of the governing board, nor officer, nor employee of any adjustment school shall be interested, personally, directly, or indirectly, in any contract, purchase, or sale made, or in any business carried on in behalf of the school. Any money paid on such contracts or sales may be recovered by a civil suit, and the governing board upon the proof of such interest shall remove from office immediately the member, officer, or employee.

Superintendent

9391. The governing board of the adjustment school shall appoint a superintendent, not of its own number, who shall be a person qualified by training and experience for the character of work to be performed at the adjustment school, and who shall hold office at the pleasure of the governing board.

Officers and employees

9392. The governing board shall determine the number, title, duties, and terms of office of all other officers and employees and shall fix their salaries, and that of the superintendent.

Superintendent's oath and bond

9393. The superintendent of the adjustment school shall, before entering upon the discharge of his duties, make and file with the governing board an oath that he will faithfully and impartially discharge his duties. He shall also file with the governing board a bond, running to the State of California in such sum as the board may determine, and with sureties to be approved by the board, conditioned upon the faithful performance of his duties. The premium of the bond shall be a part of the cost of maintaining the adjustment school.

Property

9394. The superintendent, after making and filing the bond, shall, subject to the direction of the governing board, be invested with the custody of the lands, buildings, and all other property pertaining to or under the control of the adjustment school. He shall account to the governing board in such manner as it may require for all property entrusted to him and for all money received by him as superintendent of the adjustment school, or for any of the minors entrusted to its care.

Appointment of officers and employees

9395. The superintendent shall also, subject to the direction of the governing board, appoint all officers and employees of the adjustment school, who shall hold office at his pleasure. He shall exercise such supervisory, executive, and managing powers as are conferred upon him by the governing board.

Residence

9396. The superintendent shall reside in the adjustment school or one of the adjustment schools under his jurisdiction, and he shall be furnished suitable quarters, furniture, food supplies, and laundry for himself and his family. The governing board may make similar provision for such other officers and employees as the interests of the adjustment school may in its judgment require to reside on the premises.

Commitment of minors

9397. The adjustment school shall receive into its care, custody, and control all boys and girls under 18 years of age who are committed to it by order of the juvenile court of the county or city and county maintaining or contributing to the maintenance of the adjustment school.

Term

9398. Any minor who has been committed to the care, custody, and control of any adjustment school shall remain in the school for the duration of the period provided in the order of commitment, or until further order of the juvenile court.

Review of commitment

9399. The juvenile court shall review the order of commitment at least once each year, and upon review the court may continue, terminate, or modify the order of commitment.

Revocation of commitment

9400. If at any time in the opinion of the superintendent of the adjustment school the further detention of the minor is detrimental to the interests of the school, the minor may immediately, upon order of the superintendent, be returned to the committing court, and the court may revoke its previous order, and proceedings may be resumed where they were suspended when the commitment was made.

Conduct of school

9401. The governing board of any adjustment school shall cause the school to be conducted as may seem best calculated to carry out the intentions of this article.

Course of study

9402. There shall be organized a course of study, corresponding as far as practicable with the course of study in the public schools of the State.

Vocational training

9403. There shall be provided in the adjustment school the proper facilities and equipment for vocational and trade training, in addition to such other public school education or training as may be determined upon by the governing board. Vocational or trade training education shall be given to each minor while under the care of the adjustment school, to the end that he may upon discharge be qualified for honorable and self-supporting employment.

Support of minors

9404. Any order of the juvenile court committing a minor to the care, custody, and control of an adjustment school may make provision for the expense of his support and maintenance by directing that the expense be paid in whole or in part by his parent, guardian, or other person liable for his support and maintenance.

Expenses of school

9405. If the adjustment school is organized, established, equipped, and maintained by only one county or city and county, the entire expense of the school shall be borne by the county or city and county, and the board of supervisors, or other governing body of the county or city and county shall make due and annual provision therefor. The necessary items of expense shall be set forth in the annual budget of the county or city and county.

Same

9406. If an adjustment school is organized, established, equipped, and maintained by two or more counties, the initial expense of organizing, establishing, and equipping the school shall be apportioned between each of the counties on a pro rata basis in the ratio that the number of children of school age residing in each county bears to the number of children of school age residing in all of the counties.

Apportionment between counties

9407. The annual expense of maintaining the school by two or more counties, shall be apportioned between the counties on a pro rata basis in the ratio that the average daily enrollment of minors placed in the school from each county during the preceding year bears to the total average daily enrollment in the school from all of the counties during the year.

Bond of officers

9408. The governing board shall require any officer entrusted with money belonging to an adjustment school or to any of the minors entrusted to its care, or any officer placed in a position of trust and responsibility in the custody of property or in the handling of supplies belonging to the school, to file with the board a bond with sureties approved by the board and in such sum as it may determine, conditioned upon the faithful performance of the duties required, and upon the faithful accounting of all money and property coming into his hands or under his control by virtue of his office. The premiums on the bonds shall be a part of the cost of maintaining the adjustment school.

Article 5. Vacation Schools

Classes of schools

9426. The governing board of any school district may establish and maintain vacation schools of kindergarten, elementary, or high school grade.

Same

9427. No vacation school shall be established until a school of equal grade has been maintained for at least eight months.

Use of State or county funds

9428. State or county school funds shall not be used to maintain vacation schools.

Attendance

9429. The attendance of pupils upon vacation schools shall not be counted as part of the average daily attendance of the regular elementary or secondary schools of the district.

Government

9430. The duties of teachers, course of study, length of school day, and all other matters relating to vacation schools shall be determined by the governing board of the school district.

Article 6. Twenty-four Hour Elementary Schools

Purpose

9451. The purpose of this article is to authorize the establishment of 24-hour elementary schools for minors between the ages of eight and 16 years and to provide for the attendance, maintenance, care, home supervision, guidance, observation, and education of minors attending the schools, and to provide the minors with such vocational, homemaking, mental, moral, physical, and other training as will tend to strengthen and develop them and enable them to become good and useful citizens. The staff of every 24-hour school shall make adjustment as rapidly as possible in order that the period of time the child is away from ordinary community life may be as brief as possible. They shall place the minors in proper homes where they will be assured of suitable educational opportunities, and shall cooperate with child placement agencies to this end and to stimulate proper care of the minors by their parents.

Establishment

9452. Any elementary school district, with the approval of the State Board of Education, may establish and maintain one or more 24-hour elementary schools in the discretion of the governing board of the district. The schools shall be under the management and control of the governing board of the district which shall have in reference to the schools the same powers and duties which are now or may hereafter be assigned by law to the boards for the management of other schools of the district. A 24-hour elementary school shall be one of the public elementary schools of the district.

Board of admission

9453. The governing board of any school district maintaining a 24-hour school shall, upon the recommendation of the superintendent of schools of the district, appoint a board of admission to the 24-hour school consisting of one member of the governing board of the district, a representative of the welfare or charities department, if such a department exists, of the city within which the district is situated, if within a city, otherwise of the county the superintendent of schools of which has jurisdiction over the district, and two other persons designated by the superintendent. At least one member of the board of admission shall be a woman. The principal of each 24-hour school, the superintendent of schools of the district and a representative of the State Department of Education shall be ex officio members of the board of admission. The chairman of the board of admission shall be the superintendent of schools of the district. The board shall meet at such times and places as may be designated by the chairman. Children admitted will be those whose cases represent such serious behavior problems as to need constant study and care and those who need more than foster home placement and definitely require 24-hour supervision. Admission of pupils to a 24-hour school shall be by one of the methods provided in this article. No child shall be admitted to a 24-hour school except upon the recommendation of the board of admission.

Investigation

9454. The board of admission, or some person or persons designated by it, shall investigate the case of any child whose name is submitted in writing accompanied by a signed statement for consideration for admission to the school and shall make recommendations in each case. The board of admission shall observe the progress of each child, and shall advise and recommend his release as soon as sufficient progress is indicated.

Assignment of minors

9455. The governing board maintaining a 24-hour school may assign to the school any minor between the ages of eight and 16 years who is a resident of the school district whose parent or guardian does not exercise proper care, supervision, and guidance over him, or who is, by reason of insubordinate conduct, or refusal to obey the rules and regulations of the school authorities, in need of special educational training and discipline to prevent him from becoming subject to the provisions of the juvenile court law. The pupil may be assigned to the school by order of the superintendent of schools of the district, approved in writing by the parent, or guardian in compliance with the recommendation of the board of admission. If the parent or guardian of the pupil enters into a contract with the school district for the support of the pupil, he may be maintained in the school for the period of the assignment.

Commitment

9456. If the parent or guardian of the pupil refuses to enter into a contract providing for the payment to the school district of a sum sufficient to meet the average cost of maintaining a pupil within the school, including meals and a reasonable sum for lodging, and if the presence of the child within another school of the district or within its home is a menace to the future welfare of other children or of the child itself, the superintendent of schools of the district shall cause to be filed in the superior court of the county in which the district is located, acting in the department of the court performing the functions of the juvenile court, or in any other court of competent jurisdiction, a complaint asking for an order of the court, committing the child to the 24-hour school and fixing the amount the parent or guardian shall pay for his maintenance until such time as the superintendent of schools of the district reports to the court that the best interests of the minor will be served by his discharge from the school. A copy of the complaint shall at the same time be furnished the parent or guardian. If the parent or guardian is unable to pay the amount, the court may in the order provide for the payment by the county in which the district is located of a sum sufficient to cover the costs of maintenance of the child during the period of his commitment to the school.

Report

9457. The principal of any school in the district in which there has been established a 24-hour school shall report to the superintendent of schools of the district, after conference held with the parent or guardian, any pupil in his school who he believes comes within the provisions and intent of this article. This report shall be in writing and shall set forth the facts

upon which he believes that the child comes within the provisions of this article.

Term

9458. Any minor who has been placed in the care and control of the 24-hour school with the consent of the parent or guardian, shall remain therein, if placed there by order of the superintendent of schools of the district, for the duration of the period provided by the order or until further order of the superintendent of schools of the district. The superintendent making the order shall review the order at intervals of at least twice a year following the order and upon the review may order the continuance or termination of the stay of the child in the 24-hour school.

Release

9459. If the minor has been placed in the 24-hour school by order of the superintendent of schools of the district, the parent or guardian with whose consent the minor was placed in the school, upon application to the superintendent of schools who placed him therein, may secure the release of the minor and his restoration to the care, custody, and control of the parent or guardian. The superintendent of the district shall require a written report from the principal of the 24-hour school, giving the progress of the child and the advisability of the release of the child from the 24-hour school. If the report indicates that the minor is in need of further care and treatment and that his release would be detrimental to his own welfare or the welfare of others, the superintendent of the district may report the minor to the juvenile court or other proper court for action.

Return of minor

9460. If, in the opinion of the principal of any 24-hour school, the further detention of any minor is detrimental to the minor, the minor may upon order of the principal be returned to the superintendent of schools of the district in which the school is located or to the court which committed him, as may seem necessary for the best interest of the child.

Absence

9461. Any pupil who absents himself from any 24-hour elementary school without permission being first obtained from the principal shall be deemed an habitual truant within the meaning of paragraph (j) of Section 700 of the Welfare and Institutions Code, and dealt with as such.

Any person who contributes to the absence of any pupil from the school without permission first having been obtained from the principal, or advises, connives at, or aids or assists in such absence or conceals any pupil after such absence is guilty of a misdemeanor.

Course of study

9462. The course of study for the pupils and the methods used in enforcing the course of study shall be approved by the governing board of the district. There shall also be provided in the schools the proper facilities and equipment for vocational and trade training.

Residence

9463. The principal shall reside in the 24-hour school and shall be furnished suitable quarters, furniture, food, supplies, and laundry for himself and his family. The governing board of the district may make provision for maintenance of such

individual instructors, officers, and employees as the interests of the school in its judgment require to reside on the premises.

Clinics

9464. Each 24-hour school may conduct clinics for the diagnosis and observation of children and may advise parents and school authorities regarding courses of study or treatment in the interests of the normal development of any child and to prevent waywardness and delinquency.

Expenses of school

9465. The cost of securing sites or constructing and equipping buildings and in general the cost of housing and equipping any 24-hour school including the necessary dormitories, dining halls, and other living quarters for pupils and employees of the district shall be a charge against the funds of the school district maintaining it. The governing board of any district may employ such principals, assistants, teachers, and employees as are necessary in the judgment of the board for the proper conduct of the 24-hour school and may pay them from the funds of the school district. The expenses of lodging and boarding pupils residing within the buildings of any 24-hour school shall be paid from the sums received from contracts with the parents or guardians of the pupils, or from the funds of the county within which the school is located paid to the school district in pursuance of court orders for the maintenance of pupils.

Construction

9466. This article shall be construed in conformity with the intent as well as the express provisions thereof and shall confer upon the governing board of any 24-hour school that may be created, authority to do all those lawful acts which it may deem necessary to promote the prosperity of the school, or to promote the well-being and education of all minors entrusted to its charge.

Article 7. Emergency Schools

Powers of county superintendent

9481. The county superintendent of schools may, whenever in his judgment it is necessary, in order to provide elementary education for children residing in his county, or in order to provide elementary education for children of migratory laborers engaged in seasonal industries within his county, and funds are not available from other sources, do any one or more of the following acts:

(a) Establish and maintain one or more emergency elementary schools for the children.

(b) Provide one or more emergency teachers for the regular elementary schools of the districts in his county for the pupils.

(c) Provide transportation for the children to an elementary school.

In lieu of providing transportation of any pupil the county superintendent of schools may pay to the parents or guardian of the pupil the cost of food and lodging for the pupil at a place convenient to an elementary school. The amount so paid shall not exceed the cost of providing for the transportation of the pupil to and from his home and the school.

The county superintendent of schools may pay any expenses incurred in providing all the facilities and services authorized

in this section, including necessary capital outlays, from the unapportioned county elementary school fund.

All emergency schools shall be maintained in accordance with standards prescribed by the Superintendent of Public Instruction.

Funds of suspended schools

9482. The county superintendent of schools may draw requisitions upon the funds of any suspended school district under his jurisdiction to pay in whole or in part the expenses incurred for the maintenance of emergency schools in the district.

Branch libraries

9483. The county superintendent of schools of any county maintaining one or more elementary emergency schools may, if the county maintains a county library, enter into an agreement with the proper authorities of the county to establish a branch county library in each of the schools under such terms and conditions as may be agreed upon. The agreement may, among other matters, provide for the payment by the county superintendent of schools to the proper authorities for the use of the county library from the unapportioned county elementary school fund of such money at such times as may be agreed upon. All money transferred shall be used solely by the authorities of the county library for the purchase of books and other materials as may be adopted by the county board of education and for the care and distribution of such books and other materials to school libraries which are branch county libraries.

Insurance

9484. The county superintendent of schools of each county may insure all real and personal property constructed, purchased, or otherwise provided by him for emergency schools established by him. The cost of the insurance shall be paid from the unapportioned county elementary school fund.

Property

9485. The county superintendent of schools may transfer the real and personal property of any emergency school maintained by him to the elementary school district within which the school is located upon such terms and conditions as are agreed upon by the county superintendent of schools and the governing board of the district. Districts may enter into such agreements and acquire such property. Any funds received by the county superintendent of schools under this section shall be paid by him into the unapportioned county elementary school fund.

CHAPTER 9. EDUCATION OF PHYSICALLY HANDICAPPED MINORS

Article 1. General Provisions

Powers of governing board

9601. Subject to the provisions of this article the governing board of any school district may make such special provisions as in its judgment may be necessary for the education of physically handicapped minors.

Qualifications of pupils

9602. Any minor who, by reason of a physical impairment, can not receive the full benefit of ordinary educational facili-

ties, shall be considered a physically handicapped individual for the purposes of this article. Minors with speech disorders or defects shall be considered as being physically handicapped.

Exemptions

9603. No minor shall be required to take advantage of the special provisions for the education of physically handicapped minors if the parent or guardian of the minor files a statement with the governing board of the school district showing that the minor is receiving adequate educational advantages.

Method of instruction

9604. Physically handicapped minors may be instructed in special schools or special classes, in hospitals, sanatoriums, or preventoriums, in the home through the employment of home instructors, by cooperative arrangement with the Bureau of Vocational Rehabilitation of the State Department of Education, or by any other means approved by the State Department of Education.

Counsel and guidance

9605. Individual counseling and guidance in social and vocational matters shall be provided as part of the instructional program for physically handicapped pupils. Upon approval by the State Department of Education the governing board of any school district may separately, or in cooperation with the governing board or boards of one or more other school districts, or in cooperation with the Bureau of Vocational Rehabilitation of the State Department of Education, employ a special coordinator, who shall make a study of employment and occupational opportunities and shall assist in the coordination of the education of the physically handicapped minors with the commercial and industrial pursuits of the community, so as to prepare the minors for employment.

Cooperation

9606. The State Department of Employment shall, through the State Employment Service, cooperate with local school officials and the State Department of Education in the placement of physically handicapped individuals.

Transportation

9607. The governing board of a school district may provide for the transportation of pupils assigned to special schools or classes for physically handicapped pupils, and shall provide transportation for those pupils whose physical handicaps prevent their walking to school.

Care of pupils

9608. Necessary care may be provided during school hours for pupils whose attendance has been irregular because of physical handicaps, and such employees as may be needed may be employed to provide the care.

Special classes

9609. Deaf minors and those suffering the effects of spastic paralysis may be admitted at the age of three years to special schools or classes established for such minors.

Rules

9610. The governing board of a school district may establish regulations determining who can profit by and who shall receive the special instruction provided by this article. The regulations shall be subject to such standards as may be prescribed by the State Department of Education.

Instruction outside district

9611. Special classes or individual instruction provided for pretuberculous, tuberculous, convalescent, or other physically handicapped minors in hospitals, sanatoriums, and preventoriums, may be maintained in the institutions within or

without the school district, and the attendance of pupils in the institutions shall be credited to the district providing the instruction.

Special instruction in public schools

9612. The Superintendent of Public Instruction shall promote and direct special instruction in the public schools for physically handicapped minors. He may employ such professional and other personnel as are necessary for this purpose, and may perform such other duties as are necessary to give full effect to this article.

Standards

9613. The State Department of Education may prescribe minimum standards for the special education of physically handicapped minors. No apportionment of State funds shall be made by the Superintendent of Public Instruction to any school district on account of the instruction of physically handicapped minors unless the standards prescribed for the instruction are complied with.

Computation of attendance

9614. Four hours of actual attendance of physically handicapped pupils in special classes shall count as one day of attendance. Each clock hour of teaching time devoted to individual instruction of physically handicapped pupils shall count as one day of attendance. The average daily attendance of all physically handicapped pupils shall be computed by dividing the total number of days of attendance of the pupils by the number of days taught in the regular schools of the district.

Reports of attendance

9615. The attendance of all physically handicapped pupils instructed in accordance with the provisions of this article, including those instructed under cooperative arrangements with the Bureau of Vocational Rehabilitation of the State Department of Education, shall be reported annually to the county superintendent of schools together with all other attendance on forms provided by the Superintendent of Public Instruction.

Same

9616. The superintendent of schools or the governing board of each school district shall report annually to the county superintendent of schools and to the Superintendent of Public Instruction on forms provided by the Superintendent of Public Instruction, the total average daily attendance of physically handicapped pupils by types of instruction provided, the cost of educating the pupils, and such other information as may be required for the computation of the excess cost incurred for the education of physically handicapped pupils.

"Excess cost"

9617. The Superintendent of Public Instruction shall determine the amount of the excess cost incurred by each school district for the education of physically handicapped pupils. "Excess cost" as employed in this section includes the total current expenditures incurred for remedial classes and for individual instruction of physically handicapped children, plus the excess amount of the current expenditures made for all other physically handicapped pupils instructed

in special schools, in special classes, or in regular classes over the amount expended for current expenditures for an equal number of units of average daily attendance of pupils not classified as physically handicapped pupils. "Remedial classes" as herein employed includes special classes providing remedial instruction for physically handicapped pupils who are excused in small numbers for a portion of a class period from regular classes, without appreciable reduction in the costs of the regular classes.

Article 2. Emergency Education

Methods of education

9641. County superintendents of schools may in their discretion provide for the education of physically handicapped minors who otherwise would be denied proper educational advantages. The education may be provided

(a) in emergency elementary schools;

(b) by the employment of emergency teachers to provide special instruction in the regular schools of the districts of the county;

(c) by the maintenance of special classes of secondary grade;

(d) by the employment of home instructors to give individual instruction in the home or at the bedside in institutions;

(e) by cooperation with the Bureau of Vocational Rehabilitation of the State Department of Education in the provision of individual instruction and coordination services; or

(f) by contract with the county superintendent of schools of another county or with the governing board of any school district in another county.

The costs incurred by county superintendents of schools for the education of physically handicapped children of elementary and secondary grade shall be paid from the unapportioned county elementary school fund and the unapportioned county high school fund respectively.

Attendance

9642. The attendance of physically handicapped pupils instructed pursuant to Section 9641 shall be credited as follows:

(a) The attendance of pupils taught in emergency elementary schools shall be credited to the emergency schools.

(b) The attendance of elementary school pupils given individual instruction in the home or at the bedside in institutions or by cooperative arrangement with the Bureau of Vocational Rehabilitation of the State Department of Education shall be credited to an emergency elementary school maintained for physically handicapped pupils, if such a school is maintained in the county, or if no such school is maintained in the county the attendance shall be credited to any emergency elementary school maintained in the county, but not to more than one emergency elementary school. If no emergency school is maintained in the county, the total number of days of attendance earned by the pupils shall be divided by 170 to compute average daily attendance, and the average daily

attendance so computed shall be credited to the unapportioned county elementary school fund as attendance upon a single emergency elementary school for individual instruction of physically handicapped children.

(c) The attendance of pupils of secondary grade given individual instruction in the home or in institutions or by cooperative arrangement with the Bureau of Vocational Rehabilitation of the State Department of Education, or instructed in special classes of secondary grade, shall be credited to the unapportioned county high school fund.

(d) The attendance of pupils taught by emergency teachers in the regular schools of the districts of any county shall be credited to the districts.

(e) The attendance of pupils residing in one county and educated under contract with the county superintendent of schools or governing board of a school district of another county, shall be credited to the county or district in which the pupils are educated.

Computation of attendance

9643. Four hours of actual attendance of physically handicapped pupils educated pursuant to this article in special classes shall count as one day of attendance. Each clock hour of teaching time devoted to individual instruction of physically handicapped pupils shall count as one day of attendance.

Reports

9644. Each county superintendent of schools providing for the education of physically handicapped children pursuant to this article shall report annually to the Superintendent of Public Instruction on forms provided by him the total average daily attendance of physically handicapped pupils by types of instruction provided, the cost of educating the pupils, and such other information as may be required, for each elementary and high school district in which the education is provided.

DIVISION 5. COURSES OF STUDY

CHAPTER 1. GENERAL COURSES

Article 1. State Curriculum Commission

Curriculum Commission

10001. There is in the State Government the State Curriculum Commission consisting of the Superintendent of Public Instruction, and 10 additional members appointed by the Superintendent of Public Instruction with the approval of the State Board of Education.

Members

10002. Among the appointive members of the Curriculum Commission there shall be at least one county superintendent of schools, one city superintendent of schools, one person employed in a junior college in a position requiring certification qualifications, one high school principal, one elementary school principal, one college teacher of education and one classroom teacher.

(Amended by Stats. 1943, Ch. 946.)

[ORIGINAL SECTION]

10002. Among the appointive members of the Curriculum Commission there shall be at least one county superintendent of schools, one city superintendent of schools, one high school principal, one elementary school principal, one college teacher of education, and one classroom teacher.

Term

10003. All members of the commission shall be appointed for a term of four years.

Vacancies

10004. In case of a vacancy on the Curriculum Commission, the Superintendent of Public Instruction shall appoint a member to serve for the remainder of the unexpired term.

Chairman

10005. The Superintendent of Public Instruction shall be the chairman of the Curriculum Commission.

Annual meeting

10006. The annual meeting of the State Curriculum Commission shall be held on the third Saturday in June of each year, but the commission may fix another date for the annual meeting. The Superintendent of Public Instruction shall call meetings of the commission when in his discretion meetings are necessary.

Compensation

10007. Members of the State Curriculum Commission shall serve without compensation, but they shall be allowed their actual and necessary traveling expenses in attending meetings of the commission and in attending meetings of any committee or subcommittee of the commission of which they are members.

Expenses

10008. The expenses of the State Curriculum Commission shall be paid out of appropriations made to the Superintendent of Public Instruction or State Department of Education.

Courses of study

10009. The Curriculum Commission shall study problems of courses of study in the schools of the State and may recommend to the State Board of Education the adoption of minimum standards for courses of study in the kindergarten, elementary, and secondary schools.

Standards

10010. Courses of study in the public schools shall conform to such minimum standards when adopted.

Article 2. Enforcement of Courses of Study

Powers of district boards

10031. The governing board of any school district shall enforce in the schools the course of study and the use of textbooks prescribed and adopted by the proper authority.

Powers of city boards of education

10032. Each city board of education shall prepare annually and keep on file for public inspection the courses of study prescribed for the kindergarten, elementary, and high schools of the city school district under its jurisdiction.

Powers of county boards of education

10033. County boards of education shall, except in cities having a city board of education, prescribe and enforce in the public schools a course of study.

Article 3. Instruction in the Constitution

Mandatory instruction

10051. In all public and private schools located within the State, there shall be given regular courses of instruction in the Constitution of the United States, including the study of American institutions and ideals.

Courses

10052. Instruction in the Constitution of the United States shall begin not later than the opening of the eighth grade and shall continue in the high school course and in courses in State colleges, the universities, and educational departments of State, municipal, and private institutions, to an extent to be determined by the Superintendent of Public Instruction.

Examination

10053. No pupil shall receive a certificate of graduation from any school described in Section 10052 unless he has satisfactorily passed an examination on the provisions and principles of the United States Constitution.

A student of a college or university who after having completed a course of instruction prescribed by this article and successfully passed an examination on the provisions and principles of the United States Constitution, transfers to another college or university shall not be required to complete another such course or pass such an examination as a condition precedent to his graduation from the college or university.

Violations

10054. The wilful neglect or failure of any superintendent, principal, or teacher, to observe and carry out the requirements of this article, shall be sufficient cause for dismissal or removal from his position.

Administration

10055. The Superintendent of Public Instruction shall make arrangements for carrying out the provisions of this article and prescribe a list of suitable texts adapted to the needs of the schools and college grades.

Article 4. Courses in Forestry

Powers of governing board

10071. The governing board of any school district may:

(a) Conduct courses in forestry, and for that purpose employ instructors and supervisors of classes, and acquire necessary equipment.

(b) Acquire forest lands outside the boundary of the district by lease for a period not exceeding five years, or purchase or sell such lands in the same manner as lands within the boundary of the district are purchased or sold.

(c) Afforest and reforest, and plant trees, shrubs, and vines, on such lands, or upon any public lands which may be placed at its disposal, and enter into contracts and agreements with the Government of the United States, the State, or any political subdivision thereof for such purpose.

(d) Transport pupils, instructors, or supervisors of classes to or from classes or places where such work is being done, whether within or without the district, in the same manner and subject to the same limitations as in transporting pupils to and from school.

Article 5. Courses in Fire Prevention

Courses

10091. The board of education of each county, city and county, and city, whose duty it is to prescribe the course of study for the elementary schools of the county, city and county, and city, shall prescribe a course of study in fire prevention

dealing with the protection of lives and property against loss and damage as a result of preventable fire pursuant to this article for all pupils enrolled in the day elementary schools.

Same

10092. The governing board of each high school district shall prescribe a suitable course of fire prevention for all pupils enrolled in the day high school of the district.

Purposes

10093. The aims and purposes of the courses of fire prevention shall be as follows:

(a) To create an understanding of the cause and origin of fires.

(b) To emphasize the dangers of carelessness and neglect in homes and public buildings, and the necessity of care in the use of fires.

(c) To promote an interest in preventing fires and the protection of lives and property.

Establishment of courses

10094. The State Board of Education shall adopt such rules and regulations as it deems necessary and proper to secure the establishment of a course in fire prevention in the elementary and secondary schools.

Enforcement

10095. The superintendent of schools of every county, city and county, or city, and every board of education, board of school trustees, or high school board, shall enforce the course of fire prevention prescribed by the proper authority.

Duty of teachers

10096. Each teacher in any public school of the State shall devote a reasonable time in each month during which the school is in session to the instruction of the pupils in the course of study and in fire prevention comprising the ways and means of preventing loss and damage to lives and property through preventable fires.

Article 6. Courses in Physical Education

Duty of Department of Education

10116. The Department of Education shall:

(a) Adopt such rules and regulations as it deems necessary and proper to secure the establishment of courses in physical education in the elementary and secondary schools.

(b) Appoint a State Supervisor of Physical Education.

(c) Compile or cause to be compiled and printed a manual in physical education for distribution to teachers in the public schools of the State.

Employees

10117. The Department of Education may:

(a) Employ the necessary expert and clerical assistants in addition to the State Supervisor of Physical Education, in order to carry out the provisions of this article.

(b) Fix the compensation of the State Supervisor of Physical Education and all other employees.

(c) Pay the actual and necessary traveling expenses of the State Supervisor of Physical Education and expert assistants while on official business.

State Superintendent of Physical Education

10118. The State Supervisor of Physical Education shall be experienced in the supervision of physical education in public schools. He shall exercise general supervision over

the courses of physical instruction in elementary and secondary schools of the State. He shall exercise general control over all athletic activities of the public schools. He shall advise school officials, school boards, and teachers in matters of physical education. He shall visit and investigate the work in physical education in the public schools and shall perform such other duties as are assigned to him by the State Board of Education.

Purposes

10119. The aims and purposes of the courses of physical education established shall be as follows:

(a) To develop organic vigor.

(b) To provide neuro-muscular training.

(c) To promote bodily and mental poise.

(d) To correct postural defects.

(e) To secure the more advanced forms of coordination, strength, and endurance.

(f) To promote such desirable moral and social qualities as appreciation of the value of cooperation, self-subordination, and obedience to authority, and higher ideals, courage, and wholesome interest in truly recreational activities.

(g) To promote a hygienic school and home life.

(h) To secure scientific supervision of the sanitation and safety of school buildings, playgrounds, and athletic fields, and the equipment thereof.

Courses

10120. The board of education of each county, city and county, and city, whose duty it is to prescribe the course of study for the elementary schools of the county, city and county, or city, shall prescribe suitable courses of physical education for all pupils enrolled in the day elementary schools, except pupils who may be excused in accordance with the provisions of this article.

Same

10121. The governing board of each school district maintaining a secondary school shall prescribe suitable courses of physical education for all pupils enrolled in the day secondary schools of the district, except pupils who may be excused.

Enforcement

10122. The superintendent of schools of every county, city and county, or city, and the governing board of every school district shall enforce the courses of physical education prescribed by the proper authority, and require that such physical education be given in the day schools under their jurisdiction or control.

Minimum instruction: Elementary schools

10123. All pupils enrolled in the elementary schools, except pupils excused, shall be required to attend upon the courses of physical education for an instructional period in each school day which shall be not less than 20 minutes exclusive of recesses and the lunch period.

Same High schools

10124. All pupils enrolled in the junior or senior high schools, except pupils excused, shall be required to attend upon the courses of physical education for an instructional period in each school day which shall be not less than the length of the regular academic periods of the school.

Same Junior colleges

10125. All pupils enrolled in the junior colleges, except pupils excused, shall be required to attend upon the courses of physical education for a minimum of 120 minutes per week. Where adequate facilities are available a daily program is recommended.

Exemptions

10126. The governing board of each district may grant temporary exemption to pupils who are ill or injured where a modified program to meet the needs of the pupils can not be provided, and to pupils while enrolled for one-half, or less, of the work normally required of full time students. Permanent exemption may be granted a pupil who has reached, in the case of an elementary school or high school pupil, his twenty-first birthday, or in the case of a junior college pupil, his twenty-fifth birthday, or a pupil enrolled as a post-graduate student.

Supervisor and teachers

10127. When the number of pupils in any city, or city and county, or school district is sufficient, the governing board shall employ a competent supervisor and such special teachers, trained in physical education, as are necessary to obtain the aims and purposes set forth in this article.

Employment by more than one district

10128. The governing boards of two or more contiguous school districts may, by a written agreement, join in the employment of competent supervisors and teachers trained in physical education for the districts, and the salary of the supervisors and teachers and the expenses incurred on account of the instruction shall be apportioned as the governing boards concerned may agree.

Article 7. Courses in Military Science and Tactics

Establishment

10151. The governing board of any school district maintaining a secondary school may establish in the school courses in military science and tactics complying with the laws of the United States made and provided with reference to Reserve Officers Training Corps units in educational institutions.

No student enrolled in any such school shall be required to enroll in any course in military science and tactics.

Article 8. Instruction in Public Safety and Accident Prevention

Mandatory instruction

10171. Instruction shall be given in every elementary and secondary school in the State in the subjects of public safety and accident prevention primarily devoted to avoidance of the hazards upon streets and highways.

Rules and manual

10172. The State Board of Education shall:

(a) Adopt such rules and regulations as it deems necessary and proper to secure instruction in public safety and accident prevention in the elementary and secondary schools of this State in accordance with the provisions of this article.

(b) Compile or cause to be compiled and printed a manual in public safety and accident prevention, primarily devoted to

avoidance of hazards incident to the use of streets and highways for distribution to teachers in the public elementary and secondary schools of the State.

Courses

10173. The State Board of Education in standardizing the courses of instruction offered in the State colleges shall prescribe a course in public safety and shall make the completion of the course a requirement for graduation.

Enforcement

10174. The Superintendent of Public Instruction shall make arrangements for carrying out the provisions of this article, and the superintendent of schools of every county, city and county, or city, and the governing board of every school district shall require that instruction in public safety be given in the schools under its jurisdiction or control.

CHAPTER 2. ELEMENTARY SCHOOL COURSES

Article 1. Prescribed Courses

Years of instruction

10301. Except as otherwise provided, the courses of study for the day elementary schools in districts maintaining junior high schools shall embrace six years of instruction, and in districts in which junior high schools are not maintained, the courses of study shall embrace eight years of instruction. Courses shall allot six or eight years, respectively, for instruction in subjects required to be taught in such schools and may allot not more than two years for kindergarten instruction.

The course of study for any day elementary school located in an elementary school district situated in a high school district maintaining one or more junior high schools, where the districts are governed by boards of identical personnel, shall embrace six years or eight years at the discretion of the governing board of the elementary school district.

The courses of study for the day elementary schools of a unified school district maintaining one or more junior high schools shall embrace six years or eight years, or some of the elementary schools may be maintained for six years and some may be maintained for eight years. The courses of study for any day elementary school located in an elementary school district situated in a union or joint union high school district maintaining one or more junior high schools shall be six years or eight years at the discretion of the governing board of the elementary school district if such high school district did not maintain a junior high school prior to July 1, 1943, and if such elementary school is located 40 miles or more by the nearest traveled road from any junior high school maintained by such high school district.

In all other cases, the courses of study of any elementary school shall embrace eight years.

Each day elementary school may allot not more than two years for kindergarten instruction.

(Amended by Stats. 1943, Ch. 688.)

[ORIGINAL SECTION]

10301. Except as otherwise provided, the courses of study for the day elementary schools in districts maintaining junior high schools shall embrace

six years of instruction, and in districts in which junior high schools are not maintained, the courses of study shall embrace eight years of instruction. Courses shall allot six or eight years, respectively, for instruction in subjects required to be taught in such schools and may allot not more than two years for kindergarten instruction.

The course of study for any day elementary school located in an elementary school district situated in a high school district maintaining one or more junior high schools, where the districts are governed by boards of identical personnel, shall embrace six years or eight years at the discretion of the governing board of the elementary school district.

The courses of study for the day elementary schools of a unified school district maintaining one or more junior high schools shall embrace six years. In all other cases, the courses of study of any elementary school shall embrace eight years.

Each day elementary school may allot not more than two years for kindergarten instruction.

Subjects

10302. The course of study in the elementary schools shall include instruction in the following prescribed branches in the several grades in which each is required pursuant to this article: (a) reading, (b) writing, (c) spelling, (d) language study, (e) arithmetic, (f) geography, (g) history of the United States and of California, (h) civics including a study of the Declaration of Independence and of the Constitution of the United States, (i) music, (j) art, (k) training for healthful living, (l) morals and manners, and such other studies not to exceed three as may be prescribed by the board of education of the city, county, or city and county.

Minimum requirements

10303. A minimum of 50 per cent of each school week shall be devoted to reading, writing, language study, spelling, arithmetic, and civics in grades one to six, inclusive, and a minimum of 600 minutes of each school week shall be devoted to such subjects in grades seven and eight.

Construction

10304. Nothing contained in this article shall be construed as repealing any other provisions of law relative to the elementary school courses of study.

Article 2. Powers of the County Board of Education

Courses of instruction

10321. County boards of education shall prescribe, on or before the first day of July of each year, the course of study in and for each grade of the elementary schools of the county for the ensuing school year.

Exclusion of cities

10322. Such course of study shall not apply to elementary schools in cities governed by city boards of education.

Changes in courses

10323. Whenever necessary the board may amend and change the course of study, subject to the provisions of this chapter.

Preparation and coordination

10324. The county superintendent of schools may, with the approval of the county board of education, provide for the preparation and coordination of courses of study, and for conducting and coordinating research and guidance activities, for the elementary schools of any district under his jurisdiction. The cost of the service shall be paid out of the county unapportioned elementary school fund.

CHAPTER 3. POSTGRADUATE COURSES IN ELEMENTARY SCHOOLS

Article 1. Prescribed Courses

Subjects

10401. The postgraduate courses in elementary schools shall consist of business English, commercial arithmetic, commercial and physical geography, bookkeeping, and United States history and civics.

Article 2. Powers of County Board of Education

Permitted subjects

10421. The county board of education may provide work in elementary agriculture, manual arts, stenography, and typewriting.

CHAPTER 4. HIGH SCHOOL COURSES

Article 1. Prescribed Courses

Preparation and approval

10501. A course of study for each high school shall be prepared under the direction of the governing board having control thereof, and shall be subject to the approval of the State Board of Education.

High school courses

10502. The course for four-year high schools shall be designed to fit the needs of pupils of the ninth, tenth, eleventh, and twelfth grades of the public schools.

Junior high school courses

10503. The course for junior high school shall be designed to fit the needs of pupils of the seventh, eighth, and ninth, or of the seventh, eighth, ninth, and tenth grades.

Senior high school courses

10504. The course for senior high schools shall be designed to fit the needs of pupils of the tenth, eleventh, and twelfth, or of the eleventh and twelfth grades.

Preparation for college or university

10505. Each high school district shall maintain, in one or more of its day high schools, a course of study designed to prepare prospective students for admission to State colleges and the State university.

Coordination

10506. The county superintendent of schools may, with the approval of the county board of education, provide for the preparation and coordination of courses of study, and for conducting and coordinating research and guidance activities for the high schools of any district under his jurisdiction. The cost of the service shall be paid out of the unapportioned county high school fund.

Article 2. Powers of High School Boards

Permitted courses

10521. In addition to other subjects of instruction each high school course of study may include training in athletics, military drill and tactics, manual training, domestic science and art, agriculture, horticulture, dairying, or other vocational work, for which credit may be given as a part of the high school work. Instruction therein shall be given at such times and in such manner as the high school board shall determine.

Failure to establish approved courses

10522. Upon satisfactory evidence being shown to the Superintendent of Public Instruction that the high school board of any high school district has neglected or refused to establish only such courses of study as have been approved by the State Board of Education, or to comply with any of the other provisions of this article, the Superintendent of Public Instruction shall withhold from the high school district, all apportionments from the State High School Fund, until the high school board fully complies with the provisions of this chapter.

CHAPTER 5. JUNIOR COLLEGE COURSES

Article 1. Powers of Governing Boards

Preparation of courses

10601. A course of study for each junior college shall be prepared under the direction of the governing board of the district maintaining the junior college and shall be subject to the approval of the State Board of Education.

Two-year junior colleges

10602. The course of study for two-year junior colleges shall be designed to fit the needs of pupils of the thirteenth and fourteenth grades and may include courses of instruction designed to prepare for admission to the upper division of higher institutions of learning and such other courses of instruction designed to prepare persons for agricultural, commercial, homemaking, industrial and other vocations, and such courses of instruction as may be deemed necessary to provide for the civic and liberal education of the citizens of the community.

Approval of courses

10603. No State funds shall be apportioned to any district on account of the attendance of students enrolled in junior college courses unless the courses have been approved by the State Board of Education.

Special classes

10604. Special day and evening junior college classes may be established by the governing board of any district maintaining a junior college for the admission of adults and of such minors as may be able more advantageously to attend the special classes than regular junior college classes.

Aeronautics

10605. The Superintendent of Public Instruction may enter into an agreement with the Government of the United States or any agency thereof relative to the establishment of courses of study in aeronautics in the junior colleges, State colleges, and technical schools of the public school system.

The Superintendent of Public Instruction may, with the approval of the State Board of Education, establish rules and regulations governing agreements affecting courses of study in the schools of the public school system or cooperative arrangements entered into between any agency, officer, or employee of any part of the public school system and the Government of the United States or any agency thereof. The Government of the United States may not be empowered to establish or conduct separate or competing schools.

Article 2. Minimum Requirements

Standards of graduation

10621. The governing board of each district maintaining a junior college shall prescribe requirements for graduation from junior college courses.

Two-year junior colleges

10622. The minimum requirement for graduation from a two-year junior college course of study shall be at least 60 credit hours of work.

Four-year junior colleges

10623. The minimum requirement for graduation from a four-year junior college course of study shall be at least 120 credit hours of work.

Credit hour

10624. One credit hour of junior college work is approximately three hours of recitation, study, or laboratory work per week throughout a term of 16 weeks. Where a term is more or less than 16 weeks more or less than one credit hour shall be allowed in the same ratio that the length of the term is to 16 weeks.

(Amended by Stats. 1943, Ch. 818.)

[ORIGINAL SECTION]

10624. A credit hour of junior college work is approximately three hours of recitation, study, and laboratory work per week throughout one-half year.

DIVISION 6. TEXTBOOKS

CHAPTER 1. GENERAL PROVISIONS

Article 1. Preferences

Books prepared within State

11001. The governing board of any school district and any official, officer, or other person elected or appointed to carry out the provisions of law relating to the public schools of the State and vested with the power of designating textbooks to be used in the public schools shall, in so designating textbooks, unless otherwise provided by general law, give preference to any textbook on any given subject of public instruction which is entirely written, compiled, printed, and published in the State, to the exclusion of any textbook entirely or partly written, compiled, printed, and published outside of the State, if it appears to them that the textbook produced in the State is of superior or equal educational merit to, and can be procured at the same or less cost than any textbook, entirely or partly written, compiled, printed, and published outside of the State.

Article 2. Use of Textbooks and Supplementary Books

Refusal to use prescribed books

11021. Any principal, teacher, employee, or school officer of any elementary or secondary school who refuses to use the textbooks prescribed by the proper authority for use in the elementary or secondary schools under his charge, or who causes any pupil to purchase any supplementary book or books for the pupil's use in the schools is guilty of a misdemeanor,

and punishable by a fine of not more than one hundred dollars ($100).

Enforcement

11022. The governing boards of every school district shall enforce in their schools the use of textbooks prescribed and adopted by the proper authority.

Reports

11023. The governing board of every school district shall make a report, whenever required, directly to the Superintendent of Public Instruction, of the textbooks used in its schools.

Enforcement

11024. County boards of education, except in cities having a city board of education, may enforce in the public schools the use of a uniform series of textbooks.

Prohibited acts of officers or teachers

11025. No officer named in this code, and no teacher in any public school, shall act as agent for any author, publisher, bookseller, or other person, to introduce any book, apparatus, furniture, or other article whatever, in the common schools of this State, or directly or indirectly contract for, or receive any gift or reward for introducing or recommending the article.

Any officer so acting or receiving is guilty of a misdemeanor, and, shall be punished by fine or imprisonment, and shall be removed from office.

CHAPTER 2. ELEMENTARY TEXTBOOKS

Article 1. Adoption

Textbooks and manuals

11151. The State Board of Education shall adopt and may cause to be published by the Department of Finance, one or more textbooks and teachers manuals, as it may deem necessary, in each of the studies prescribed for the elementary schools of this State, or it shall adopt and may cause to be published by the Department of Finance two or more textbooks and teachers manuals, as it may deem necessary, in each of the studies prescribed for the elementary schools of this State, in which any book to supplement the basic text is used. The studies shall not include morals and manners and art, for each of which a teachers manual may be adopted. Nothing in this section shall be construed as requiring the State Board of Education to adopt more than one textbook or teachers manual in any subject where one such textbook or manual is sufficient to cover the needs in the subject prescribed. Nothing in this section shall be construed as prohibiting the governing board of any school district and county libraries from ordering and purchasing such supplementary textbooks as are required.

The term elementary schools as used in this chapter includes all public schools, excepting junior high schools, in which instruction is given in the first to the eighth grades inclusive, or in any one or more of such grades.

Included material

11152. The State Board of Education shall include in the textbooks and teachers' manuals adopted such materials as it may deem necessary and proper to encourage thrift, fire prevention, and the humane treatment of animals, and teach the

evil effects of alcohol and tobacco and other narcotics on the human system.

Civics

11153. The State Board of Education shall include in textbooks and teachers' manuals adopted for a textbook for use in elementary schools for the teaching of civics, particularly the Declaration of Independence and the Constitution of the United States. This textbook shall be in simple form and suited to the comprehension of the pupils.

Cost of publication

11154. The cost of publishing textbooks, and teachers' manuals shall be paid out of the State Schoolbook Fund.

Specifications

11155. The State Curriculum Commission shall recommend to the State Board of Education, specifications for textbooks for uniform use in the schools of the State so that the textbooks adopted shall conform to the minimum standard for courses of study.

Study and recommendation

11156. The State Curriculum Commission may also study the textbooks submitted to the State Board of Education for adoption and make recommendations thereon to the State Board of Education. The State Curriculum Commission shall give preference to California produced books of equal or superior merit. The State Curriculum Commission may, without at the time furnishing vouchers and itemized statements, draw from the State Schoolbook Fund a sum not to exceed ten thousand dollars ($10,000). The sum shall be used as a revolving fund for the purpose of having manuscripts of proposed textbooks prepared.

Public hearing

11157. The State Board of Education shall give the State Curriculum Commission a public hearing before making any adoption of textbooks for use in the elementary schools of the State.

Article 2. Purchase, Compilation, and Publication

Powers of State Board of Education

11181. The State Board of Education may:

(a) Compile in whole, or in part, and manufacture such textbooks as are now in use.

(b) Compile, or cause to be compiled and manufacture such other additional textbooks or books as it may deem necessary or proper for use in the elementary schools of the State.

(c) Purchase books when necessary, or lease plates, maps, engravings, or copyright matter for use in manufacturing textbooks.

(d) Contract for, or lease copyrights for use in compiling, printing, or publishing textbooks.

(e) Provide for the payment of royalties or for the leasing of plates or making the whole or any part of a book, and do any or all things that may be necessary for the purpose of procuring a uniform series of textbooks for use in the elementary day and evening schools of this State.

Criteria of evaluation

11181.1. Whenever the State Board of Education calls for bids on any textbook, it shall furnish to any person desiring to file a bid the detailed criteria prepared by the State Curriculum Commission and by which the book will be judged and evaluated.

(Added by Stats. 1943, Ch. 785.)

Royalties and plates

11182. The amount fixed for royalty and costs of plates or copyright matter in favor of any company, or individual, shall be presented by the Superintendent of Public Instruction to the State Board of Education for its approval. Claims shall be paid quarterly, in the same manner as other claims upon the State Treasury.

Copyrights

11183. The State Board of Education may secure copyrights in the name of the people of the State to any book that is compiled.

Contracts

11184. Whenever any plates, maps, or engravings of any publisher or author are adopted for use, or whenever any books are purchased, the State Board of Education shall enter into a contract for not less than six years nor more than eight years for their use in the elementary day and evening schools of the State, and shall require a good and sufficient bond of the owners of the books, plates, maps, or engravings under a written guarantee that they shall be kept, revised and free from all errors and up to date as may be required by the State Board of Education.

Statement by State Board of Education

11185. The State Board of Education, before purchasing textbooks from any source other than the Department of Finance shall file with the department a statement showing:

(a) The price which will be paid for the books.

(b) The cause preventing its production by the department.

(c) Evidence that will support the fact that the publisher actually refused to lease copyright matter, if such refusal is assigned as a cause preventing the production of the book by the department.

(d) The particular advantages of the textbook proposed to be purchased as compared generally with other textbooks on the same subject.

Statement by State Printer

11186. Whenever the State Board of Education files a statement described in Section 11185 the State Printer may also file with the Department of Finance a statement showing the names of textbooks which he is able to publish, the cost of publishing them, the names of their authors, and, if they have been published previously, the names of their publishers.

Public record

11187. The information contained in the statements described in Sections 11185 and 11186 shall be open and available to the public.

Article 3. Printing

Mechanical work

11221. The Department of Finance shall have supervision of all the mechanical work connected with the printing of such books as may be compiled and adopted subject to the approval of the State Board of Education or any representative of the State Board of Education appointed to supervise the work.

Printing and binding

11222. The Department of Finance shall print and bind the books in lots of not less than 5,000 and turn them over to the State Board of Education at the warehouse.

Payment

11223. The Department of Finance shall receive payment on the approval of the items of cost by the State Board of Education or its duly authorized agent.

Cost-finding report

11224. The Department of Finance shall furnish one copy of a cost-finding report showing items of work and the materials and the exact cost of each item for each of the lot of books, to the State Board of Education.

Detailed statement

11225. The Department of Finance shall on the first day of each month furnish to the State Board of Education a detailed statement showing the name and number of books published by it during the preceding month, and the number in course of publication.

Article 4. Sale and Price

Cost price

11241. On receiving a copy of the cost-finding report and the estimated cost of the publishing of any book, the State Board of Education shall determine and fix the cost price of the books. The cost price shall be determined by adding: (a) the cost of manufacture, (b) the contract price to be paid as royalty or for the use of plates, maps, engravings, or copyrighted matter, and (c) overhead expense, which shall be computed at 10 per cent of items (a) and (b).

Cost of publication

11242. The cost price shall be deemed to be the whole cost of publication of the book at Sacramento.

Sales

11243. The State Board of Education may provide for the sale at not less than cost price of State textbooks to private schools, individuals, or dealers under such rules and regulations as may be adopted by the Board of Education.

Sale price

11244. Books shall not be sold by dealers for more than the cost price at Sacramento, plus the postage, packing, and cartage on the books, which prices shall be established by the Board of Education.

Orders

11245. All orders for textbooks shall be forwarded to the Superintendent of Public Instruction on blanks furnished by him. He shall investigate the orders and make necessary changes and forward the orders to the person in charge of the warehouse and shipment of books with definite orders for shipment.

Shipping

11246. On receiving orders from the Superintendent of Public Instruction for textbooks the person in charge of the warehouse and shipment of books shall forward by freight, express, or mail, as directed by the Superintendent of Public Instruction, to the nearest freight depot, express or post office, in the name of the clerk of the school district or the city superintendent of schools in cities, the number of books called for in the order.

Accounts and "school textbook fund"

11247. The Superintendent of Public Instruction shall keep an accurate account of the amount of money received from the sale of textbooks for each month and report to the Controller on or before the fifth of the succeeding month, the number of books sold, or distributed, and the amount of money collected

therefor, and shall pay the money into the Treasury to the credit of the "School Textbook Fund."

Article 5. Uniform Use of Textbooks

Order for use

11271. Whenever any of the State textbooks has been compiled or purchased, published, and adopted, the Superintendent of Public Instruction, on the order of the State Board of Education shall issue an order to all county, city, and city and county school superintendents by sending notices by registered mail to the superintendents. They in turn shall notify the secretaries of all boards of education in the cities, and the clerk of the board of school trustees and the teacher or principal in each school district, requiring the uniform use of the books, in the grades of the elementary day and evening schools for which they have been adopted.

Effective period

11272. When an order for the uniform use of a textbook has been given and published, it shall remain in force and effect for a term of not less than four nor more than eight years.

Effective date

11273. Any order for the uniform use of a textbook shall not take effect until the beginning of the next fiscal year, namely, the first of July next following the issue of the order, or at such time thereafter as may be fixed by the State Board of Education. The book shall go into use at the beginning of a fiscal year.

Enforcement

11274. When a book has been adopted, the State Board of Education shall enforce the uniform use of the book, in the elementary day and evening schools for which the book has been adopted.

Violations

11275. Any teacher, or any city, county, or city and county superintendent of schools, or any board of education refusing or neglecting to use the series of State textbooks at the time required by this article is guilty of a misdemeanor and subject to a fine not exceeding one hundred dollars ($100) for each offense.

Failure to use books

11276. If any city or district refuses or neglects to use the books prescribed, or uses any other textbook in any of the prescribed studies, the Superintendent of Public Instruction shall withhold from the city or district 25 per cent of all State school moneys to which it may be entitled until it complies. Any moneys withheld shall be apportioned by the superintendent at the next annual apportionment in the same manner as other school moneys in the treasury.

Construction

11277. Nothing contained in this article shall in any way restrict the additional use of such supplementary books as may be purchased for school libraries pursuant to this code.

Article 6. Supplementary Textbooks

Adoption

11301. County boards of education may adopt books for supplementary use in elementary schools in their respective counties and cities and counties pursuant to this code.

Purchase of books

11302. No pupils shall be required to purchase supplementary books, and pupils shall be expressly notified by teachers that it is not required or desirable that books for supplementary use be purchased by pupils or parents.

Payment

11303. When supplementary books are purchased, they shall be paid for by the school district.

Article 7. Orders for Textbooks for State Institutions

Orders by State institutions

11321. The president, principal, or other head of any State institution, in which instruction is given in the elementary branches, may order such State textbooks as may be used to advantage, for use in the institution, on blanks supplied by the Superintendent of Public Instruction.

Orders of State colleges

11322. The president of any State college may order such State textbooks as may be used to advantage by the college in giving instruction in elementary subjects, or in giving instruction in the teaching of elementary subjects.

Revision of orders

11323. Orders for State institutions and State colleges are subject to revision by the Superintendent of Public Instruction.

Delivery

11324. Books shall be delivered free of cost to State institutions or State colleges on the order of the Superintendent of Public Instruction, in the usual method of shipment.

Article 8. Orders for Textbooks by Teachers

Order

11351. Upon closing a term of school each teacher or principal shall prepare, upon requisition blanks furnished by the Superintendent of Public Instruction, an order for the number of State textbooks estimated to be required for use in the school under his charge at the opening of the ensuing term.

Part of annual report

11352. The order shall be a part of the annual report required by this code.

Teacher's copy

11353. In ordering free textbooks, any teacher may order one copy of any series of books for use on the teacher's desk, if not supplied with the book. The copy shall be sent by the Superintendent of Public Instruction free of cost with other school books.

Additional orders

11354. Orders for additional books may be forwarded at any time on the approval of the county superintendent of schools.

Failure to file order

11355. The superintendent of schools shall in no case draw a requisition for the salary of any teacher for the last month of the school term until the order required by this article has been filed and by him approved.

Article 9. Disposal of Old Books

Books unfit for further use

11381. The State Board of Education may provide for the disposition of such textbooks as are no longer in a fit condition to be used for purposes of instruction.

Sale

11382. Whenever in the judgment of the State Board of Education it is practicable to sell old textbooks for use in the manufacture of paper pulp or similar substances, the highest price obtainable shall be secured, and the money obtained deposited in the State Schoolbook Fund.

CHAPTER 3. TEXTBOOKS FOR POSTGRADUATE COURSES IN ELEMENTARY SCHOOLS

Article 1. Adoption

Power of county board of education

11551. The county board of education may adopt, for a period of not less than four years, such textbooks as may be necessary to carry out the postgraduate course.

Use of State textbooks

11552. The State series of textbooks shall be used wherever adapted to the teaching of any subject.

Article 2. Furnishing of Textbooks to Pupils

Free use

11571. All textbooks, except books of the State series, shall be purchased by the school district out of the library, county, or special fund and furnished free to the pupils.

CHAPTER 4. HIGH SCHOOL TEXTBOOKS

Article 1. Adoption

Official listing

11651. The governing board of each high school district shall adopt textbooks for use in the schools under its control. Only books which have been filed with and officially listed by the State Board of Education under regulations prescribed by it, may be adopted by the governing board.

Classification of instructional material

11652. The State Board of Education shall classify all instructional material used in high schools, and shall indicate which materials are textbooks. Instructional materials not classified as textbooks may be purchased by governing boards of high school districts without reference to the list of State textbooks.

Effective date

11653. The books adopted shall be put in actual use in the district not later than the school year next following their adoption.

Effective period

11654. After any book has been selected and adopted by the board, it shall not be changed nor any other book substituted therefor, except as provided in this chapter, for the period of three years after the date of its adoption, as shown by the official records of the board.

Difference in courses

11655. Whenever courses of study designed to meet the needs of pupils of differing degrees of ability and preparation have been adopted by the governing board of a high school district, different textbooks may be adopted in the courses under regulations prescribed by the State Board of Education.

Change in books

11656. Any textbooks in use in the high schools of California on July 1, 1929, may be continued in use until textbooks are purchased and distributed by the high school board, but when the books are changed or other books substituted the books adopted shall be from the official list filed with the State Board of Education and shall be used for a full period of three years.

Article 2. Furnishing Textbooks to Pupils

Classes for adults

11671. The governing board of each high school district may fix a charge not to exceed the cost of the books to the high school district for books furnished pupils in classes for adults.

High school courses

11672. The governing board of each high school district shall purchase textbooks for the use of pupils enrolled in the high schools of the district. The textbooks shall at all times remain the property of the district, and shall be supplied to the pupils for use without charge.

Accessibility of books

11673. The governing board of each high school district shall make all necessary provisions and arrangements to place the books purchased within easy reach and accessible for the use of all the pupils in the schools under its control.

Sale of used books

11674. The governing board of a high school district may at the end of the annual school term sell to pupils of the district textbooks owned by the district which have been used by the pupils during the school term at prices which shall not exceed the actual value of the textbooks.

The proceeds of the sales shall be placed in the county treasury to the credit of the General Fund of the school district.

Article 3. Listing of Textbooks

Application

11691. Any publisher desiring to offer textbooks for the use of pupils enrolled in the high schools of the State shall file with the State Board of Education at Sacramento a written application for the listing of the books accompanied by a uniform fee to be fixed by the State Board of Education which shall not exceed five dollars ($5) for each book for which listing is applied. The fee shall be deposited in the State Treasury to the credit of the General Fund.

Publisher's statement

11692. The publisher shall submit one copy of each book, together with a statement of the list price of the book as shown by the publisher's catalog, a statement of all discounts allowed when new copies of the book are purchased, and a statement of the lowest exchange price that will be given when old books on the same subject and of the like kind and grade, but of a different series, are received in exchange.

Article 4. Bond of Publisher

Bond

11711. Every publisher desiring to offer books for official listing shall file with the State Board of Education a bond in a form approved by the Attorney General payable to the State of California in a sum to be determined by the State Board of Education.

Amount

11712. The sum of the bond for any publisher offering books shall be not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10.000).

Conditions of bond Price

11713. The bond shall provide that the publisher will furnish the books offered by him and listed by the State Board

of Education, to any high school district at a price which shall not exceed the lowest price the publisher has made for the books offered anywhere in the United States under similar conditions of transportation and marketing.

Same

11714. The bond shall also provide that the publisher will reduce the price automatically to purchasers within the State whenever reductions are made elsewhere in the United States, so that at no time shall any book filed and listed be sold to school authorities in the State at a higher net price than is received for the book elsewhere in the United States, and that upon failure or refusal of the publisher to make such reduction all contracts for the book or books shall become null and void.

Same Quality

11715. The bond shall also provide that all books offered for sale, adoption, or exchange in the State shall be equal in quality to that officially filed in the office of the State Board of Education as regards paper, binding, print, illustration, subject matter, and all other particulars that affect the value of the school books.

Same Agreements to control price

11716. The bond shall further provide that the publisher will not in any way, directly or indirectly, become associated or connected with any combination in restraint of trade in textbooks, and that he will not enter into any understanding, agreement, or combination to control prices or restrict competition in the sale of school books for use in the State.

Same Depositories

11717. The bond shall further provide that the publisher will maintain an office in California or designate two or more separate agents or arrange with two or more independently owned and operated depositories by the Department of Education, to receive and handle orders for the books.

Same Cost of investigation

11718. The bond shall further provide that the publisher will pay the costs in a sum not to exceed five hundred dollars ($500) of any investigation of the merits of any book filed by him if a commission of impartial experts finds, after public hearing, that the book filed by the publisher and sold by him in the State contained sectarian or denominational doctrine contrary to law, or propaganda injurious, in the judgment of the commission, to the schools.

Sectarian or denominational doctrine

11719. When, in the judgment of the State Board of Education, there exists sufficient evidence that a textbook listed by the board contains sectarian or denominational doctrine contrary to law or contains propaganda injurious to the welfare of the public schools, the board shall cause the book to be investigated by a committee of impartial experts. The committee shall be constituted and shall conduct its investigation under such rules and regulations as may be prescribed by the State Board of Education. If, in the opinion of the committee, the textbook does contain sectarian or denominational doctrine contrary to law or does contain propaganda injurious to the welfare of the public schools, the Board of Education may remove the book from the official list.

Article 5. Purchase of Textbooks

Notice of listing

11741. The Department of Education shall provide each publisher with a certificate for each book officially filed and shall from time to time notify county superintendents of schools, city superintendents of schools, and high school principals, that the books have been officially listed together with the price at which the books are to be sold.

Publication of lists

11742. At least once each year the Department of Education shall publish a complete list of all books officially listed for use in the high schools of the State, one copy of which shall be sent to each county superintendent of schools, each city superintendent of schools, each high school principal, each clerk of the governing board of every high school district, and to each publisher whose books are listed.

Effect of removal from list

11743. Whenever a book has been removed from the list by action of the State Board of Education, it shall be illegal for any high school district to purchase copies of the book or to continue the use of the book in high schools in the district, beyond the close of the current school year.

Removal

11744. Books shall be removed from the list in any one of the following ways: (a) upon written request of the publisher; (b) by action of the State Board of Education after formal investigation as provided in this chapter; (c) by action of the Department of Education after the book has been on the list for a period of 10 years, but such action shall not prevent the publisher again officially filing the book for listing.

Purchase

11745. The clerk, secretary, or other person named by the board for the purpose shall purchase textbooks on order of the governing board of the high school district and shall examine the books when received. If they are found to be correct and in accordance with the order, a warrant shall be drawn for the proper amount, including the cost of transporting the textbooks, against any fund of the high school district available for the purpose and remitted to the publisher within 30 days after receipt of the books.

Article 6. Failure to Furnish Books

Notice to State Board of Education

11761. If any publisher complies with this chapter and then fails or refuses to furnish the books to any high school board upon the terms provided in this chapter within a reasonable time after an order is filed, the board shall at once notify the State Board of Education of the failure or refusal, and cause an investigation of the charge to be made.

Notice by State Board of Education

11762. If the State Board of Education finds the charge to be true, it shall notify the publisher and the principal of each high school and the clerk of each high school board in the State that the books shall not thereafter be adopted or purchased by any of the public school authorities.

Penalty

11763. The publishers shall forfeit and pay to the State of California the sum of one hundred dollars ($100) for each failure or refusal to furnish the books, to be recovered in the

name of the State of California in an action to be brought by the Attorney General in any proper court. The amount when collected shall be paid into the Treasury to the credit of the High School Fund of the State.

Offering unlisted books for sale

11764. It is a misdemeanor for any publisher or his representative to offer for sale any textbook to the high schools of the State unless the book has been officially filed and there is on file in the office of the State Board of Education a valid bond, conditioned as provided in this chapter, in full force and effect.

Article 7. Offenses and Penalties

Offering bribe

11776. No publisher of school textbooks nor any agent of any publisher shall offer or give any emolument, money, or other valuable thing, or any inducement, to any member of any high school board, or school official, or teacher connected with any of the high schools of the State, for his vote, or promise to vote, or for the use of his influence for the adoption of any school textbook to be used in any of the high schools of the State.

Accepting bribe

11777. No member of any high school board or school official connected with any of the public schools of the State, shall accept any emolument, money, or other valuable thing, or any other inducement from any publisher, or agent of any publisher, for his vote, or promise to vote, or for the use of his influence for the adoption of any school textbooks.

Supplying sample copy

11778. Nothing in this article shall be construed to prevent any person, publisher, or publisher's agent from supplying for purposes of examination necessary sample copies of school textbooks to any member of a high school board, school official, or teacher.

Receiving sample copy

11779. Nothing in this article shall be construed to prevent a member of a high school board or school official from receiving sample copies of school textbooks. All copies of textbooks so received shall be returned within 30 days after the adoption of textbooks in the subject by the high school board.

Penalty

11780. Any publisher of school textbooks, or any agent of any publisher, or any member of any high school board or public school official in the State who violates any of the provisions of this chapter is guilty of a misdemeanor. Any member of a high school board or public school official shall, in addition to any other penalty be removed from his official position.

Article 8. Application of Chapter

Junior college

11791. No provision of this chapter or of this code shall be construed as requiring the governing board of any district maintaining a junior college to provide textbooks free of charge, or otherwise, to any student enrolled in the junior college, nor shall any of the provisions of this chapter be construed as applicable to textbooks required or authorized to be used by students in the junior college.

DIVISION 7. SCHOOL EMPLOYEES

CHAPTER 1. CREDENTIALS

Article 1. Issuance of Credentials

Powers of State Board of Education

12001. The State Board of Education shall grant the appropriate credential to holders of diplomas granted by State colleges to applicants who have completed a teacher training course prescribed by the State Board of Education upon presentation of the diploma.

The credential shall be subject to revocation or suspension by the State Board of Education for any of the causes specified in Chapter 6 of this division.

(Amended by Stats. 1943, Ch. 273.)

[ORIGINAL SECTION]

12001. The State Board of Education shall grant the appropriate credential to holders of diplomas granted by State colleges to applicants who have completed a teacher training course prescribed by the State Board of Education upon presentation of the diploma.

The credential shall be revocable by the State Board of Education for any of the causes specified in Chapter 6 of this division.

Commission of credentials

12002. There is continued in existence a Commission of Credentials, consisting of the Superintendent of Public Instruction, and four persons appointed by the Superintendent of Public Instruction.

Powers

12003. The Commission of Credentials may review the cases of applicants for credentials and life diplomas, and when it is satisfied that any candidate fully meets the standard set by the State Board of Education it may issue the proper documents.

The documents shall be issued upon the regular forms used by the State Board of Education and shall bear the signatures of the secretary and the president of the board or their facsimile signatures, countersigned by an assistant secretary authorized to perform that service.

Same

12004. The State Board of Education may assign to the Commission of Credentials such other duties relating to life diplomas, certificates, certification, and accrediting of institutions for purposes of certification as it may see fit.

Issuance of credentials

12005. The State Board of Education shall authorize the Commission of Credentials to issue credentials upon which county boards of education may grant certificates.

Contents

12006. Each credential issued shall clearly state the kind of service that it authorizes, the grades or classes, or the types of schools, in which it authorizes service, and if a teacher's credential, the subjects it authorizes the holder to teach. No credential issued shall authorize any service beyond that authorized by law to be performed by the holder of a certificate issued on the credential.

Date of expiration and form

12007. Each credential shall also contain its date of expiration and shall be issued on a form prescribed by the State Board of Education and signed by the Superintendent of Public Instruction.

Examination of applicants

12008. The State Board of Education shall provide for the examination by the Commission of Credentials of any person, except an applicant for an elementary certificate, who appears to have schooling and experience which qualifies him for the credential which he desires to secure.

Emergency credentials

12008.1. The Superintendent of Public Instruction, during any National emergency declared by the President of the United States of America, may, on the recommendation of the Commission of Credentials, issue emergency credentials. The expiration date of each credential issued hereunder shall be fixed by the Superintendent of Public Instruction, but in no event shall such credential be valid for any purpose after the end of the school year in which the President of the United States of America declares such National emergency has ceased to exist.

(Added by Stats. 1943, Ch. 815.)

Teachers' oath

12009. Except as provided in this section, no credential shall be granted to any person unless and until he has subscribed to the following oath or affirmation: "I solemnly swear (or affirm) that I will support the Constitution of the United States of America, the Constitution of the State of California, and the laws of the United States and the State of California, and will by precept and example, promote respect for the Flag and the statutes of the United States and of the State of California, reverence for law and order, and undivided allegiance to the Government of the United States of America." The oath or affirmation shall be subscribed before any person authorized to administer oaths or before any member of a board of trustees or any board of education of the State and filed with the State Board of Education. Any person who is a citizen or subject of any country other than the United States, and who is employed in any capacity in any of the public schools of the State shall, before entering upon the discharge of his duties, subscribe to an oath to support the institutions and policies of the United States during the period of his sojourn within the State. Upon the violation of any of the terms of the oath or affirmation, the State Board of Education shall suspend or revoke the credential which has been issued.

Expiration during war

12009.1. Whenever the date of expiration of any credential occurs while the person holding the credential is in the active military service of the United States of America or of the State of California, including active service in any uniformed auxiliary of, or to, any branch of such military service created or authorized as such auxiliary by the Congress of the United States of America or by the Legislature of the State of California, or in the full time paid service of the American Red Cross, during any National emergency declared by the President of the United States of America, or during a war in which the United States of America is engaged, such credential is hereby continued in force until six months after such person honorably leaves such service or has been placed on inactive duty.

The holder of a credential so extended shall be entitled to a renewal of the credential prior to its date of expiration as herein fixed, subject to the provisions of this code relating to the renewal of credentials.

(Added by Stats. 1943, Ch. 976.)

Extension of credentials

12010. Any credential which is now valid and in effect, except credentials issued on an emergency basis and credentials issued to authorize teaching in defense and war production classes, which carries an expiration date falling within the period beginning July 1, 1943, and ending June 30, 1945, is continued in force until June 30, 1945.

(Added by Stats. 1943, Ch. 819.)

Military drill credentials

12011. The State Board of Education may issue a special credential to any person who is recommended by The Adjutant General to receive the special credential, which special credential shall entitle the holder thereof to teach basic military drill to the various high school cadet companies established under Chapter 1 of Part 2 of Division 2 of the Military and Veterans Code. The credential shall be issued only to those who shall qualify as to character in the same manner as required for holders of secondary teaching credentials.

Service under such credential shall not be included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a permanent employee of a school district.

(Added by Stats. 1943, Ch. 738.)

NOTE.—Stats. 1943, Ch. 738, which added Section 12011, contained the following provision:

SEC. 8. This act shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this act is in effect it shall supersede any existing provisions of law which are in conflict with this act; but such provisions are not repealed by this act and after this act is no longer effective shall have the same force as though this act had not been enacted.

Article 2. Minimum General Standards for Credentials

Standards

12031. The minimum general standard for each type of credential shall be as prescribed in this article.

General secondary school

12032. The minimum standard for the general secondary school credential shall be five years of university or college, or of university, college, and normal school education of present-day standard, including a baccalaureate degree and the professional training prescribed by the State Board of Education, or equivalent qualifications.

General junior high school

12033. The minimum standard for the general junior high school credential shall be four years of collegiate training, including the prescribed professional training, or equivalent qualifications.

General elementary

12034. The minimum standard for the general elementary credentials shall be the same number of years of collegiate training required at the time for graduation from a California State college, including the professional training prescribed by the State Board of Education.

12035. The minimum standard for the kindergarten-primary credential shall be the same number of years of collegiate training required at the time for graduation from a California State college, including the professional training prescribed by the State Board of Education. Kindergarten

12036. The minimum standard for the special secondary credential shall be as high a general standard for each of the different subjects as conditions at the time will warrant. Special secondary school

No certification to teach in any grade whatever a vocational subject shall be granted, unless the candidate has had, as a minimum, three years' experience as a journeyman, or, where this terminology does not apply, its equivalent, in the vocation in which he desires certification.

12037. For the special elementary credential, the general standard shall be as high as that prescribed for the general elementary credential. Special elementary

12038. The minimum standard for instruction supervisor's credential shall be a teacher's certificate authorizing the holder to teach in the public schools in which he desires to supervise instruction and such other special professional requirements as may be prescribed by the State Board of Education. Instruction supervisor

12039. The minimum standard for the administrator's credential shall be: (a) A teacher's certificate authorizing the holder to teach in the public schools of the State. (b) A minimum of not less than two years of experience as a teacher, supervisor, or school administrator, as prescribed by the State Board of Education. (c) Such evidence of special training and study as will satisfy the board as to his fitness to perform the service he desires to qualify for. Administration

12040. For librarians, the same standards are required as applied to other special credentials of like grade. Librarian

12041. The minimum standard for attendance officers shall be the qualifications of an elementary school teacher or an equivalent in schooling, social, practical, and teaching experience, including the special professional training required by the State Board of Education. Attendance officer

12042. The minimum standard for the supervision of the health and development of pupils shall be as provided in Article 3 of Chapter 3 of this division. Supervisor of health and development

12042.1. The minimum standard for an emergency credential shall be as high a general standard as conditions at the time will warrant. This section shall remain in effect until the close of the school year in which occurs the cessation of hostilities in all wars in which the United States is now engaged. Emergency credentials

(Added by Stats. 1943, Ch. 815.)

12043. Any standard for the granting of any of the credentials mentioned in this article, when adopted, shall remain in force for not less than four years. Effective period of standards

12044. No person otherwise qualified shall be denied the right to receive credentials from the State Board of Education on the ground he is totally or partially blind. Blindness

CHAPTER 2. GENERAL PROVISIONS RELATING TO ISSUANCE OF CERTIFICATES

Article 1. Qualifications

Regulation of qualifications

12151. The State Board of Education shall prescribe by general regulations the qualifications upon which county and city and county boards of education may grant certificates:

(a) To teach in junior colleges, senior high schools, four-year high schools, junior high schools, elementary schools, and kindergartens.

(b) To supervise instruction and to administer schools as supervisors, principals, and superintendents.

(c) To act as school librarians.

(d) To act as school attendance officers.

(e) To supervise the health and development of pupils.

Moral character

12152. Certificates shall be issued only to persons who give evidence of a good moral character.

Examination on Constitution

12153. All persons granted regular certificates authorizing them to teach in the public schools of this State shall pass a satisfactory examination upon the provisions and principles of the Constitution of the United States or complete a course therein in a junior college, college, or university, in the State.

A limited certificate, not exceeding one year in term, may be granted without the passing of the examination or the completion of the course.

Expiration date

12154. Certificates based upon credentials, except credentials issued on an emergency basis and credentials issued to authorize teaching in defense and war production classes, which carry an expiration date falling within the period beginning July 1, 1943, and ending June 30, 1945, may be issued to expire on June 30, 1945.

Certificates, limited to one year pursuant to Section 12153, expiring between July 1, 1943, and June 30, 1945, may be renewed to expire June 30, 1945, without the passing of the examination or the completion of the course prescribed by that section.

(Added by Stats. 1943, Ch. 819.)

Article 2. Granting of Certificates

Powers of county board of education

12171. Any county board of education may grant certificates renewable at the option of the board, pursuant to this article.

High school certificates

12172. The board may grant high school certificates, authorizing the holders to teach in any secondary grade or in the seventh and eighth grades of any elementary school in the county. All high school certificates granted prior to December 31, 1936, shall be valid for teaching in all grades of the elementary school, and when legally renewed shall continue to be valid for such teaching. Special certificates limited to specified subjects shall be valid for teaching the subjects in any grade of the elementary and secondary schools.

12173. The board may grant junior high school certificates, authorizing the holders to teach in the seventh, eighth, and ninth grades of any elementary or secondary school in the county. Junior high school certificates

12174. The board may grant elementary school certificates, authorizing the holders to teach in any elementary school of the county and in the first two years of any junior high school course in the county, or to serve as a principal of a junior high school. Elementary school certificates

12175. The board may grant kindergarten-primary certificates, authorizing the holders to teach in any kindergarten class in the county and in such other grades as may be authorized by law. The holder of any kindergarten-primary certificate who presents a credential from the State Board of Education vouching for his fitness may be granted an extension of his certificate authorizing him to teach in the first, second, and third grades of the elementary schools. Kindergarten-primary certificates

12176. The board may also grant: Special certificates

(a) Special certificates, authorizing the holders to serve as librarians or to teach in the schools of the county the branches of learning and in the grades named in the certificates.

(b) Special certificates authorizing the holders to supervise health and development work in the public schools or to perform the duties of attendance officer.

12177. All certificates shall be issued upon blank forms prepared by the Superintendent of Public Instruction, and shall have the impress of the seal of the county board of education and be signed by a majority of the members of the board issuing them. Form

Chapter 3. Granting of Certificates Without Examination

Article 1. Granting of Certificates by Boards of Education and Boards of Examination

12251. Each county or city and county board of education may, without examination, grant certificates: Powers of boards of education

(a) To holders of credentials issued by the State Board of Education.

(b) To the holders of credentials or recommendations approved by the State Board of Education.

(c) To the holders of valid school certificates issued by any county or city and county board of education in the State.

The certificates authorize the same kind of service in the same grades, classes, or types of schools as that authorized in the credential, recommendation, or certificate upon which the certificate is issued.

12252. City or city and county boards of examination may recommend the granting of city or city and county certificates in the manner provided in this article for the granting of county certificates by county boards of education. Same

12253. Certificates upon credentials may be granted at any meeting of the county board of education. Time of granting certificates

Article 2. Granting of Certificates to Graduates of State Colleges

Holders of diplomas and credentials

12271. A diploma of graduation granted by a State college, when accompanied by a credential issued by the State Board of Education, shall entitle the holder to a certificate corresponding in grade to the grade of the diploma from any county or city and county board of education.

Certificate

12272. Upon presentation to any county or city and county board of education of a diploma from a State college of the State, accompanied by the credential, the board of education shall without fee grant the holder of the diploma and credential a certificate corresponding in grade to the grade of the diploma.

Diplomas prior to June 30, 1903

12273. A diploma of graduation from any State college in the State, when accompanied by a document granted by the faculty of the State university on or before the thirtieth day of June, 1903, showing that the holder of the diploma has successfully completed the course of instruction in the university prescribed for students who are graduates of a State college of the State, shall entitle the holder to a high school certificate authorizing the holder to teach in any elementary school and in any high school in the State.

Article 3. Health and Development Certificates

Powers of boards of education

12291. County or city and county boards of education may grant health and development certificates to the following:

(a) Persons holding physician's and surgeon's certificates issued by this State.

(b) Persons holding life diplomas of this State and special credentials in physical education, issued by the State Board of Education.

(c) Persons holding certificates to practice dentistry or dental hygiene issued by the Board of Dental Examiners of California.

(d) Persons holding certificates to practice optometry issued by the State Board of Optometry.

(e) Holders of certificates of registration as nurses issued by the Board of Nurse Examiners of the State of California.

(f) Persons holding a certificate of registration as an audiometrist issued by the State Board of Public Health.

(Amended by Stats. 1943, Chs. 364 and 883.)

[AS AMENDED BY STATS. 1943, CH. 364]

12291 County or city and county boards of education may grant health and development certificates to the following:

(a) Persons holding physician's and surgeon's certificates issued by this State.

(b) Persons holding life diplomas of this State and special credentials in physical education, issued by the State Board of Education.

(c) Persons holding certificates to practice dentistry or dental hygiene issued by the Board of Dental Examiners of California.

(d) Persons holding certificates to practice optometry issued by the State Board of Optometry.

(e) Holders of certificates of registration as nurses issued by the Board of Nurse Examiners of the State of California.

[ORIGINAL SECTION]

12291. County or city and county boards of education may grant health and development certificates to the following:

(a) Persons holding certificates to practice medicine and surgery issued by this State.

(b) Persons holding life diplomas of this State and special credentials in physical education, issued by the State Board of Education.

(c) Persons holding certificates to practice dentistry or dental hygiene issued by the Board of Dental Examiners of California.

(d) Persons holding certificates to practice optometry issued by the State Board of Optometry.

(e) Holders of certificates of registration as nurses issued by the Board of Nurse Examiners of the State of California.

Credential of special fitness

12292. Each applicant shall present with his certificate a credential from the State Board of Education showing special fitness and training for the work in the public schools.

CHAPTER 4. GRANTING OF CERTIFICATES BY EXAMINATION

Article 1. General Provisions Relating to Examinations

Special instruction

12351. Any member of a county board of education or of a city board of examination who, except in the regular course of study in the public schools, teaches any classes where pupils are given special instruction to prepare them for passing examinations to obtain teachers' certificates, or who gives special instruction to any person preparing for examination to obtain a teacher's certificate, is guilty of a misdemeanor, and upon conviction his office shall be declared vacant.

Same

12352. No certificate shall be issued to any applicant who has received special instruction, when preparing for examination, from any member of a county board of education or of a city board of examination.

Standing of applicant

12353. The standing of each applicant in each study, and in the class, shall be indorsed on the back of each certificate issued upon examination. Otherwise it is not a valid certificate.

Examinations

12354. All examinations for the granting of certificates to teachers by boards of education shall include the subject of the nature of alcohol and narcotics and their effects upon the human system.

Article 2. Examinations by County Boards of Education

Powers of board

12376. The county board of education may examine applicants for elementary school certificates and may establish a standard of proficiency which will entitle the applicants to certificates.

Rules

12377. The county board of education may prescribe and enforce rules for the examination of teachers.

Time of examination

12378. The county board of education shall examine applicants for certificates to teach in the public schools, at the semiannual meetings only.

Filing of examination papers

12379. All examination papers for teachers' certificates shall be kept on file in the office of the superintendent of schools for at least one year, and shall be open for the inspection of the applicants or their authorized agents.

Public examinations

12380. All examinations shall be public.

Written examinations

12381. All examinations shall be in writing in answer to questions formulated by the board of education.

Oral examinations

12382. The board of education shall also examine all applicants, orally, touching the questions asked and such other matters in connection therewith as have a tendency to demonstrate the fitness of the applicant to assume the duties of a teacher.

Type of questions

12383. The board of education shall ask questions of practical utility, with a view of ascertaining the knowledge and ability of the applicant.

Article 3. City or City and County Boards of Examination

Board of examination

12411. In every city of the first, second, or third class, having a board of education and in every city and county, there may be a city or city and county board of examination.

Members

12412. Each board of examination shall consist of the city or city and county superintendent of schools, and four other members, residents of the city or city and county all of whom shall be experienced teachers, elected by the city board of education, unless otherwise provided by law and shall hold office for four years.

Chairman

12413. The superintendent of schools is chairman of the board of examination.

Compensation

12414. The members of the city board of examination shall receive such compensation as may be allowed them by the city board of education payable out of the city school fund.

Rules

12415. Each board of examination may adopt rules and regulations, not inconsistent with law for its own government and for the examination of teachers.

Regular meetings

12416. The board of examination may hold monthly meetings for the transaction of such other business as may come before it.

Special meetings

12417. Special meetings may be called by the superintendent when in his judgment they are necessary. On recommendation, in writing, of any three members of the board, the superintendent shall call a special meeting.

Notice of special meetings

12418. Due notice shall be given to each member of the board of all special meetings.

Business at special meetings

12419. No business shall be transacted at a special meeting except such as is indicated in the call.

Place of meeting

12420. The place of meeting shall be designated by the chairman.

Public meeting and records

12421. The meetings of the board of examination shall be public, and a record of its proceedings shall be kept in the office of the superintendents of schools.

Article 4. Examinations by County Boards of Education for Elementary School Certificates

Regulations and standards

12441. The State Board of Education shall prescribe general regulations and general standards governing examinations for the elementary certificate by county boards of education.

Granting certificates

12442. The county board of education may, on examination, grant elementary school certificates to candidates who comply with the requirements of this article.

Qualifications of candidates

12443. Each candidate shall present satisfactory written or documentary evidence that he has completed a four-year high school course or the equivalent thereof, or give evidence of four years of successful experience in teaching. In determining the equivalent, the board may take cognizance of any adequate evidence of preparation a candidate may present.

Subjects of examinations

12444. Each candidate shall pass a satisfactory examination given by the county board of education, in the following studies: Reading, English, grammar and composition, English and American literature, spelling and defining, penmanship, drawing, vocal music, bookkeeping, arithmetic, algebra to quadratics, plane geometry, geography (physical, political, and industrial), physiology and hygiene, history of the United States, civics, history (ancient, medieval, and modern), school law, methods of teaching, and one of the following: Elementary physics, elementary chemistry, and biology.

Article 5. Examinations by City and City and County Boards of Examination for Elementary School Certificates

Powers of boards

12461. Each city or city and county board of examination may examine applicants, and may prescribe a standard of proficiency which entitles the applicants to receive elementary school certificates.

Annual examinations

12462. The board of examination shall meet and hold examinations for the granting of teachers' certificates annually, at such times as it may determine.

Qualifications of candidates

12463. The candidates for certificates shall comply with all the requirements set forth in Article 4 of this chapter.

Report of results

12464. The board of examination shall report the result of the examination to the city or city and county board of education, and the board of education shall thereupon issue to the successful candidates the certificates to which they are entitled.

Rights of certificate holders

12465. Elementary school certificates shall authorize the holders to teach in the elementary schools of the city or city and county under the same conditions and limitations as prescribed for the holders of elementary school certificates granted by county boards of education.

CHAPTER 5. LIFE DIPLOMAS AND CLASSES OF CERTIFICATES

Article 1. Life Diplomas

Issuance

12601. The State Board of Education shall grant life diplomas authorizing the holders to serve for life in the public schools in the capacities specified in the diplomas.

Specified service

12602. The service specified in each life diploma granted shall be that specified in a legal county certificate issued to the candidate at least one year prior to the granting of the life diploma.

Application

12603. Each candidate for a life diploma shall submit over his oath a complete application on a form provided by the State Board of Education.

Same

12604. The application shall be accompanied by a valid teaching certificate of the grade and type of life diploma applied for and a recommendation from a county board of education to the effect that the candidate has rendered successful professional service in the public schools of the county for a period of not less than one school year, and that the candidate is a fit person to possess a life diploma. The recommendation shall be based upon a resolution of the county board approved by at least three-fourths of its members.

Qualifications

12605. Only candidates are eligible who have had at least 48 months of successful school experience, at least 21 of which have been in the public schools of the State or in schools maintained for minors by publicly controlled California institutions.

Article 2. Permanent Certificates

Grade and kind

12621. County boards of education may grant permanent certificates of the grade and kind designated therein.

Territorial limits

12622. County or city and county boards of education may issue permanent certificates, valid within the county or city and county in which issued, during the life of the holder, or until revoked for any of the causes provided in Chapter 6 of this division.

Issuance

12623. Permanent certificates shall be issued on the credentials and conditions specified in this article.

Qualifications

12624. Whenever the holder of any certificate has taught successfully in the same county or city and county for five years, the board of education may, in addition to or in place of the renewal of the certificate, grant a permanent certificate of the kind and grade of the class in which the applicant has been teaching.

In the issuance of a permanent high school certificate at least 20 months of successful high school experience taught upon a high school certificate shall be included in the five years' experience.

Application

12625. Whenever the holder of any certificate has successfully completed five years of successful experience in any county or city and county the board of education may, upon

application and under the other conditions named in this article, grant to the applicant a permanent certificate.

Territorial limits

12626. When the holder of any certificate has taught successfully in the same county or city and county for five years the board of education may, in addition to or in the place of renewal of the certificate, grant a permanent certificate of the kind and grade of the certificate on which the applicant has been teaching, valid in the county or city and county in which issued during the life of the holder or until revoked for any of the causes provided in Chapter 6 of this division.

Fee

12627. Whenever the holder of any life or educational diploma has taught successfully in the same county or city and county for five years, the board of education shall, without fee, issue upon application a permanent certificate of the grade of the life or educational diploma.

In the issuance of a permanent high school certificate at least 20 months' successful high school experience taught upon a high school certificate, shall be included in the five years' experience.

Grade and kind

12628. No permanent certificate shall be of a higher grade, or, if special, of a different kind from the certificate upon which granted.

Limited term

12629. No certificate granted upon a credential issued by the State Board of Education for a limited period, or upon an approved recommendation issued for a limited period, shall be made permanent.

Effect of second renewal

12630. Upon the presentation of any certificate except the primary grade for renewal for the second time, or for any time thereafter, the board of education, in renewing the certificate, shall, by such renewal, cause the certificate to become permanent, if the applicant for renewal has complied with the other conditions of this article.

The county superintendent shall attach to the certificate a document giving it the full force and effect of a permanent certificate within the county or city and county.

Evidence of experience

12631. Each applicant for a permanent certificate shall present to the county or city and county board of education satisfactory evidence of the experience upon which the permanent certificate may be issued.

Form

12632. All permanent certificates shall be upon blank forms prepared by the State Superintendent of Public Instruction.

Article 3. Temporary Certificates

Issuance

12651. The superintendent of schools of each county when he finds that the service makes it necessary and desirable, shall issue temporary certificates:

(a) To the holders of credentials issued by the State Board of Education.

(b) To the holders of credentials or recommendations approved by the State Board of Education.

(c) To the holders of valid school certificates issued by any county or city and county board of education in this State.

Service authorized

12652. Any temporary certificate authorizes the same kind of service in the same grades, classes, or types of school as that authorized in the credential, recommendation, or certificate upon which the certificate is issued.

Renewals

12653. No person shall receive a temporary certificate of the same type and grade more than once in the same county.

Expiration date

12654. A temporary certificate issued between July 1st and December 1st shall expire on the January 1st following, and a temporary certificate issued between December 1st and June 29th shall expire on the July 1st following.

Article 4. Preliminary Certificates

Issuance

12671. The superintendent of schools of each county shall issue to persons in training for the teaching service preliminary certificates of a temporary character.

Qualifications

12672. A preliminary certificate shall be issued to the holder of a recommendation from a California institution authorized by the State Board of Education to train teachers and authorizes the holder to do cadet-teaching without salary.

Service authorized

12673. Cadet-teaching shall be of the same kind in the same grades, classes, or types of schools as specified in the recommendation.

Term and fee

12674. No preliminary certificate shall be granted for a period exceeding two years, nor shall the superintendent of schools collect a fee therefor.

Chapter 6. Revocation and Suspension of Diplomas and Certificates

Article 1. Revocation of Life Diplomas, Credentials, and Documents by State Board of Education

Unauthorized departure from service

12751. Should any person employed by a school district in a position requiring certification qualifications refuse, without good cause, to fulfill a valid contract of employment with such district or leave the service of such district without the consent of the governing board of such district except in the manner provided for by law, the State Board of Education shall, after proof of such fact is made to it, suspend the credentials, including life diplomas and other documents, theretofore issued to it by the State Board of Education for not exceeding one year.

(Amended by Stats. 1943, Ch. 817.)

[ORIGINAL SECTION]

12751. If any teacher who is the holder of an educational or life diploma and is employed by a board of school trustees for a specified time leaves the school before the expiration of the time, without the consent of the trustees, in writing, he is guilty of unprofessional conduct. The superintendent of schools shall report the delinquency of the teacher to the State Board of Education, who may suspend the diploma for a period of one year.

Grounds for revocation

12752. The State Board of Education shall revoke or suspend for immoral or unprofessional conduct, or for persistent defiance of, and refusal to obey, the laws regulating the duties of persons serving in the public school system, or for evident unfitness for service, life diplomas, documents, or credentials issued pursuant to this code. The board shall adopt such rules for revocation or suspension as it deems expedient or necessary.

Hearing by county board of education

12753. Whenever the holder of any life diploma or other credential or document issued by the State Board of Education is charged with immoral or unprofessional conduct or evident unfitness for service or persistent defiance of, and refusal to obey, the laws regulating the duties of his position, the State Board of Education in its discretion after notifying the person charged of its intention to do so, may require the county board of education of the county in which he is serving or has last served to give notice of, and conduct, a hearing of the charges in the manner prescribed by law for the hearing of charges for the revocation or suspension of a certificate by a county board of education.

The county board of education, after the hearing, shall report to the State Board of Education its findings, and a summary of the evidence, and shall make a definite recommendation concerning the revocation or suspension of the life diploma or other credential or document.

Upon receipt of a copy of the findings, summary of evidence, and recommendation, the State Board of Education may suspend or revoke the life diplomas or other credential or document for the causes stated, or order the charges dismissed.

Revocation at request of holder

12754. Whenever the holder of any life diploma or other teacher's credential or document issued by the State Board of Education requests in writing that the diploma, credential, or document held by him be revoked, the State Board of Education shall proceed in accordance with general rules and regulations which it has adopted. The request shall be received, read, and made a matter of record at one meeting and shall be acted upon at a subsequent meeting. No request shall be granted except after an investigation by a committee of the board or its duly authorized agents and the filing with the board by the committee or agents of a report in writing that the best interests of the State warrant the granting of the request without public hearing.

Conviction of crime

12755. Upon the conviction of the holder of any credential, life diploma, or document issued by the State Board of Education of a violation, or attempted violation, of any one or more of Penal Code Sections 285, 286, 288, 288a, 424, 425, 484, and 504 becoming final, the State Board of Education shall forthwith revoke the credential, life diploma, or document.

Article 2. Revocation or Suspension of Certificates by County Board of Education

Powers of county boards of education

12776. County boards of education may revoke or suspend, for immoral or unprofessional conduct, evident unfitness for teaching, or persistent defiance of, and refusal to obey the laws regulating the duties of teachers the certificates granted by them.

Hearing and vote

12777. No certificate shall be revoked or suspended, except upon the written request of its holder, until after a hearing before the county board of education, and then only upon the affirmative vote of at least four members of the board.

Charges

12778. All charges of immoral or unprofessional conduct, of evident unfitness for teaching, or persistent defiance of, and refusal to obey the laws regulating the duties of teachers, shall be presented to the board in writing and shall be verified under oath.

Notice

12779. Notice of the time of hearing and a full and complete copy of the charges shall be furnished to the accused at least 10 days before the hearing.

Hearing

12780. The accused shall be given a fair and impartial hearing and shall have the right to be represented by counsel.

Same

12781. The hearing shall be governed by and conducted under the rules of the board.

Unauthorized departure from service

12782. If any teacher employed by a board of school trustees for a specified time, leaves the school before the expiration of the time, without the consent of the trustees, in writing, the teacher is guilty of unprofessional conduct, and the board of education of the county, upon receiving notice of the fact, may suspend the certificate of the teacher for the period of one year.

Grounds for revocation

12783. Each city or city and county board of examination may for immoral and unprofessional conduct, profanity, intemperance, or evident unfitness for teaching, recommend to the city or city and county board of education, the revocation of any certificate previously granted by the board of education in the city or city and county.

Conviction of crime

12784. Upon the conviction of the holder of a certificate issued by a county board of education of a violation or attempted violation of any one or more of Penal Code Sections 285, 286, 288, 288a, 424, 425, 484, and 504 becoming final, the county board of education shall forthwith revoke the certificate.

CHAPTER 7. MISCELLANEOUS PROVISIONS RELATING TO CERTIFICATES AND CREDENTIALS

Article 1. Renewal of Certificates

Power of county boards of education

12851. County boards of education may renew certificates granted in accordance with law.

Time of renewal

12852. Unexpired certificates may be renewed at any meeting of the board.

12853. No certificate shall be renewed after it has expired. Expired certificate

12854. County boards of education may renew any certificate legally issued by them prior to July 29, 1927, and now in force. Certificates prior to July 29, 1927

12855. No certificate granted upon a credential issued by the State Board of Education for a limited period shall be renewed or extended unless the credential upon which it was issued has been renewed or extended, and then only for the period of the renewal or extension of the State board credential. Certificate for limited period

12856. No certificate granted upon a credential issued by the State Board of Education for a limited period, or upon an approved recommendation issued for a limited period, shall be renewed or extended unless the credential or the recommendation upon which it was issued has been renewed or extended, and then only for the period of the renewal or extension of the credential or the recommendation. Same

12857. City or city and county boards of examination may recommend the renewal of city or city and county certificates, in the manner provided for the renewal of county certificates by county boards of education. Recommendations by boards of examination

Article 2. Validation of Certificates

12871. All teachers' life diplomas, university documents, normal documents, city, city and county, and county certificates of all grades granted prior to February 1, 1909, shall be continued in full force and effect for the full time for which they were granted, and shall be valid for all purposes and to the full extent of time that they were and were intended to be, under the laws in force at the time issued. Documents prior to Feb. 1, 1909

12872. All teachers', administrative service, and supervisory service credentials, life diplomas, California normal school diplomas, university documents, normal documents, State Teachers college, and State college credentials, city, city and county, and county certificates of all grades, granted in accordance with State Board of Education regulations prior to October 1, 1941, not heretofore revoked, shall be continued in full force and effect for the full time for which they were granted, and shall be valid for all purposes and to the full extent of time that they were intended to be until revoked by the State Board of Education. Documents prior to Oct. 1, 1941

Article 3. Terms of Certificates

12891. All certificates and diplomas now valid in California shall continue in force and effect for the full term for which they were granted. Existing certificates and diplomas

12892. Every certificate, except a permanent certificate, shall be valid for six years. Term

12893. When any certificate is granted on a recommendation or credential given for a limited period only, it shall not Limited period

be valid for a longer period than that specified in the recommendation or credential.

New teachers

12894. Any certificate granted to a candidate who has not had at least one year of experience in teaching shall not be valid for a longer period than two years.

Expiration during war

12894.1. Whenever the date of expiration of any certificate occurs while the person holding the certificate is in the active military service of the United States of America or of the State of California, including active service in any uniformed auxiliary of, or to, any branch of such military service created or authorized as such auxiliary by the Congress of the United States of America or by the Legislature of the State of California, or in the full time paid service of the American Red Cross, during any National emergency declared by the President of the United States of America, or during a war in which the United States of America is engaged, such certificate is hereby continued in force until six months after such person honorably leaves such service or has been placed on inactive duty.

The holder of a certificate so extended shall be entitled to a renewal of the certificate prior to its date of expiration as herein fixed, subject to the provisions of this code relating to the renewal of certificates.

(Added by Stats. 1943, Ch. 976.)

Article 4. Fees for Credentials and Certificates

Credentials

12911. The application of each person for a credential or renewal of credential shall be accompanied by a fee of three dollars ($3).

Examination

12912. Each applicant before being permitted to take an examination under the State Board of Education for a credential shall pay an additional fee of ten dollars ($10).

Life diplomas

12913. The application of each person for a life diploma shall be accompanied by a fee of three dollars ($3).

Deposit and report

12914. All of the fees prescribed by this article shall be paid into the State Treasury at least once a month to the credit of the General Fund. The State Controller may require financial reports to be made to him at such time and in such form as he prescribes.

Teacher's certificate

12915. Except for a temporary certificate, or for the renewal of any certificate, every applicant for a teacher's certificate, upon presenting his application, shall pay to the county superintendent a fee of two dollars ($2).

Deposit of fees

12916. All money received by the county superintendent of schools as fees for the issuance of kindergarten and elementary school certificates shall be paid by him into the county treasury to the credit of the unapportioned county elementary school fund, and all fees received by him for the issuance of high school and junior college certificates shall be paid by him into the county treasury to the credit of the unapportioned county high school fund.

12917. Permanent certificates shall be issued without fee. Permanent certificates

12918. The superintendent of schools shall not collect a fee for the issuance of a preliminary certificate. Preliminary certificates

Article 5. Lost or Destroyed Certificates

12931. Whenever satisfactory proof is presented to a county or city and county board of education by a teacher to whom the board has heretofore granted a certificate, that the certificate has been destroyed by conflagration or other public calamity, the board shall, without fee, issue to him, in lieu of the certificate lost or destroyed, a new certificate of the same kind, grade, character, and tenure as the certificate originally granted. New certificates

12932. Satisfactory proof shall consist of an affidavit by the teacher, giving the grade of the certificate, the date of issue, if possible, and upon what it was issued, accompanied by a statement from the county or city and county school superintendent to the effect that the teacher had filed his certificate for record with that official. Contents of affidavit

12933. The proof of loss or destruction of a certificate shall be a credential upon which a county or city and county school superintendent may issue a temporary certificate. Effect of proof of loss

Article 6. Illegal Issuance of Diplomas and Certificates

12941. Any State, county, or city and county superintendent, or any State, county, or city and county board of education, who issues a certificate or a diploma except as provided for by law is guilty of a misdemeanor. Penalty

Chapter 8. Employment of Persons Requiring Certification

Article 1. General Provisions

13001. Governing boards of school districts shall employ persons in public school service requiring certification qualifications as provided in this code. Employment

13002. Persons in positions requiring certification qualifications may be elected for the next ensuing school year on or after the first day of May, and each person so elected shall be deemed reelected from year to year except as provided in this chapter. Election

13003. Any certificated employee not under permanent tenure who fails to signify his acceptance within 20 days after notice of his election or employment has been given him, or mailed to him by United States registered mail with postage thereon prepaid at his last known place of address, by the clerk or secretary of the governing board of the school district, shall be deemed to have declined the employment. Acceptance

13003.1. If, without good cause, a permanent employee of a school district fails prior to July 1st of any school year to notify the governing board of the district of his intention to remain or not to remain in the service of the district, as the Failure to notify governing board

case may be, during the ensuing school year if a request to give such notice, including a copy of this section, shall have been personally served upon him not later than the preceding June 10th, all credentials and certificates held by such employee may be suspended for not exceeding one year by the issuing authorities thereof.

(Added by Stats. 1943, Ch. 833.)

Notice of employment

13004. The county superintendent of schools shall be given immediate notice in writing by the governing board of the district of the employment of persons for positions requiring certification qualifications, on blanks furnished by the Superintendent of Public Instruction, stating the name and address of each person employed.

Deprivation of rights

13005. Nothing in this division shall be construed in such manner as to deprive any person of his rights and remedies in a court of competent jurisdiction on a question of law and fact.

Charter provisions

13006. Nothing in this division shall be construed so as to repeal or negate any provisions concerning employees of school districts contained in the charter of any city, county, or city and county, adopted and approved in conformity with Article XI of the Constitution of this State.

Amendments

13007. All employments under the provisions of this chapter shall be subordinate to the right of the Legislature to amend or repeal this chapter or any provision or provisions thereof at any time, and nothing herein contained shall be construed to confer upon any person employed pursuant to the provisions hereof a contract which will be impaired by the amendment or repeal of this chapter or of any provision or provisions thereof.

Temporary employment

13008. Nothing in this code shall be construed as prohibiting the employment of persons in positions requiring certification qualifications for less than a full school year in temporary schools or classes.

"Exchange teachers"

13009. The governing board of any school district, subject to the rules and regulations prescribed by the State Board of Education, and notwithstanding anything to the contrary in Article 2 of Chapter 2 of Part 7 of Division 2 of the Labor Code may enter into an agreement, through the State Department of Education with the proper authorities of any foreign country, or of any State, Territory, or possession of the United States, or other district within the State, for the exchange and employment of teachers having permanent classification, employed in any school district, also teachers, whether or not having permanent classification, employed in districts having an average daily attendance of less than 850 pupils, and teachers employed in the public schools of any foreign country, State, Territory, or possession, or other district within this State, of a grade corresponding to that in which the teachers of the district are employed. Any teacher so employed as provided in this section shall be known as an "exchange teacher." No exchange shall be made without the consent of the teacher to be exchanged.

No exchange teacher may be employed by a school district in the State unless he holds a valid credential issued by the State Board of Education authorizing him to teach in the school district proposing to employ him for a period not to exceed one year, except that, by unanimous consent of the governing board, and of the certificated employees concerned, this period may be extended to two years. The State Board of Education may establish minimum standards for the credential. Credentials

13010. Acceptance of any exchange position by an employee of any school district in the State shall not affect his right to the permanent classification to which he is entitled, at the time of the acceptance, or any of his rights under the State teachers retirement salary provisions of this code, or under any local or district retirement plan, or system, and the time served in the exchange position shall be counted as time served in the service of the district in which he is employed immediately prior to acceptance of the exchange position in determining his status under the provisions of this division and under the provisions of this code relating to State retirement salary, and under any local or district retirement plan. Rights

13011. If the teacher from the district within the State who serves as an exchange teacher without the State and the governing board regularly employing him so agree, the district may pay his regular salary, making all deductions provided by law for retirement purposes, during the period of the exchange teaching. In such case the district shall not pay the salary of the exchange teacher from without the State, serving the district in exchange for its regular teacher. Payment of salary

In the event a teacher from a district within this State serving as an exchange teacher without the State and to whom the governing board of such district is paying the regular salary of such teacher as herein provided, is compelled to absent herself from her duties because of injury, illness or quarantine, the governing board of the district within this State may pay the substitute employed to take the place of such teacher and shall deduct the amount so paid the substitute from the compensation of the teacher.

(Amended by Stats. 1943, Ch. 827.)

[ORIGINAL SECTION]

13011. If the teacher from the district within the State who serves as an exchange teacher without the State and the governing board regularly employing him so agree, the district may pay his regular salary, making all deductions provided by law for retirement purposes, during the period of the exchange teaching. In such case the district shall not pay the salary of the exchange teacher from without the State, serving the district in exchange for its regular teacher.

Article 2. Qualifications of Employees

13031. Governing boards of school districts shall employ for positions requiring certification qualifications, only persons who hold legal certificates in full force and effect and on file at the time the employment becomes effective in the office of the Certificates

county superintendent of schools, to serve as temporary, exchange, substitute, probationary, or permanent employees.

Principals

13032. The governing boards of each school district shall employ a principal for each school under their control.

Supervising principal

13033. Whenever in their judgment it is deemed advisable, the board of trustees for any union or joint union school district may unite with the trustees of any other school district, single, union, or joint, in the employment of a supervising principal, who shall devote such time to the supervision of instruction in the several school districts as may be agreed upon by the several boards of trustees.

Qualification of principal

13034. No person shall be employed as principal of a school of six or more teachers, including the principal, unless he is the holder of a valid teacher's certificate and a valid school administration certificate of the same grade as the school to be administered.

Substitute principal

13035. A substitute principal holding a valid teacher's certificate of the same grade as the school to be administered may be employed without an administration certification to meet an emergency for not more than five months of any school year.

Age of teacher

13036. No person is eligible to teach in any public school in the State, or to receive a certificate to teach who has not attained the age of 18 years.

Grade of certificate

13037. No teacher shall be employed to teach in any way in any school if the certificate held by him is of a grade below that of the school or class to be taught.

Subjects

13038. No teacher holding a special certificate shall be employed to teach any subject not authorized in the certificate.

Existing primary certificates

13039. Holders of existing primary certificates, or of such certificates when hereafter renewed, shall be eligible to teach in any grades of the day or evening elementary schools below the sixth year and not including the kindergarten grades.

Teachers in joint elementary district

13040. Each teacher in a joint elementary district shall hold a valid certificate in the county in which the schoolhouse is located.

Teachers of beginners

13041. In all schools having more than two teachers, beginners shall be taught by teachers who have had at least two years' experience, or by teachers who have had training equivalent to such experience as determined by the State Department of Education.

Home teachers

13042. The qualifications of home teachers shall be a regular kindergarten-primary, elementary, or secondary certificate to teach in the schools of the State and special fitness to perform the duties of a home teacher.

Vacation schools

13043. Only teachers who are legally qualified to teach in the public schools of the State shall be eligible to teach in vacation schools of corresponding grade.

Special certificates

13044. The holders of special city or city and county certificates are eligible to teach the special branches mentioned in their certificates in the grades of all the schools in the city

or city and county in which the certificates were granted corresponding to the grade of the special certificates.

Territorial limits

13045. The holders of city or city and county certificates are eligible to teach in cities or cities and counties in which the certificates are granted, in schools or classes of grades corresponding to the grades of the certificates.

Parental schools

13046. Teachers in parental schools shall have the same qualifications and shall be employed in the same manner as in other primary and grammar schools of the city, city and county, or school district in which the parental school is situated.

Librarian

13047. No person shall be employed as a librarian for more than two hours a day in any elementary or secondary school, unless he holds a valid certificate of proper grade authorizing service as a librarian, or a valid elementary school teacher's certificate if he is employed to serve in an elementary school, or a secondary school certificate if he is employed to serve in a secondary school.

Same

13048. Any librarian when employed full time as librarian or serving full time, partly as librarian and partly as teacher shall rank as a teacher.

Supervision certificate

13049. No one shall be employed to supervise the work of teachers for more than half time during any school week unless he is the holder of a valid teacher's certificate authorizing him to teach in the schools and classes in which he is to supervise instruction and a valid supervision certificate.

School administrative certificates

13050. The holder of a valid school administration certificate may supervise general instruction in all subjects.

Districts with merit systems

13051. In school districts which have adopted the merit system for employees in positions not requiring certification qualifications in addition to positions specifically required by this code to be filled by persons holding certification qualifications, all employees of the districts whose principal duties are specifically set forth in Section 13052, shall hold general or special supervisory or administrative certificates or credentials or such special educational certificates or credentials as may be specified and issued by the State Board of Education.

Supervising and administering certificates

13052. The State Board of Education may establish standards for, and issue, certificates and credentials for the following positions:

(a) Supervising the work of instructors.

(b) Supervising educational and vocational counseling and placement.

(c) Supervising the planning of courses of study.

(d) Supervising the selection, collection, preparation, classification, or demonstration of material for any course of study.

(e) Supervising the examination, selection, or assignment of teachers, principals, or other educational administrators.

(f) Supervising the preparation of budgets of funds to be used for educational purposes when this is the major function of a given position.

(g) Supervising the interpretation or evaluation from an educational standpoint of equipment, material, and housing when this is the major function of a given position.

(h) Supervising original research connected with the evaluation and the efficiency of the educational program.

(i) Administering or supervising the school health service.

(j) Administering or supervising the activities connected with the enforcement of the laws relating to compulsory education, coordination of child welfare activities involving the school and the home, and school adjustments of the socially maladjusted pupils.

(k) Administering or supervising the library service.

(*l*) Administering or supervising the production and distribution of visual aids, instruction in their use and evaluation of illustrative material.

(m) Administering and supervising menus and diet for the school cafeterias throughout the district.

(n) Administering or arranging institute sessions and other extracurricular educational activities.

Supervisors of health

13053. The qualifications of supervisors of health shall be as provided in Sections 13054 to 13059, inclusive.

(Amended by Stats. 1943, Ch. 883.)

[ORIGINAL SECTION]

13053. The qualifications of physical inspectors shall be as provided in Sections 13054 to 13059, inclusive.

Physician

13054. The qualifications for a physician shall be an unrevoked certificate to practice medicine and surgery issued by this State and a health and development certificate.

Teacher

13055. The qualifications for a teacher shall be a life diploma of this State or a special credential in physical education, and a health and development certificate.

Oculist

13056. The qualifications for an oculist shall be a certificate to practice medicine and surgery in this State and a health and development certificate.

Dentists and dental hygenist

13057. The qualifications for a dentist or a dental hygienist shall be a certificate issued by the Board of Dental Examiners of California and a health and development certificate.

Nurse

13058. The qualifications for a nurse shall be a certificate of registration issued by the Board of Nurse Examiners of the State of California and a health and development certificate.

Optometrist

13059. The qualifications for an optometrist shall be a certificate issued by the State Board of Optometry and a health and development certificate.

Otologist

13059.1. The qualifications for an otologist shall be a physician's and surgeon's certificate and a health and development certificate.

(Added by Stats. 1943, Ch. 883.)

Audiometrist

13059.2. The qualifications for an audiometrist shall be a certificate of registration as an audiometrist issued by the State Board of Public Health and a health and development certificate.

(Added by Stats. 1943, Ch. 883.)

Special lecturers

13060. The principal of any public school may employ when so directed by the governing board of the school district, special lecturers well qualified in their subjects to speak before classes and assemblies of students of the school, without the lecturer being required to hold a teacher's credential or certificate.

No such lecturer may be employed by the principal of any school for more than four lectures in any term.

Same

13061. The principal of any day or evening secondary school in which there are special day and evening classes, at his discretion may employ when so directed by the governing board of the school district, special lecturers well qualified in their subjects to speak before such classes, without the lecturer being required to hold a teacher's certificate.

Permission for the employment of the lecturer shall be previously obtained from the Commission of Credentials of the State Department of Education.

Such lecturer shall not be employed in any school for more than four lectures each term.

Article 3. Classification of Employees

Permanent employees

13081. Every employee of a school district of any type or class having an average daily attendance of 850 or more, except a joint union or union high school district maintaining eight or more schools lying not less than six miles apart, who, after having been employed by the district for three complete consecutive school years in a position or positions requiring certification qualifications, is reelected for the next succeeding school year to a position requiring certification qualifications shall, at the commencement of the succeeding school year be classified as and become a permanent employee of the district.

Same

13082. Every employee of a joint union or union high school district, having an average daily attendance of 850 or more, maintaining eight or more schools lying not less than six miles apart, who, after having been employed by the district has served for three complete consecutive school years in a position or positions requiring certification qualifications, in a school having an average daily attendance of 850 or more, is reelected for the next succeeding school year to a position requiring certification qualifications shall, at the commencement of the succeeding school year, be classified as and become a permanent employee of the district.

Same

13083. At the discretion of the governing board of a district with 60,000 average daily attendance or more every employee of the district who, after having been employed by the district for two consecutive school years in a position or positions requiring certification qualifications, is reelected for the next succeeding school year to a position requiring certification qualifications may, at the commencement of the succeeding school year, be classified as and become a permanent employee of the district.

Classification by governing board

13084. Every employee of a school district of any type or class having an average daily attendance of less than 850 pupils, who, after having been employed by the district for three complete consecutive school years in a position or positions requiring certification qualifications, is reelected for the next succeeding school year to a position requiring certification qualifications, may be classified by the governing board of the district as a permanent employee of the district. If the classification is not made the employee shall not attain permanent status and may be reelected from year to year thereafter without becoming a permanent employee until the classification is made.

Same

13085. Every employee of a joint union or union high school district having an average daily attendance of 850 or more, maintaining eight or more high schools lying not less than six miles apart, who, after having been employed by the district has served for three complete consecutive school years in a position or positions requiring certification qualifications in a school having an average daily attendance of less than 850, and is reelected to a position requiring certification qualifications, may be classified by the governing board of the district as a permanent employee of the district. If the classification is not made the employee shall not attain permanent status and may be reelected from year to year thereafter without becoming a permanent employee until the classification is made. If the classification is not made the employee may be dismissed from the service of the district only by an unanimous vote of all the members of the governing board of the district, on the recommendation of the superintendent of schools, if there is one, of the district.

Employees in day and evening schools

13086. Nothing in Sections 13081 to 13085, inclusive, shall be construed to give permanent classification to a person in the evening school who is already classified as a permanent employee in the day school. In case a teacher obtains permanent classification in the evening school and later is eligible for the same classification in the day school by reason of having served the probationary period therein, he shall be given his choice as to which he shall take.

Construction

13087. Nothing in Sections 13081 to 13086, inclusive, shall be construed as affecting the classification of any employee as it existed on September 13, 1941.

Advancement to administrative or supervisory position

13088. A permanent employee when advanced from a teaching position to an administrative or supervisory position, or assigned any special or other type of work, or given special classification or designation requiring certification qualifications, shall retain his permanent classification as a classroom teacher.

Administrative or supervisory positions

13089. A person employed in an administrative or supervisory position requiring certification qualifications upon completing a probationary period, including any time served as a classroom teacher, in the same district, shall, in a district having an average daily attendance of 850 or more pupils, be classified as and become a permanent employee as a classroom

teacher. In a district having an average daily attendance of less than 850 pupils, he may be so classified.

Employment by more than one district

13090. A person employed in an administrative or supervisory position by more than one district shall be given permanent classification in whichever district he may select for the permanent classification. Other permanent classification shall be given to such an employee in a district situated wholly or partly within a city or city and county where the charter of the city or city and county provides for other classification.

Transfer of district

13091. Any certificated employee having permanent classification in any district who is transferred from the district to another district, the governing board of which is composed of the same persons as the first district, shall retain the permanent classification in the district in which the permanent classification has been attained, until permanent classification has been attained in the district to which he is transferred.

Employment in more than one district

13092. A certificated employee who has served in a position or positions requiring certification qualifications in two or more districts, each having an average daily attendance of 850 or more and governed by governing boards of identical personnel, for a total of three complete consecutive school years, upon being elected for the fourth consecutive school year to a position or positions requiring certification qualifications in any of the districts, shall be classified as a permanent employee of the last district in which he was employed prior to his election for the fourth consecutive school year.

Change in organization of district

13093. The division, uniting, unionization, unification, or consolidation of any school district or districts, or any change in school district boundaries or organization, shall not affect the classification of certificated employees already employed by any school district affected. Such employees shall have the same status with respect to their classification by the district, including time served as probationary employees of the district after the division, uniting, unionization, unification, or consolidation, or change in school district boundaries or organization as they had prior thereto. In case the unionization, unification, uniting, or consolidation of two or more school districts results in a district in which, under the provisions of this code then in effect, the certificated employees are entitled to probationary or permanent classification, the employees of the union, unified, or consolidated district, or of the school district formed by uniting two or more school districts shall be given such classification on the same basis as certificated employees in other districts of like average daily attendance.

Same

13094. On the unionization, unification, uniting, or consolidation of one or more school districts in which the average daily attendance for the preceding school year was less than 850 pupils, with a district or districts in which the average daily attendance was or, as a result of the unionization, uniting, consolidation, or unification, becomes 850 or more pupils,

the regular three-year probationary period shall be served after the effective date of the unionization, unification, uniting, or consolidation, by any probationary employee who has been serving in a district of less than 850 average daily attendance. The elected governing board of any such union, unified, or consolidated district, or of the school district formed by uniting two or more school districts, at its option, may classify as a permanent employee of the district, any probationary employee of the districts making up the union, unified, or consolidated district, or of the school district formed by uniting two or more school districts, who, prior to the unionization, unification, uniting, or consolidation of the districts, had been employed by any of the districts for three complete, consecutive school years in a position or positions requiring certification qualifications.

Reorganization since Jan. 1, 1931

13095. Sections 13093 and 13094 shall apply to any division, uniting, unionization, unification, or consolidation of school districts, or change in school district boundaries or organization, made at any time subsequent to January 1, 1931, to the same extent as changes made subsequent to April 10, 1937, and the provisions hereof shall be retroactive to January 1, 1931.

Construction

Nothing in this section or in Sections 13093 and 13094 shall be construed to nullify or in any manner affect the classification of any employee of a district now or hereafter classified as a permanent employee thereof by operation of this or any other provision of law.

Decrease in average daily attendance

13096. Nothing in this article shall be construed as affecting any permanent employee classified as such on August 14, 1931. No decrease in the average daily attendance of any school district shall operate to deprive any permanent employee of the district of his classification.

Attainment of age 65

13097. Except in districts situated wholly or partly within the boundaries of a city or city and county where the charter of the city or city and county provides an age at which employees, including certificated employees of the districts, shall be retired, when a permanent employee reaches the age of 65 years, his permanent classification shall cease and thereafter employment shall be from year to year at the discretion of the governing board. Any certificated employee who is not reemployed under the provisions of this section, and who has not completed the requirements for full retirement salary, shall be deemed to have been retired on account of physical disability.

Age of compulsory retirement

13098. Every certificated permanent employee of any school district which has provided a retirement salary for employees supplementary to the State retirement salary, shall be retired at the close of the school year in which he attains the age of compulsory retirement provided in the teacher retirement plan of the district, if such age is not less than 65 years. Any certificated employee retired under the provisions of this section and who has not completed the requirements for

full retirement salary, shall be deemed to have been retired on account of physical disability.

Complete school year

13099. A probationary employee who, in any one school year, has served for at least 75 per cent of the number of days the regular schools of the district in which he is employed are maintained shall be deemed to have served a complete school year. In case of evening schools, 75 per cent of the number of days the evening schools of the district are in session shall be deemed a complete school year.

Defense and war training

13099.1. Service by a person under a credential authorizing service in the public schools only as an instructor in defense training classes for adults or in classes organized for training war production workers in special day and evening classes for adults or in classes conducted under contract with public or private agencies for training in or for military service or for war production shall not be included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a permanent employee of a school district.

(Added by Stats. 1943, Ch. 828.)

Service during war

13099.2. The following service by a person rendered during the continuation of hostilities in all wars in which the United States is now engaged shall not be included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a permanent employee of a school district:

(1) Service under an emergency credential;

(2) Service under a war emergency credential;

(3) Service under any credential on and after July 1, 1942, when the person held a credential prior to July 1, 1937, and did not serve under such credential in any district between June 30, 1937, and July 1, 1942.

(Added by Stats. 1943, Ch. 417.)

Substitute and probationary employment

13100. If an employee of a school district has served as a probationary employee of the district in a position requiring certification qualifications, for one complete school year, and in the year immediately preceding the service as probationary employee has served as a substitute employee, or as a substitute and probationary employee, serving in both capacities during the same school year in the schools of the district, at least 75 per cent of the number of days the regular schools of the district were maintained, the governing board of the district may count the year of employment as a substitute or as a substitute and probationary employee as one year of the probationary period which he is required by law to serve as a condition to being classified as a permanent employee of the district.

Probationary employees

13101. Governing boards of school districts shall classify as probationary employees, those persons employed in positions requiring certification qualifications for the school year, who have not been classified as permanent employees or as substitute employees.

Time of classification

13102. The classification shall be made at the time of employment and thereafter in the month of July of each school year.

Substitute employees

13103. Governing boards of school districts shall classify as substitute employees those persons employed in positions requiring certification qualifications, to fill positions of regularly employed persons absent from service.

Temporary employees

13104. Governing boards of school districts shall classify as temporary employees those persons requiring certification qualifications, other than substitute employees, who are employed to serve from day to day during the first three school months of any school term to teach temporary classes not to exist after the first three school months of any school term or to perform any other duties which do not last longer than the first three school months of any school term, or to teach in special day and evening classes for adults or in schools of migratory population for not more than four school months of any school term. If the classes or duties continue beyond the first three school months of any school term or four school months for special day and evening classes for adults, or schools for migratory population, the certificated employee, unless a permanent employee, shall be classified as a probationary employee. The school year may be divided into not more than two school terms for the purposes of this section.

CHAPTER 9. RIGHTS AND DUTIES OF EMPLOYEES

(Chapter heading amended by Stats. 1943, Ch. 364.)

[ORIGINAL HEADING]

CHAPTER 9. RIGHTS AND DUTIES OF EMPLOYEES REQUIRING CERTIFICATION

Article 1. General Provisions

Duties

13201. The governing board of each school district shall fix and prescribe the duties to be performed by all persons in public school service in the school district.

Failure to make reports

13202. Any principal, teacher, employee, or school officer of any elementary or secondary school who refuses or wilfully neglects to make such reports as are required by law is guilty of a misdemeanor and is punishable by a fine of not more than one hundred dollars ($100).

Traveling expenses

13203. The governing board of any school district shall provide for the payment of the actual and necessary traveling expenses of any employee of the district when performing services for the district under the direction of the governing board. The governing board may direct any employee of the district to attend any convention or conference or to visit schools for the discussion or observation of any school matter appertaining to the duties of the employee or any question of interest to the school district.

Liability for injuries to pupils

13204. No superintendent, principal, teacher, or other employee of a school district employed in a position requiring certification qualifications shall be held personally liable for the death of, or injury to, any pupil enrolled in any school of the district, resulting from the participation of the pupil in any classroom or other activity to which he has been lawfully assigned as a pupil in the school unless negligence on the part of the employee is the proximate cause of the injury or death.

Employees in war service

13204.1. Every person employed by a school district as a probationary or permanent employee in a position requiring certification qualifications who enters the active military service of the United States of America or of the State of California, including active service in any uniformed auxiliary of, or to, any branch of such military service created or authorized as such auxiliary by the Congress of the United States of America or by the Legislature of the State of California or in the full time paid service of the American Red Cross, during any period of National emergency declared by the President of the United States of America or during any war in which the United States of America is engaged, shall be entitled to absent himself from his duties as an employee of the district.

Such absence shall not affect, in any way, the classification of such employee. In the case of a probationary employee the period of such absence shall not count as part of the service required as a condition precedent to the classification of such employee as a permanent employee of the district, but such absence shall not be construed as a break in the continuity of the service of such employee for any purpose.

Within 90 days after such employee honorably leaves such service or has been placed on inactive duty he shall, subject to the provisions of this section, be entitled to return to the position held by him at the time of his entrance into such military service, at the salary to which he would have been entitled had he not absented himself from the service of the school district under this section.

If such employee was employed under a lawful contract for a period in excess of one year in a position in which he had not become a permanent employee of the district, he shall be entitled to return to such position for the period his contract of employment had to run at the time he entered such military service. Notwithstanding any provision of this code to the contrary, a person employed to take the place of any such employee shall not have any right to such position following the return of such employee to the position.

(Added by Stats. 1943, Ch. 976.)

Article 2. Teachers

Qualifications

13226. No person shall be employed in a position requiring certification qualifications until his certificate has been filed or credential registered with the county superintendent of schools having jurisdiction over the district employing him.

If required by an order of the county board of education he shall also have on file with the county superintendent of schools a certificate from a physician and surgeon licensed under Chapter 5 of Division 2 of the Business and Professions Code showing that he has submitted to a physical examination within three years last past and been found free from active tuberculosis.

When any person so employed is the holder of a California State college or State teachers college diploma, accompanied by the certificate of the State Board of Education, an educational, or life diploma of this State, the superintendent of schools of the county, upon presentation thereof, shall record the name of the holder in a book provided for that purpose in his office, and the holder of the diploma shall thereupon be absolved from the provisions of this section, except the provision requiring a certificate of good health.

Notices

13227. Every teacher in the public schools shall before taking charge of a school, and one week before closing a term of school, notify the county superintendent of the fact, naming the day of opening or closing.

The governing board of any school district shall in every case give to the teacher a notice of at least two weeks of its intention to close the term of school under its charge.

No superintendent shall draw any requisition for the last month's salary of any teacher until the teacher has filed with him the notice of the closing of the term.

Enforcement of course of study

13228. Every teacher in the public schools shall enforce the course of study, the use of legally authorized textbooks, and the rules and regulations prescribed for schools.

Conduct of pupils

13229. Every teacher in the public schools shall hold pupils to a strict account for their conduct on the way to and from school, on the playgrounds, or during recess.

Training of pupils

13230. Each teacher shall endeavor to impress upon the minds of the pupils the principles of morality, truth, justice, and patriotism, to teach them to avoid idleness, profanity, and falsehood, to instruct them in the principles of a free government, and to train them up to a true comprehension of the rights, duties, and dignity of American citizenship.

School register

13231. Except in districts in which a central file of individual records of pupil enrollment, absence, and attendance is maintained in each school on forms containing at least the minimum items of information prescribed by the State Department of Education, and in which regular periodic reports of pupil personnel data are submitted by the principal of each school to the city or district superintendent of schools, or, if no superintendent is employed in the district, to the county superintendent of schools on forms approved by the State Department of Education, every teacher in the public elementary schools shall keep a State school register, which shall be furnished by the Superintendent of Public Instruction, in which shall be recorded the absence and attendance of each pupil enrolled in the classes taught by the teacher, and such

additional information as is required by the State Department of Education.

Annual report

13232. Except in districts exempted by the State Department of Education and in which regular periodic reports of pupil and employee personnel data are submitted by the principal of each school to the city or district superintendent of schools, or, if no superintendent is employed in the district, to the county superintendent of schools on forms approved by the State Department of Education, every teacher in the public elementary schools shall at the close of school during each school year make an annual report to the principal of the school in which he is employed; or, in the case of one-teacher schools, to the city or district superintendent of schools, or, if no superintendent is employed, to the county superintendent of schools on forms furnished by the Superintendent of Public Instruction.

Any teacher who is teaching in any school at the close of school shall, in his annual report, include all statistics for the entire school year.

Where one teacher is in charge of a class and keeps the records thereof, assistant teachers or other teachers of the class or any of the pupils thereof who are required to keep no records shall not be required to render reports.

The city, district, or county superintendent of schools shall in no case draw a requisition for the salary of any teacher for the last month of a school term, until the report has been filed by him and approved.

Payment

13233. Except as otherwise provided in this code, no warrant shall be drawn in favor of any teacher, unless the officer whose duty it is to draw the warrant is satisfied that the teacher has faithfully performed all the duties prescribed.

Abuse of teacher

13234. Every parent, guardian, or other person who upbraids, insults, or abuses any teacher of the public schools, in the presence or hearing of a pupil, is guilty of a misdemeanor.

Same

13235. Any parent, guardian, or other person who insults or abuses any teacher in the presence of the school is guilty of a misdemeanor, and is punishable by a fine of not less than ten ($10) nor exceeding one hundred dollars ($100).

Article 3. Elementary School Principals

Annual report

13251. The principal of each elementary school shall submit an annual report to the city or district superintendent of schools, or, if no superintendent is employed in the district, to the county superintendent of schools, on forms furnished by the Superintendent of Public Instruction.

Article 4. High School Principals

Principal of elementary school

13271. The principal of any high school may act as principal of any elementary school situated in the high school district.

Supervising principal of elementary schools

13272. The principal of any high school may act as the supervising principal of two or more elementary schools situated in the high school district without regard to the number of teachers employed in each of the elementary schools, if so desired by the trustees of the elementary school district or districts and the high school board.

Approval

13273. A high school principal shall not enter into any contract to act as a principal or supervising principal of any elementary school, except an elementary school in the district in which the high school is located, without the approval of the county superintendent of schools.

Annual report

13274. The principal of each high school shall make an annual report to the city or district superintendent of schools, or, if no superintendent is employed in the district, to the county superintendent of schools, on forms furnished by the Superintendent of Public Instruction.

Contents of report

13275. The principal of every high school shall annually, during the month of October, make out under oath and deliver to the State Board of Education and to the county superintendent of schools, a full and complete report of textbooks then in use in the high school, the courses of study offered, the requirements for graduation, the names of teachers employed, the subject taught by each teacher, the grade of certificate held by each, the salary paid to each, and such other information as may be required by the State Board of Education.

Failure to report

If the report is not filed with the State Board of Education on or before October 31st, the State Board of Education shall notify the county superintendent of schools having jurisdiction of the high school failing to report, and the county superintendent of schools shall withhold the salary of the principal of the high school until he has been notified by the State Board of Education that the report has been filed.

Article 5. Junior College Principals

Annual report

13291. Each junior college principal shall make an annual report to the city or district superintendent of schools, or, if no superintendent is employed in the district, to the county superintendent of schools on forms furnished by the Superintendent of Public Instruction.

Article 6. Superintendents of Schools

Annual report

13321. Each city or district superintendent of schools shall make an annual report of the schools under his jurisdiction to the county superintendent of schools on forms furnished by the Superintendent of Public Instruction.

Teachers' library

13322. The superintendent of schools of each county or city and county may establish a county teachers' library and spend from the unapportioned county elementary and high school funds such amounts as are necessary for the purchase of books therefor and for the payment of the necessary

expenses of maintenance thereof. The cost of the books and the expenses of the maintenance of the county teachers' library are a legitimate charge against the unapportioned county elementary and high school funds.

Use of county library

13323. If there is a county library in any county, the county superintendent of schools may enter into an agreement with the county library for the transfer to it of all books and other property belonging to the county teachers' library and may order such sums to be transferred from the unapportioned county fund as are necessary for expenditure for the purchase and maintenance of books of professional interest to teachers. Thereupon the teachers' library shall be administered as a part of the county library.

CHAPTER 10. TEACHERS' INSTITUTES

Article 1. Holding of Institutes

Annual institute

13401. The superintendent of schools of every county in which there are 20 or more school districts, and of every city and county, and of every city school district governed by a city board of education and employing 70 or more teachers, shall hold at least one annual teachers' institute in each year.

Same

13402. In any county in which there are less than 20 school districts, the county superintendent of schools may hold an annual teachers' institute. When directed by the county board of education, he shall hold an annual teachers' institute, not oftener than once each year, at such time and place as the board may direct.

Uniting of institutes

13403. The superintendents of schools of counties, or cities and counties, or city school districts may unite for the purpose of holding a joint teachers' institute, and shall direct the teachers of their respective counties, cities and counties, or city school districts to attend the joint teachers' institute in lieu of all or a designated part of the annual teachers' institute of the county, city and county, or city school district. Attendance shall be under the same conditions and compensations as provided for the annual teachers' institute of the county, city and county, or city school district.

Local institute

13404. In lieu of the annual teachers' institute of from three to five consecutive days, the superintendent of schools of any county in which there are 20 or more school districts, or of any city and county, or of any city school district governed by a city board of education and employing 70 or more teachers, may hold during the school year, at places in the county, or city and county, or city school district, chosen by the superintendent for their convenience and accessibility to teachers and patrons of the schools, local day or evening institutes which shall provide at each of the chosen places, not less than 10 hours of institute work.

In any city and county one or more local day or evening institutes of not less than two hours each may be held on not less than three different dates during the year.

Combined annual and local institutes

13405. The annual teachers' institute may be combined with local institutes, by holding during one or more days, not to exceed three, an annual teachers' institute in the county, or city and county, or city school district, and also holding during the school year a series of local day or evening teachers' institutes at convenient places in the county, or city and county, or city school district, the whole to provide not less than 10 hours of institute work.

Failure to hold institute

13406. Any superintendent of schools who refuses or neglects to hold an institute for any school year as directed by this article, except as otherwise provided, shall forfeit the last month's salary of the school year in which he fails to hold the institute. The county auditor whose duty it is to draw the warrant in favor of the superintendent shall withhold his salary for June on proof of his neglect.

Duration

13407. Each annual teachers' institute shall continue not less than three nor more than five days, except as otherwise provided in this article.

Epidemic

13408. In case of epidemic of unusual duration and prevalence in a city, county, or major portion of a county, or city, or city and county the superintendent of schools of the county, or city and county, or city school district with the consent of the Superintendent of Public Instruction may dispense with the holding of the institute for the school year of the epidemic.

Article 2. Duties of Superintendents and Teachers

Duties of superintendent

13421. The superintendent of schools of each county, city and county, or city school district shall preside over teachers' institutes held therein, and shall secure the attendance of lecturers competent to instruct in the art of teaching.

Report of absent teachers

13422. Each superintendent of schools holding an institute, whether separately or as part of a joint institute, shall report to the governing board of each school district under his jurisdiction the names of all teachers of the district failing to attend any session of the institute.

Attendance of teachers

13423. Every teacher employed in the schools of the county, city and county, or city school district holding an institute shall attend the institute and participate in its proceedings.

Payment of salary

13424. Every teacher shall be paid his regular salary for the time covered by his attendance upon an institute. When the institute is held during the time that teachers are employed in teaching, their pay shall not be diminished by reason of their attendance.

Attendance of other institutes

13425. The superintendent of schools of any district or county holding an annual institute may, in his discretion and for good reason, authorize any teacher of the district or county, in lieu of attending one day of the institute held by him, to attend an institute held by the superintendent of schools of another city or county, or to attend an educational meeting held by the State Department of Education, or by a recog-

nized institution or organization in the same or another district or county, for an equivalent period.

The attendance of a teacher upon an institute under the provisions of this section shall be equivalent to attendance upon the institute he is otherwise required to attend.

Article 3. Expenses of Institutes

Accounts

13441. The county superintendent, the city and county superintendent, and the city superintendent shall each keep an accurate account of the actual expenses incurred by him in holding any teachers' institute whether separate or joint.

Payment by county

13442. Each county superintendent of schools shall draw his requisition upon the county auditor, who shall draw his warrants proportionately on the unapportioned county elementary and high school funds to pay the expenses of the county institute.

Payment by city and county

13443. Each city and county superintendent shall draw his requisition upon the city and county auditor, who shall draw his warrant upon the funds of the school district or districts within the city and county to pay the expenses of the city and county institute.

Payment by city

13444. Each city superintendent of schools shall present a statement of the expenses incurred by him in holding the city district institute to the governing board of the city school district, which shall pay the expenses from the funds of the school district in the same manner as other claims against the funds of the district are paid.

Expenses of joint institutes

13445. The expense of a joint teachers' institute shall be borne proportionately by the counties, city and county, and city school districts participating therein. The amount paid by any county, city and county, or city school district toward the expenses of a joint institute shall not exceed the amount authorized to be expended by the county, city and county, or city school district for a separate annual teachers' institute.

Limitation of expenses of separate institutes

13446. Not more than three hundred dollars ($300) shall be paid for the expenses of any separate annual teachers' institute held by the superintendent of schools of any county, city and county, or city school district having less than 100 teachers regularly employed in the elementary and secondary schools of the county, city and county, or city school district. Where the number of teachers regularly employed in the elementary and secondary schools of any county, city and county, or city school district exceeds 100 teachers at the time of holding any separate annual teachers' institute, the superintendent of schools may expend money, in addition to three hundred dollars ($300), at the rate of one dollar ($1) per teacher for each teacher in excess of 100 teachers regularly employed at the time of holding the separate institute.

Expenses of local institutes

13447. Whenever the superintendent of any county, or city and county, or city school district, elects to hold local teachers' institutes, or the combination of annual teachers' institute with a local institute, he may expend money, in addition to the

amount provided in Section 13446 for the expenses of any separate annual teachers' institute in his county, or city and county, or city school district at the rate of five dollars ($5) per teacher for each teacher regularly employed at the time of holding the first series of local institutes in any school year.

Limitations

13448 The total expenditures for local institutes shall not at any time in the school year exceed fifty dollars ($50) multiplied by the number of local institutes held.

Computation of time

13449. Whenever the superintendent holds the combination of annual institute with local institutes each day of the annual institute shall be considered for purposes of expenditure the same as one series of local institutes.

Payment

13450. All expenses of local institutes and of combined annual and local institutes shall be paid in the same manner and from the same funds as are the expenses of separate and of joint institutes.

Chapter 11. Resignations, Dismissals, and Leaves of Absence of Certificated Employees

Article 1. Resignations

Effective date

13501. Governing boards of school districts shall accept the resignation of any employee and shall fix the time when the resignation takes effect, which shall not be later than the close of the school year during which the resignation has been received by the board.

Article 2. Dismissal of Permanent Employees

Grounds for dismissal

13521. No permanent employee shall be dismissed except for one or more of the following causes:

(a) Immoral or unprofessional conduct.

(b) Commission, aiding, or advocating the commission of acts of criminal syndicalism, as prohibited by Chapter 188, Statutes of 1919, or in any amendment thereof.

(c) Dishonesty.

(d) Incompetency.

(e) Evident unfitness for service.

(f) Physical or mental condition unfitting him to instruct or associate with children.

(g) Persistent violation of or refusal to obey the school laws of the State or reasonable regulations prescribed for the government of the public schools by the State Board of Education or by the governing board of the school district employing him.

(h) Conviction of a felony or of any crime involving moral turpitude.

Charges

13522. Upon the filing of written charges, duly signed and verified by the person filing them, with the governing board of the school district, or upon a written statement of charges formulated by the governing board, charging that there exists cause for the dismissal of a permanent employee of the district, the governing board may, upon majority vote, except as pro-

vided in this article, if it deems the action necessary, give notice to the permanent employee of its intention to dismiss him at the expiration of 30 days from the date of service of the notice, unless the employee demands a hearing as provided in this article.

Notice

13523. The notice shall not be given between May 15th and September 15th in any year. It shall be in writing and be served upon the employee personally or by United States registered mail addressed to him at his last known address. A copy of the charges filed together with a copy of this article shall be attached to the notice.

Waiver of hearing

13524. If the employee does not demand a hearing, he may be dismissed at the expiration of the 30-day period.

Incompetency

13525. The governing board of any school district shall not act upon any charges of incompetency unless during the preceding term or half school year prior to the date of the filing of the charge, and at least 90 days prior to the date of the filing, the board or its authorized representative has given the employee against whom the charge is filed, written notice of the incompetency, specifying the nature thereof with such particularity as to furnish the employee an opportunity to correct his faults and overcome his incompetency. "Incompetency" as used in this section means, and refers only to, the incompetency particularly specified as a cause for dismissal in Section 13521 and does not include any other cause for dismissal specified in that section.

Suspension

13526. Upon the filing of written charges, duly signed and verified by the person filing them with the governing board of a school district, or upon a written statement of charges formulated by the governing board, charging a permanent employee of the district with immoral conduct, conviction of a felony or of any crime involving moral turpitude, or with incompetency due to mental disability, the governing board may, if it deems such action necessary, immediately suspend the employee from his duties and give notice to him of his suspension, and that 30 days after service of the notice, he will be dismissed, unless he demands a hearing.

Notice

13527. The notice of suspension and intention to dismiss, shall be in writing and be served upon the employee personally or by United States registered mail addressed to the employee at his last known address. A copy of the charges filed, together with a copy of this article, shall be attached to the notice. If the employee does not demand a hearing within the 30-day period, he may be dismissed upon the expiration of 30 days after service of the notice.

Mental incompetency

13528. No employee shall be suspended on a charge of incompetency due to mental disability until the governing board has appointed an independent recognized psychiatrist to examine him, nor unless the psychiatrist reports in writing to the governing board that the employee is, in his opinion, suffering from mental disability of such character as to render him incompetent to perform his duties. The employee against

whom the charge is filed shall submit to the examination, but shall be entitled to be represented thereat by a psychiatrist or physician of his own choice, and the report of the psychiatrist or physician selected by him shall be filed with the governing board at the request of the employee. The employee shall, upon request, and before action by the board, be furnished with a complete copy of all reports made by the psychiatrist appointed by the governing board.

Demand for hearing

13529. When any employee who has been served with notice of the governing board's intention to dismiss him demands a hearing, the governing board shall have the option either (a) to rescind its action, or (b) to file a complaint in the superior court of the county in which the school district or the major part thereof is located, setting forth the charges against the employee and asking that the court inquire into the charges and determine whether or not the charges are true, and if true, whether or not they constitute sufficient grounds for the dismissal of the employee, under the provisions of this code, and for judgment pursuant to its findings.

Complaint

13530. If the board elects to file a complaint, the complaint shall be filed within 30 days from the date of the employee's demand for hearing. If the complaint is not filed within such period the board's action shall be deemed to be rescinded and all charges dismissed.

Appearance of defendant

13531. The employee within 10 days after service upon him of the summons and a copy of the complaint may demur to the complaint or may file an answer, to which the governing board may demur. If the employee fails to answer or demur within the 10-day period, or any extension thereof, made by stipulation or order of court, his default shall be entered and judgment shall be entered by the court declaring the right of the governing board to dismiss the employee.

Procedure

13532. Both the complaint and the answer shall be verified. Demurrers to the complaint or answer may be upon any of the grounds specified in the Code of Civil Procedure for demurrer to a complaint or answer, and procedure on the demurrer shall be the same as in any civil proceeding.

Setting for trial

13533. When the employee has filed his answer to the complaint, either party may, upon five days' notice to the other, move the court to set the matter for trial. The proceeding shall be set for trial at the earliest possible date and shall take precedence over all other cases, except older matters of the same character and matters to which special precedence is given by law.

Referees

13534. Upon motion of either party, the court in its discretion, or on its own motion, may appoint three disinterested persons over 21 years of age as referees, to ascertain the facts and report their findings to the court.

Qualifications

13535. The persons appointed as referees shall be persons of suitable experience and educational qualifications, and in sympathy with the merit system for employing teachers.

Compensation

13536. The compensation of the referees shall be fixed by the court but shall not exceed ten dollars ($10) for each day served.

Oath

13537. Each of the referees within five days after his appointment shall take and file with the court an oath to discharge his duties faithfully and impartially. If any referee fails to qualify, or resigns, or is removed by order of court, or is, or becomes unable to act, the vacancy shall be filled by the court.

Vacancy

Date and place of hearing

13538. The referees shall at once organize by electing one of their number chairman. They shall fix a date and place for a hearing which shall be not less than 10 days and not more than 20 days after the date of their appointment. Either the board or the employee shall have the right to one continuance for a period of not more than 10 days.

Notice

13539. Written notice of the time and place of the trial or hearing shall be served upon the employee or his attorney at least five days before the date of the hearing.

Public hearing

13540. The hearing shall be open to the public except upon stipulation of the parties.

Hearing

13541. Upon the date set for the trial or hearing, both the board and the employee shall have the right to be represented by counsel, and to introduce such testimony and other evidence as may be relevant to the issue. The referees may examine witnesses under oath, to be administered by any of them, or on affirmation. The referees and either party may have subpenas issued by the clerk of the court requiring the attendance of witnesses or the production of evidence before them.

Rules of evidence

13542. Technical rules of evidence shall not apply to hearings before the referees.

Report

13543. The referees shall make and file with the court a written report of their findings, and of their necessary expenses, within 30 days after their appointment, but the time may be extended by the court, for good cause shown for an additional period not exceeding 60 days. If any vacancy in the referees is created and filled, or if new referees are appointed, or a new report from the same referees ordered, the time for the filing of the report shall run from the date of filling the vacancy or appointing of new referees or ordering a new report from the same referees. Any majority of the referees, who have been present during the entire hearing or trial and who agree thereto may make the report.

Transcript

13544. A complete transcript of all the testimony and evidence, taken by a competent reporter, who shall be paid by the governing board, shall be attached to the report. A copy of the report and transcript shall be delivered to each of the parties.

Notice of hearing report

13545. Upon the filing of the report the court, upon motion of either party, shall set a day for hearing the report, not over 15 days thereafter. Notice of the time and place of the hearing shall be served upon the other party at least five days before the time set.

Exceptions

13546. Either party may file exceptions, in writing, to the report, specifying the grounds upon which the exceptions are based, at any time within not less than two days prior to the hearings. Any party filing exceptions may appear at the hearing of the report and contest the report.

New reports

13547. After hearing the report and any exceptions thereto, the court may either confirm the report, or may set aside the report and order a new report from the same referees or from other referees appointed by it. If a new report is ordered, the same procedure shall be had as upon the first reference.

Additional evidence

13548. The court in its discretion may take additional evidence of or concerning any fact with respect to which the report of the referees is not sufficient to justify a judgment.

Evidence

13549. No witness shall be permitted to testify at the trial or hearing before the referees, except upon oath or affirmation. No testimony shall be given or evidence introduced relating to matters which occurred more than three years prior to the date of the filing of the complaint. This shall not be construed to prevent the introduction in evidence of records regularly kept by the governing board concerning the employee, but no judgment permitting the dismissal or suspension of any employee shall be made or entered based on charges or evidence of any nature relating to matters occurring more than three years prior to the filing of the complaint.

Records of governing board

13550. All records regularly kept by the governing board concerning employees which relate to the employee charged shall be admissible in evidence, but no dismissal of the employee, or judgment that the governing board may dismiss him may be made on the records alone.

Judgment

13551. After the trial or after hearing the report of the referees, the court shall make and enter its judgment. The judgment may be at variance with any report of any referees appointed by the court, and shall determine whether or not the governing board may dismiss the employee.

Dismissal

13552. If the judgment determines that the employee may be dismissed, the governing board may dismiss him upon entry of the judgment. Otherwise the employee may not be dismissed as the result of the charges or of any charges which could have been made or heard at the hearing.

Incompetency

13553. If the cause is incompetency due to physical or mental disability, in lieu of dismissal the judgment may require the employee to take a leave of absence for only such period as may be necessary for rehabilitation from the incompetency. The leave of absence shall not exceed two years. During the leave of absence, the employee shall be entitled to the benefits authorized by this code to employees of school districts absent from their duties on account of sickness.

Costs

13554. If the judgment determines that the employee may be dismissed, it shall provide that each party shall pay its own costs. If the judgment determines that the employee may not be dismissed, it shall provide that the district shall pay the costs and necessary disbursements of the employee. A memo-

randum of costs and disbursements may be filed and taxed by the court within the time and in the manner specified by Section 1033 of the Code of Civil Procedure relating to costs in actions in the superior and municipal courts.

Reinstatement

13555. If the employee has been suspended pending the hearing, he shall be reinstated within five days after the entry of judgment in his favor, and shall be paid full salary by the governing board for the period of his suspension.

Appeal

13556. Either the employee or, the governing board may appeal from the judgment to the District Court of Appeal or Supreme Court.

Immoral conduct or conviction of crime

13557. If an employee is dismissed for immoral conduct or conviction of a felony or crime involving moral turpitude, the governing board shall transmit to the State Board of Education and to the county board of education which issued the certificate under which the employee was serving at the time of his dismissal, a copy of the reporter's transcript of the hearing accompanied by a request that any certificate issued by the county board of education to the employee be revoked if the employee is not reinstated upon appeal.

Insufficient funds

13558. No permanent employee of a school district shall be dismissed without his consent or deprived of his classification as a permanent employee of the district when the district does not have sufficient funds to pay his salary.

Retirement

13559. The retirement of any employee of a school district under the provisions of any retirement law shall automatically effect the dismissal of the employee from the employ of the district at the end of the current school year.

Article 3. Dismissal of Probationary Employees

Dismissal during school year

13581. Governing boards of school districts shall dismiss probationary employees during the school year for cause only, as in the case of permanent employees.

Notice of dismissal

13582. On or before the fifteenth day of May in any year the governing board may give notice in writing to a probationary employee that his services will not be required for the ensuing year.

The notice shall be deemed sufficient and complete when delivered in person to the employee by the clerk or secretary of the governing board of the school district or deposited in the United States registered mail with postage prepaid, addressed to the employee at his last known place of address.

Exception

13583. Anything in Section 13582 to the contrary notwithstanding, governing boards of school districts having an average daily attendance of 60,000 or more pupils shall dismiss probationary employees for cause only. The determination of the board as to the sufficiency of the cause for dismissal shall be conclusive, but the cause shall relate solely to the welfare of the schools and the pupils thereof.

Article 4. Dismissal of Substitute Employees

Time of dismissal

13611. Governing boards of school districts may dismiss substitute employees at any time at the pleasure of the board.

Article 5. Dismissal of Temporary Employees

Time of dismissal

13631. Governing boards of school districts may dismiss temporary employees requiring certification qualifications at the pleasure of the board. A temporary employee who is not dismissed during the first three school months, or in the case of migratory schools during the first four school months of the school term for which he was employed and who has not been classified as a permanent employee shall be deemed to have been classified as a probationary employee from the time his services as a temporary employee commenced.

Article 6. Decrease in Number of Permanent Employees

Procedure

13651. Whenever it becomes necessary to decrease the number of permanent employees in a school district on account of either a decrease in the number of pupils attending the schools of the district, or on account of the discontinuance of any particular kind of service in the district, the governing board may dismiss so many of the employees as may be necessary at the close of the school year. In making dismissals employees shall be dismissed in the inverse of the order in which they were employed. No permanent employee may be dismissed under the provisions of this section while a probationary employee is retained or employed to render a service which the permanent employee is certificated and competent to render.

Reappointment

13652. If the number of teachers is increased, or the service is reestablished within one year from the time of the dismissal, the dismissed employees shall have the preferred right to reappointment, in the order of their original employment, unless any such employee in the meantime has attained the age of 65 years.

Honorable dismissal

13653. The board shall give any person who is dismissed under this article a statement of honorable dismissal.

Effect of war

13654. Notwithstanding the provisions of Section 13651, permanent employees dismissed because of the effect of the wars in which the United States is presently engaged upon enrollment or upon the maintenance of a particular kind of services shall have the preferred right to reappointment, in the order of their original employment, unless any such employee in the meantime shall have attained the age of 65 years, if the number of employees be increased, or such service is reestablished within two years after cessation of hostilities in such wars. As to any employee who is so reemployed the period of his absence shall be treated as a leave of absence and shall not be considered as a break in the continuity of his service and any credit for prior service under any State or

district retirement system shall not be affected by such absence but the period of such absence shall not count as a part of the service required for retirement. The provisions of this section shall apply to all employees dismissed for the reasons herein specified subsequent to January 1, 1943.

(Added by Stats. 1943, Ch. 823.)

Article 7. Leaves of Absence

Powers of governing board

13671. Governing boards of school districts may grant leaves of absence to persons employed in positions requiring certification qualifications.

Accident or illness

13672. The governing board of any school district may provide for the leave of absence from duty and may grant compensation during the leave of absence to any employee of the district who is employed in a position requiring certification qualifications and who is compelled to absent himself from his duties because of accident or illness, whether or not the cause of absence arises out of and in the course of the employment of the employee, or because of quarantine which results from his contact with other persons having a contagious disease while performing his duties, or because of temporary inability to perform the services required of him because of illness, accident, or quarantine.

Purpose of study

13673. The governing board of any school district may grant any employee of the district employed in a position requiring certification qualifications, a leave of absence for not to exceed one year for the purpose of permitting study or travel by the employee which will benefit the schools and pupils of the district.

Sabbatical leave

13674. No leave of absence shall be granted to any employee under Section 13673 who has not rendered service to the district for at least seven consecutive years preceding the granting of the leave, and not more than one such leave of absence shall be granted in each seven-year period. The governing board granting the leave of absence may, subject to the rules and regulations of the State Board of Education, prescribe the standards of service which shall entitle the employee to the leave of absence. The leave of absence shall not be considered as a break in the continuity of service toward retirement under this code except that the leave of absence shall not be counted as a year of service toward retirement.

Compensation

13675. Every employee granted a leave of absence pursuant to Section 13673 may be required to perform such services and may receive such compensation during the leave as the governing board of the district, with the approval of the county superintendent of schools, and the employee may agree upon in writing. The compensation shall be the difference between the salary of the employee on leave and the salary of a substitute employee in the position which the employee held prior to the granting of the leave. The governing board of

any district which has adopted a rule governing the payment of salaries to employees absent from duty because of illness may, at its option, agree to pay to employees taking leaves of absence under the provisions of Section 13673, compensation at the same rate as provided by the rule governing absences because of illness.

Payment

13676. Compensation granted by the governing board to the employee on leave may be paid in two equal annual installments during the first two years of service rendered in the employ of the governing board following the return of the employee from the leave of absence. The compensation shall be paid the employee while on the leave of absence in the same manner as if the employee were teaching in the district, upon the furnishing by the employee of a suitable bond indemnifying the governing board of the district against loss in the event that the employee fails to render at least two years' service in the employ of the governing board following the return of the employee from the leave of absence. The bond shall be exonerated in event the failure of the employee to return and render two years' service is caused by the death or physical or mental disability of the employee. If the governing board finds and by resolution declares that the interests of the district will be protected by the written agreement of the employee to return to the service of the district and render at least two years' service therein following his return from the leave, the governing board in its discretion may waive the furnishing of the bond and pay the employee on leave in the same manner as though a bond is furnished.

Reinstatement

13677. At the expiration of the leave of absence of the employee, he shall, unless he otherwise agrees, be reinstated in the position held by him at the time of the granting of the leave of absence.

Liability for death or injury

13678. Both the governing board of any district and the district shall be freed from any liability for the payment of any compensation or damages provided by law for the death or injury of any employee of the district employed in a position requiring certification qualifications when the death or injury occurs while the employee is on any leave of absence granted under the provisions of this article.

Effect of leave

13679. No leave of absence when granted to a probationary employee shall be construed as a break in the continuity of service required for the classification of the employee as permanent. The time during which the leave of absence is taken shall not be considered as employment within the meaning of Article 3 of Chapter 8 of this division.

CHAPTER 12. SALARIES OF CERTIFICATED EMPLOYEES

Article 1. Fixing of Compensation

Female teachers

13801. Females employed as teachers in the public schools of the State shall, in all cases, receive the same compensation

as is allowed male teachers for like services, when holding the same grade certificates.

13802. The governing board of any school district shall fix and order paid the compensation of persons in public school service requiring certification qualifications employed by the board unless otherwise prescribed by law. School districts

13803. City boards of education shall have full power to fix the salary of all employees. Cities

13804. Any supervising principal shall receive such compensation from each board of trustees jointly employing him as may be agreed upon by the boards joining in his employment. Supervising principals

13805. In cities, teachers of beginners shall be ranked in the salary schedule with the highest salaried teachers in the elementary grades of equal training and experience. Teachers

Uniform allowance may be made in any schedule of salaries for years of training and for years of service.

In no case shall the governing board of a school district draw orders for the salary of any teacher in violation of this section, nor shall any superintendent draw any requisition for the salary of any teacher in violation thereof.

This section shall not apply to teachers of special day and evening classes in elementary schools, special classes for elementary pupils, and special day and evening high school classes.

13806. Teachers in a parental school shall be paid in the same manner as in other elementary schools of the city, city and county, or the school district in which the parental school is situated. Teachers in parental school

13807. The governing board of any school district may employ such substitute employees of the district as it deems necessary from month to month and may adopt a salary schedule for substitute employees. Substitutes

This section shall not be construed as modifying or repealing any law fixing a minimum annual salary for employees of districts.

Article 2. Payment of Salaries

13831. No requisition for a warrant shall be drawn in favor of any teacher, unless the teacher is the holder of a proper certificate in full force for the full time for which the requisition is drawn, nor unless he is employed by the governing board of the school district or by the superintendent of schools as provided in this code. Teachers

13832. The governing board of any school district may arrange to pay the persons in positions requiring certification qualifications employed by it in 10 or 11 or 12 equal payments instead of by the school month. Number of payments

13833. Where the governing board of any school district arranges to pay persons employed by it in 12 equal payments for the year, it may pay each monthly installment at the end Monthly installments

of each calendar month, whether or not the persons are actually employed in teaching during the month.

Withholding

13834. The governing board of any school district not paying the annual salaries of persons employed by the district in 12 equal monthly payments may withhold from each payment made to each employee an amount equal to 16⅔ per cent thereof.

The total of the amounts deducted from the salary of any employee during any school year shall be paid to him in two equal installments, one installment to be paid not later than the fifth day of August next succeeding, and one installment to be paid not later than the fifth day of September next succeeding.

In the event any employee leaves the service of the district by death or otherwise before receiving such moneys as may be due him, the amount due him shall be paid within 30 days to him or to any other person entitled thereto by law.

Service less than full year

13835. A person in a position requiring certification qualifications who serves less than a full school year shall receive as salary only an amount that bears the same ratio to the established annual salary for the position as the time he serves bears to the annual school term. This section shall not be so construed as to prevent the payment of compensation to a person while on leave of absence when the payment of the compensation is authorized by law.

Time of payment

13836. Each salary payment for any calendar month shall be paid not later than the fifth day of the succeeding calendar month.

Pay roll warrants

13837. Instead of issuing a single warrant to each employee for salary or wages the district may use a pay roll form of warrant making payment to two or more employees on one pay roll warrant.

Deposit with county treasurer

13838. When the pay roll form of warrant is used, the approved and allowed pay roll warrant shall be deposited with the county treasurer, who shall make payment to the employee or his order.

Attachment

13839. When the pay roll form of warrant is used the name of each employee shall be listed and in case of an attachment of the salary or wages of any employee the attachment shall affect only the salary or wages of that employee.

Home teachers

13840. The salaries of home teachers shall be paid from the city or district special school funds.

Payment during illness

13841. When a person employed in a position requiring certification qualifications is absent from his duties on account of illness or accident for a period of five school months or less, whether or not the absence arises out of or in the course of the employment of the employee, the amount deducted from the salary due him for any month in which the absence occurs shall not exceed the sum which is actually paid a substitute employee employed to fill his position during his absence.

Payment of substitute

Excepting in a district the governing board of which has adopted a salary schedule for substitute employees of the district, the amount paid the substitute employee during any

month shall be less than the salary due the employee absent from his duties.

When a person employed in a position requiring certification qualifications is absent from his duties on account of illness for a period of more than five school months, or when a person is absent from his duties for a cause other than illness, the amount deducted from the salary due him for the month in which the absence occurs shall be determined according to the rules and regulations established by the governing board of the district. Such rules and regulations shall not conflict with rules and regulations of the State Board of Education.

Nothing in this section shall be construed so as to deprive any district, city, or city and county of the right to make any reasonable rule for the regulation of accident or sick leave or cumulative accident or sick leave without loss of salary for persons requiring certification qualifications.

This section shall be applicable whether or not the absence from duty is by reason of a leave of absence granted by the governing board of the employing district.

Sick leave

13841.1. Every person employed by a school district in a position requiring certification qualifications shall be entitled to five days leave of absence for illness or injury and such additional days in addition thereto as the governing board may allow for illness or injury, exclusive of all days he is not required to render service to the district, with full pay for a school year of service. If such employee does not take the full amount of leave allowed in any school year under this section the amount not taken shall be accumulated from year to year up to a total of 25 days, or such additional days as the governing board may allow.

The governing board of each school district shall adopt rules and regulations requiring, and prescribing the manner of proof of illness or injury for the purposes of this section. Such rules and regulations shall not discriminate against evidence of treatment and the need therefor by the practice of the religion of any well recognized church or denomination.

Nothing in this section shall be deemed to modify or repeal any provision of law contained in Article 3 of Chapter 6 of Division 3 of the Health and Safety Code.

The provisions of Section 13841 relating to compensation, shall not apply to the first five days of absence of any such employee on account of illness or accident or to such additional days granted by the governing board.

Exception

Nothing in this section contained shall apply to any employee of any school district controlled by a governing board which has under its control a district or districts having a combined average daily attendance of 50,000 or more, and which had on April 1, 1943, a rule providing for the payment of sick leave salary to its certificated employees, so long as such district maintains such rule, or a rule as favorable to its certificated employees, in effect.

(Added by Stats. 1943, Ch. 829.)

Minimum teachers salaries

13842. The governing board of each school district shall pay to each person employed in a day school of the district for full time in a position requiring certification qualifications an annual salary of not less than one thousand three hundred twenty dollars ($1,320).

The governing board of each school district shall pay to each person employed for less than full time in a position requiring certification qualifications an annual salary of not less than an amount which bears the same ratio to one thousand three hundred twenty dollars ($1,320) as the time required of the person bears to the time required of a person employed full time.

"Full time"

"Full time" means not less than the minimum school day each day the schools of the district are maintained during the school year.

Additional apportionment

If any elementary school district receives as income during any school year from all available sources less than one thousand five hundred fifty dollars ($1,550), the county superintendent of schools having jurisdiction over the district may apportion to the district from the unapportioned county elementary school fund not to exceed eighty dollars ($80) for the purpose of enabling the governing board of the district to comply with the provisions of this section.

The provisions of this section shall not be construed as applying to substitute employees of a school district.

Minimum teachers' salaries

13842.1. The governing board of each school district shall pay to each person employed in a day school of the district for full time in a position requiring certification qualifications an annual salary of not less than one thousand five hundred dollars ($1,500).

The governing board of each school district shall pay to each person employed for less than full time in a position requiring certification qualifications an annual salary of not less than an amount which bears the same ratio to one thousand five hundred dollars ($1,500) as the time required of the person bears to the time required of a person employed full time.

"Full time"

"Full time" means not less than the minimum school day each day the schools of the district are maintained during the school year.

Additional apportionment

If any elementary school district receives as income during any school year from all available sources less than one thousand seven hundred fifty dollars ($1,750), the county superintendent of schools having jurisdiction over the district may apportion to the district from the unapportioned county elementary school fund not to exceed eighty dollars ($80) for the purpose of enabling the governing board of the district to comply with the provisions of this section.

The provisions of this section shall not be construed as applying to substitute employees of a school district.

The provisions of this section shall apply to salaries paid during the school year commencing July 1, 1943, and during subsequent school years.

(Added by Stats. 1943, Ch. 1127.)

NOTE.—Stats. 1943, Ch. 1127, which added Section 13842.1, also contained the following:

SEC. 4. This act shall remain in effect until June 30, 1945. While this act is in effect it shall supersede any existing provisions of law which are in conflict with this act; but such provisions are not repealed by this act and after this act is no longer effective shall have the same force as though this act had not been enacted.

Article 3. Deductions for Group Insurance Payments

Method of payment

13861. The governing board of each elementary school district not governed by a city board of education and the governing board of each union high school district and joint union high school district when drawing an order for the salary payment due to employees of the district, shall reduce the order by the amount which it has been requested in a revocable written authorization by the employee to deduct for the purpose of paying premiums on any policy or certificate of group life insurance for the benefit of the employee or for group disability insurance, or both, for the benefit of the employee or his dependents issued by an admitted insurer on a form of policy or certificate approved by the Insurance Commissioner. The governing board of the district shall each month draw its order upon the funds of the district in favor of the insurer which has issued the policies or certificates for an amount equal to the total of the premium deductions made during the month.

Article 4. Withholding of Teacher's Salary

Appeal to Superintendent of Public Instruction

13881. Any teacher whose salary is withheld may appeal to the Superintendent of Public Instruction, who shall require the superintendent of schools to investigate the matter and present the facts to him.

Judgment

13882. The judgment of the Superintendent of Public Instruction shall be final; and upon receiving it the superintendent of schools, if the judgment is in favor of the teacher, shall, if the trustees refuse to issue an order for the withheld salary, issue his requisition in favor of the teacher.

CHAPTER 13. EMPLOYEES OF SCHOOL DISTRICTS OTHER THAN PERSONS REQUIRING CERTIFICATION QUALIFICATIONS

Article 1. Employment

Janitors and other employees

14001. The governing board of any school district shall employ janitors and other employees of the school.

Duration of contract

14002. No board shall enter into any contract with such employees to extend beyond the close of the next ensuing school year.

Fixing of duties

14003. Governing boards shall fix and prescribe the duties to be performed by all persons in public school service in the school district.

Cities of first class

14004. In any school district situated wholly within the boundaries of a city of the first class, the janitors and other employees of the school district shall be employed in the same manner and under the same conditions as teachers are employed by the district and when employed shall be removed only for cause and after charges have been filed and heard by the board of education.

All employees who have been in the service of the school district continuously for a period of one year prior to July 27, 1917, shall be deemed to have been so employed.

The board of education may make and enforce all necessary rules and regulations to carry out the provisions of this section.

Age limits

14005. Notwithstanding any other provisions of this chapter, no minimum or maximum age limits shall be established for the employment of persons who do not require certification qualifications. Age shall not be construed to be a minimum qualification for such employment but the permanent classification of any employee who is classified as a permanent employee under any merit system adopted or existing in any district shall cease when the employee reaches the age at which the permanent classification of employees in positions requiring certification qualifications ceases. Thereafter the employment of the employee shall be at the discretion of the governing board of the district.

Any person possessing all of the minimum qualifications for any employment shall be eligible for appointment to that employment, and no rule either written or unwritten shall be adopted prohibiting the employment solely because of his age of any such person in any school employment who is otherwise qualified therefor.

This section does not authorize the employment of any person in a particular school employment who has reached the retirement age for that particular employment prescribed by any retirement system applicable thereto, whether or not the person is a member of the retirement system, or entitled to a retirement salary thereunder, nor shall any person be employed in such employment while he is receiving a retirement allowance under any retirement system by reason of prior school employment in a position that does not require certification qualifications.

Secretary and bookkeeper

14006. Governing boards may employ a person not a member of the board to act as secretary and bookkeeper for the board.

Administrative adviser

14007. Anything in a city, county, or city and county charter to the contrary notwithstanding, when the average daily attendance of any school district, or of two or more school districts governed by governing boards of identical personnel, is 40,000 or more, the governing board or boards of the district, or districts, may appoint an administrative

adviser and fix and order paid his compensation. The duties of the administrative adviser are to render administrative advice to the superintendent of schools and to other officers and employees of the school district, or districts, such other administrative duties as may be assigned by the superintendent of schools and the governing board, or boards, of the district, and to assist the legal counsel of the district, or districts, in the preparation and conduct of school district litigation. The employee shall have been admitted to practice law in the State, and shall not be required to have any certification qualifications. The employee shall be employed under the same conditions for employment as set forth in Sections 13081, 13082, and 13083.

Article 2. Salaries

School districts

14026. The governing board of any school district shall fix and order paid the compensation of janitors and other employees of the school or of the school district employed by the board unless otherwise prescribed by law.

Cities

14027. City boards of education have full power to fix the salary of all employees.

Article 3. Institutes

Annual institutes

14051. The superintendent of schools of every county in which there are 20 or more school districts, and of every city and county, and of every city school district governed by a city board of education and employing 70 or more teachers, may hold at least one annual institute of noncertificated employees who are responsible for the health and safety of school pupils. The superintendents of schools shall designate the persons to attend the institute.

Procedure and expense

14052. The superintendents of schools may unite institutes of noncertificated employees, and may hold institutes of noncertificated employees in the same manner as teachers' institutes. The expenses of the institute shall be paid in the same manner and from the same funds as are teachers' institutes.

Article 4. Resignation and Leaves of Absence

Leaves of absence

14071. The governing board of any school district may grant leaves of absence to employees in positions not requiring certification qualifications, in the same manner as is provided in Sections 13672 and 13841 for certificated employees.

Accident or illness

14072. Governing boards of school districts may grant leaves of absence to persons employed in positions not requiring certification qualifications, and at their discretion may pay compensation at such rate as the board prescribes, during the absence, to any such employee whose absence is caused by accident or illness, whether or not the absence arises out of or in the course of the employment of the employee, or because of quarantine which results from his contact with other persons having a contagious disease while performing his duties.

Effective date of resignations

14073. The governing boards of any school district may accept the resignation of any employee and may fix the time when the resignation shall take effect, which shall not be later than the close of the school year during which the resignation is received by the board.

Article 5. Merit System

Power of governing board

14101. In any school district having an average daily attendance of 850 or more except school districts lying wholly within a city or city and county which provides in its charter for a merit system of employment for employees not employed in positions requiring certification qualifications, the governing board may, by affirmative vote of a majority of its members, adopt the procedure set forth in this article.

Adoption by electors

14102. The procedure set forth in this article may also be adopted by a majority vote of the electors of the school districts assenting to the plan after it has been placed on the ballot at a special or regular election upon the written petition of not less than 10 per cent of the qualified electors as determined by the number voting in the last election for a member of the governing board.

Procedure

14103. In any district in which the procedure is adopted the governing board shall employ, pay, and otherwise control the services of persons in positions not requiring certification qualifications only in accordance with the provisions of this article unless otherwise directed by a majority vote of the qualified electors voting thereon at a general election for a member of the governing board of the school district concerned.

Termination

14104. Any measure to terminate the merit system instituted under this article shall be placed on the ballot only on petition of not less than 10 per cent of the voters within a given district as determined by the number voting in the last election for a member of the governing board.

Personnel commission

14105. In any district which has adopted the provisions of this article there shall be appointed a personnel commission composed of three members. If two or more districts are under the jurisdiction of governing boards of identical personnel, only one commission shall be appointed. In such cases this article shall apply alike to all of the districts, and the expenses of the commission shall be paid out of the general funds of all of the districts in proportion to the benefits derived therefrom as determined by the governing board.

Qualifications

14106. Qualifications for membership on the commission shall be the same as those for the members of the governing board. No member of the governing board shall be a member of the commission nor shall any commissioner during his service on the commission be employed by the governing board in any other capacity. Appointees shall be known adherents to the principle of the merit system.

Appointment of members

14107. Within 30 days after this article becomes effective in any school district, the State Superintendent of Public Instruction shall appoint a member of the personnel commis-

sion whose term of office shall be for one year from and after the first day of December, at noon, next succeeding his appointment. The county superintendent of schools in the county in which the district is situated shall appoint a member of the personnel commission whose term of office shall be two years from and after the first day of December, at noon, next succeeding his appointment. The executive officer of the State Personnel Board shall appoint a member of the personnel commission whose term of office shall be three years from and after the first day of December, at noon, next succeeding his appointment. Annually thereafter, on or before the first day of December, or as frequently as vacancies occur, appointments to fill the vacancies shall be made alternately by the State Superintendent of Public Instruction and by the executive officer of the State Personnel Board. The State Superintendent of Public Instruction shall appoint the member of the personnel commission to fill the first vacancy. Appointments after the first year shall be for terms of three years from and after the first day of December, at noon, next succeeding the appointments, excepting interim appointments which shall be only for the duration of the unexpired term of office.

Compensation

14108. Members of the commission may be paid five dollars ($5) per meeting but not over fifty dollars ($50) per month.

Office accommodations

14109. The governing board shall provide the commission with suitable office accommodations.

Budget

14110. The commission shall prepare an annual budget for its own office which, upon the approval of the county superintendent of schools, shall be included by the governing board in the regular budget of the school district. The county superintendent of schools may reject, but may not amend, the proposed budget. In the absence of agreement between the personnel commission and the county superintendent the budget of the preceding year shall determine the amount of the new budget, and the items of expenditure shall be determined by the commission.

First year

14111. The budget for the first year shall be determined by the governing board. Pending receipt of money raised in the manner prescribed in this article, the governing board may advance funds for the establishment of the work of the commission.

Classification of employees

14112. The commission shall classify all employees and positions within the jurisdiction of the governing board or of the commission. The employees and positions shall be known as the classified service. Positions required to have certification qualifications, and professional experts employed on a temporary basis for a specific project by the governing board or by the commission when so designated by the commission, shall not be included therein.

Rules

14113. The commission shall prescribe and amend, subject to this article, such rules as may be necessary to insure the efficiency of the service and the selection and retention of

employees upon a basis of merit and fitness. The rules shall be binding upon the governing board.

Subjects of rules

14114. The rules shall provide for the procedures to be followed by the governing board as they pertain to the classified service regarding applications, examinations, eligibility, appointments, promotions, demotions, transfers, dismissals, resignations, layoffs, reemployment, vacations, leaves of absence, compensation within classification, job analyses and specifications, service ratings, public advertisement of examinations, rejection of unfit applicants without competition, and any other matters necessary to carry out the provisions and purposes of this article.

Printing and distribution

14115. The rules of the commission and copies of this article shall be printed and made available to employees in the classified service, the public, and those concerned with the enforcement of this article.

Personnel director

14116. The commission shall appoint a personnel director within 90 days after the adoption of a merit system from an eligibility list established from a competitive examination given under the auspices of the commission.

Duties

14117. The personnel director shall be responsible to the commission for carrying out all procedures in the administration of the classified personnel in conformity with this article and the rules of the commission. He shall also act as secretary of the commission and shall prepare, or cause to be prepared, an annual report which shall be sent by the commission to the governing board.

Salary schedule

14118. The commission shall recommend to the governing board salary schedules for the classified service. The governing board may approve, amend, or reject these recommendations. No amendment shall be adopted until the commission is first given a reasonable opportunity to make a written statement of the effect the amendments will have upon the principle of like pay for like service. No changes shall operate to disturb the relationship which compensation schedules bear to one another, as the relationship has been established in the classification made by the commission.

Existing employees

14119. Any person who has been continuously employed in a position defined as a position in the classified service for a period of six months immediately preceding the date on which the procedure set forth in this article is adopted shall be deemed to be in the permanent classified service. No layoff or suspension of service during the time when the schools of the district are not in session shall count as an interruption of continuous service.

Same

14120. All persons who have been continuously employed by a school district for less than six months immediately preceding the date on which the procedure set forth in this article is adopted shall be deemed to hold their positions under probationary classification.

New employees

14121. All new employees in the classified service shall be selected pursuant to this article and the rules of the commis-

sion, from applicants on eligibility lists which, wherever practicable, as determined by the commission, shall be made up from promotional examinations. Applicants shall be placed on the eligibility lists in the order of their relative merit as determined by competitive examinations. Appointments shall be made from the first two applicants on the eligibility list who are ready and willing to accept the position.

Temporary appointments

14122. When no eligibility list exists for a position in the classified service, new employees may be appointed for a period not to exceed 90 days. During the 90 days an examination shall be held for the classification. No successive temporary appointments shall be made and no person shall be employed in temporary capacities under a given governing board for a total of more than six months in any one year.

Combination of eligibility lists

14122.5. Combinations of successive eligibility lists during their first year may be made whenever dearth of available eligibles makes such combinations desirable. Eligibles on lists established within the first year of the life of another list may be placed in the order of their relative excellence in the examination on the like list, if lists so merged have been promulgated under conditions and techniques which are sufficiently similar to preserve their competitive character.

Successive temporary appointments

Successive 90-day temporary appointments may be made in the absence of an appropriate eligibility list. Successive temporary appointments may be made and persons employed in temporary capacities under a given governing board for a total of more than six months in any one year.

This section shall remain in effect until six months after the cessation of hostilities in all wars in which the United States is now engaged. While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section; but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

(Added by Stats. 1943, Ch. 837.)

Discrimination

14123. No questions relating to political or religious opinions, affiliations, race, color, or marital status shall be asked of any candidate whose name has been certified for appointment, nor shall any discrimination be exercised therefor.

"Veteran"

14124. "Veteran" as used in this article means any person who has served in the United States Army, Navy, Marine Corps, Revenue Marine Service, or as an active nurse in the service of the American Red Cross, or in the Army and Navy Nurse Corps in time of war, or in any expedition of the armed forces of the United States, and received an honorable discharge or certificate of honorable active service, proof of which shall be submitted to the commission at the time of the examination.

"Disabled veteran"

14125. "Disabled veteran" as used in this article means any person who has served in the United States Army, Navy, or Marine Corps in time of war or in any expedition of the

armed forces of the United States, and received an honorable discharge or certificate of honorable active service, proof of which shall be submitted to the commission at the time of the examination, and who was disabled as a result of such service. Proof of disability shall be deemed conclusive if it is of record in the United States Veterans Administration.

Veterans' preference

14126. In the case of all entrance examinations, veterans with 30 days or more of service who become eligible for appointment by attaining the passing mark established for the examination, shall be allowed an additional credit of five points and disabled veterans shall be allowed an additional credit of 10 points, which shall be added to the percentages attained in the examinations by the veterans. Veterans shall be placed on eligible lists and be eligible for appointment in the order and on the basis of the percentages attained by them in examinations after the credit of five points, or 10 points in the case of disabled veterans, is added.

Reemployment

14127. Persons laid off or suspended because of lack of work or lack of funds are eligible to reemployment for a period of three years and shall be reemployed in preference to new applicants.

Duration of eligible lists

14128. Eligibility lists shall be established for a period of not less than one year and may be extended for an additional period of one year in the discretion of the commission.

Permanent service

14129. Any person who has served a probationary period not to exceed six months as prescribed by the rules of the commission for his classification shall be deemed to be in the permanent classified service.

Demotion and removal

14130. No person in the permanent classified service shall be demoted or removed except for reasonable cause designated by rule of the commission as detrimental to the efficiency of the service. This section shall not be construed to prevent layoffs for lack of work or lack of funds.

Disciplinary action

14131. For reasonable causes an employee may be suspended without pay for not more than 30 days or may be demoted or dismissed. In such case the personnel director shall within three days of the suspension, demotion, or dismissal file written charges with the commission and give a copy of the charges to the employee.

Appeal

14132. An employee who has been suspended, demoted, or dismissed may appeal to the commission within 14 days after receipt of a copy of the written charges by filing a written answer to the charges.

Investigation and hearing

14133. The commission shall investigate the matter on appeal and may require further evidence from either party, and may, and upon request of an accused employee shall, order a hearing. The accused employee shall have the right to appear in person or with counsel and to be heard in his own defense. The decision shall not be subject to review by the governing board.

Reinstatement

14134. If the commission sustains the employee, it may order paid all or part of his full compensation from the time of suspension, demotion, or dismissal, and it shall order his reinstatement. Upon notification of the commission's decision, the board shall reinstate the employee and authorize such compensation as the commission directs.

Layoff

14135. Classified employees shall be subject to layoff for lack of work or lack of funds. Whenever a classified employee is laid off, the order of layoff within the class shall be determined by length of service. The employee who has been employed the shortest time in the class shall be laid off first.

Reemployment shall be in the reverse order of layoff.

Certification for payment

14136. No warrant shall be drawn by or on behalf of the governing board of any district for the payment of any salary or wage to any employee in the classified service unless the assignment bears the certification of the personnel director that the person named in the assignment has been employed and assigned pursuant to this article and the rules of the commission.

Investigations

14137. The commission may subpena witnesses, require the production of records or information pertinent to investigation, and may administer oaths. It may, at will, inspect any records of the governing board that may be necessary to satisfy itself that the procedures prescribed by the commission have been complied with.

Attorneys

14138. The counsel of the governing board shall aid and represent the commission when sued in a legal capacity, and if he refuses, the commission may employ its own attorney, and the reasonable cost thereof shall constitute a legal charge against the general funds of the district.

Political activity

14139. No person who is in the classified service or who is upon any eligibility list shall be appointed, demoted, or removed, or in any way discriminated against because of his political acts, opinions, or affiliations. No person in the classified service shall engage in political activities during his assigned hours of employment.

Soliciting funds or service

14140. No member of the governing board in any district in which the procedure has been adopted shall directly or indirectly solicit or be concerned in soliciting any assessment, contribution, or political service of any kind whatsoever for any political purpose from any person who is in the classified service or who is upon any eligibility list.

Coercion

14141. No officer or employee of any governing board of any district in which the procedure has been adopted shall directly or indirectly coerce or attempt to coerce or in any way bring pressure or attempt to bring pressure upon any other such officer or employee, to support or refrain from supporting any political group for any political purpose whatever.

Penalty

14142. Any person who wilfully or through culpable negligence violates any of the provisions of this article is guilty of a misdemeanor.

CHAPTER 14. CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM

Article 1. General Provisions

Definitions

14251. Unless the context otherwise requires, the definitions set forth in this article shall govern the construction of this chapter.

"System"

14252. "Retirement system" or "system" means the "California State Teachers' Retirement System."

"Public school"

14253. "Public school" means any day or evening elementary school, and such day and evening secondary schools, technical schools, and kindergarten schools as may be established by the Legislature, or by municipal or district authority.

"Member"

14254. "Member" means any person included in the membership of the system.

"Employer"

14255. "Employer" or "employing agency" mean the State or any agency or political subdivision thereof by whom a member is paid.

"Service"

14256. "Service" means service in a status requisite for membership in the retirement system.

"Beneficiary"

14257. "Beneficiary" means any person in receipt of a retirement salary, an annuity, a retirement allowance, or other benefit.

"Regular interest"

14258. "Regular interest" means interest at the rate per annum, compounded at each June 30th, adopted and revised from time to time by the retirement board.

"Permanent Fund contributions"

14259. "Permanent Fund contributions" means contributions to the Teachers' Permanent Fund at the rates provided for.

"Annuity deposits"

14260. "Annuity deposits" means contributions to the Teachers' Annuity Deposit Fund at the rates provided for.

"Accumulated annuity deposits"

14261. "Accumulated annuity deposits" means the sum of all the annuity deposits deducted from the compensation of a member and standing to the credit of his individual account, together with interest credited thereon.

"Total contributions"

14262. "Total contributions" means Permanent Fund contributions plus accumulated annuity deposits.

"Annuity"

14263. "Annuity" means payments for life derived from the "accumulated annuity deposits" of a member.

"Retirement salary"

14264. "Retirement salary" means payments for life derived from funds provided by Permanent Fund contributions of members and by the State and any political subdivision thereof.

"Retirement allowance"

14265. "Retirement allowance" means the sum of the "annuity," or any optional benefit payable in lieu thereof, and the "retirement salary."

"Pay roll"

14266. "Pay roll" includes registers, warrants, and any other documents upon which all persons receiving salary payments are listed.

"Retirement"

14267. "Retirement" means withdrawal from active service with a retirement allowance.

14268. "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality tables as are adopted by the retirement board and regular interest. The ages of members and beneficiaries shall be taken to the next lower completed quarter year in the determination of the actuarial equivalent. "Actuarial equivalent"

14269. "Local fund" means any fund, exclusive of this retirement system, operated for the retirement of teachers by a city, city and county, county, or other political subdivision of the State. "Local fund"

14270. "Local district" means any political subdivision of the State which contributes to the support of a local fund. "Local district"

14271. "County" includes "city and county." "County"

14272. "Permanent Fund," "Annuity Deposit Fund," and "Retirement Salary Fund" mean "Teachers' Permanent Fund," "Teachers' Annuity Deposit Fund," and "Teachers' Retirement Salary Fund," respectively. Funds

14273. "County superintendent" and "superintendent" mean county superintendent of schools. "Superintendent"

14274. "Compensation" means remuneration in cash payable by the employer. "Compensation"

14275. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this chapter is, for any reason, held to be unconstitutional, the decision shall not affect the validity of the remaining portions of this chapter. The Legislature declares that it would have passed this chapter, and each section, subsection, subdivision, paragraph, sentence, clause, and phrase thereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases is declared unconstitutional. Constitutionality

14276. This chapter may be cited as the State Teachers Retirement Act. Title

Article 2. Retirement System

14301. In order to continue in force, with such modifications as are set forth in this chapter, provisions already existing for retirement, death, and other benefits for teachers in the public schools of this State, teachers in schools supported by this State, and other persons employed in connection with the schools the California State Teachers' Retirement System, is created to be effective July 1, 1937. Purpose

14302. The cost of the administration of the retirement system, including the employment of necessary expert and clerical assistance, the purchase of necessary supplies and equipment, and any other expenses necessary in the administration, shall be paid from the permanent fund, but the total of the costs of administration during any fiscal year, shall not exceed two per cent (2%) of the total income of the fund for the fiscal year. Cost of administration

14303. All assets of the Public School Teachers' Retirement Salary Fund, the Public Teachers' Permanent Fund, Transfer of assets and records

and the Public School Teachers' Annuity Deposit Fund are transferred to the retirement salary fund, the permanent fund, and the annuity deposit fund, respectively. All records of the Public School Teachers' Retirement Salary Fund Board are transferred to the retirement system. Such assets and records as are transferred, shall be held for the same purpose under the retirement system as under the fund or board from which they were transferred, and beneficiaries nominated in the records shall continue unchanged until changed pursuant to this chapter.

Article 3. Retirement Board

Teachers Retirement Board

14321. The retirement system shall be managed, except for the investment of the funds, by the Teachers Retirement Board, the members of which shall be the members of the State Board of Education and the appointive members of the Retirement Investment Board. The president and secretary of the State Board of Education shall be the president and secretary, respectively, of the retirement board. Members of the board shall serve without compensation but shall be entitled to reimbursement of any traveling expenses incurred in connection with membership on the retirement board.

Powers

14322. The retirement board has the sole power and authority to hear and determine all facts pertaining to application for benefits under the retirement system, or any matters pertaining to administration thereof, except as to investment of funds. The retirement board shall meet at least once every three months. The board, however, may authorize its secretary to perform routine acts, such as retirement of members and fixing of retirement allowances, necessary in the administration of the system in accordance with the provisions of this chapter and rules and regulations adopted by the board.

Review of secretary's action

14323. Acts of the secretary shall be reported forthwith to members of the board, and shall be subject to review and ratification by the board at its next meeting. Reversal by the board of any act of the secretary shall be effective on the date fixed by the board, but payment, prior to the board's action, of benefits shall not be affected by such action, except for such recovery as the board may direct of the amounts paid, from the beneficiary receiving the amounts.

Interest rate

14324. The retirement board shall credit contributions of the members of the retirement system to the annuity deposit fund, with interest at a rate to be declared annually by the board. Interest credited for any year shall not exceed the interest earned on the fund during the year. Earned interest not credited to contributions shall remain in the fund as a reserve against deficiencies in interest earned in other years, losses under investments, and other contingencies.

Mortality tables

14325. The board shall adopt upon the recommendation of a qualified actuary, such mortality and other tables and inter-

est rate as are necessary (a) to determine the annuity which is the actuarial equivalent of the accumulated annuity deposits of members and (b) to permit valuation of the assets and liabilities of the system.

Actuarial investigation

14326. The board shall keep in convenient form such data as is necessary for the actuarial valuation of the retirement system. In not to exceed six-year periods after June 30, 1935, the board shall make an actuarial investigation into the mortality, service, and other experience of members and beneficiaries and shall make an actuarial valuation of the assets and liabilities of the retirement system. From time to time, the board shall determine the rates of interest being earned on the several funds. Upon the basis of any or all of such investigation, valuation, and determination, the board shall adopt for the retirement system such interest rates, mortality, service, and other tables as are deemed necessary. No action of the board, other than correction of errors in calculating the annuity at the time of retirement, shall change the annuity payable to a person retired prior to the date the action is taken.

Interest rates

(Amended by Stats. 1943, Ch. 364.)

[ORIGINAL SECTION]

14326. The board shall keep in convenient form such data as is necessary for the actuarial valuation of the retirement system. In not to exceed six-year periods after June 30, 1935, the board shall make an actuarial investigation into the mortality, service, and other experience of members and beneficiaries and shall make an actuarial valuation of the assets and liabilities of the retirement system. From time to time, the board shall determine the rates of interest being earned on the several funds. Upon the basis of such investigation, valuation, and determination, the board shall adopt for the retirement system such interest rates, mortality, service, and other tables as are deemed necessary. No action of the board, other than correction of errors in calculating the annuity at the time of retirement, shall change the annuity payable to a person retired prior to the date the action is taken.

Records and accounts

14327. In addition to other records and accounts, the board shall keep such records and accounts as are necessary to show at any time:

(a) The total permanent fund contributions of members.

(b) The total accumulated annuity deposits of members.

(c) The total accumulated annuity deposits of retired members less the annuity payments made to the members.

(d) All other accumulated contributions in the permanent fund.

(e) Cash in the retirement salary fund.

Determination of service

14328. The board shall determine the service rendered by members to be credited toward qualification for retirement, and shall fix retirement allowances and modify the allowances.

Minimum time

14329. The board shall fix the minimum time per day, per month, and per year, upon the basis of which one year of service and proportionate parts thereof are credited to members.

Witnesses

14330. The board shall subpena witnesses and compel their attendance to testify before it, and each member and

the secretary of the board may administer oaths and affirmations to witnesses and others transacting business of the retirement system.

Employing agencies

14331. The board shall regulate the duties of employing agencies and other public authorities, imposed upon them by this chapter, and shall require reports from the employing agencies and authorities as it deems advisable in connection with the performance of the duties.

Administration

14332. The board shall perform any other acts necessary for the administration of the retirement system in carrying into effect the provisions of this chapter. Any rules and regulations adopted by the board for the purpose of the administration, and not inconsistent with the provisions of this chapter, shall have the force and effect of law.

Computation of time

14333. In the computation of the service to be credited to a member for the purpose of determining whether the member qualifies for retirement and for the purpose of determining the amount of permanent fund contributions to be required of the member, time shall be included pursuant to Sections 14334 to 14346, inclusive.

Status requisite for membership

14334. The member shall receive credit for time served, as a member or prior to becoming a member, in a status requisite for membership in the retirement system or its predecessor.

Prior service

14335. The member shall receive credit for time served in a status prior to the date the status is made requisite to membership, whether under the California Public School Teachers' Retirement Salary Fund or this retirement system.

State Employees' Retirement System

14336. The member shall receive credit for time during which he is a member of the State Employees' Retirement System and during which he serves in a status requisite for membership in the California State Teachers' Retirement System or its predecessors, if he subsequently ceases to be a member of the State Employees' Retirement System and becomes a member hereof.

Subsequent qualification of position

14337. The member shall receive credit for time served in a position in which, without a change in duties attached thereto, he subsequently qualifies as being in a status requisite to membership.

Public calamity

14338. The member shall receive credit for time during which he is prevented from rendering service in a status requisite for membership, by act of God, or by reason of the closing of a school by any duly authorized officer or body because of epidemic or any other reason.

Leave of absence

14339. The member shall receive credit for time spent by him on leave of absence for which he receives compensation from a school district or other employing agency, or from any insurance carrier of any school district or other employing agency, but time after termination of membership shall not be credited, regardless of whether compensation from an insurance carrier continues.

Service in armed forces

14340. The member shall receive credit for time during which he serves in the active military service of the United States or of the State including active service in any uniformed auxiliary of, or to, any branch of such military service created or authorized as such auxiliary by the Congress of the United States of America or by the Legislature of the State of California, or in the full time paid service of the American Red Cross, during war with any foreign power or during other National emergency, if he was employed in a status requisite for membership, or in a status, time served in which is included in this chapter, within one year prior to entering such service. Time during which a member for other cause, is absent without compensation, on leave or otherwise, shall not be included except as provided in Section 14338. Time included under this section shall be considered as served in the State in which the member was last employed before entering such service.

(Amended by Stats. 1943, Ch. 813.)

[ORIGINAL SECTION]

14340. The member shall receive credit for time during which he serves in the armed forces of the United States or of the State, or in the medical, nursing, or ambulance service of the American Red Cross, during war with any foreign power or during other National emergency, if he was employed in a status requisite for membership, or in a status, time served in which is included in this article, within one year prior to entering such forces. Time during which a member for other cause, is absent without compensation, on leave or otherwise, shall not be included except as provided in Section 14338. Time included under this section shall be considered as served in the State in which the member was last employed before entering such forces.

Exchange teacher

14341. He shall receive credit for time served in a status which in this State is requisite for membership, in other States of the United States and its Territories and possessions and in Canada, and time served as an exchange teacher in any location.

Colleges and university

14342. He shall receive credit for time served in teaching positions in publicly supported universities or colleges in the United States and its Territories and possessions and in Canada. Retirement salaries payable to persons retired after July 1, 1937, and prior to September 13, 1941, shall be adjusted upon the request of the persons, to the provisions of this section, effective on the first day of the month in which the requests are received at the office of the retirement system in Sacramento.

Schools supported by United States

14343. He shall receive credit for time served in teaching positions in schools supported by the United States Government.

California Schools for Deaf and Blind

14344. Members who are employed in the California School for the Deaf or the California School for the Blind, or in special classes maintained by the public schools of this State, for the instruction of the deaf, the hard of hearing, the blind, or the semisighted shall receive credit for time served in publicly supported residential schools for the deaf and blind outside this State.

Night schools

14345. The member shall receive credit for time served in a night school in exactly the same manner as time served in a day school.

Method of computation

14346. Service shall be computed by school years and not by calendar years, portions of years served in completed months being accumulated and counted as service. All of the service rendered in any one school year shall not count for more than one year, and the total service credited shall be taken to the next lower completed quarter year of total time served. No time shall be included for which, or on the basis of which, a member is entitled to receive a pension for other than naval or military service from any source other than this system or a local fund.

Article 4. Establishment and Control of Funds.

Funds

14361. There are three funds in the State Treasury:

(a) Teachers' Permanent Fund derived from contributions provided in Sections 14431, 14458, and 14459, together with interest earned thereon.

(b) Teachers' Annuity Deposit Fund derived from contributions provided in Section 14436, together with interest earned thereon.

(c) Teachers' Retirement Salary Fund derived from funds transferred from time to time from the permanent fund and the annuity deposit fund.

The funds shall also include donations, legacies, gifts, and bequests made thereto and accepted by the retirement board and any appropriations made thereto by the State Legislature in addition to amounts provided in this chapter.

Disbursements

14362. Disbursements of money under the retirement system, of whatever nature, shall be made upon claims duly audited in the manner prescribed for disbursement of other public funds. Except disbursements made in the purchase of securities and payment of administrative costs, disbursements shall be made from the retirement salary fund.

Transfers

14363. The amount to be disbursed at any time from the retirement salary fund which is derived from the permanent fund or the annuity deposit fund shall be transferred from such funds, respectively to the retirement salary fund. Refunds of amounts expended and amounts derived from canceled warrants or other instruments, shall be deposited in the State Treasury directly to the credit of the retirement salary fund and transferred forthwith into the fund, either the permanent fund or the annuity deposit fund, from which the amount was originally derived.

Signatures

14364. The retirement board may authorize the transfer and disbursement of funds upon the signature of either or both its president and secretary, or, in the absence of the secretary, an officer or employee of the system designated by the secretary.

Annual accumulation

14365. It is declared to be the intention of this chapter that there shall be an annual accumulation of funds amounting to ten thousand dollars ($10,000) per year in the permanent fund, and no transfer of moneys derived from any source shall be made which interferes with or prevents the annual accumulation of moneys in the permanent fund to that extent.

Deposit

14366. Money except interest and other income from investments, in whatever form, received by the State Treasurer for the funds, shall be reported forthwith by him to the retirement board, and the money together with money received direct by the board shall be deposited forthwith by the board in the State Treasury to the credit of the proper fund. Interest, and other income derived from securities, in the respective funds shall be collected by the State Treasurer, deposited to the credit of the respective funds, and reported forthwith to the board.

Retirement Investment Board

14367. There is a Retirement Investment Board consisting of the State Superintendent of Public Instruction, the State Director of Finance, the State Controller, and two teachers appointed by the State Board of Education for four-year terms. The State Board of Education shall fill each vacancy in the four-year terms by appointing a teacher to serve the unexpired portion of the term in which the vacancy occurs. The investment board shall annually elect two of its members as president and secretary, respectively. Actual expenses incurred by members of the board by reason of attending meetings thereof, shall be paid from the permanent fund.

Powers

14368. The Retirement Investment Board shall have exclusive control of the investment of the permanent fund and the annuity deposit fund, including the purchase of securities and the sale thereof. Investments shall be confined to securities approved in this State for the investment of funds of savings banks.

Purchase of securities

14369. The board may appoint a committee composed of one or more of its members, which may purchase securities in the open market from time to time as cash becomes available for investment, from a list of securities previously approved by the board according to title or source of issue. Purchases of securities by the committee shall be reported forthwith to the other members of the Retirement Investment Board.

Administration of funds

14370. The retirement board shall have exclusive control of the administration of the funds, except as to the purchase and sale of securities, and custody thereof. No transfers or disbursements, except disbursements made in the purchase of securities, of any amount from the funds shall be made except upon the authorization of the retirement board for the purpose of carrying into effect the provisions of this chapter.

Meetings

14371. The president of the Retirement Investment Board shall call at least one meeting of the board during the first

six-months period of each year and at least one meeting during the second six-months period of each year, and shall call such other meetings of the board as he deems necessary. The president of the board shall designate the time and place of each of the meetings.

Article 5. Membership in Retirement System

Members

14391. The persons enumerated in this article are members of the retirement system.

Teachers in public schools

14392. All teachers employed in the public schools of this State who have not claimed exemption, as provided by law, are members of the retirement system.

Same

14393. All teachers employed in the public schools of this State who claimed exemption but who have elected or shall elect not to be exempt, are members of the system.

Librarians

14394. Librarians employed full time in elementary or secondary schools, or who serve full time partly as librarians and partly as teachers, are members of the system.

Other employees

14395. All other employees in the public schools of this State who hold valid and unrevoked credentials issued by the State Board of Education, and who are employed for the major part of each school month in work authorized by their credentials, are members of the system.

County superintendents

14396. County superintendents, their deputies, and certificated employees under the direction of county superintendents are members of the system.

State college employees

14397. Teachers of State colleges with or without a certificate, and librarians or other employees in such institutions who are engaged in work that would make them eligible to the provisions of the retirement law if rendered in any other branch of the public school system are members of the system.

Teachers in other institutions

14398. Teachers employed by the California Polytechnic School, the Ventura School for Girls, the California School for the Deaf, the California School for the Blind, the Preston School of Industry, the Sonoma State Home, Pacific Colony, the Fred C. Nelles School for Boys, or the State Board of Education, who hold valid teacher's certificates, or a California State teacher's credential, or who hereafter secure a teacher's certificate valid in this State, or a State teacher's credential are members of the system.

Teachers in training schools

14399. Teachers of elementary or secondary school pupils in a training school connected with State colleges in this State or with the University of California or any branch thereof, or supervisors of practice teaching in the University of California or any branch thereof are members of the system.

Staff of Los Angeles State Normal School

14400. Members of the staff of the Los Angeles State Normal School who continued as members of the faculty of the southern branch of the University of California on June 25, 1919, and who were entitled to the benefits of and subject to the provisions of an act entitled "An act to provide for the payment of retirement salaries to public school teachers of this State; creating a Public School Teachers Retirement

Stats 1913, p 1423

Salary Fund, and also a Public School Teachers Permanent Fund, providing for the administration of such funds, and making an appropriation for the use of said fund," approved June 16, 1913, as amended, and who elected to continue under the provisions of the act, on or before December 31, 1923, as provided by law, are members of the system.

Employees of State Board and Department of Education

14401. Persons employed by the State Board or State Department of Education, who hold a valid credential issued by the board and who render service of an educational nature are members of the system.

Article 6. Exclusion from Retirement System

Excluded classes

14411. The following persons are excluded from membership in the retirement system:

(a) Any person who shows to the satisfaction of the board, that he will be unable, by reason of the nature of his services, to become eligible to benefits thereunder.

(b) Persons employed in a status requisite for membership, but who are now or hereafter become members of the State Employees' Retirement System or any other retirement system, and receive credit thereunder for service which would be credited hereunder to a member, except a local fund supported by a local district for the purpose of supplementing the retirement allowance payable under this chapter. A member whose membership is terminated by this subdivision shall be considered, solely for the purpose of Section 14491, as ceasing to be employed in a status requisite to membership.

(c) Persons serving as exchange teachers from outside of this State.

(d) Persons employed on a substitute basis, who are not already members when they become employed and who according to the best judgment of their employer, will not render at least five months of service during the school year. If such persons subsequently enter a status requisite for membership, they shall be credited with service rendered in the substitute status, subject to the board's rule fixing minimum service required for credit.

(Amended by Stats. 1943, Ch. 364.)

[ORIGINAL SECTION]

14411. The following persons are excluded from membership in the retirement system:

(a) Any person who shows to the satisfaction of the board, that he will be unable, by reason of the nature of his services, to become eligible to benefits thereunder.

(b) Persons employed in a status requisite for membership, but who are now or hereafter become members of the State Employees' Retirement System or any other retirement system, and receive credit thereunder for service which would be credited hereunder to a member, except a local fund supported by a local district for the purpose of supplementing the retirement allowance payable under this chapter. A member whose membership is terminated by this subdivision shall be considered, solely for the purpose of Section 14491, as ceasing to be employed in a status requisite to membership.

(c) Persons serving as exchange teachers from outside of this State.

(d) Persons employed on a substitute basis, who are already members when they become employed and who according to the best judgment of their employer, will not render at least five months of service during the school year. If such persons subsequently enter a status requisite for membership, they shall be credited with service rendered in the substitute status, subject to the board's rule fixing minimum service required for credit.

Article 7. Information as to Status

Notice of change

14421. Each county superintendent of schools shall give immediate notice in writing to the retirement board of the employment, death, resignation, or discharge of any person employed in a status requisite to membership in the system, by the county or by a school district in the county. Likewise every other employing agency shall give similar notice with respect to each person employed by it in a status requisite to membership in the retirement system. The county superintendent of schools and other employing agencies shall furnish such further information concerning any member or beneficiary as the board may require.

Failure to file information

14422. The county superintendent of schools or other employing agency shall withhold the salary of any member who fails to file information required by the retirement board in the administration of the retirement system, or to pay amounts due from the member to the retirement system. The salary shall be withheld by the county superintendent of schools or employing agency upon his own knowledge, if any, of the failure or upon notice from the retirement board of the failure of the teacher to file or pay. The salary shall be withheld and not released until notice is given by the retirement board to the county superintendent of schools or employment agency, or until the county superintendent of schools or agency knows otherwise, that the information has been filed or the payment has been made.

Performance of duties

14423. County superintendents of schools, school districts, and other employing agencies shall also perform the duties imposed upon them in other sections of this chapter and by the retirement board.

Persons subject to chapter

14424. Each member and beneficiary is subject to all the provisions of this chapter and to all the rules and regulations adopted by the retirement board not inconsistent with the provisions of this chapter.

Information by member or beneficiary

14425. Each member and beneficiary shall furnish to the board such information affecting his status as a member or beneficiary of the system, as the board requires. Particularly, each member shall file a statement with the retirement board, at the option of, and upon the form furnished by, the board, giving:

(a) His date of birth.

(b) All service previously rendered by him in a status requisite to membership in the retirement system or its predecessor.

(c) The beneficiaries under the retirement system to receive any benefits, including retirement allowances accrued but not

received prior to death, payable upon the death of the member or beneficiary.

Confidential records

14426. Data filed by any member or beneficiary with the retirement board is confidential, and no individual records shall be divulged by any official or employee who has access to them. They shall be used by the retirement board for the sole purpose of carrying into effect the provisions of this chapter. The information shall not be open to inspection by anyone except the retirement board and its officers and employees, and any person authorized by the Legislature to make inspections. The retirement board, upon the request of the governing board of any school district, may furnish to the board, the date of birth as shown on the records of the retirement system, of any member employed by the governing board.

Termination of membership

14427. If a member dies or is retired, or if he withdraws his contributions upon termination of service in a status requisite for membership, he shall cease to be a member.

Article 8. Contributions

Normal contributions

14431. Each member of the retirement system shall contribute twenty-four dollars ($24) for each year of service or fraction thereof, credited to him under the system, but contributions shall not be required for more than 30 years of service rendered prior to July 1, 1935, contributions already made being adjusted by the retirement board. The retirement board by rule may provide that members employed on a part time or substitute basis shall not be required to contribute for months during which they serve less time than that required for credit for service of one month, as fixed by the retirement board.

Time of payment

14432. Contributions shall be made as service is rendered, being deducted from each salary payment in an amount determined by dividing twenty-four dollars ($24) by the number of salary payments normally to be made throughout the entire school year to members who are in service, without interruption. The retirement board by rule may modify the method of determining the amount of contributions to be deducted from each salary payment, if a member be employed on a substitute or part time, basis or if the service of a member is interrupted by absence without compensation.

(Amended by Stats. 1943, Ch. 813.)

[ORIGINAL SECTION]

14432. Contributions shall be made as service is rendered, being deducted from each salary payment in an amount determined by dividing twenty-four dollars ($24) by the number of salary payments normally to be made throughout the entire school year to members who are in service, without interruption. The retirement board by rule may modify the method of determining the amount of contributions to be deducted from each salary payment, if the service of a member is interrupted by absence without compensation.

Service outside State

14433. Any person to whom service rendered outside of the State after January 1, 1914, is credited and any person who has claimed exemption from the provisions of the

retirement system or its predecessor or who was a member of the State Employees' Retirement System while serving in a status requisite for membership in this retirement system or its predecessor, and who later becomes subject to its provisions, shall pay, in addition to the twenty-four dollars ($24) for each year of credited service rendered outside the State or while exempt or while a member of any other system, interest at the rate of 5 per cent per annum on the amount which would have been contributed had he been a member of the retirement system when the service was rendered. Interest shall begin on the first day of July next following the end of the school year in which the service was rendered, and shall end upon the date of retirement. Contributions for years prior to July 1, 1935, shall carry interest on only twelve dollars ($12) per year.

(Amended by Stats. 1943, Ch. 364.)

[ORIGINAL SECTION]

14433. Any person by whom service is rendered outside of the State after January 1, 1914, shall be credited and any person who has claimed exemption from the provisions of the retirement system or its predecessor or who was a member of the State Employees' Retirement System while serving in a status requisite for membership in this retirement system or its predecessor, and who later becomes subject to its provisions, shall pay, in addition to the twenty-four dollars ($24) for each year of credited service rendered outside the State or while exempt or while a member of any other system, interest at the rate of 5 per cent per annum on the amount which would have been contributed had he been a member of the retirement system when the service was rendered. Interest shall begin on the first day of July next following the end of the school year in which the service was rendered, and shall end upon the date of retirement. Contributions for years prior to July 1, 1935, shall carry interest on only twelve dollars ($12) per year.

Service prior to July 1, 1935

14434. Every person who is retired and who at the time of retirement is not credited with twenty-four dollars ($24) as a contribution to the permanent fund for each year of service credited to him, not to include over 30 years of service rendered prior to July 1, 1935, shall pay to the retirement system such additional amount as is necessary to bring the contributions credited to him up to twenty-four dollars ($24) for each year of credited service, but not to include over 30 years of service rendered prior to July 1, 1935.

Method of payment

14435. The additional amount or the balance of it remaining unpaid at any time, may be paid in one sum by him or in installments as a deduction, at the rate of five dollars ($5) per month, from the retirement allowance payable, if he was retired with 30 or more years of service, or at the rate of four dollars ($4) per month if he was retired with less than 30 years of service. Until that part of the contributions in arrears, including interest, which is due from persons retired, because of exemption from the provisions of the retirement system or its predecessor, or because of service outside the State, is paid, the monthly installments shall be fifteen dollars ($15) and twelve dollars ($12), respectively.

Contributions to annuity fund

14436. Each person who has become a member of the retirement system on or after July 1, 1935, and who is not required

as a condition of employment, to contribute to a local fund, shall contribute to the annuity deposit fund, 4 per cent of each salary payment received by him, less the contribution required as a deduction from the salary payment for the permanent fund.

Election

14437. Each person who was required to contribute, even though no contributions were made, to the Public School Teachers' Permanent Fund on or before June 30, 1935, and any member who is required as a condition of employment to contribute to a local fund, may at his option elect to contribute 4 per cent of each salary payment received by him, less the contribution required as a deduction from the salary payment for the permanent fund.

Annual contributions

14438. Likewise any member who contributes to the annuity deposit fund at the rate provided, may at his option elect to contribute to the fund, an additional percentage of each salary payment received by him, his total annuity deposit then being the additional percentage plus said 4 per cent of the salary payment, less the contribution required as a deduction therefrom for the permanent fund. A member may at his option elect to cease contributing the additional percentage.

Cessation of contributions

14439. Any member who makes contributions to the Annuity Deposit Fund while employed in a status which is not subject to a local fund, and who thereafter is employed by a local district which, as a condition of employment, requires contributions to a local fund, may elect to cease contributing to that fund, even though he is excluded from the local fund. Accumulated annuity deposits standing to the credit of his individual account, because of service upon the basis of which he will receive a benefit from the local fund, shall be refunded to him upon his request filed with the retirement board within two years after he becomes a member of the local fund. Otherwise, accumulated annuity deposits standing to the credit of his individual account shall remain credited and shall not be refunded except as provided elsewhere.

(Amended by Stats. 1943, Chs. 364 and 813.)

[AS AMENDED BY STATS. 1943, CH. 364]

14439. Any member who makes contributions to the Annuity Deposit Fund and who is employed by a local district which as a condition of employment, requires contributions to a local fund, may elect to cease contributing to that fund, even though he is excluded from the local fund. Accumulated annuity deposits standing to the credit of his individual account, because of service upon the basis of which he will receive a benefit from the local fund, shall be refunded to him upon his request filed with the Retirement Board within two years after he becomes a member of the local fund. Otherwise, accumulated annuity deposits standing to the credit of his individual account shall remain credited and shall not be refunded except as provided elsewhere.

[ORIGINAL SECTION]

14439. Any member who makes contributions and who is employed by a local district which, as a condition of employment, requires contributions to a local fund, may elect to cease contributing, even though he is excluded from the local fund. Accumulated annuity deposits standing to the credit of his individual account, because of service upon the basis of which he will

receive a benefit from the local fund, shall be refunded to him upon his request filed with the retirement board within two years after he becomes a member of the local fund. Otherwise, accumulated annuity deposits standing to the credit of his individual account shall remain credited and shall not be refunded except as provided elsewhere.

Effective date of election

14440. Any election shall be by written notice to the retirement board, consenting and agreeing to the deduction and stating the month with which the deduction shall commence, and an election to contribute 4 per cent shall be irrevocable. The month shall be any month from September, 1935, to June, 1937, inclusive, with which the deduction began, but otherwise it shall not be earlier than the month next following the month in which the written notice is executed. If no month is entered in the notice, or if the month entered is earlier than the month next following the month of execution, the member shall be considered as having stated that the deduction shall commence with the month next following the execution.

Deduction from salary

14441. Contributions required of a person to the annuity deposit fund shall be deducted from each salary payment in the manner prescribed in this article. Annuity deposit contributions shall not be deducted from salary payments to any member employed as a part time or substitute employee, from which permanent fund contributions are not deducted by provisions of this chapter or by rule of the board. Every person accepting employment who is required to contribute shall be deemed to consent and agree to the deduction of the annuity deposits from his salary payments.

Same

14442. Notwithstanding any other law, rule, or regulation affecting the salary, pay, compensation, other prerequisites, or tenure of any person to whom this chapter applies, and notwithstanding that the minimum salary, pay, compensation, or other prerequisites, provided by law for such person shall be reduced thereby, payment less the contributions required by this article shall be in full and complete discharge and acquittance of all claims and demands whatsoever for service rendered by the teacher during the period covered by the payment, except his claim to benefits to which he may be entitled.

Report of amount of contributions

14443. The governing board of each school district shall draw an order for the amount of salary payments due, from time to time, to the respective members employed by the board, less the amount of contributions required to be deducted from the payments, and shall inform the county superintendent of schools of the amount of the contributions.

Transfer of deductions

14444. The county superintendent of schools at the close of each month shall draw requisitions against the funds of the respective school districts and in favor of the teachers' permanent fund and teachers' annuity deposit fund, which are continued in existence in each county treasury, for amounts equal to the total of contributions deducted during the month for the permanent fund and annuity deposit fund, respectively. The amounts shall be deposited in the county treasury to the credit of the respective funds.

14445. The county superintendent of schools may draw requisitions in the same manner to transfer contributions deducted from salary payments earned prior to July 1, 1937, from funds of school districts to the permanent fund and annuity deposit fund. Same

14446. The county superintendent of schools shall deduct from salary payments due, from time to time, to the respective members employed by him, the contributions required and at the close of each month shall draw requisitions against the funds from which the salaries were paid and in favor of the permanent and annuity funds, respectively, for amounts equal to the total of the contributions deducted during the month for the permanent fund and annuity deposit fund, respectively. The amounts shall be deposited in the county treasury to the credit of the respective funds. Same

14447. The county auditor shall deduct from salary payments due, from time to time, to the respective members employed by the county, the contributions required and at the close of each month shall transfer in the county treasury from the funds from which the salaries were paid, to the permanent and annuity deposit funds, respectively, amounts equal to the total of the contributions deducted during the month for the permanent fund and annuity deposit fund, respectively. Same

14448. The county superintendent of schools in each January and July shall issue a receipt for the contributions to each member from whose salary payments the deductions were made during the six months immediately preceding. The retirement board may issue to each member, after the close of the school year in lieu of such receipt, either one receipt for all contributions deducted from his salary during the year or a statement of his individual account. Members' receipts

14449. In January and July of each year, or in each month at the option of the retirement board, the county superintendent of schools shall draw his requisition against the county auditor, and the requisition when allowed and signed by the county auditor shall constitute a warrant against the county treasurer, for the amount of contributions deducted from members' salary payments during the six calendar months or month, as the case may be, immediately preceding. The county auditor thereupon shall forward the warrant to the office of the retirement board in Sacramento. Payment of contributions

14450. The requisition of the county superintendent of schools drawn in January and July, or beginning with the report for the 12 months ending June 30, 1943, only in July at the option of the retirement board, shall be accompanied by a report giving the names of the members from whose salary payments contributions were deducted during the preceding six or 12 months, as the case may be, the amount of the contributions in the case of each member, and such other information as the board may require. The original copy of the report shall be sent by the county superintendent of Report

schools to the retirement board. If monthly requisitions are required, the reports may at the option of the board be required monthly.

(Amended by Stats. 1943, Ch. 813.)

[ORIGINAL SECTION]

14450. The requisition of the county superintendent of schools drawn in January and July shall be accompanied by a report giving the names of the members from whose salary payments contributions were deducted during the preceding six months, the amount of the contributions in the case of each member, and such other information as the board may require. The original copy of the report shall be sent by the county superintendent of schools to the retirement board. If monthly requisitions are required, the reports may at the option of the board be required monthly.

Payment by other employing agencies

14451. Employing agencies other than school districts or counties shall deduct from each salary payment due, from time to time, to the respective members employed by them, the contributions required, and shall remit in January and July of each year, or in each month at the option of the retirement board, to the retirement board, in a form satisfactory to it, the contributions deducted during the six calendar months or month, as the case may be, immediately preceding. The remittances shall be accompanied by a report in the manner required of the county superintendent.

Deposit

14452. The amounts received shall be deposited forthwith by the retirement board in the State Treasury to the credit of the permanent fund or the annuity deposit fund respectively.

Pay roll

14453. The retirement board at its option and in lieu of all or part of the method of collecting members' contributions provided in this article, may require any county, city, city and county, or district superintendent of schools, any governing board of a school district, or any disbursing officer of any other employing agency, to furnish the board with a copy of every pay roll of the school district or other employing agency. The pay roll shall show for the period covered thereby and for each person employed by the district or other employing agency during the period the time served, the compensation earnable, the amount of salary earned, the contributions deducted for the permanent fund and the annuity deposit fund respectively, the net amount paid, and such other data as the board may require. The pay roll shall be verified by a duly authorized official, and shall be accompanied by a remittance to the retirement board in a form acceptable to the board, of the total of the contributions shown on the pay roll as deducted from the salary payments of members listed thereon.

Statement of contributions

14454. Upon the request of the retirement board, the county superintendent of schools or employer shall furnish the board with a statement of the amount of contributions deducted from salary payments of any member since the end of the period covered by the last report of the superintendent or employer. The retirement board may include the contributions shown in the statement, in contributions paid to the member or to a beneficiary, or used in determining the mem-

ber's status upon retirement, even though the contributions will not be received by the board until after the payment or determination.

Individual accounts

14455. Contributions made by a member shall be credited to his individual account, by the retirement board. Interest shall be credited to his individual account on the accumulated annuity deposits therein, at rates declared from time to time by the board.

Adjustment

14456. If more or less than the correct amount of the contributions is paid with respect to any salary payment, including salary payments to exchange teachers for service outside of this State, then, under rules of the retirement board, proper adjustments shall be made, without interest, in connection with subsequent salary payments, or adjustments may be made by direct cash payments between the member and the county superintendent of schools, employer, or the retirement board. Adjustments to correct any other errors in payments to or by the retirement board may be made in the same manner.

Member in armed service

14456.1. Any member of the retirement system serving in the active military service of the United States or of the State, including active service in any uniformed auxiliary of, or to, any branch of such military service created or authorized as such auxiliary by the Congress of the United States of America or by the Legislature of the State of California, or in the full time paid service of the American Red Cross, during or after the termination of his service and at his option, may pay to the employing agency from the service of which he entered military service or said auxiliaries thereof, or Red Cross, such amounts as may be necessary, when added to contributions for the permanent and annuity deposit funds, deducted by the agency during his absence, to make his contributions to the permanent fund, and at his option to the annuity fund, equal to the contributions he would have made had he not been absent from the service of the employing agency. The contributions made shall be remitted to the retirement board and administered by the board in the same manner as contributions deducted from salary payments. The employing agency may at its option, make the contributions for the member, and contributions made by the agency shall be administered as if made by the member. If the member does not pay the contributions to the permanent fund during his service in the military service or said auxiliaries thereof, or Red Cross, the contributions shall be deducted from his salary payments during the 12 months next following his return to duty in a position requisite to membership in the retirement system.

(Added by Stats. 1943, Ch. 813.)

Inheritance and gift taxes

14458. Five per cent of the taxes collected during the fiscal year ending July 1, 1913, and each fiscal year thereafter under the inheritance or transfer tax laws of this State, is appropriated and set aside to constitute part of the permanent fund.

The State Controller, at the beginning of each fiscal year, shall transfer from the General Fund to the permanent fund

an amount equal to 5 per cent of the total sum paid into the State Treasury during the preceding fiscal year on account of inheritance taxes.

(Added by Stats. 1943, Ch. 84, as part of codification.)

Contributions by employing agencies

14459. Each school district or other employing agency employing one or more members of the system shall contribute semiannually to the permanent fund, six dollars ($6) for each member employed.

Service in armed forces

14460. The county superintendent of schools of each county shall certify to the retirement board, on or before the fifteenth of each April and November the number of persons who are members of the system and who appear on the last pay roll in the current school year of the respective school districts in the county, preceding the respective dates or who, and to the end of the respective periods covered by the pay rolls, were on leave of absence, serving in the armed forces of the United States or of the State.

Service in more than one district

14461. At the option of the county superintendent of schools, a member employed in more than one district in any county may be counted in each of the districts as a fraction of one determined by dividing one by the number of the districts or may be counted as one in one of the districts and the pro rata portions of six dollars ($6) transferred by the county superintendent of schools to the district from the funds of the other districts. Otherwise each of the districts shall contribute six dollars ($6).

Employees of county superintendent

14462. The county superintendent of schools shall certify likewise the number of his deputies and certificated employees who are members of the system and appear on the last pay roll in the current school year, preceding the respective dates, and shall include himself in the number.

Certificate

14463. The retirement board shall immediately transmit the certificate to the State Controller with a statement of the amount due from each school district to the permanent fund and the amount due to the fund on account of the county superintendent of schools and his deputies and certificated employees.

Deduction from State apportionment

14464. The Controller shall deduct from the apportionment of State funds payable to the county for the school districts therein in installments next following April and November, respectively, a sum equal to six dollars ($6) for each of the members as calculated by the retirement board for each school district. He shall deduct from the apportionment of the funds payable to the county for the unapportioned county elementary school fund a sum similarly calculated by the retirement board for the county superintendent of schools and his deputies and certificated employees. No payment of apportioned funds of the county shall be made until the deductions are made.

Same

14465. If the apportionment installment to any district or to the unapportioned county elementary school fund is less

than the contributions required of the district or fund, the contributions shall be deducted from the total amount of the apportionment payable to the county, and the county superintendent of schools shall transfer to the county treasurer from the funds of the district and from the unapportioned county elementary school fund such amounts as may be necessary to complete the crediting of the apportionment to the various districts and funds by the county treasurer.

Transfer

14466. The amounts deducted shall be transferred forthwith to the permanent fund, and for accounting purposes shall be included by the county superintendent of schools in his records and reports of the income and disbursements of the school districts in the same manner as if actually received and disbursed by the districts.

Employees of State agencies

14467. If the members are employed by any agency of the State, remittances to the retirement board of six dollars ($6) for each member shall be made in April and November of each year by the disbursing officer of the agency by which the members are employed. Remittances shall be made out of funds provided for the support of the agency. Amounts due the permanent fund shall be calculated on the basis of the number of members on the last pay rolls in the current school year, prior to April 15th and November 15th respectively, or who, at the end of the respective periods covered by the pay rolls, were on leave of absence, serving in the armed forces of the United States or of the State.

Adjustment

14468. If more or less than the correct amount of contribution is paid for any period, then, under rules of the retirement board, proper adjustments shall be made, without interest, in connection with subsequent deductions by the Controller, or remittances to the retirement board, or by direct cash payments between the employer and the board.

Article 9. Benefits

Cessation of employment

14491. If a person who has contributed to the retirement system ceases to be employed in a status requisite for membership in the retirement system, through a cause other than death or retirement, he shall be paid upon his request:

(a) The accumulated annuity deposits standing to the credit of his individual account, and

(b) The permanent fund contributions without interest, standing to the credit of his individual account, as having been made after July 1, 1935.

If it appears that the separation from service is permanent, the payment may be made without his request.

Reentry into system

14492. If a person who has received payment reenters a status requisite for membership in the system and becomes a member thereof, he shall thereupon repay the permanent fund contributions previously paid to him with interest at the rate of 4 per cent per annum, from the date upon which payment was made to him to the date of repayment. At his option,

he may repay accumulated annuity deposits, previously paid to him, but without interest from the date of payment. Repayment of both permanent fund contributions and accumulated annuity deposits may be made in installments in accordance with such rules and regulations as may be established by the retirement board.

Withholding payment

14493. The retirement board may withhold for one year payment of contributions upon termination of employment, if the person to whom the contributions are payable, previously had been paid contributions and had again become a member within one year after the payment.

Death benefits

14494. Upon the receipt of the proper proof of the death, before the effective date of his retirement or before the date upon which a retirement allowance shall be granted to him, whichever is the later date, of a person who has contributed to the retirement system, there shall be paid to his estate or to such person as he has nominated by written designation duly filed with the retirement board:

(a) The accumulated annuity deposits standing to the credit of his individual account, and

(b) The permanent fund contributions without interest standing to the credit of his individual account, as having been made after July 1, 1935.

Service and disability benefits

14495. Upon retirement for service or disability a person shall be entitled to the retirement allowances specified in Article 10 of this chapter.

Annuities and retirement salary prior to July 1, 1937

14496. Annuities and retirement salaries being paid, on July 1, 1937, to persons retired under the California Public School Teachers' Retirement Salary Fund Board shall be continued, subject to the provisions of this chapter. The annuities and retirement salaries, shall be paid by the retirement system. Retirement salaries being paid to persons who are credited with less than 30 years of service and are not credited with service rendered by them outside the State, shall be adjusted in such manner that retirement salaries paid to them for time after June 30, 1937, shall be in amounts at which the salaries would be fixed if credit for the service outside the State had been granted in the same manner as for persons credited with at least 30 years of service.

Revocation of nomination of beneficiary

14497. The nomination of a beneficiary under the retirement system, other than nominations under options 2 and 3 in Section 14537, may be revoked at the pleasure of the member or beneficiary making the nomination, and a different beneficiary nominated by a written instrument duly executed and filed with the board.

Payment without probate

14498. If no beneficiary is nominated or if the estate is the beneficiary, and if the estate need not be probated except for the payments due from the retirement system, all of the amount due, including retirement allowances accrued but not received prior to death, shall be paid directly without probate to the surviving next of kin of the deceased, or the guardians of the

survivors' estates, share and share alike, payment to be made in the order in which the following groups are listed:

(a) Husband or wife.
(b) Children.
(c) Father and mother.
(d) Grandchildren.
(e) Brothers and sisters.
(f) Nieces and nephews.

No payment shall be made to persons included in any of the groups if at the date of payment there are living persons in any of the groups preceding it.

Payment as discharge

14499. Payment to the persons in any group, upon receipt from the persons of an affidavit upon a form supplied by the retirement board, that there are no living individuals in the groups preceding it and that the estate of the deceased will not be probated, shall be in full and complete discharge and acquittance of the board and system on account of the death.

Payment for benefit of minor

14500. If any person entitled to a benefit from the system is a minor who has no guardian of his estate, the benefit not to exceed five hundred dollars ($500) may be paid to the person entitled to the custody of the minor to hold for the minor, upon the written statement, duly acknowledged and verified, of the person that the total estate of the minor does not exceed one thousand dollars ($1,000) in value. The payment shall be full and complete discharge and acquittance of the board and system. The person shall account to the minor for the money when the minor reaches the age of majority.

Payment to other than beneficiary

14501. The retirement board, if the whereabouts of the nominated beneficiary can not be determined, or if the beneficiary is the estate of the deceased person, or if no beneficiary is nominated, may pay to the undertaker who conducted the funeral, or to any person who, or any organization which has paid the undertaker from funds owned by the person or organization, in its discretion all or a portion of any amount payable under the retirement system, but not to exceed the funeral expenses of the deceased person, or the portion of the expenses paid by the person or organization, as evidenced by the sworn itemized statement of the undertaker, person, or organization and by such other documents as the board may require. The payment shall be full and complete discharge and acquittance of the board and system up to the amount paid.

Payments due July 1, 1937

14502. Any amount due from the retirement system on July 1, 1937, because of death, may be paid pursuant to this article, but only persons living on July 1, 1937 shall receive any part of the amount due.

Attachment, execution, assignment

14503. The right of a person to an annuity, a retirement salary, or a retirement allowance, to the return of contributions, the annuity, retirement salary, or retirement allowance itself, any optional benefit, any other right or benefit accrued or accruing to any person under this chapter, and the moneys in the fund created under this chapter shall not be subject to

execution, garnishment, attachment, or any other process whatsoever, and shall be unassignable except as in this chapter specifically provided.

(Amended by Stats. 1943, Ch. 364.)

[ORIGINAL SECTION]

14503. The right of a person to an annuity, a retirement salary, or a retirement allowance, to the return of contributions, the annuity, retirement salary, or retirement allowance itself, any optional benefit, any other right or benefit accrued or accruing to any person under this article, and the moneys in the fund created under this chapter shall not be subject to execution, garnishment, attachment, or any other process whatsoever, and shall be unassignable except as in this article specifically provided.

Hearing

14504. An applicant for a benefit may demand a hearing before the board and may be represented by counsel or by a friend. Any applicant may file an application for rehearing of any application, whether for a benefit or retirement, within thirty (30) days after written notice of the determination by the retirement board has been sent by registered mail to the applicant or his attorney of record, upon any of the following grounds:

(a) That the retirement board acted without and in excess of its powers.

(b) That the order, decision, or award was procured by fraud.

(c) That the evidence does not justify the determination of the retirement board.

(d) That the applicant has discovered new evidence material to him which he could not, with reasonable diligence, have discovered or procured at the hearing.

Finality of determination

14505. The determination of the retirement board on any application for rehearing shall be made within one hundred eighty (180) days after the filing thereof, or the application shall be deemed denied. The determination shall be final and conclusive and the retirement board shall have no jurisdiction to entertain any subsequent application regarding the same matter.

Article 10. Retirement

Application for retirement

14521. Any member may retire at his option upon written application to the retirement board, stating what time not more than 90 days subsequent to the date of execution thereof, he desires to retire if he is credited with at least 30 years of service, at least 15 of which have been served in this State, including the last 10 years of service immediately preceding retirement.

Return to service within State

14522. Any person who had been out of the public school service of this State on August 10, 1913, for two years or more, not being on leave of absence, and who was therefore not eligible to apply for retirement without further service, if he returns to the service in this State and seeks to qualify for retirement, shall be required to serve at least two years in order to qualify for retirement.

Benefits for service retirement

14523. Upon retirement for service, as provided in Section 14521, a member shall receive a retirement allowance which shall consist of:

(a) A retirement salary of fifty dollars ($50) per month; and

(b) An annuity which shall be the actuarial equivalent of his accumulated annuity deposits at the time of his retirement.

The retirement salary shall be subject to the deductions provided in Section 14435, if the person retired is not credited at the time of retirement with the total permanent fund contributions required of each member.

(Amended by Stats. 1943, Ch. 364.)

[ORIGINAL SECTION]

14523. Upon retirement for service, a member shall receive a retirement allowance which shall consist of:

(a) A retirement salary of fifty dollars ($50) per month; and

(b) An annuity which shall be the actuarial equivalent of his accumulated annuity deposits at the time of his retirement.

The retirement salary shall be subject to the deductions provided in Sections 14434 and 14435, if the person retired is not credited at the time of retirement with the total permanent fund contributions required of each member.

Disability retirement

14524. Any member who is credited with 15 but less than 30 years of service, at least 15 of which have been served in this State, including the last 10 years of service immediately preceding retirement, and who by reason of bodily or mental infirmity becomes incapacitated for further service, may be retired by the retirement board upon his application stating what time not more than 90 days subsequent to the execution of the application, he desires to retire, or upon the application of his employer. Retirement shall not be made except upon the basis of competent medical opinion secured by the retirement board.

Retirement for age

14525. Any member who applies for retirement after attaining an age at which the classification of persons as permanent employees of school districts ceases and who at the time is credited with 10 or more but less than 30 years of service, the last four years of which have been served in this State, shall, for the purposes of this chapter, be deemed to be incapacitated for further service and shall be retired upon his application stating what time, not more than 90 days subsequent to the execution of the application, he desires to retire.

Any such member who, at the time of the application, is with 30 or more years of service, the last four years of which have been served in this State, shall be retired under Section 14521, upon his application stating what time, not more than 90 days subsequent to the execution of the application, he desires to retire.

Benefits for disability retirement

14526. Upon retirement for disability, as provided in Sections 14524 and 14525, a member shall receive a retirement allowance which shall consist of:

(a) A retirement salary payable monthly in an amount which bears the same ratio to fifty dollars ($50) as the years

of service credited to the member, not to exceed thirty (30) years, bears to thirty (30) years; and

(b) An annuity which shall be the actuarial equivalent of his accumulated annuity deposits at the time of his retirement.

The retirement salary herein provided shall be subject to the deductions provided in Section 14435, if the person retired is not credited at the time of retirement with the total permanent fund contributions required of each member.

(Amended by Stats. 1943, Ch. 364.)

[ORIGINAL SECTION]

14526. Upon retirement for disability, a member shall receive a retirement allowance which shall consist of:

(a) A retirement salary payable monthly in an amount which bears the same ratio to fifty dollars ($50) as the years of service credited to the member, not to exceed thirty (30) years, bear to thirty (30) years; and

(b) An annuity which shall be the actuarial equivalent of his accumulated annuity deposits at the time of his retirement.

The retirement salary herein provided shall be subject to the deductions provided in Sections 14434 and 14435, if the person retired is not credited at the time of retirement with the total permanent fund contributions required of each member.

Failure to complete documents

14527. Failure of a member to complete the documents required for retirement, within 90 days after receipt of the application for retirement, in the office of the retirement board in Sacramento, shall make the application null and void.

Broken service

14528. The last 10 years of service in this State immediately preceding retirement, as required in Sections 14521 and 14524, may be broken by periods of absence from service, or by periods of service in universities, colleges, or private schools within this State, or by service outside of this State during a year in which the person has served the minimum time required for a year of service in this State, or by a year of service outside this State if 10 of the 11 final years of service have been in this State.

(Amended by Stats. 1943, Ch. 364.)

[ORIGINAL SECTION]

14528. The last 10 years of service in this State immediately preceding retirement, may be broken by periods of absence from service, or by periods of service in universities, colleges, or private schools within this State, or by service outside of this State during a year in which the person has served the minimum time required for a year of service in this State, or by a year of service outside this State if 10 of the 11 final years of service have been in this State.

Time of application

14529. Application for retirement shall be made within two years after the last day of service, or at any time during a leave of absence or renewal thereof if the person left service on such leave of absence duly granted by a governing board of a school district or other authority employing him, or within six months after the appointment of a guardian of a member whose right to apply for retirement has otherwise lapsed, or who is determined to the satisfaction of the retirement board to have been mentally incompetent at the time of lapsing.

(Amended by Stats. 1943, Ch. 364.)

[ORIGINAL SECTION]

14529. Application for retirement shall be made within two years after the last day of service, or at any time during a leave of absence or renewal thereof if the person left service on any leave of absence duly granted by a governing board of a school district or other authority employing him, or within six months after the appointment of a guardian of a member whose right to apply for retirement has otherwise lapsed, or who is determined to the satisfaction of the retirement board to have been mentally incompetent at the time of lapsing.

Lapsed rights

14530. After the right to apply for retirement has lapsed the right may be reestablished only by service in a status requisite for membership, of not less than two months.

Referees

14531. The retirement board may appoint one or more referees in any proceeding, as it may deem necessary or advisable, and may refer matters arising out of the same proceeding to different referees. The referees shall be chosen from the members of the retirement board or from the employees of the Department of Education and the retirement system. The duties of the referees shall be considered as a part of the routine duties attached to the postions regularly occupied in the service by the members of the board or employees chosen. Before entering upon his duties, the referee shall be sworn, before an officer authorized to administer oaths, faithfully and fairly to hear and determine the matters and issues referred to him, to make just findings, and to report according to his understanding. The referee shall report his findings in writing to the retirement board within 30 days after the testimony is closed.

Cessation of allowance

14532. If any person retired pursuant to this article is reemployed, after complying with the requirements in Section 14536, in a status requisite to membership in the retirement system or in any teaching capacity in a public school, or if any person is retired for disability and recovers from the disability for which he was retired, his retirement allowance shall cease.

(Amended by Stats. 1943, Ch. 364.)

[ORIGINAL SECTION]

14532. If any person retired pursuant to this article is reemployed in a status requisite to membership in the retirement system or in any teaching capacity in a public school, or if any person is retired for disability and recovers from the disability for which he was retired, his retirement allowance shall cease.

Medical examination

14533. The retirement board may require any beneficiary who has been retired for disability to undergo a medical examination. If the examination, together with other available information, shows to the satisfaction of the retirement board that the disability for which he was retired no longer exists, his retirement allowance shall cease.

Accounting

14534. Upon cancellation of the retirement allowance, the person's individual account shall be credited with his accumulated annuity deposits as it was at the time of retirement, less the annuity received by him and plus interest credited to the accumulated annuity deposits after retirement, and the individual account shall be credited with the permanent fund contributions made by him prior to or after retirement.

Reentry into service not requisite for membership

14535. If the person does not reenter service in a status requisite to membership in the retirement system, then the accumulated annuity deposits which otherwise would have been credited to the individual account shall be paid to him.

Reemployment

14536. Except as otherwise provided in this section, no person retired for service shall accept employment in a status requisite for membership in the retirement system, or in any teaching capacity in a public school, within two years after the effective date of retirement, and in any event not until after notifying the retirement board at its office in Sacramento, and if retirement is for disability, until the board has determined by medical examination, that he has recovered from the disability for which he was retired. If any person fails to comply with these requirements, the employment shall be invalid. At any time prior to July 1, 1945, or prior to the termination of the war in which the United States of America is now engaged, whichever is the earlier, any person heretofore or hereafter retired under Section 14521 hereof and any person heretofore or hereafter retired under Section 14525 hereof after attaining an age at which the classification of persons as permanent employees of school districts ceases and who was not otherwise retired under said section because of bodily or mental infirmity may, after giving notice to the retirement board at its office in Sacramento, accept employment in any status requisite for membership in the retirement system or in any teaching capacity in a public school.

(Amended by Stats. 1943, Ch. 49.)

[ORIGINAL SECTION]

14536. No person retired for service shall accept employment in a status requisite for membership in the retirement system, or in any teaching capacity in a public school, within two years after the effective date of retirement, and in any event not until after notifying the retirement board at its office in Sacramento, and if retirement is for disability, until the board has determined by medical examination, that he has recovered from the disability for which he was retired. If any person fails to comply with these requirements, the employment shall be invalid.

Annuity options

14537. Any person retired pursuant to this article may elect to receive the actuarial equivalent as of the date of retirement, of his annuity in a reduced annuity, payable throughout life with the provision that:

Option 1. If he dies before he has received in annuity payments the present value of his annuity as it was at the time of his retirement, the balance shall be paid to his estate or to such person as he has nominated by written designation duly executed and filed with the board; or

Option 2. Upon his death, his reduced annuity shall be continued throughout the life of and paid to such person as he has nominated by written designation duly executed and filed with the board at the time of his election; or

Option 3. Upon his death, one-half of his reduced annuity shall be continued throughout the life of, and paid to such person as he has nominated by written designation duly executed and filed with the board at the time of his election.

He may revoke or change any previous election prior to its approval.

Death before election

14538. If any retired person dies after retirement, before the first annuity payment is made, and within 30 days from the date upon which the election or changed election is received in the office of the retirement system at Sacramento, then the election shall be void and of no effect, and he shall be considered as an active member at the time of death.

Effective date of retirement

14539. Retirement shall become effective and the retirement allowance shall begin to accrue upon the date designated by the person as the effective date of retirement, or upon the day following the last day of service for which salary is payable to the person if the last day postdates the day designated by the person as the effective date. In no event shall the retirement become effective or retirement allowance begin to accrue earlier than the first day of the month in which the application is received at the office of the retirement board, in Sacramento, or, as applied to persons whose retirement is effective after July 1, 1935, earlier than the date upon and continuously after which he is determined to the satisfaction of the retirement board to have been mentally incompetent.

Monthly installments

14540. An annuity, a retirement salary, or a retirement allowance shall be payable in equal monthly installments. The first and last payments due to or on account of any beneficiary may be made in smaller pro rata amounts if the benefits begin after the first day of the month or end before the last day of the month.

Lost warrants

14541. Upon receipt of proof satisfactory to the retirement board, that a warrant drawn in payment of a retirement allowance or in payment of any other account due from the retirement system, has been lost, the Controller upon the request of the retirement board shall issue a duplicate warrant in payment of the same amount, without requiring a bond from the payee, and any loss incurred in connection therewith shall be charged against the fund from which the payment was made.

CHAPTER 15. RETIREMENT OF EMPLOYEES OF SCHOOL DISTRICTS

Article 1. General Provisions

"Teachers"

14701. "Teachers" as used in this chapter means all employees of school districts in positions requiring certification qualifications.

Members in armed service

14702. Any member of the retirement system of any school district or districts maintained under the provisions of Sections 14701 to 14792, inclusive, of this code, or of any thereof, serving in the military service of the United States of America or of the State of California, including service in any uniformed auxiliary of, or to, any branch of such military service created or authorized as such auxiliary by the Congress of the United States of America or by the Legislature of the State of

California, or in the full time paid service of the American Red Cross, during or after the termination of such service, and at his option, may make payments due to the district retirement fund of such district or districts with the same effect, in all respects, as though he had not been absent from the service thereof. The district or districts by which such employee was employed, at its or their option may make such contributions for and in lieu of such employee, and contributions so made shall be treated and administered as if made by the employee. If such employee shall not pay such contributions as provided in this section during such service in said military service, or said auxiliaries thereof or thereto, or Red Cross service, and if same be not made by the district, then such contributions shall be deducted from his salary payments during such period after his return to service as may be agreed upon by the employee and the governing board of the employing district or districts.

(Added by Stats. 1943, Ch. 714.)

Article 2. District Retirement Salary Plans

Establishment

14711. In any school district in which the employees of the district are not entitled to the benefits of a pension or retirement system maintained by a city, city and county, or county in which the district, or a part thereof, is located, the governing board of the district may in its discretion, submit to the qualified electors of the district, and upon petition signed by not less than ten per cent (10%) of the qualified electors, the governing board shall submit, to the qualified electors of the district, the proposition of establishing a plan for a district retirement salary, to be paid by the district either to all teachers fulfilling the requirements of the plan in the public schools of the district or to such other employees of the district as the governing board may determine, or both to all teachers and other employees, or in the case of a petition, to teachers or such other employees as may be specified in the petition, and to provide, out of funds of the district, a portion of the cost thereunder, including expenses incident to the administration of the plan.

Election

14712. The proposition of establishing the plan may be submitted to the electors of the district at any general or special election called and held in the district, and governing bodies of school districts desiring to submit the proposition to the electors of their respective districts are authorized to call and hold the elections.

Elections in more than one district

14713. If the governing board calling the election is the governing board of more than one school district and calls elections in two or more districts to submit to the electors of the respective districts, on the same day, in the same territory, or in territory which is in part the same, the question whether a district retirement plan shall be established in the

respective districts, the elections may be consolidated by order of the governing board. Within the territory affected by the order of consolidation, the election precinct polling places, and voting booths, shall, in every case, be the same. There shall be only one set of election officers in each precinct. The propositions to be voted upon within the respective districts may be set forth on one ticket or ballot. All proceedings had in the premises shall be recorded in one set of election papers, and the election shall be held in all respects as though there were only one election.

Consolidation

14714. The election may be consolidated with any other election pursuant to Chapter 4 of Part 2 of Division 11 of the Elections Code.

Notice

14715. The election shall be called by posting notices, signed by a majority of the governing board of the district, in at least three public places in the district, or, if more than one district is affected, then in at least three public places in each of the districts affected, not less than 10 days before the election. If there is a newspaper of general circulation published in the district, or districts, notice shall be published in such a newspaper at least once, and at least 10 days prior to the election.

Conduct of election

14716. In all respects not otherwise specified the election shall be called and held, the returns canvassed, and the result announced in the manner provided for the holding of elections for the purpose of authorizing bonds of the school district so far as the provisions of such laws are applicable.

Ballots

14717. There shall be printed on the ballots to be used at the election the proposition: "Shall the governing board of (here insert the name of the district or districts under the control of the board submitting the proposition) school district (or districts) be authorized to establish a plan for a district retirement salary for the teachers and such other employees of the district (or districts) as the governing board or the petition determines." To the right of the proposition shall be printed the words "Yes" and "No" with voting squares.

Favorable vote

14718. If, at the election, a majority of the voters voting on the proposition cast their ballots in favor of the proposition, the governing board shall establish a district retirement salary for the teachers and for such other employees of the district as the board or the petition determines.

Negative vote

14719. If a majority of the votes cast on the proposition is in the negative, the governing board shall not submit the proposition again within a period of six months after the date of the election.

Inclusion in plan

14720. Every regular full-time teacher and every other employee of any school district for which the plan for district retirement is adopted, who is employed by the district at the time of the adoption of the plan, and who signs an agreement to be subject to the burdens of the district retirement plan, shall be entitled to the benefits and subject to the burdens of

the plan and of this article. Every regular full-time teacher employed in the public schools of the districts after the adoption of the provisions of this article by the governing boards of the districts, and such other employees as the boards or the petition determines, shall be bound by the benefits and burdens of this article.

Requirements of plan

14721. Any plan shall not be adopted or established until the governing board, after such inquiry and hearing as it may direct, finds that the respective contributions of the teachers and other employees and the district provided for in the plan, are substantially in accordance with the more recent generally prevailing rates of contributions in public institutions which have established retirement systems, and that the plan is in accordance with sound business practice and with recognized actuarial methods.

Retirement benefits

14722. The plan may provide that the retirement salary shall be a stipulated monthly sum, or that all benefits under the retirement feature of the plan shall be based upon the monthly salary for each year of future active service in the district earned by the employee up to the date of retirement and upon the average monthly salary earned by the teacher or other eligible employee during the year immediately preceding the adoption of the plan and the number of years of past active service of the employee in the district, and subject to such provisions as are made in the plan for minimum benefits. No employee with less than 15 years' service in the district prior to normal retirement age shall receive the benefit of the minimum. In no instance shall the retirement benefits be based upon or allowed for any amount of salary in excess of the sum of five hundred dollars ($500) per month.

Amendments to plan

14723. The governing board, after the adoption of the plan, shall at regular intervals, each not exceeding a period of five years, secure a general survey and actuarial report of the plan, and the board shall from time to time amend the plan in such manner as may be found to be advisable to meet changed conditions, or, as in the light of experience, may be considered necessary.

Permitted plan

14724. A plan under which the district establishing it agrees to pay to employees who may become entitled to retirement salaries within a specified period, not exceeding 15 years, after the establishment of the plan, a specified sum, which, during the life expectancy of the employees, will be approximately equal, in the aggregate, to the aggregate difference during the life expectancy, between the maximum salary paid to employees in the respective classes of the retiring employees, and the salaries paid to beginning employees in the classes, shall be construed to comply with the provisions of this article requiring the plan to be in accordance with sound business practices and recognized actuarial methods.

District taxes

14725. For the purpose of providing funds which may be necessary to make the payments required by any district

retirement plan, district taxes shall be levied and collected annually by the respective districts at the same time and in the same manner as other district taxes are levied and collected. The tax shall be in addition to any other district tax now or hereafter authorized by law, and shall not be considered in fixing maximum rates of tax for school district purposes.

Retirement qualifications

14726. Every district retirement plan shall provide that only those teachers and other employees who have served as teachers or employees of the district for at least 20 years of service preceding retirement, and who have reached a minimum age specified in the district retirement plan, which shall not be less than 60 years, shall be entitled to a district retirement salary.

(Amended by Stats. 1943, Ch. 634.)

[ORIGINAL SECTION]

14726. Every district retirement plan shall provide that only those teachers and other employees who have served as teachers or employees of the district for at least 20 years of full-time service preceding retirement, and who have reached a minimum age specified in the district retirement plan, which shall not be less than 60 years, shall be entitled to a district retirement salary.

Disability

14727. The plan may provide for the retirement of teachers or other employees on account of disability after 10 years of service prior to the retirement, the proportion of the disability retirement salary to the full retirement salary to be specified in the plan.

(Amended by Stats. 1943, Ch. 634.)

[ORIGINAL SECTION]

14727. The plan may provide for the retirement of teachers or other employees on account of disability after 15 years of service prior to the retirement, the proportion of the disability retirement salary to the full retirement salary to be specified in the plan.

Continuity of service

14728. The 20-year period of service required to qualify for retirement may be broken by periods of absence from service, when the plan adopted by the governing board so provides, but the period of absence shall not be counted as time served toward retirement unless the period is so counted under the State Teachers Retirement Act.

(Amended by Stats. 1943, Ch. 634.)

[ORIGINAL SECTION]

14728. The 20-year period of full-time service required to qualify for retirement may be broken by periods of absence from service, when the plan adopted by the governing board so provides, but the period of absence shall not be counted as time served toward retirement unless the period is so counted under the State Teachers Retirement Act.

Computation of time

14729. Time of service may be counted in the aggregate, and fractions of years amounting to whole years may be counted as whole years when payments by the teacher or other employee have been made for all of the time counted.

Service in more than one district

14730. Any district retirement plan established by a governing board which governs more than one district may provide that service by any teacher, or other employee

included in the plan, in all of the districts in which the teacher or other employee has served and for which the plan is adopted may be counted in the aggregate in determining eligibility toward retirement. This section shall apply only to service rendered in that part of any district which has become a part of any district for which a retirement plan is established by annexation, merger, consolidation, or in any other manner.

(Amended by Stats. 1943, Ch. 634.)

[ORIGINAL SECTION]

14730. Any district retirement plan established by a governing board which governs more than one district may provide that service by any teacher, or other employee included in the plan, in all of the districts in which the teacher or other employee has served and for which the plan is adopted may be counted in the aggregate in determining eligibility toward retirement. This section shall apply to any district which has become a part of any district for which a retirement plan is established by annexation, merger, consolidation, or in any other manner.

Retired list. 14731. The governing board of the district shall in all cases determine the teachers and other employees who are entitled to retirement salaries and make and keep a list of the teachers and other employees, known as the retired list. For the purpose of making the retired list the boards may take testimony and examine witnesses under oath which may be administered by any member of the board.

Rules 14732. The governing boards of the school districts may make all necessary and proper rules and regulations in aid or furtherance of the provisions of this article and in order to carry out and administer such provisions. A majority of the governing board of the district shall constitute a quorum for the transaction of all business.

Plan for more than one district 14733. Notwithstanding anything to the contrary in this code, for the purpose of economy of administration, in every instance where two or more school districts for which a district retirement plan is authorized are under the control and management of a single governing board, the board may establish a single retirement plan covering all school districts under its control, or if separate plans are established, may consolidate them in a single plan, for the benefit of all of the districts under its control. It shall apportion the total cost of the retirement plan among all of the districts on the basis of the total salaries of all members of the plan who are paid by each district. The retirement board of the single retirement plan may have more than seven members, if the plan so provides.

"District retirement fund" 14734. When any district establishes a district retirement plan, there shall be created in the treasury of the county in which the district is located, and opened upon the books of the auditor and treasurer of the county, a trust fund account designated as the "District retirement fund." All moneys, whether from contributions by teachers or other employees, or by the district, or from any source, properly belonging to the district retirement fund, shall be placed in the fund.

Upon approval of the district retirement board, all incidental expenses, including actual and necessary clerical or other help, incurred in carrying out the provisions of this article shall be paid out of the fund and in the same manner as other expenditures are paid from district funds.

Compensation of governing board

14735. Members of governing boards shall discharge the powers, duties, purposes, responsibilities, and jurisdiction conferred or imposed upon the governing board under this article without extra or additional compensation.

"District retirement board"

14736. The governing board of a district establishing the retirement plan, shall provide for the administration of the funds and the payment of retirement salaries by a "district retirement board" to be composed of not less than three nor more than seven members, who shall serve without compensation. The governing board of the district shall be represented upon the retirement board, and the teachers and any other employees of the district subject to the plan shall be represented in proportion, as nearly as is practicable, to the respective numbers of teachers and other employees covered by the plan, by representatives chosen by the teachers and other employees by secret ballot. The county treasurer of the county in which the district establishing the plan is located, shall be ex-officio a member of the district retirement board. All members of the retirement board shall serve for such terms as may be specified by the governing board in establishing the plan. The district retirement board shall have such further powers and duties as may be prescribed by the governing board of the district.

Duties

14737. The district retirement board shall have charge and control of the district retirement fund of the district and of the payment of all retirement salaries and annuities payable from the fund. The district retirement board shall invest the funds in securities which are legal for the investment of funds of savings banks in this State and shall sell the securities and reinvest the proceeds in securities legal for investment of funds of savings banks when in the judgment of the district retirement board any sale and reinvestment is advisable. No investment in or sale of securities shall be made except upon authorization of the district retirement board at a meeting of the board.

The board also shall collect the income from the securities and pay it into the district retirement fund.

Suits

14738. The district retirement board may sue in its own name when necessary to carry out the powers and duties conferred upon it. The attorney for the governing board of the district shall act as attorney for the district retirement board without additional compensation.

Securities

14739. All securities purchased by the district retirement board shall be deposited with the county treasurer for safe keeping.

Payments

14740. All payments from the district retirement fund shall be made in the same manner as payments from school

district funds but shall be subject to approval of the district retirement board. Warrants drawn on the fund shall be signed by at least one member of the district retirement board who shall be designated by the board.

The duties imposed upon the county treasurer shall be a part of his official duties, for the faithful performance of which he shall be liable upon his official bond.

Audit

14741. The county auditor shall audit the accounts of the district retirement board at least once every 12 months and report upon the financial condition thereof to the governing board of the district.

Retirement salaries

14742. The retirement salaries provided for in this article are in addition to any other retirement salaries received by any teacher under Chapter 14 of this division or as may be otherwise provided by law.

Same

14743. The retirement salaries provided for in this article, for all employees other than teachers, are in addition to any other retirement salaries that may be provided by law.

Article 3. Joint District Retirement Salary Plans

Establishment

14761. The governing boards of two or more school districts, in none of which the employees are entitled to the benefits of a pension or retirement system maintained by a city, city and county, or county in which the district, or a part thereof, is located, meeting in joint session, may in their discretion, submit to the qualified electors of the districts, and upon petition signed by not less than ten per cent (10%) of the qualified electors of each district the governing boards shall submit to the qualified electors of the districts the proposition of establishing a joint plan for a retirement salary to be paid by the districts to all teachers fulfilling the requirements of the plan in the public schools of the districts and to such other employees of the districts as the governing boards may determine, or, in the case of a petition, such other employees as may be specified in the petition, and to provide, out of funds of the districts, a portion of the cost thereunder, including expenses incident to the administration of the plan.

Election

14762. The proposition of establishing the plan may be submitted to the electors of the districts at any general or special election called and held in the districts, as the governing boards of the districts may determine. The governing boards of the school districts may call and hold the elections.

Consolidation

14763. The governing boards calling the election shall consolidate the election and submit to the electors of the respective districts on the same day the question of whether a district retirement plan shall be established in the districts. Within the territory affected by the order of consolidation, the election precinct polling places and voting booths shall, in every case, be the same. There shall be only one set of election officers in each precinct. The propositions to be voted upon within the respective districts may be set forth on one ticket or ballot. All proceedings had in the premises shall be recorded in one

set of election papers, and the election shall be held in all respects as though there were only one election.

Same

14764. The election may be consolidated with any other election pursuant to Chapter 4 of Part 2 of Division 1.1 of the Elections Code.

Notices

14765. The election shall be called by posting notices, signed by a majority of the governing board of each district, not less than 10 days before the election. If there is a newspaper of general circulation published in any of the districts, notice shall be published in such a newspaper at least once, and at least 10 days prior to the election.

Conduct of election

14766. In all respects not otherwise specified the election shall be called and held, and returns canvassed and the result announced in the manner provided for the holding of elections for the purpose of authorizing bonds of the school districts, so far as the provisions of such laws are applicable. The governing boards of the school districts in which the election is held shall for the purposes of this section be considered as one board.

Ballots

14767. There shall be printed on the ballots to be used at the election the proposition: "Shall the governing boards of (here insert the names of the districts under the control of the boards submitting the proposition) school districts be authorized to establish a plan for a joint district retirement salary for the teachers and such other employees of the districts as the governing boards or the petition determines." To the right of the proposition shall be printed the words "Yes" and "No" with voting squares.

Favorable vote

14768. If, at the election, a majority of the voters in each district voting on the proposition cast their ballots in favor of the proposition, the governing boards shall establish a joint district retirement salary plan for the teachers and for such other employees of the districts as the boards or the petition determine.

Negative vote

14769. If a majority of the votes cast in each district on the proposition is in the negative, the governing boards shall not submit the proposition again within a period of six months after the date of the election.

Inclusion in plan

14770. Every teacher and every other employee of the school districts for which the plan for district retirement is adopted, who is employed by the districts at the time of the adoption of the plan, and who signs an agreement to be subject to the burdens of the district retirement plan, shall be entitled to the benefits and subject to the burdens of the plan and of this article. Every teacher employed in the public schools of the districts after the adoption of the provisions of this article by the governing boards of the districts, and such other employees as the boards or the petition determines, shall be bound by the benefits and burdens of this article.

Requirements of plan

14771. Any plan shall not be adopted or established until the governing boards, after such inquiry and hearing as they may direct, find that the respective contributions of the

teachers and other employees and the districts provided for in the plan, are substantially in accordance with the more recent generally prevailing rates of contributions in public institutions which have established retirement systems, and that the plan is in accordance with sound business practice and with recognized actuarial methods.

Retirement benefits

14772. The plan may provide that the retirement salary shall be a stipulated monthly sum, or that all benefits under the retirement feature of the plan shall be based upon the monthly salary for each year of future active service in the district earned by the employee up to the date of retirement and upon the average monthly salary earned by the teacher or other eligible employee during the year immediately preceding the adoption of the plan and the number of years of past active service of the employee in the district, and subject to such provisions as may be made in the plan for minimum benefits. No employee with less than 15 years' service in the district prior to normal retirement age shall receive the benefit of the minimum. In no instance shall the retirement benefits be based upon or allowed for any amount of salary in excess of the sum of five hundred dollars ($500) per month.

Amendments to plan

14773. The governing boards, after the adoption of the plan, shall at regular intervals, each not exceeding a period of five years, secure a general survey and actuarial report of the plan, and the boards shall from time to time amend the plan in such manner as may be found to be advisable to meet changed conditions, or, as in the light of experience, may be considered necessary.

Permitted plan

14774. A plan under which the districts establishing it agree to pay to employees who become entitled to retirement salaries within a specified period, not exceeding 15 years, after the establishment of the plan, a specified sum which, during the life expectancy of the employees, will be approximately equal, in the aggregate, to the aggregate difference, during the life expectancy, between the maximum salary paid to employees in the respective classes of the retiring employees, and the salaries paid to beginning employees in the classes, shall be construed to comply with the provisions of this article requiring the plan to be in accordance with sound business practices and recognized actuarial methods.

District taxes

14775. For the purpose of providing funds which may be necessary to make the payments required by any joint district retirement plan, district taxes shall be levied and collected annually by the respective districts at the same time and in the same manner as other district taxes are levied and collected. The tax shall be in addition to any other district tax now or hereafter authorized by law, and shall not be considered in fixing maximum rates of tax for school district purposes.

Retirement qualifications

14776. Every joint district retirement plan shall provide that only those teachers and other employees who have served as teachers or employees of the districts for at least 20 years of service immediately preceding retirement, and who have

reached a minimum age specified in the joint district retirement plan, which shall not be less than 60 years, shall be entitled to a district retirement salary.

(Amended by Stats. 1943, Ch. 634.)

[ORIGINAL SECTION]

14776. Every joint district retirement plan shall provide that only those teachers and other employees who have served as teachers or employees of the districts for at least 20 years of full time service immediately preceding retirement, and who have reached a minimum age specified in the joint district retirement plan, which shall not be less than 60 years, shall be entitled to a district retirement salary.

Disability

14777. The plan may provide for the retirement of teachers or other employees on account of disability after 10 years of service immediately prior to the retirement, the proportion of the disability retirement salary to the full retirement salary to be specified in the plan.

(Amended by Stats. 1943, Ch. 634.)

[ORIGINAL SECTION]

14777. The plan may provide for the retirement of teachers or other employees on account of disability after 15 years of service immediately prior to the retirement, the proportion of the disability retirement salary to the full retirement salary to be specified in the plan.

Continuity of service

14778. Absence from service by reason of a leave of absence granted by the governing board of an employing district shall not be construed as a break in the continuity of service or by any district retirement plan adopted pursuant to the provisions hereof, but the period of leave shall not be counted as time served toward retirement unless the period is so counted under the State Teachers Retirement Act.

Computation of time

14779. Time of service may be counted in the aggregate and fractions of years amounting to whole years may be counted as whole years when payments by the teacher or other employee have been made for all of the time counted.

Retired list

14780. The governing boards of the districts shall in all cases determine the teachers and other employees who are entitled to retirement salaries, and make and keep a list of the teachers and other employees, known as the retired list. For the purpose of making the retired list the boards may take testimony and examine witnesses under oath which may be administered by any member of the board.

Rules

14781. The governing boards of the districts may make all necessary and proper rules and regulations in aid or furtherance of the provisions of this article and in order to carry out and administer such provisions.

"Joint district retirement fund"

14782. When a joint district retirement plan is established there shall be created in the treasury of the county in which the districts are located, or, if the districts are located in more than one county, in the treasury of the county selected by the governing boards of the districts meeting in joint session, and opened upon the books of the auditor and treasurer of the county, a trust fund account designated as the "Joint district retirement fund." All moneys, whether from contributions by teachers or other employees, or by the districts, or from any source, properly belonging to the joint district retirement

fund shall be placed in the fund. Upon approval of the joint district retirement board all incidental expenses, including actual and necessary clerical or other help, incurred in carrying out the provisions of this article shall be paid out of the fund and in the same manner as other expenditures are paid from district funds.

Compensation of governing boards

14783. Members of governing boards shall discharge the powers, duties, purposes, responsibilities, and jurisdiction conferred or imposed upon the governing boards under this article without extra or additional compensation.

"Joint district retirement board"

14784. The governing boards of the districts establishing the retirement plan shall provide for the administration of the funds and the payment of retirement salaries by a "joint district retirement board" composed of three persons not officers or employees of any of the districts, one representative of each district, one representative of the teachers of each district and one representative of the other employees of each district, who shall serve without compensation. The representatives chosen by the teachers and other employees shall be chosen by secret ballot. The county treasurer of the county in the county treasury of which the "Joint district retirement fund" is created shall be ex officio a member of the joint district retirement board. All members of the retirement board shall serve for such terms as may be specified by the governing boards in establishing the plan. The joint district retirement board shall have such further powers and duties as may be prescribed by the governing boards of the districts.

Duties

14785. The joint district retirement board shall have charge and control of the district retirement fund of the district and of the payment of all retirement salaries and annuities payable from the fund. The joint district retirement board shall invest the funds in securities which are legal for the investment of funds of savings banks in this State and shall sell the securities and reinvest the proceeds in securities legal for investment of funds of savings banks when in the judgment of the joint district retirement board the sale and reinvestment is advisable. No investment in or sale of securities shall be made except upon authorization of the joint district retirement board at a meeting of the board.

The board also shall collect the income from the securities and pay it into the joint district retirement fund.

Suits

14786. The joint district retirement board may sue in its own name when necessary to carry out the powers and duties conferred upon it. The district attorney, or, if there is a county counsel, the county counsel of the county in which are employed the largest number of employees entitled to the benefits and subject to the burdens of the joint district retirement plan shall act as attorney for the joint district retirement board without additional compensation.

Securities

14787. All securities purchased by the joint district retirement board shall be deposited with the county treasurer for safe keeping.

14788. All payments from the joint district retirement fund shall be made in the same manner as payments from school district funds but shall be subject to approval of the joint district retirement board. Warrants drawn on the fund shall be signed by at least one member of the joint district retirement board who shall be designated by the board. Payments

The duties imposed upon the county treasurer shall be a part of his official duties, for the faithful performance of which he shall be liable upon his official bond.

14789. The county auditor of the county in the county treasury of which the "Joint district retirement fund" is created shall audit the accounts of the joint district retirement board at least once every 12 months and report upon the financial condition thereof to the governing boards of the districts. Audit

14790. The retirement salaries provided for in this article shall be in addition to any other retirement salaries received by any person under Chapter 14 of this division or as may be otherwise provided by law. Retirement salaries

14791. The retirement salaries provided for in this article for all other employees, shall be in addition to any other retirement salaries that may be provided by law. Same

14792. Whenever by the provisions of this article, the governing boards of two or more school districts are required, or authorized, to perform any act, the act may be done only at joint meetings of the boards, and no action shall be taken by the boards except upon the affirmative vote of a majority of the members of a majority of the boards. Joint actions

DIVISION 8. PUPILS

CHAPTER 1. GENERAL PROVISIONS RELATING TO PUPILS

Article 1. Admission of Pupils

16001. Pupils shall be admitted into the schools in the order in which they apply to be registered. Order of registration

16002. The principal in each of the public schools shall keep a register, open to the inspection of the public, of all children applying for admission and entitled to admission into the public schools, and shall notify the parents or guardians of the children when vacancies occur, and receive the children into the schools in the order in which they are registered. Notification and admission

16003. The governing board of any school district may, with the approval of the county superintendent of schools, admit to the schools of the district pupils living in an adjoining State which is contiguous to the school district. An agreement shall be entered into between the governing board and the governing board or authority of the school district in which the pupils reside providing for the payment by the latter of such tuition as is agreed upon. The amount of the tuition per unit of average daily attendance of pupils from the adjoining State shall not exceed the average current expenditure, exclusive of all transportation expenditures, per Residents of adjoining States

unit of average daily attendance in the district of attendance, plus the actual expenditure, not to exceed ten dollars ($10) per pupil per month for the transportation of the pupils.

Resident of adjacent foreign country

16004. Any person, otherwise eligible for admission to any class or school of a school district of this State, whose parents are or are not citizens of the United States and whose actual and legal residence is in a foreign country adjacent to this State may be admitted to the class or school of the district by the governing board of the district.

Tuition and transportation

16005. The governing board of the district may, as a condition precedent to the admission of any person, require the parent or guardian of such person to pay to the district an amount not more than sufficient to reimburse the district for the total cost, exclusive of capital outlays, of educating the person and providing him with transportation to and from school. The cost of transportation shall not exceed ten dollars ($10) per month. Tuition payments shall be made in advance for each month or semester during the period of attendance. If the amount paid is more or less than the total cost of education and transportation, adjustment shall be made for the following semester or school year. The attendance of the pupils shall not be included in computing the average daily attendance of the class or school for the purpose of obtaining apportionment of State funds.

Article 2. Exclusion of Pupils

Age

16031. Children under six years of age are excluded from the public schools, except as provided in this code.

Habits and disease

16032. The governing body of any school district may exclude children of filthy or vicious habits, or children suffering from contagious or infectious diseases.

Mental and physical disability

16033. The governing board of the school may exclude from attendance on regular school classes any child whose physical or mental disability is such as to cause his attendance to be inimical to the welfare of other pupils.

Article 3. Duties of Pupils

Duties of pupils

16051. All pupils shall comply with the regulations, pursue the required course of study, and submit to the authority of the teachers of the schools.

Article 4. Suspension or Expulsion

Powers of governing board

16071. The governing board of any school district shall suspend or expel pupils for misconduct when other means of correction fail to bring about proper conduct.

Suspension by teacher

16072. Teachers may suspend, for good cause, any pupil from the school, and shall report the suspension to the governing board of the school district for review. If the action is not sustained by them, the teacher may appeal to the county superintendent, whose decision shall be final.

16073. Continued wilful disobedience, open and persistent defiance of the authority of the teacher, habitual profanity or vulgarity, or smoking cigarettes or having cigarettes upon school premises constitute good cause for suspension or expulsion from school. Grounds for suspension or expulsion

16074. Any pupil who wilfully cuts, defaces, or otherwise injures in any way any property, real or personal, belonging to a school district is liable to suspension or expulsion, and the parent or guardian shall be liable for all damages so caused by the pupil. The parent or guardian of a pupil shall be liable to a school district for all property belonging to the school district loaned to the pupil and not returned upon demand of an employee of the district authorized to make the demand. Liability for school property

16075. It is unlawful for any pupil, enrolled in any elementary or secondary school of this State, to join or become a member of any secret fraternity, sorority, or club, wholly or partly formed from the membership of pupils attending the public schools, or to take part in the organization or formation of any fraternity, sorority, or secret club. Nothing in this section shall be construed to prevent any pupil from joining the order of the Native Sons of the Golden West, Native Daughters of the Golden West, Foresters of America, or other kindred organizations not directly associated with the public schools of the State. Secret fraternities

The governing board of any school district may make and enforce all rules and regulations needful for the government and discipline of the schools under its charge. Any governing board shall enforce the provisions of this section by suspending, or, if necessary, expelling a pupil in any elementary or secondary school who refuses or neglects to obey any such rules or regulations.

16076. No pupil shall be suspended from school for more than two consecutive weeks. Duration of suspension

16077. If a pupil is expelled from school, the parent or guardian of the pupil may appeal to the county board of education which shall hold a hearing thereon and render its decision. The decision of the county board of education shall be final and binding upon the parent or guardian and the governing board expelling the pupil. Appeal

Article 5. Assistance to Blind Children

16091. Whenever any blind person with the approval of the principal of the California School for the Blind and with the proper educational and moral qualifications regularly matriculates, enters, and works for a degree, or for a diploma of graduation, in any university, college, or State college in this State, the Director of Education may provide, from any funds appropriated for the purpose or appropriated for the support of the California School for the Blind, a reader to Assistance to blind students

assist him in his studies. No more than three hundred dollars ($300) per annum shall be expended for the instruction of any one student.

Article 6. Tuition and Fees of Children of Disabled Veterans

Children of disabled veterans

16111. No State-owned college, university, or other school shall charge any tuition, or incidental fees to any child of any veteran of the United States military service who has a service connected disability, and whose annual income both from earnings and from governmental compensation does not exceed one thousand eight hundred dollars ($1,800). Nothing contained in this section shall prevent The Regents of the University of California from charging to and collecting from nonresident students an admission fee and rate of tuition in accordance with Section 20003, nor shall anything in this section prevent the charging and collecting of fees required of nonresident students admitted to colleges and schools under the jurisdiction of the Department of Education, or the Director of Education.

Article 7. Hazing

Hazing

16126. No student, or other person in attendance at any public, private, parochial, or military school, college, or other educational institution, shall conspire to haze, engage in hazing, or commit any act that injures, degrades, or disgraces, or tends to injure, degrade, or disgrace any fellow student or person attending the institution. The violation of this section is a misdemeanor, punishable by a fine of not less than fifty dollars ($50), nor more than five hundred dollars ($500), or imprisonment in the county jail for not more than six months, or both.

Penalty

Article 8. Student Organizations

Authorization

16141. The governing board of any school district may authorize any organization composed entirely of pupils attending the schools of the district to maintain such activities as may be approved by the governing board.

Purpose and privileges

16142. Any group of students may organize a student body association within the public schools with the approval and subject to the control and regulation of the governing board of the school district. Any such organization shall have as its purpose the conduct of activities on behalf of the students approved by the school authorities and not in conflict with the authority and responsibility of the public school officials. Any student body organization may be granted the use of school premises and properties without charge subject to such regulations as may be established by the governing board of the school district.

Funds

16143. The governing board of any school district shall provide for the supervision and auditing of all funds raised

by any student body or student organization using the name of the school.

The cost of supervision and auditing may constitute a proper charge against the funds of the district.

Deposit and expenditure

16144. The funds of any student body organization shall be deposited in a bank approved by the governing board of the school district and shall be expended subject to such procedure as may be established by the student body organization subject to the approval of an employee or official of the school district designated by the governing board.

Chapter 2. Transportation

Article 1. Furnishing of Transportation

Powers of governing board

16251. The governing board of any school district may provide, with the written approval of the county superintendent of schools, for the transportation of pupils to and from school whenever in the judgment of the board such transportation is advisable and good reasons exist therefor. The governing board may purchase or rent and provide for the upkeep, care, and operation of vehicles, or may contract and pay for the transportation of pupils to and from school by common carrier, or may contract with and pay responsible private parties for the transportation.

Bids and contracts

16252. In order to procure the service at the lowest possible figure consistent with proper and satisfactory service, the governing board shall, whenever an expenditure of more than five hundred dollars ($500) is involved, secure bids pursuant to Sections 18051 and 18052 of this code wherever it be contemplated that a contract may be made with a person or corporation other than a common carrier or a parent or guardian of the pupils to be transported. The governing board may let the contract for the service to other than the lowest bidder. No board shall make any purchase or enter into any contract for the service without securing the written approval of the county superintendent of schools.

High school pupils

16253. The governing board of any elementary school district may provide for the transportation to and from school of high school pupils who reside in the elementary school district and attend a high school in the same county.

Duration of contracts

16254. Continuing contracts for the furnishing of transportation of pupils in school districts to and from school may be made for a period of not to exceed five years.

Payments in lieu of transportation

16255. In lieu of providing in whole or in part for the transportation of a pupil attending the schools of a district, the governing board may pay to the parents or guardian of the pupil a sum not to exceed twenty-five cents ($0.25) per day for each day the pupil actually attends school. No parent or guardian shall receive more than seventy-five cents ($0.75) per day for all pupils residing in the same household and attending the schools of the district.

Food and lodging

16256. In lieu of furnishing transportation to pupils attending the schools of a school district, the governing board may pay to the parents or guardian of each pupil the cost of food and lodging of the pupil at a place convenient to the schools. The amount paid on account of each pupil shall not exceed the estimated cost to the district of providing for the transportation of the pupil to and from his home and the school he attends.

Attendance in other schools

16257. The governing board of any school district may allow pupils entitled to attend the school of the district, but in attendance at a school other than a public school, under the provisions of Section 16624, transportation upon the same terms and in the same manner and over the same routes of travel as is permitted pupils attending the district school.

The allowance of this section shall be restricted to actual transportation when furnished by the district to children attending the district school, and nothing in this section shall be construed to authorize or permit in lieu of transportation payments of money to parents or guardians of children attending private schools.

Article 2. Use of School Buses

Permitted uses

16271. The governing board of any school district may use the school buses of the district to transport pupils attending the schools of the district to and from school athletic contests or other school activities or to and from fairs or expositions held either within or without the district and in which the pupils participate. The transportation may be provided on any day or days throughout the school year.

Regulations

16272. The State Board of Education may adopt reasonable regulations relating to the construction, design, operation, equipment, and color of school buses. No regulation relating to the construction, design, or color of school buses shall apply to buses purchased prior to September 15, 1935. Any school bus repainted after September 15, 1935, shall be painted to conform to all the regulations relating to the color of school buses. The regulations, if approved by the Chief of the California Highway Patrol, shall be enforced by the California Highway Patrol. The State Board of Education may issue an order prohibiting the operation on public streets and highways of any school bus which does not comply with the regulations, and the order shall be enforced by the California Highway Patrol.

Definition

16273. A school bus is defined as a motor vehicle regularly used for the transportation of pupils of the public schools to and from school or to and from school activities and owned either by any school district or by any person, firm, association, partnership, or corporation, and operated either by any school district or by any person, firm, association, partnership, or corporation, excepting motor vehicles of the type commonly called pleasure cars and carrying seven pupils or less, and excepting motor vehicles subject to and

meeting all requirements of the State Railroad Commission operated by carriers operating under the jurisdiction of the State Railroad Commission but not used exclusively for the transportation of public school pupils. When any vehicles are being used for the transportation of public school pupils the operators shall possess the qualifications required by the regulations for school bus operators.

Violation

16274. Any officer, agent, or employee of a school district, or any other person knowingly operating, or permitting or directing the operation of a school bus in violation of any order of the State Board of Education, and any person knowingly operating a school bus without possessing the qualifications required by the regulations of the State Board of Education for school bus operators, is guilty of a misdemeanor.

Excess load

16275. Any officer, agent, or employee of a school district, or any other person, knowingly operating, or permitting or directing the operation of a school bus, when it is loaded with school children in excess of the limits of its seating capacity, is guilty of a misdemeanor.

Lease

16276. The governing board of a school district may without complying with any other provision of law lease busses owned by, or under lease to, the district to any common carrier or to any other type of carrier for the transportation of persons employed by, or in the military service of, the United States of America and persons engaged in agriculture or other war industries upon such terms and conditions as the governing board of the district may prescribe except that such terms and conditions shall provide for the payment to the district by the lessee of an amount which shall not be less and may be more than sufficient to reimburse the district for all expense arising from, caused by, or incident to, such lease.

No bus shall be leased by the governing board of a school district under this section if by such lease pupils of the district will be deprived of necessary transportation to and from their homes and school.

The lease of a bus by a district under the conditions herein set forth shall not operate to make the district liable under any law now in effect, or hereafter enacted, for the payment of any fee, license, tax, or charge of any kind on account of such bus for which such district would not be liable if such bus had not been so leased.

Duration

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature, or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect, it shall supersede any existing provisions of law which are in conflict with it, but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

(Added by Stats. 1943, Ch. 816.)

Transportation of persons in military service or essential industry

16277. The governing board of a school district may operate any bus owned or under lease to the district for the transportation of persons employed by, or in the military service of, the United States of America and persons engaged in agriculture or other war industries and may require persons transported to pay a reasonable charge for transportation furnished.

Any such operation maintained for other than pupils of the public schools shall, if maintained on a fixed schedule between fixed termini for a period in excess of one week, be subject to such regulations as the State Railroad Commission may prescribe. Such operation of a bus shall not make the district a common carrier nor make the district liable under any law now in effect, or hereafter enacted, for the payment of any fee, license, tax, or charge of any kind on account of such bus for which such district would not be liable if such bus had not been so used.

Nothing in this section shall relieve a school district of any liability now imposed upon it by law and the governing board of a school district operating a bus under this section shall insure the liability of the district, other than that imposed by Division 4 of the Labor Code in any insurance company authorized to do business in California.

Duration

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature, or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect, it shall supersede any existing provisions of law which are in conflict with it, but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

(Added by Stats. 1943, Ch. 816.)

Article 3. Transportation to and from Fairs and Expositions

Contracts

16291. The governing board of any school district may, with the consent of the superintendent of schools of the county in which the district is located, contract for the transportation of pupils attending schools within the district to and from any exposition or fair in this State, and may pay for the transportation out of any funds of the district available for the purpose.

Chapter 3. Health Supervision

Article 1. Vaccination

State Board of Health

16401. The control of smallpox is under the direction of the State Board of Health, and no rule or regulation on the subject of vaccination shall be adopted by school or local health authorities.

Article 2. Powers and Duties of Governing Boards

Health and physical development

16416. The governing board of any school district shall give diligent care to the health and physical development of pupils, and where sufficient funds are provided by district taxation, shall employ properly certified persons for the work.

Health supervision

16417. The governing board of any school district may provide for proper health supervision of the school buildings and pupils enrolled in the public schools under its jurisdiction.

Meals

16418. The governing board of any school district may provide, without charge, breakfasts and lunches, or either, for pupils within the district who do not otherwise receive proper nourishment.

Rules

16419. The governing board of any school district may establish rules by which to determine which pupils are entitled to meals without charge.

District tax

16420. For the purpose of providing funds with which to obtain breakfasts or lunches, or both, for needy pupils, the governing board of any school district may levy and collect a district tax over and above the maximum elsewhere specified in this code.

District funds

16421. District funds may also be used for the purchase of breakfasts or lunches, or both, for needy pupils.

Other public funds

16422. Each official and department of the State having charge of the administering of funds for the relief of indigents may contribute and pay any of the funds subject to his disposal to any school district within the State, to be used by the district for the purchase of breakfasts or lunches, or both, for needy pupils. Every county, city and county, and city within the State may pay any of its funds available for the relief of indigents to any school district, within or partly within the county, city and county, and city for this purpose.

Medical and hospital service

16423. The governing board of any school district may provide medical or hospital service, or both, through nonprofit membership corporations defraying the cost of medical service or hospital service, or both, or accident insurance, for pupils of the district injured while participating in athletic activities under the jurisdiction of, or sponsored or controlled by, the district or the authorities of any school of the district. The cost of the insurance or membership may be paid from the funds of the district.

The insurance may be purchased from, or the membership may be taken in, only such companies or corporations as are authorized to do business in this State.

Same

16424. Any governing board having under its control a school district or districts having a total average daily attendance of less than 10,000 may in its discretion, provide medical and/or hospital service through nonprofit membership corporations defraying the cost of medical service or hospital service, or both, or through accident or liability insurance, for injuries to pupils of the district or districts arising out of accidents

occurring while in or on buildings and other premises of the district or districts during the time such pupils are required to be therein or thereon by reason of their attendance upon a regular day school of such district or districts or while being transported by the district or districts to and from such school or other place of instruction. No pupil shall be compelled to accept such service without the consent of his parent or guardian.

Such insurance may be purchased from, or such membership may be taken in, only such companies or corporations as are authorized to do business in California.

(Added by Stats. 1943, Ch. 862.)

Contracts for health supervision

16425. Contracts between any city and the governing board of any school district located wholly or partially within such city for the performance by the health officers or other employees of the health department of any city of any or all of the functions and duties set forth in Chapter 3 of Division 8 of the Education Code, relating to health supervision of school buildings and pupils are hereby authorized.

In any such contracts the consideration shall be such as may be agreed upon by the governing board and the city and shall be paid to the city by the governing board at such times as shall be specified in the contract. This section shall not apply to any district which is under the control of a governing board which has under its control a district or districts having a total average daily attendance of 100,000 or more pupils.

(Added by Stats. 1943, Ch. 695.)

Article 3. Employment of Physical Inspectors

Supervisor of health

16441. The governing board of any school district may appoint a supervisor of health, or supervisors of health, consisting of a physician, teacher, nurse, oculist, dentist, optometrist, otologist, audiometrist, or any one or more of such persons. In case of the appointment of more than one supervisor of health the supervisors may, in the discretion of the board, all be chosen from any one of the classes designated. The board may also appoint such number of nurses and dental hygienists as it may deem necessary to work under the direction of the supervisor of health and may provide for the compensation of such employees. No money set aside for the payment of teachers' salaries or for library purposes shall be used for this purpose.

(Amended by Stats. 1943, Ch. 883.)

[ORIGINAL SECTION]

16441. The governing board of any school district may appoint a physical inspector consisting of a physician, teacher, nurse, oculist, dentist, optometrist, or any one or more of such persons. In case of the appointment of more than one physical inspector, the inspectors may, in the discretion of the board, all be chosen from any one of the classes designated. The board may also appoint such number of nurses and dental hygienists as may be deemed necessary to work under the direction of the physical inspector and may provide for the compensation of such employees. No money set aside for the payment of teachers' salaries or for library purposes shall be used for this purpose.

Employment by more than one district

16442. The governing boards of two or more school districts in the same county may join in the employment of a supervisor of health, or supervisors of health, and may use funds not set aside for the payment of teachers' salaries or for library purposes for the expenses of the work. The boards may employ a nurse or nurses under the direction of a supervisor of health to examine the schools under their jurisdiction.

(Amended by Stats. 1943, Ch. 883.)

[ORIGINAL SECTION]

16442. The governing boards of two or more school districts in the same county may join in the employment of a physical inspector and may use funds not set aside for the payment of teachers' salaries or for library purposes for the expenses of the work. The boards may employ a nurse under the direction of a physical inspector to examine the schools under their jurisdiction.

Certificate

16443. No physician, oculist, dentist, dental hygienist, optometrist, otologist, audiometrist, nurse, or other person shall be employed or permitted to supervise the health and physical development of pupils unless he holds a health and development certificate.

(Amended by Stats. 1943, Ch. 883.)

[ORIGINAL SECTION]

16443. No physician, oculist, dentist, dental hygienist, optometrist, nurse, or other person shall be employed or permitted to supervise the health and physical development of pupils unless he holds a health and development certificate.

Article 4. Employment of Nurses and Dental Hygienists

Nurses and dental hygienists

16461. The county superintendent of schools of each county may employ one or more nurses or dental hygienists, or both, to supervise the health of pupils enrolled in the schools of elementary districts over which he has jurisdiction not employing a nurse as a supervisor of health or may contract with the board of supervisors of the county in which he holds office for the performance of health officers, health nurses, or other employees of county health departments of any or all of the functions relating to proper health supervision of the elementary school buildings and of pupils enrolled in the elementary schools of the elementary school districts. All rules governing health supervision in the elementary schools shall be made by the county superintendent of schools. No nurse or dental hygienist shall be employed, and no county employee shall perform duties under any contract, who does not possess a health and development credential.

(Amended by Stats. 1943, Ch. 883.)

[ORIGINAL SECTION]

16461. The county superintendent of schools of each county may employ one or more nurses and dental hygienists, or both, to supervise the health of pupils enrolled in the schools of elementary districts over which he has jurisdiction not employing a nurse as a physical inspector, or may contract with the board of supervisors of the county in which he holds office for the performance by health officers, health nurses, or other employees of county health departments of any or all of the functions relating to proper health supervision of the elementary school buildings and of pupils enrolled in the

elementary schools of the elementary school districts. All rules governing health supervision in the elementary schools shall be made by the county superintendent of schools. No nurse or dental hygienist shall be employed and no county employee shall perform duties under any contract who does not possess a health and development credential.

Duties

16462. A nurse or dental hygienist employed by the county superintendent of schools shall perform such duties in connection with the supervision of the health of pupils as are prescribed by the county superintendent of schools. The nurse shall not examine any pupil except with the written consent of the parent or guardian of the pupil.

Salaries and expenses

16463. The salary and necessary traveling and other expenses of any nurse and dental hygienist employed pursuant to this article or the contract price agreed upon between the board of supervisors and the county superintendent of schools may be paid by the county superintendent of schools from either the county unapportioned elementary school fund or from the county elementary school supervision fund, or from both.

Article 5. Physical Examination of Pupils

Rules

16481. The governing board of any school district shall make such rules for the examination of the pupils in the public schools under its jurisdiction as will insure proper care of the pupils and proper secrecy in connection with any defect noted by the supervisor of health or his assistant and may tend to the correction of the physical defect.

(Amended by Stats. 1943, Ch. 883.)

[ORIGINAL SECTION]

16481. The governing board of any school district shall make such rules for the examination of the pupils in the public schools under its jurisdiction as will insure proper care of the pupils and proper secrecy in connection with any defect noted by the physical inspector or his assistant and may tend to the correction of the physical defect.

Sight and hearing

16482. The governing board of any school district may, subject to Section 16483, provide for the testing of the sight and hearing of each pupil enrolled in the schools of the district. The test shall be adequate in nature and shall be given only by duly qualified physical inspectors employed by the district, or by contract with a duly authorized agency. The records of the tests shall serve as evidence of the need of the pupils for the educational facilities provided physically handicapped individuals. The equipment necessary to conduct the tests may be purchased or rented by governing boards of school districts. The State, any agency, or political subdivision thereof may sell or rent any such equipment owned by it to the governing board of any school district upon such terms as may be mutually agreeable.

Exemption

16483. A parent or guardian having control or charge of any child enrolled in the public schools may file annually with the principal of the school in which he is enrolled a statement in writing, signed by the parent or guardian, stating that he will not consent to the physical examination of his child.

Thereupon the child shall be exempt from any physical examination, but whenever there is a good reason to believe that the child is suffering from a recognized contagious or infectious disease, he shall be sent home and shall not be permitted to return until the school authorities are satisfied that any contagious or infectious disease does not exist.

Reports to parents

16484. When a defect has been noted by the supervisor of health or his assistant, a report shall be made to the parent or guardian of the child, asking the parent or guardian to take such action as will cure the defect.

(Amended by Stats. 1943, Ch. 883.)

[ORIGINAL SECTION]

16484. When a defect has been noted by the physical inspector, or his assistant, a report shall be made to the parent or guardian of the child, asking the parent or guardian to take such action as will cure the defect.

Reports to governing boards

16485. The supervisor of health shall make such reports from time to time as he deems best to the governing board of the school district, or as the board may call for, showing the number of defective children in the schools of the district and the effort made to correct the defects.

(Amended by Stats. 1943, Ch. 883.)

[ORIGINAL SECTION]

16485. The physical inspector shall make such reports from time to time as he deems best to the governing board of the school district, or as the board may call for, showing the number of defective children in the schools of the district and the effort made to correct the defects.

Absence for dental service

16486. No absence of a pupil from school for the purpose of having dental service rendered shall be deemed an absence in computing average daily attendance.

CHAPTER 4. COMPULSORY FULL-TIME EDUCATION

Article 1. Persons Subject To

Age

16601. Each parent, guardian, or other person having control or charge of any child between the ages of eight and 16 years, not exempted under the provisions of this chapter, shall send the child to the public full-time day school for the full time for which the public schools of the city, city and county, or school district in which the child resides are in session.

Removal

16602. Any parent, guardian, or other person having control or charge of any minor between the ages of eight and 16 years who removes the minor from any city, city and county, or school district before the completion of the current school term, shall enroll the minor in a public full-time day school of the city, city and county, or school district to which the minor is removed.

Article 2. Persons Exempt

Exemptions

16621. The classes of children described in this article shall be exempted by the proper school authorities from the requirements of attendance upon a public full-time day school.

Physical and mental condition

16622. Children whose physical or mental condition is such as to prevent, or render inadvisable attendance at school or application to study shall be exempted, but the governing board of the school district may require satisfactory evidence of the condition to be furnished.

Distance of residence

16623. Children residing more than two miles from the schoolhouse by the nearest traveled road shall be exempted, but only upon the written approval of the superintendent of schools of the county, notice of which shall be filed with the clerk or the governing board of the school district.

Instruction in private schools

16624. Children who are being instructed in a private full-time day school by persons capable of teaching shall be exempted. Such school shall be taught in the English language and shall offer instruction in the several branches of study required to be taught in the public schools of the State. The attendance of the pupils shall be kept by private school authorities in a register, and the record of attendance shall indicate clearly every absence of the pupil from school for a half day or more during each day that school is maintained during the year.

Instruction by tutors

16625. Children not attending a private full-time day school, and who are being instructed in study and recitation for at least three hours a day for 170 days each calendar year by a private tutor or other person, in the several branches of study required to be taught in the public schools of this State and in the English language shall be exempted. The tutor or other person shall hold a valid State credential for the grade taught. The instruction shall be offered between the hours of 8 o'clock a.m. and 4 o'clock p.m.

Permits to work

16626. Children who hold permits to work shall be exempted, but such children shall be subject to compulsory attendance upon part-time classes.

Blindness

16627. Any child who is blind or deaf or partially blind or deaf to an extent which renders him incapable of receiving instruction in the regular elementary or secondary schools, but whose mental condition is such as to permit application to study shall be exempted from the provisions of this chapter only when he is resident of a city, city and county, or school district which does not maintain special classes for the admission of such pupils and when he may not be admitted to the State School for the Blind, or the State School for the Deaf, but he shall be exempted only upon the written approval of the superintendent of schools of the county.

Article 3. Vocational Courses

Assignment to vocational course

16636. Upon the recommendation of the principal of the school which any minor over the age of 14 years is attending and has been attending during the next preceding school year, the supervisor of attendance, or, if there is no supervisor of attendance, the superintendent of schools having jurisdiction over the place of the school attendance may assign the minor

to a vocational course in a place of employment. The employment shall be in lieu of the regular school course which the minor is pursuing.

Approval

16637. An assignment to a vocational course shall not be made until the recommendation of the school principal has been approved by the Superintendent of Public Instruction, and until a permit to work has been issued to the minor by the person authorized to issue permits to work The permit to work shall specify the hours in which the minor shall be required to attend part-time continuation classes.

Return to classes

16638. Any minor assigned to a vocational course shall be continued under the jurisdiction of the school last attended and may at any time be returned to the classes therein by the supervisor of attendance making the assignment when in his judgment of the educational, physical, or moral interests of the minor will be best served thereby.

Article 4. Enforcement

Absence

16651. No minor having a permit to work and no minor under 16 years of age, who is otherwise required by law to attend school, shall be out of school and unemployed for a period longer than 10 consecutive days while the public schools are in session, but shall enroll and attend school.

Notice

16652. Within five days after any minor has ceased to be employed by any employer, or has ceased to attend any school, the employer or school principal shall, in writing, notify the supervisor of attendance of the school district, in which the minor was employed or has been attending school, giving the latest correct address of the minor known to the employer or principal. The supervisor of attendance shall immediately notify the supervisor of attendance having jurisdiction in the place of the minor's residence, giving the latest known correct address of the minor and stating that he is out of work, or has dropped out of school.

Article 5. Permits to Work and Vacation Permits

Permit to work

16671. The superintendent of schools of any city or of any city and county in which any minor resides, or a person authorized by him in writing, may issue to certain minors permits to work. Where the minor resides in a portion of a county not under the jurisdiction of the superintendent of schools of any city, the permit to work shall be issued by the superintendent of schools of the county or by a person authorized by him, in writing.

Qualifications of pupil

16672. A permit to work may be issued to a minor under the age of 16 years and over the age of 15 years who has completed the equivalent of the seventh grade of a public school course.

Same

16673. A permit to work may be issued to a minor under the age of 16 years and over the age of 14 years who holds a diploma of graduation from the prescribed elementary

school course. A permit of this class shall be issued only when the parent, or foster parent, or guardian of the minor child presents a sworn statement that the parent or foster parent, or guardian of the minor is incapacitated for labor through illness or injury, or that through the death or desertion of the father of the minor the family is in need of the earnings of the minor and that sufficient aid can not be secured in any other manner. In no case shall the permit be issued for a period of time to exceed six months from the date of issuance.

The person issuing the permit shall make a signed statement that he, or a competent person designated by him, has investigated the conditions under which the application for the permit has been made and has found that, in his judgment, the earnings of the minor are necessary for the family to support the minor and that sufficient aid can not be secured in any other manner.

Appearance

16674. No permit shall be issued until the minor accompanied by his parent or guardian, appears before the person authorized to issue the permit and makes application therefor.

Required papers

16675. No permit shall be issued until the issuing authority has received, examined, approved, and filed, the following papers duly executed:

(a) The school record of the minor giving age, grade, and attendance for the current term signed by the principal or teacher.

(b) Evidence of age, such as the school record of enrollment, or a certificate of birth, or a baptism certificate duly attested, or a passport, or affidavit of the parent, guardian, or custodian of the minor, such as shall convince the officer that the minor is of the age required by law.

(c) The written statement from a prospective employer that work is waiting for the minor and describing the nature of the work.

(d) A certificate signed by a physician appointed by the school board, or by other public medical officer, stating that the minor has been thoroughly examined by him, and, in his opinion, is physically fit to pursue the work specified. No fee shall be charged the minor for the physical certificate.

Oath

16676. The parent, guardian, or custodian accompanying the minor shall make oath that his statement of the name, address, birthplace, and age of the minor as entered upon the application for the permit to work are true and correct to the best of his knowledge and belief.

Certificate of age

16677. The person authorized to issue permits to work or to employ may issue to any minor a certificate of age when the minor accompanied by his parent, guardian, or other person in control or charge of the minor, presents to the authority, the evidence of age specified in this article. The certificate of age shall serve as a permit to employ a minor who is not in attendance upon any California school in the next pre-

ceding school term, and who is otherwise required to hold a vacation permit.

Work outside school hours

16678. The person authorized to issue permits to work may also issue to any minor over the age of 14 years a permit to work outside of school hours for a period of time which when added to the time the minor is required by law to attend school does not exceed eight hours in any one day. The person issuing any permit to work outside of school hours shall immediately notify, in writing, the principal of the school which the minor is attending, and if at any time the teacher of the minor shows to the satisfaction of the person issuing the permit that the school work or the health of the minor is being impaired by the employment, the authority issuing the permit may revoke it.

Notice

16679. The authority issuing any permit to work shall immediately notify, in writing, the person in charge of the organization and maintenance of part-time continuation classes of the place of the minor's prospective employment, and the parent or guardian of the minor shall send the minor to the classes designated.

Vacation permits

16680. Any minor over the age of 12 years and under the age of 16 years who holds a vacation permit may be employed on a regular weekly school holiday, and during the regular vacation of the public school and during the period of a specified occasional public school vacation in any of the establishments or occupations not otherwise prohibited by law.

Issuance

16681. Vacation permits shall be issued by the superintendent of schools of the city or city and county in which the minor resides or by a person authorized by him, in writing. Where the minor resides in a portion of a county not under the jurisdiction of the superintendent of schools of any city, the vacation permit shall be issued by the superintendent of schools of the county or by a person authorized by him, in writing.

Contents

16682. Vacation permits shall contain the name and age of the minor to whom it is issued, and when issued for the regular vacation, the date of the termination of the vacation for which it is issued; and when issued for the regular weekly school holiday, the termination of the school year for which it is issued. For employment in a mill, cannery, workshop, factory, or manufacturing establishment, the age of the minor shall be established pursuant to Section 16675.

Work done for parent

16683. In order that children may be disciplined and trained in habits of work and industry by their parents, guardians, or other persons standing in the place of parents, nothing in this chapter or in Chapter 5 of this division shall require a permit to work to be issued to any minor or require a permit to employ to be issued to the parent or guardian when the work or intended work to be performed by the minor is for or under the control of his parent or guardian and is performed upon or in connection with the premises owned, operated, or controlled by the parent or guardian.

Nothing in this section shall be held to affect existing provisions of law which require permits to work to be issued to minors employed in manufacturing, mercantile, or similar non-agricultural commercial enterprises by their parents or guardians. All other provisions of law relating to compulsory education shall be effective as to the minor.

Notice by farm operator

16684. Every owner, tenant, or operator of a farm employing thereon as agricultural labor any parent or guardian having minor children in his immediate care and custody shall post at a conspicuous place on the property or place of employment where it may be easily read by those employed, a notice stating that minor children are not allowed to work upon the premises unless legally permitted to do so by law and unless permits to work have been secured by the minor children from duly constituted authorities. No owner, tenant, or operator posting the notice shall be held to have violated the provisions of this code because work has been performed upon the premises by minor children without permits to work unless minors are directly employed by or for him or under his direction or unless the owner, tenant, or operator has knowledge of the employment of minors on premises owned, leased, or operated by him and fails to ascertain if permits to work have been secured by the minors.

Condition of issuance

16685. For the purpose of issuing vacation permits to minors under 16 years of age during regular summer vacation periods, the governing board of any school district may grant to a minor child a vacation permit or may designate the superintendent of schools so to do upon the submission of records showing the age of the minor pursuant to Section 16675. Permits shall be issued upon forms provided by and under instructions issued by the State Superintendent of Public Instruction.

Forms

16686. All permits to work or to employ, all certificates of age, and certificates of health pursuant to this chapter, shall be issued on forms prepared and provided by the Superintendent of Public Instruction.

Inspection and cancellation

16687. Permits and certificates shall always be open to inspection by attendance or probation officers, by officers of the State Bureau of Labor Statistics, and by officers of the Superintendent of Public Instruction. All permits to work or to employ and all certificates of age shall be subject to cancellation at any time by the Superintendent of Public Instruction, or by the Commissioner of the Bureau of Labor Statistics, or by the person issuing the permits or certificates whenever any such officer or person finds that the conditions for the legal issuance of the permits or certificates of age do not exist or never have existed.

Procedure for issuance

16688. Each application for a permit to work or to employ, or for a certificate of age shall be acted upon within three days after the date of the application. The person authorized to issue permits to work or to employ, or certificates of age, may administer the oath necessary for carrying out the pro-

visions of this chapter, but no fees shall be charged for administering the oaths or issuing the permits or certificates.

Annual reports

16689. An annual report of all permits to work and to employ issued during the year shall be made by the issuing authority to the county or city and county superintendent of schools. The reports shall be upon forms prepared and provided by the Superintendent of Public Instruction. The superintendent of schools of each county or city and county shall include in his annual report to the Superintendent of Public Instruction a summary of all such reports.

Article 6. Permits to Employ

Issuance

16711. The person authorized to issue permits to work may issue to any employer a permit to employ any minor who has been granted a permit to work, or, who has been assigned to a vocational course in a place of employment.

Statement of work

16712. No permit to employ shall be issued except upon a statement signed by the prospective employer that work is awaiting the minor and describing the nature of the work.

Contents

16713. The permit to employ shall contain:

(a) The name and address of the employer.

(b) The name, age, and address of the minor.

(c) The kind of work for which the permit is issued.

(d) The place and hours of compulsory part-time school attendance for the minor, or statement of exemption therefrom, the hours of compulsory full-time school attendance for the minor, if the permit is issued for outside of school hours.

(e) The date on which the permit expires.

Article 7. Duties of Employer

Employment

16731. No person, firm, or corporation shall employ, suffer, or permit any minor under the age of 16 years to work in or in connection with any establishment or occupation except as provided in Article 14 of this chapter, without a permit to employ, or a vacation permit issued by the proper educational officers in accordance with law.

(Amended by Stats. 1943, Ch. 364.)

[ORIGINAL SECTION]

16731. No person, firm, or corporation shall employ, suffer, or permit any minor under the age of 16 years to work in or in connection with any establishment or occupation except as provided in Article 13 of this chapter, without a permit to employ, or a vacation permit issued by the proper educational officers in accordance with law.

Register and notice of hours

16732. Every person, firm, corporation, or agent or officer of a firm or corporation, employing minors under the age of 16 years shall keep a separate register containing the names, ages, and addresses of the minor employees, and shall post and keep posted in a conspicuous place in every room where the minors are employed, a written or printed notice stating the working hours per day for each day of the week required of the minors, and shall keep on file all permits to employ, or

vacation permits for minors under the age of 16 years. The records and files shall be open at all times to the inspection of school attendance and probation officers and the officers of the State Bureau of Labor Statistics, of the Superintendent of Public Instruction, and of the State Board of Education.

Notice of termination of employment

16733. All permits to employ shall be kept on file by the employer during the term of the employment. Within five days after the termination of the employment, notification on the forms and in the manner prescribed on the permit to employ, shall be sent by the employer to the supervisor of attendance of the place of the employment. The notification shall contain the latest correct address of the minor known to the employer.

Custody of vacation permits

16734. All vacation permits shall be kept on file by the employer during the term of employment of the minors granted the vacation permits, and at the termination of the employment shall be returned to the minors.

Article 8. Authority of School Attendance Officers

Entrance into place of employment

16751. The attendance officer of any county, city and county, or school district in which any place of employment subject to the provisions of this chapter is situated, or the probation officer of the county, may enter into any such place of employment for the purpose of investigating violation of the provisions of this chapter.

Order of magistrate

16752. If any attendance or probation officer acting under the authority of this article is denied entrance to such place of employment, any magistrate may, upon the filing of an affidavit by the officer, setting forth the fact that he has good cause to believe that the provisions of this chapter are being violated in the place of employment, issue an order directing him to enter the place of employment for the purpose of making the investigation.

Article 9. City or City and County Supervisor of Attendance

Appointment

16771. The board of education of any city or city and county shall appoint a supervisor of attendance and such assistant supervisors of attendance as may be necessary for the city or city and county. The board shall fix the compensation, payable from the special school fund of the city or city and county, and shall prescribe the duties of the supervisor and assistant supervisors of attendance, not inconsistent with law.

Certificate

16772. In any city or city and county no supervisor of attendance or assistant supervisors of attendance shall be appointed, unless he has been lawfully certificated for the work by the county board of education.

Deputies

16773. The authority appointing a supervisor of attendance may also appoint and remove at pleasure one or more deputy supervisors of attendance to serve without compensation.

Article 10. County Supervisor of Attendance

Appointment

16791. Upon petition of a majority of the governing boards of school districts of any county, the county superintendent of schools shall appoint a supervisor of attendance to act in the portions of the county which are not under the jurisdiction of any city supervisor of attendance, and shall prescribe the duties of the supervisor of attendance not inconsistent with law.

Certificate

16792. No supervisor of attendance shall be appointed unless he has been lawfully certificated for the work by the county board of education.

Compensation

16793. The salary of any supervisor of attendance shall be fixed by the county board of education. Warrants for the salary and for the actual and necessary traveling expenses of the supervisor incurred in the discharge of his duties shall be drawn upon, and paid from, the unapportioned elementary and high school funds of the county. The amount paid from each of the funds shall be in proportion to the service rendered to the elementary and high schools of the county.

Assistants

16794. Whenever a county superintendent of schools appoints a county supervisor of attendance, the county superintendent of schools may thereafter, with the approval of the county board of education, appoint such assistant county supervisors of attendance as may be necessary. Each assistant county supervisor of attendance shall have all the powers and duties conferred by law on a county supervisor of attendance.

Article 11. District Supervisor of Attendance

Appointment

16811. The board of school trustees of any district of a county may appoint a district supervisor of attendance to act under the direction of the county supervisor of attendance.

Certificate

16812. In any district or districts with an average daily attendance of 1,000 or more school children, according to the annual school report of the last preceding school year, no district supervisor of attendance shall be appointed, unless he has been lawfully certificated for the work by the county board of education.

Teacher

16813. Any teacher already employed by a district may, without the special certification required by this article, be appointed to act as a district supervisor of attendance, and may be paid for the additional service from the special school fund of the district.

Employment by more than one district

16814. Two or more districts may unite in appointing a district supervisor of attendance and in paying his compensation.

Compensation

16815. The compensation of the district supervisor of attendance and the actual and necessary expenses incurred by him in the discharge of his duties shall be paid from the special school fund of the district.

Article 12. Truants

Arrest

16831. The attendance officer, any peace officer, or any school officer, shall arrest, during school hours, without warrant, any child between eight and 15 years of age, found away from his home and who has been reported to him by the teacher, the superintendent of schools, or other person connected with the school department or schools as a truant from instruction upon which he is lawfully required to attend, within the county, city, or city and county, or school district.

Delivery of truant

16832. The arresting officer shall forthwith deliver the child arrested either to the parent, guardian, or other person having control, or charge of the child, or to the teacher from whom the child is a truant, or, if the child has been declared an habitual truant, he shall bring the child before a magistrate for commitment by him to a parental school.

Report

16833. The attendance officer or other arresting officer shall promptly report the arrest, and the disposition made by him of the child to the school authorities of the city, or city and county, or school district.

Definition

16834. Any child may be reported as a truant, in the meaning of this article, who has been absent from school without valid excuse more than three days, or tardy on more than three days. Any absence for a part of a day is a tardiness.

Repeated absence

16835. Any child who has once been reported as a truant and who is again absent from school without valid excuse one or more days, or tardy on one or more days, may again be reported as a truant.

Habitual truant

16836. Any child is deemed an habitual truant who has been reported as a truant three or more times.

Same

16837. Any child who has once been declared an habitual truant and who, in a succeeding year is reported as a truant from school one or more days, or tardy on one or more days without valid excuse, may again be declared an habitual truant.

Complaint

16838. If any child in any district of a county where there is not a parental school is an habitual truant, or is irregular in attendance at school, as defined in this article, or is insubordinate or disorderly during attendance at schools, the county superintendent of schools shall make and file a complaint against him, in the superior court of the county, charging the facts.

Order of detention

16839. If the court upon the hearing of the complaint finds that the charge is sustained by the evidence, it shall render judgment that the child shall be detained and maintained in a parental school, if there is one in the county, during the remainder of the school term.

Order to parent

16840. If there is no parental school in the county, the court shall render judgment that the parent, guardian, or person having the control or charge of the child shall deliver him at the beginning of each school day, for the remainder of the school term, at the school from which he is a truant.

Bond

16841. If the parent, guardian, or other person having control or charge of the child, within three days after the rendition of the judgment executes a good and sufficient bond to the governing board of the school district, with sufficient sureties in the sum of two hundred dollars ($200), conditioned that the child will, during the remainder of the current school year, regularly attend some public or private school in the city, or city and county, or school district, and not be insubordinate or disorderly during his attendance, then the court shall make an order suspending the execution of the judgment so long as the condition of the bond is complied with. The bond shall be approved by the judge of the court, and be filed with the secretary of the board of education, or clerk of the board of trustees.

Forfeiture

16842. If the condition of the bond is violated, the court upon receiving satisfactory evidence of the fact in any action brought therefor, shall make an order declaring the bond forfeited, and directing judgment to be enforced.

Execution

16843. The governing board of the school district may, at any time within one year after the bond has been declared forfeited, have execution issued against any of the parties to the bond to collect the amount thereof. All money paid or collected on the bond shall be paid over to the parental school fund of the city, or city and county, or school district.

Article 13. Violations

Investigation

16861. The governing board of any school district, shall, on the complaint of any person, make full and impartial investigation of all charges against any parent, guardian, or other person having control or charge of any child, for violation of any of the provisions of this chapter.

Complaint

16862. If it appears upon investigation that any parent, guardian, or other person having control or charge of any child has violated any of the provisions of this chapter, the secretary of the board of education, except as provided in Section 16863, or the clerk of the board of trustees, shall make and file in the proper court a criminal complaint against the parent, guardian, or other person, charging the violation, and shall see that the charge is prosecuted by the proper authority.

Duty of attendance officer

16863. In counties, cities, and cities and counties, and in school districts having an attendance officer, the attendance officer shall make and file the complaint provided for by this article, and shall see that the charge is prosecuted by the proper authorities.

Penalty
Custodian of child

16864. Any parent, guardian, or other person having control or charge of any child who fails to comply with the provisions of this chapter, unless excused or exempted therefrom, is guilty of a misdemeanor, and, is liable, for the first offense, to a fine of not more than ten dollars ($10), or to imprisonment for not more than five days. For each subsequent offense he is liable to a fine of not less than ten dollars ($10), or more than fifty dollars ($50), or to imprisonment for not

less than five days, nor more than 25 days, or to both such fine and imprisonment.

Same Employer

16865. Any person, firm, corporation, or agent or officer of a firm or corporation that violates or omits to comply with any of the provisions of this chapter or that employs, or suffers, or permits any minor to be employed in violation thereof, is guilty of a misdemeanor and is punishable by a fine of not less than fifty dollars ($50) or more than two hundred dollars ($200), or by imprisonment in the county jail for not more than 60 days, or by both such fine and imprisonment, for each and every offense.

Prima facie evidence

16866. A failure to produce any permit to employ, or vacation permit to work, or other permit issued under this chapter, or to post any notice required by this chapter is prima facie evidence of the illegal employment of any minor for whom a permit to employ is not produced.

False statement

16867. Every person authorized to sign any certificate of age or any permit to work or to employ which allows employment of any minor during or outside school hours, during a vacation of the public schools, or upon the regular weekly school holiday who knowingly certifies to any false statement therein, is guilty of a misdemeanor, and is punishable by a fine of not less than five dollars ($5) or more than fifty dollars ($50), or imprisonment for not more than 30 days, or by both such fine and imprisonment.

Disposition of fines

16868. All fines paid as penalties for the violation of any of the provisions of this chapter shall, when collected or received, be paid over by the justice or officer receiving them to the treasurer of the city, or city and county, in which the offense was committed, to be placed to the credit of the parental school fund of the city, or city and county, if there is such a fund, otherwise to the credit of the general school fund of the city, or city and county, or to the county treasurer to be placed to the credit of the school fund of the school district in which the offense was committed.

Jurisdiction

16869. Any justice of the peace, or recorder of the city or city and county or any justice of the peace of the township in which the school district is located, or in which the offense is committed, has jurisdiction of all offenses committed under this chapter.

Fees

16870. No fees shall be charged or received by any court or officer in any proceeding under this chapter.

Article 14. Child Labor Law Not Affected

Construction

16891. Nothing in this chapter shall be construed to repeal or in any way modify the provisions of Sections 1298, 1390, 1394, 1395, 1396, and 1397 of the Labor Code.

Chapter 5. Compulsory Continuation Education

Article 1. Persons Subject To

Age

17001. All persons under 18 years of age who are too old to be subject to the provisions of Chapter 4 of this division, who have not been graduated from a high school maintaining a four-year course above the eighth grade of the elementary schools, or who have not had an equal amount of education in a private school or by private tuition, who are not disqualified for attendance upon these classes because of their physical or mental condition, or because of personal services that must be rendered to their dependents, and who are not in attendance upon a public or private full time day school, or satisfactory part-time classes maintained by other agencies, shall attend upon special continuation education classes maintained by the governing board of the high school district in which they reside, or by the governing board of a neighboring high school district, for not less than four 60 minute hours per week for the regularly established annual school term.

Equivalent instruction

17002. The local school authorities may accept, in lieu of the attendance required in this article, an equivalent amount of instruction at a place of employment under the direction of a duly certified instructor and in accordance with the standards and regulations established by the State Board of Education.

Period of attendance

17003. Whenever a minor subject to the provisions of this chapter can not give satisfactory proof of regular employment he shall attend upon special continuation education classes for not less than three hours per day during the period of unemployment.

Special classes

17004. The local school authorities may arrange with the parent, guardian, or other person responsible for any minor employed in a seasonal occupation and excused for a period from attendance upon continuation education classes for his full time attendance upon a special class maintained for him at a convenient season and the parent, guardian, or other person is responsible for his attendance upon these classes for the period.

Article 2. Persons Exempt

Exemption

17021. If it appears that the interest of any minor will suffer if he is compelled to attend a special continuation education class, the governing board of the high school district in which he resides may exempt him from compulsory attendance upon the class. Any high school board shall not exempt a number of minors which exceeds 5 per cent of the total number of minors subject to attendance upon continuation education classes in its district.

The board shall cause to be issued to any exempted minor a permit to work, which shall contain a statement of the cause of, and the time covered by, the exemption.

Investigation

17022. If any controversy arise in any high school district as to whether any person is exempt from the compulsory attendance features of this chapter, the school superintendent having jurisdiction over the district shall provide for an investigation, and he shall render a decision.

Appeal

17023. Any party to any such controversy who is not satisfied with the decision of the superintendent of schools may appeal from the decision to the Superintendent of Public Instruction, who shall provide for further investigation, upon the findings of which he shall render a final decision.

Article 3. Permits to Work

Issuance

17061. The governing board of each high school district shall designate an officer of the board to issue in its name a permit to work to each minor enrolled in continuation education classes. He shall also issue a duplicate of the permit for the parent, guardian, or other person having control or charge of the minor, and from time to time such duplicates of the permits as are necessary for filing with his employer.

Form

17062. The form for the permit shall be prescribed by the State Department of Education.

Qualifications

17063. The permit shall be issued to persons complying with the provisions of Article 1 of this chapter.

Expiration

17064. Permits to work issued during the first school term shall expire five days after the opening of the next succeeding school term of the year. Permits issued during the last term of the school year shall remain valid until five days after the opening of the first school term of the succeeding year.

Article 4. Duties of Employers

Definition

17081. The employer of any minor subject to this chapter shall require of him a permit to work issued by the governing board of the high school district in which he resides. The permit to work is the authorization of the employer to employ the minor for the period between the date of the issuance of the permit and the date of its expiration.

Employment

17082. No person shall employ a minor under 18 years of age who is too old to be subject to compulsory full time school attendance and who does not present the permit to work required by this chapter. The employer shall file and retain permanently the permit to work.

Notification of employment

17083. The employer of any minor subject to this chapter shall, within five days after the beginning of employment, send to the officer of the high school board issuing the permit to work a written notification of the employment. The form of the notification shall be prescribed by the State Department of Education and shall be furnished to the employer by the officer. The employer shall retain and file with the permit to work a copy of the notification.

Hours

17084. Except in agricultural and home-making occupations, no employer shall employ a minor under 18 years of

age for a greater number of hours each day than will, if added to the number of hours that the minor is compelled to attend school, equal eight hours.

Notification by principal

17085. The principal of the school which any pupil subject to this chapter attends, shall add his hours of compulsory school attendance and employment, and if the sum of the school attendance and employment exceeds eight hours for any day of the week, the principal shall give notification to this effect to any employer who employs the pupil after he has already served during that day eight hours of time in compulsory school attendance and employment combined.

Termination of employment

17086. Within five days after any minor subject to this chapter ceases to be employed by any employer, the employer shall in writing notify the person who issued the permit to work under which the minor was employed, that the minor has left his employ.

Article 5. Violations

Duty of custodian of child

17110. Each parent, guardian, or other person having control or charge of any minor required to attend special continuation education classes, shall compel the attendance of the minor upon the classes. He shall retain a copy of the permit to work and shall present it upon request of any officer of the law, or other person authorized to enforce the provisions of this chapter.

Investigation

17111. The governing board of any high school district in which a minor resides who violates the provisions of this chapter shall, on the complaint of any person, make full and impartial investigation of all charges against any parent, guardian, or other person having control or charge of the minor for violation of the provisions of Section 17110.

Complaint

17112. If it appears upon the investigation that any parent, guardian, or other person having control or charge of the minor has violated the provisions of Section 17110, the clerk of the board, or other person authorized by the board to bring such actions, shall make and file in the proper court a criminal complaint against the parent, guardian, or other person having control or charge of the minor, charging the violation, and shall see that the charge is prosecuted by the proper authorities.

Duty of attendance officer

17113. In cities, and in cities and counties, and in school districts having an attendance officer the attendance officer shall make and file the complaint provided for in this article, and shall see that the charge is prosecuted by the proper authorities.

Penalty Custodian of child

17114. Any parent, guardian, or other person having control or charge of any minor subject to this chapter who fails to perform any of the duties imposed upon him by the provisions of Section 17110 is guilty of a misdemeanor, and is liable for the first offense to a fine of not more than ten dollars ($10), or to imprisonment for not more than five days. For each subsequent offense he is liable to a fine of not less than

ten dollars ($10), nor more than fifty dollars ($50) or to imprisonment for not less than five days, nor more than 25 days, or to both such fine and imprisonment.

Same. Employer

17115. Any person, firm, corporation, or agent or officer of a firm or corporation, that violates or omits to comply with any of the provisions of this chapter, or that employs or suffers any minor under 18 years of age who is too old to be subject to compulsory full-time school attendance to be employed in violation thereof, is guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars ($50) nor more than two hundred dollars ($200), or by imprisonment in the county jail for not more than 60 days, or by both such fine and imprisonment for each and every offense.

Prima facie evidence

17116. Failure to produce a permit to work and a duplicate of the written notification of employment sent to the officer or the high school board are prima facie evidence of the illegal employment of any minor whose permit to work is not produced.

Action

17117. The clerk of the high school board, a supervisor of attendance, or other person authorized by the board shall bring an action against any person, firm, corporation, or agent or officer of a firm or corporation that employs a minor in violation of the provisions of this chapter.

Disposition of fines

17118. Any fine collected under this chapter shall be paid into the high school fund of the high school district in which the minor resides.

CHAPTER 6. COMPULSORY EDUCATION OF THE DEAF

School or class for deaf

17251. Every parent, guardian, or other person having control of any minor over five years of age and less than 20 years of age who, by reason of deafness or impaired hearing, is unable to benefit materially by the methods of instruction in use in the public schools, shall send the minor to a school or class for the deaf maintained by a school district or by the State for the full time for which the school or class is in session. The minor shall attend the school or class year after year until completion of the prescribed course of study or until discharged for good reason by the principal or other person in charge of the school or class with the approval of the governing board.

Board of education of deaf

17252. There is in each county a board known as the board for the education of the deaf. The board consists of the principal of the California School for the Deaf who is chairman of the board, the Chief of the Division of Special Education in the State Department of Education, and the principal or other person in charge of a public school or class for the deaf or those with impaired hearing maintained by the district in which the child resides, if there is one. The board is responsible for all matters pertaining to the attendance upon the schools or classes and the exemption therefrom of deaf children and those with impaired hearing. The board shall meet at the call of the chairman.

Exemption

17253. The following classes of children are exempt from the provisions of this chapter:

Body or mental condition

(a) Children whose bodily or mental conditions are such as to prevent or render inadvisable their attendance upon a school or class.

Disease

(b) Children afflicted with such contagious or offensive disease or possessing such habits as to render their presence a menace to the health or morals of other pupils, or for any reason deemed good and sufficient by the board for the education of the deaf.

Other instruction

(c) Children who are being efficiently and satisfactorily taught for at least four hours per day for at least 180 days per year in a private school, or by a private tutor or other person holding a valid and proper State credential, using the course of study as issued by the principal of the California School for the Deaf and as approved by the State Superintendent of Public Instruction. No exemption shall be allowed unless approved by the board for the education of the deaf for the county in which the child resides.

Completion of required instruction

(d) Children who have completed the prescribed course of the schools or classes for the deaf or have completed the requirements of the sixth grade of schools for the deaf and are in attendance at a junior high school or high school, where, in the opinion of the board for the education of the deaf of the county in which they reside they are able to receive a satisfactory education and who comply with all requirements of law relating to compulsory education.

Physician's report

17254. Every attending or consulting physician who examines any child under 20 years of age found to be totally deaf or with impaired hearing shall report at once to the principal of the California School for the Deaf the name, age, residence, and the name of the parent or guardian of the minor.

Notice

17255. The principal of the California School for the Deaf shall immediately notify the superintendent of schools of the county, city, or city and county of which the child is a resident of the name, age, residence of the child, and the name and residence of the parent or guardian of the child.

Reports by health officers

17256. City, county, and city and county health officers, all school nurses, the principal or other person in charge of every public or private school, and all truant officers and welfare workers shall report at once to the principal of the California School for the Deaf the name, age, sex, residence, and the name and residence of the parent or guardian of any child under 20 years of age found to be deaf or with impaired hearing, examined by them.

California School for Deaf

17257. The principal of the California School for the Deaf shall be supplied with proper blanks for notifying parents or guardians of the children reported of the address of the California School for the Deaf, of the nearest public school or class for the deaf, and the nearest public school or class for the hard of hearing, if there is either or both in the county in which the child resides, with information concerning the

advantages offered by the school and the benefits to accrue to the child from attendance at the schools.

Registration

17258. The principal of the California School for the Deaf shall issue to the parent or guardian of the minor reported an official registration card signifying that the child has been properly registered with the local and State boards of education and shall send to the school or class for the deaf located nearest the place of residence of the parent or guardian the name, address, and age of the minor child.

Powers

17259. No official, agent, or representative in carrying out the provisions of this chapter shall enter any home or take charge of any child over the objection of the parent or the person standing in loco parentis or having custody of the child.

Penalties

17260. Any parent, guardian, or other person having control of any child subject to this chapter who fails to comply with the provisions of this chapter unless excused or exempted therefrom is guilty of a misdemeanor, and is liable, for the first offense, to a fine of not less than ten dollars ($10) nor more than fifty dollars ($50) or to imprisonment for not more than five days, or to both such fine and imprisonment, and for each subsequent offense he is liable to a fine of not less than ten dollars ($10) nor more than fifty dollars ($50), or to imprisonment for not less than five days, nor more than 25 days, or to both such fine and imprisonment.

Construction

17261. Nothing in this chapter shall be construed as limiting the power of a parent, guardian, or person standing in loco parentis to determine what treatment or correction of any physical defect shall be provided for a child or the agency to be employed for the purpose.

DIVISION 9. ENVIRONMENT AND EQUIPMENT

CHAPTER 1. CARE, MANAGEMENT, AND CONTROL OF SCHOOL PROPERTY

Article 1. Duties of Governing Boards of Districts

Control of property

18001. The governing board of any school district shall manage and control school property within its district.

Same: Insurance

18002. The governing board of any school district shall furnish, repair, insure, and in its discretion rent the school property of its districts. The insurance shall be written in any admitted insurer.

Sinking fund

18003. In districts situated within or partly within cities of the first class or of the first and one-half class any board of education, in lieu of carrying the insurance specified in Section 18002, may establish a sinking fund for the purpose of covering fire losses and place therein each year a sum not less than 50 per cent of the amount of premium which the board estimates to be necessary to carry the insurance.

Improvements

18004. The governing board of any school district may grade, pave, construct sewers, or otherwise improve streets and other public places in front of real property owned or con-

trolled by it, and also may construct in immediate proximity to any school of the district, pedestrian tunnels, sewers, and water pipes in any street when required for school purposes, and appropriate money from the building fund of the district to pay the cost and expense of the improvements, whether made by the board under contract executed by the board, or under contracts made in pursuance of any of the general laws of the State respecting street improvements, or under other contracts made in pursuance of the charter of any municipality.

Improvement assessments

18005. The governing board of any school district may appropriate money to pay assessments, for the improvement of streets or other public places, levied against any real property owned by, or under the control of the board, when the property is included within an assessment district formed in pursuance of any general law of the State or under the charter of any municipality. The assessments may be paid out of any funds belonging to the school district, except funds derived from the sale of bonds or required by law to be used for teachers' salaries.

Water supply

18006. The governing board of each school district shall provide a sufficient, convenient, and healthful supply of water for each school within the district.

If the board, upon investigation by the health officer of the county in which any school under control of the board is located, is found to have neglected to make such provision, the superintendent of schools of any county having jurisdiction over the district shall do so, and may pay the cost thereof out of any funds of the district available for the purpose.

Eating place

18007. The governing board of every school district shall provide a warm, healthful place in which children who bring their own lunches to school may eat the lunches.

Housing employees

18008. The governing board of any school district may construct or purchase, equip, and maintain buildings for housing employees of the district. The use of the buildings by employees of the district shall be on a rental basis or as part of the compensation allowed to the employees.

Article 2. Duties of County Superintendents

Repair of buildings

18021. The superintendent of schools of each county may require the governing board of any district, except a district governed by a city or city and county board of education, to repair the school buildings or property or to abate any nuisance in or about the premises if the cost of the repairs or abatement does not exceed fifty dollars ($50) and there is a sufficient amount of money in the treasury to the credit of the district.

Grounds

18022. The superintendent of schools of each county may also, in all cases, require the governing board to provide suitable outhouses, and, where practicable, to adorn the grounds with fruit and ornamental trees and shrubbery. If the governing board neglects to make such provision, he may cause it to be done and pay for it on his requisition upon the county

auditor, who shall draw his warrant payable out of any money to the credit of the district.

"School maintenance and repair fund"

18023. The superintendent of schools of each county may transfer from the county school fund belonging to elementary school districts, and from the county fund belonging to high school districts, electing to take advantage of the provisions of this article, a sum not to exceed 1 per cent of the amount levied for the fund in the first county tax levy following August 14, 1931 to a fund known as "School maintenance and repair fund" which fund is continued in existence.

Use of fund

18024. Out of the school maintenance and repair fund the superintendent of schools of the county shall purchase materials, supplies, and equipment and employ labor to maintain and repair school premises and property of such schools of his county as request him to maintain and repair their property, and shall deliver a memorandum in triplicate of the cost of the service on or about the first of each calendar month to the district officer responsible for the accounts of the school.

Accounting

18025. Upon receipt of the memorandum the district officer shall immediately debit his school account with the amount of the purchase and return a duplicate and triplicate of the memorandum to the superintendent of schools who shall verify the cost and file the duplicate with the county auditor and the triplicate with the county treasurer. In lieu of the issuance of a warrant in payment of the supplies and equipment, the superintendent of schools of the county may transfer from the proper account of the school to his school maintenance and repair fund a sum equal to the cost of the services as stated in the memorandum.

Maintenance and repair

18026. The superintendent of schools of the county may employ such extra help as is necessary to perform the labor for the maintenance and repair work, as well as to provide for the supervision and transportation of the labor together with the equipment and materials for the work. The cost price of the maintenance and repair services to any school is the original cost thereof and in addition a sum sufficient to reimburse the county superintendent of schools for all supervision, transportation, equipment, and other expenses, but the sum added shall not in any case exceed 10 per cent of the cost of labor and supplies.

Power of governing board

18027. The governing boards of all elementary and high school districts may secure maintenance and repair services from the county superintendent of schools pursuant to this article.

Article 3. Duties of Clerks of Districts

Repair and supervision of property

18041. The clerk of each district except a district governed by a city or city and county board of education shall, under the direction of the governing board, keep the schoolhouses in repair during the time school is taught therein, and exercise a general care and supervision over the school premises and property during the vacations of the school.

Article 4. Contracts

Contracts in excess of $500

18051. The governing board of any school district shall let any contracts involving an expenditure of more than five hundred dollars ($500) for work to be done or for materials or supplies to be furnished, sold, or leased to the district, to the lowest responsible bidder who shall give such security as the board requires, or else reject all bids. This section applies to all materials and supplies whether patented or otherwise.

Notice

18052. For the purpose of securing bids the board shall publish at least once a week for two weeks in some newspaper of general circulation published in the district, or if there is no such paper, then in some newspaper of general circulation, circulated in the county, a notice calling for bids, stating the work to be done or materials or supplies to be furnished and the time when and the place where bids will be opened.

Estimates of cost

18053. In school districts, having an average daily attendance of 1,000 or more, as shown by the annual report of the county superintendent of schools for the preceding school year, the board may secure from responsible bidders at least three estimates of the cost of the work to be done or materials or supplies to be furnished. The estimates shall be secured from bona fide dealers or craftsmen engaged in the business or in handling the goods specified.

Estimates shall be submitted in writing and shall be filed with the clerk or secretary of the board.

If any of the estimates of cost is less than one thousand dollars ($1,000), the board may let a contract for the work, material, or supplies, to the lowest responsible bidder without publishing the notice calling for bids.

Continuing contracts

18054. Continuing contracts for materials and supplies may be made with an accepted bidder for a period of one year.

Day's labor

18055. The board may repair old buildings and improve school grounds by day's labor.

Emergency

18056. In an emergency when any repairs, alterations, work, or improvement is necessary to permit the continuance of existing school classes, the board may by unanimous vote, with the approval of the county superintendent of schools, make a contract in writing or otherwise on behalf of the district for the performance of labor and furnishing of materials or supplies for the purpose without advertising for or inviting bids.

Work not exceeding $1,000

18057. In each school district, the governing board may make repairs, alterations, or additions to school buildings, repair or build apparatus or equipment, make improvements on the school grounds, and erect new buildings by day's labor, whenever the total cost of labor on the job does not exceed one thousand dollars ($1,000).

Supplies for National emergency training

18058. Any and all supplies, materials or equipment to be used in classes authorized under any program sponsored, approved or directed by the State Department of Education or the State Board of Education, in connection with any

National emergency training instruction given by any school district of any type or class, may be purchased by such district in accordance with rules and regulations for such purchase adopted by the governing board of said district notwithstanding any provisions of this code in conflict with such rules and regulations.

Duration

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section; but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

(Added by Stats. 1943, Ch. 36.)

Estimate of costs

18059. In each district governed by a city board of education or in each district having an average daily attendance of 850 or more the governing board may secure from responsible bidders at least three estimates of the cost of materials or supplies to be furnished. The estimates shall be secured from bona fide dealers engaged in handling the goods specified.

Estimates shall be submitted in writing and shall be filed with the clerk or secretary of the board or other officer designated by the board.

If after a bona fide effort the board secures less than three such estimates it may let a contract to the lowest responsible dealer submitting an estimate. If after such effort no estimates are received the board may let a contract for the furnishing of the materials or supplies without the necessity of notice for bids.

Duration

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section; but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

(Added by Stats. 1943, Ch. 36.)

CHAPTER 2. POWERS OF DEPARTMENT OF EDUCATION

Division of Schoolhouse Planning

18101. The Department of Education shall establish and make rules and regulations needed for the expeditious handling of the work of a Division of Schoolhouse Planning, which is continued in existence to carry out the purposes of this chapter.

Duties of department. Sites

18102. The Department of Education shall:

(a) Advise with the governing board of each school district on the acquisition of new school sites, and after a review

of available plots give the governing board of the district in writing a list of the approved locations in the order of their merit considering especially the matters of educational merit, reduction of traffic hazards, and conformity to the organized regional plans as presented in the master plan of the planning commission having jurisdiction.

Standards

(b) Establish standards for school buildings.

Plans and specifications

(c) Review plans and specifications of all school buildings, except in districts governed by a city board of education, and formulate a schedule of charges for such service.

(d) Approve plans and specifications submitted by governing boards of school districts, and return without approval and with recommendation for changes, any plans not conforming to established standards.

(e) Make all necessary provisions by which governing boards of school districts, or architects engaged by them, may procure by purchase or otherwise, copies of standard specifications, plans, and building codes prepared by the department.

Survey of building needs

(f) Make, upon the request of the governing board of any school district, except a city board of education, a survey of the building needs of the district, advise the governing board concerning the building needs, suggest plans for financing a building program to meet the needs, and collect the cost of the survey, exclusive of the salaries of the State employees participating therein, from the district.

Assistants

(g) Employ experts, and clerical, and stenographic assistants as may be required for expediting the checking and approving of plans and specifications.

Money

18103. All money collected by the Division of Schoolhouse Planning under the provisions of this chapter shall be available for the use of the division.

Revolving fund

18104. A revolving fund of one thousand dollars ($1,000) is continued in existence for the use of the division in carrying out the provisions of this chapter.

Chapter 3. School Buildings

Article 1. Building of Schoolhouse

Duty of governing board

18151. The governing board of any school district may, and when directed by a vote of the district shall, build and maintain a schoolhouse.

Temporary quarters

18152. When the school enrollment of any school causes overcrowded schoolrooms, the governing board of the school district may make arrangements for the location of the school in temporary quarters.

These quarters may be procured for a consideration, or at a rental, or by the construction of temporary buildings on school property.

Article 2. Plans for Schoolhouses

Approval by county superintendent

18171. Except in cities having boards of education, the superintendent of schools of each county shall pass upon and approve or reject all plans for schoolhouses. To enable him to do so, the governing board, before adopting any plans for school buildings, shall submit the plans to him for his approval.

Contracts totaling $5,000

18172. The governing board of each school district, except districts governed by a city board of education, before letting any contract or contracts totaling five thousand dollars ($5,000) or more, for the erection of any new school building, or for any addition to, or alteration of, an existing school building, shall submit plans therefor to the State Department of Education, and obtain the written approval of the plans by the department. No contract for building made by any governing board of a school district contrary to the provisions of this section is valid, nor shall any public money be paid for erecting, adding to, or altering any school building in contravention of this section.

Article 3. Approval of Plans and Supervision of Construction

Construction exceeding $4,000

18191. The Division of Architecture of the Department of Public Works under the police power of the State shall supervise the construction of any school building or, if the estimated cost exceed four thousand dollars ($4,000), the reconstruction or alteration of or addition to any school building, for the protection of life and property.

"School building"

18192. "School building" as used in this article means and includes any building used, or designed to be used, for elementary or secondary schools or junior college purposes and constructed, reconstructed, altered, or added to, by the State or by any city or city and county, or by any political subdivision, or by any school district of any kind within the State.

"Construction or alteration"

18193. "Construction or alteration" as used in this article includes any construction, reconstruction, or alteration of, or addition to, any school building.

Approval of plans

18194. The Division of Architecture shall pass upon and approve or reject all plans for the construction or alteration of any school building. To enable it to do so, the governing board of each school district and any other school authority before adopting any plans for a school building shall submit the plans to the Division of Architecture for approval, and shall pay the fees prescribed in this article.

Safety of design and construction

18195. Before letting any contract for any construction or alteration of any school building, the written approval of the plans, as to safety of design and construction, by the Division of Architecture, shall be first had and obtained.

Accompanying papers

18196. In each case the application for approval of the plans shall be accompanied by the plans and full, complete, and accurate specifications, and structural design computa-

tions, and estimates of cost, which shall comply in every respect with any and all requirements prescribed by the Division of Architecture.

Filing fee

18197. The application shall be accompanied by a filing fee based on the estimated cost and according to the following schedule:

(a) For the first two hundred fifty thousand dollars ($250,000), a fee of one-half of 1 per cent of the estimated cost.

(b) For all costs in excess of two hundred fifty thousand dollars ($250,000) a fee of one-fourth of 1 per cent.

The minimum fee in any case shall be fifty dollars ($50). If the actual cost exceeds the estimated cost by more than 10 per cent, a further fee of one-half of 1 per cent of the amount by which the actual cost exceeds the amount of the estimated cost shall be paid to the Division of Architecture.

Public Building Fund

18198. All fees shall be paid into the State Treasury and credited to the Division of Architecture Public Building Fund, which fund is continued in existence, and are available without regard to fiscal years for the use of the Division of Architecture, subject to approval of the Department of Finance, in carrying out the provisions of this article.

Architect or engineer

18199. All plans, specifications, and estimates shall be prepared by a certified architect holding a valid license under Chapter 3 of Division 3 of the Business and Professions Code or by a structural engineer holding a valid certificate to use the title structural engineer under Chapter 7 of Division 3 of the Business and Professions Code, and the supervision of the work of construction shall be under the responsible charge of such an architect or structural engineer.

Compliance

18200. No contract for the construction or alteration of any school building, made or executed by the governing board of any school district or other public board, body, or officer otherwise vested with authority to make or execute such a contract, is valid, and no public money shall be paid for any work done under such a contract or for any labor or materials furnished in constructing or altering any such building, unless the plans, specifications, and estimates comply in every particular with the provisions of this article and the requirements prescribed by the Division of Architecture and unless the approval thereof in writing has first been had and obtained from the division.

Reports

18201. From time to time, as the work of construction or alteration progresses and whenever the Division of Architecture requires, the certified architect or structural engineer in charge of the work, the inspector on the work, and the contractor shall each make to the Division of Architecture a report, duly verified by him, upon a form prescribed by the division, showing, of his own personal knowledge, that the work during the period covered by the report has been performed and materials used and installed, in every particular, in accordance with the approved plans and specifications, setting forth such detailed statements of fact as are required by the Division of Architecture.

Rules

18202. The Division of Architecture may from time to time make such rules and regulations as it deems necessary, proper, or suitable effectually to carry out the provisions of this article.

Inspection

18203. The State Division of Architecture shall make such inspection of the school buildings and of the work of construction or alteration as in its judgment is necessary or proper for the enforcement of this article and the protection of the safety of the pupils, the teachers, and the public. The school district, city, city and county, or the political subdivision within the jurisdiction of which any school building is constructed or altered shall provide for and require competent, adequate, and continuous inspection during construction or alteration by an inspector satisfactory to the architect or structural engineer and the Division of Architecture. The inspector shall act under the direction of and be responsible to the architect or structural engineer.

Violation

18204. Any person who violates any of the provisions of this article or makes any false statement in any verified report or affidavit required pursuant to this article, is guilty of a felony.

Examination of buildings

18205. Upon request of the governing board of any school district or upon request of at least 10 per cent of the parents having children enrolled as pupils in any school district as certified to by the county superintendent of schools, the Division of Architecture shall make an examination and report on the structural condition of any public school building, subject to the payment of the actual expenses incurred by the Division of Architecture. Payment of the expenses may be waived by the Division of Architecture on recommendation of the State Superintendent of Public Instruction when it appears to him that the financial condition of the school district in which the public school building is located is not such as to permit of the payment of the expenses.

Article 4. Fitness of Buildings for Occupancy

Report of supervisor of health

18221. If the supervisor of health of any school district notes any defect in plumbing, lighting, or heating, or any other defect in the school building which tends to make the building unfit for the proper housing of the children, he shall at once make a detailed report to the governing board of the school district.

If within 15 days after he has filed this report, he finds that the board has made no provision for the correction of the defect, he shall at once report the defect to the county superintendent of schools who shall under the provisions of Article 2 of Chapter 1 of this division, proceed to have the defect corrected.

(Amended by Stats. 1943, Ch. 883.)

[ORIGINAL SECTION]

18221. If the physical inspector of any school district notes any defect in plumbing, lighting, or heating, or any other defect in the school building

which tend to make the building unfit for the proper housing of the children, he shall at once make a detailed report to the governing board of the school district.

If within 15 days after he has filed this report, he finds that the board has made no provision for the correction of the defect, he shall at once report the defect to the county superintendent of schools who shall under the provisions of Article 2 of Chapter 1 of this division, proceed to have the defect corrected.

Fire escapes

18222. Each school building shall, if two or more stories in height, be provided with suitable and sufficient fire escapes.

The governing board of any school district shall provide the fire escapes for the school buildings under its jurisdiction

Estimates

18223. Whenever an examination of the structural condition of any school building of a school district has been made by the Division of Architecture of the Department of Public Works, or by any licensed structural engineer or licensed architect for the governing board of the school district, or under the authorization of law, and a report of the examination, including the findings and recommendations of the agency or person making the examination, has been made to the governing board of the district, and the report shows that the building is unsafe for use, the governing board of the district shall immediately have prepared an estimate of the cost necessary to make such repairs to the building or buildings as are necessary, or, if necessary, to reconstruct or replace the building so that the building when repaired or reconstructed, or any building erected to replace it, shall meet such standards of structural safety as are established in accordance with law.

Repair

18224. After securing the estimate, the governing board of the district shall, if the district has sufficient funds to its credit to permit the repairs, reconstruction, or replacement, immediately proceed in such manner as is authorized by law to secure the necessary authorization for the expenditure of the funds. If authorization to expend the funds is not required by law, the board shall within 60 days from the receipt of the report of the examination of the building proceed with the repair, reconstruction, or replacement of the building.

Insufficient funds

18225. If the district has not sufficient funds available to permit the governing board of the district to proceed with the repair, reconstruction, or replacement of the building, the governing board may after receiving the report of the examination of the building call an election at which there shall be submitted to the qualified electors of the district all of the following propositions:

(a) Authorization of bonds of the district in an amount sufficient, as shown by the estimate, to provide funds for the repair, reconstruction, or replacement of the building.

(b) Authorization of the increase of the maximum tax rate of the district for such length of time as will permit raising sufficient funds by district taxation for the repair, reconstruction, or replacement of the building.

(c) Abandonment of the building and use of tents or other temporary structures for school purposes in lieu of the building abandoned.

Election

18226. Where authorization of the qualified electors for the expenditure of the funds is required under any law of this State, the proposition to authorize the expenditure shall be submitted at the election.

Resolution and notice

18227. The resolution or notice calling the election shall specify the building or buildings proposed to be repaired, reconstructed, or replaced, and those proposed to be abandoned.

Conduct of election

18228. The election shall be called and held and the vote canvassed and result declared in the manner provided by law for the calling and holding of district bond elections. Each elector shall be entitled to vote upon each of the propositions.

Bonds

18229. If, at the election, the requisite number of voters cast their ballots in favor of the issuance of bonds, the bonds shall be issued and sold in the manner provided by law for the issuance and sale of bonds of the district, and the proceeds used for the purpose or purposes specified in the resolution or notice calling the election. In such event, the results of the voting upon the other two propositions submitted at the election shall be disregarded.

Increase in tax rates

18230. If, at the election, issuance of bonds of the district is not authorized, and if, on the proposition of increasing the tax rate of the district the number of votes cast in the affirmative is sufficient to authorize an increase in the tax rate of the district, the increase shall be authorized, and the governing board shall proceed to increase the rate and to use the proceeds of the increased tax solely for the purpose or purposes specified in the resolution or notice calling the election. In such event the result of the voting upon the third proposition submitted at the election shall be disregarded.

Temporary structures

18231. If, at the election, neither the proposition to issue bonds nor the proposition to increase the maximum tax rate is authorized by the electors, the result of the voting upon the proposition to authorize the use of tents or other temporary structures shall be considered by the governing board, as an advisory vote, and the tents or other temporary structures may be used for school purposes to the extent that such use is deemed necessary by the governing board.

Liability of members. Temporary structures

18232. No member of the governing board shall be held personally liable for any damage or injury to person or property as a result of the use of tents or other temporary structures, except in case of his own personal negligence or misconduct.

Same Continued use of buildings

18233. If, at the election, neither the issuance of bonds nor the increase of the tax rate is authorized, and the other proposition on the ballot does not receive a majority of the votes cast thereon in favor thereof, no member of the governing board of the district shall be held personally liable for any injury to person or damage to property as a result of the con-

tinued use of any building or buildings referred to in the resolution or notice calling the election.

Same Failure to make examination

18234. No member of the governing board of the district shall be held personally liable for injury to person or damage to property by reason of the use of any building prior to the examination of the structural condition thereof when the district has been unable, because of insufficient funds, to have an examination made, and the Division of Architecture of the Department of Public Works has refused, after receiving a statement from the Superintendent of Public Instruction that the district has not sufficient funds therefor, to make an examination without expense to the district, or by reason of the use of the building during the period between the time the examination of the building is requested and the time when the building has been repaired, reconstructed, or replaced.

Liability of district

18235. Nothing in Sections 18232, 18233, or 18234 shall be construed as relieving any school district of any liability for injury to person or damage to property imposed by law.

Article 5. Buildings in Union or Joint Union Districts

Erection

18261. After the location of the union or joint union school or schools has been determined, the board of trustees may erect or lease suitable buildings, as they deem advisable.

Leases

18262. A lease shall not be made for a longer period than three years.

Approval of plans

18263. In all cases the plan shall be approved by the county superintendent of schools of the county in which the schoolhouse is located.

Article 6. High School Buildings

Temporary location

18281. The high school board may, at any time after its organization, make arrangements for the temporary location of the high school.

Lease

18282. If satisfactory quarters in a suitable location are offered or can be procured for a consideration or at a rental which makes it advisable to accept them, the high school board may secure or lease the quarters for a period not to exceed three years.

Renewal

18283. At the expiration of the lease or other arrangement, the board may make another lease or other arrangement for the same or different quarters for a period not exceeding three years.

Rooms

18284. If rooms can be obtained in a public school building in the place where the high school is temporarily located, on reasonable terms, such rooms shall be given the preference.

Dormitories

18285. The governing board of any district maintaining a high school, when in its judgment necessity therefor exists, may construct and maintain dormitories in connection with any high school within the district for use and occupancy by pupils in attendance at the high school, and shall fix the rates to be charged the pupils for quarters in the dormitories.

Article 7. Junior College Buildings

Dormitories

18311. The governing board of any district maintaining a junior college, when in its judgment necessity therefor exists, may construct and maintain dormitories in connection with any junior college within the district for use and occupancy by pupils in attendance at the junior college, and shall fix the rates to be charged the pupils for quarters in the dormitories.

CHAPTER 4. SCHOOL SITES

Article 1. General Provisions

Purchase

18401. The governing board of any school district may, and when so directed by a vote of the voters within the district shall, purchase or improve school lands.

Standards

18402. The State Department of Education shall establish standards for school sites.

Report of planning commission

18403. To promote safety to pupils and comprehensive community planning the governing board of each school district before acquiring title to property for a new school site shall advise in writing the planning commission having jurisdiction of the proposed acquisition. The planning commission shall investigate the proposed site and within 30 days shall submit to the governing board a written report of the investigation together with recommendations concerning the site.

The governing board shall not acquire title to the property until the report of the planning commission has been received. If the report does not favor the acquisition of the property for a school site, the governing board of the school district shall not acquire title to the property until 30 days after the commission's report is received.

Report of Department of Education

18404. To promote safety to pupils, comprehensive community planning, and greater educational usefulness of school sites the governing board of each school district, except districts governed by a city board of education, before acquiring title to property for a new school site, shall advise the State Department of Education in writing of the proposed acquisition. The State Department of Education within 30 days thereafter shall submit a written report and its recommendations concerning the site to the governing board of the school district. The governing board of the school district shall not acquire title to the property until the report of the State Department of Education has been received. If the report does not favor the acquisition of the property for a school site the governing board of the school district shall not acquire title to the property until 30 days after the report of the department is received.

Article 2. Sites for Union Schools

Temporary location

18421. The governing board of any union school district may make temporary arrangements for the location of one or more union schools in the district.

Trustees' meeting

18422. Within 40 days after the selection of trustees for a union school district, they shall notify the county superin-

tendent of schools that they desire to meet to locate one or more union schools in and for the district. Thereafter they shall meet in conjunction with the county superintendent of schools at a time and place to be named by him, for the purpose of determining the location of the union school or schools pursuant to this article.

Chairman

18423. At the meeting the superintendent shall be the chairman and is entitled to vote and participate in all its proceedings.

Disagreement

18424. If the trustees fail to agree unanimously upon a location for the school or schools they shall propose in writing to the county superintendent, or if he is not present, they shall transmit to his office, within 10 days, the names of the locations which they, or any of them favor.

Election

18425. Within 20 days after receiving the notice the superintendent shall call an election in the same manner as the election for the formation of the union school district, to determine the location of the union school or schools.

Propositions

18426. At the election only sites which have been named by the trustees and certified to the county superintendent shall be voted upon.

Ballot

18427. Any form of ballot by which the voter signifies his choice of location or locations shall be allowed.

Election procedure

18428. The result of the election shall be determined and certified to the county superintendent within five days subsequent to the holding of the election.

Result

18429. The location or locations which receive the largest number of votes shall be chosen as the location or locations of the school or schools.

Option of lease

18430. If satisfactory apartments or buildings in a suitable location are offered or can be procured for a consideration or at a rental which make it advisable to accept them, the board of trustees of the union school district may secure an option of a lease on the apartments or buildings for a period not to exceed three years from the first day of July next ensuing.

Article 3. Sites for Joint Union Schools

Joint action

18451. The location of the joint union school or schools, shall be determined by the joint action of the trustees and the county superintendents of the counties in manner and form as provided for the location of a union school or schools.

Article 4. Change of Location of Union or Joint Union Schools

Petition

18461. No change of location of any union or joint union school, when once established, shall be made, except upon a petition to the county superintendent of schools, or superintendents in case of a joint union district, signed by two-thirds of the electors who reside in the school district and who have children attending the school as is shown by the teachers' register in the school, and then only in accordance with all the provisions for the original location of the school.

(Amended by Stats. 1943, Ch. 696.)

[ORIGINAL SECTION]

18461. No change of location of any union or joint union school, when once established, shall be made, except upon a petition to the county superintendent of schools, or superintendents in case of a joint union district, signed by two-thirds of the heads of families who reside in the school district and who have children attending the school as is shown by the teachers' register in the school, and then only in accordance with all the provisions for the original location of the school.

Article 5. Sites for High Schools

Meeting

18471. When the money for the purchase of a site for a high school in any newly formed high school district has been provided and is in the county treasury, the superintendent of schools who has jurisdiction over the high school district shall at once call a meeting of the high school board in the same manner as he called the first meeting of the board for organization, for the purpose of making a permanent location of the high school.

Disagreement

18472. If at the meeting the members of the high school board fail to agree unanimously upon the location for the high school, they shall propose, in writing, to the superintendent of schools and shall transmit to his office within 10 days the names of the locations which they favor.

Election

18473. Within 20 days after receiving the proposals, the superintendent of schools shall call an election in the same manner as the election for the formation of the district, to determine the location of the high school.

Propositions

18474. At the election only the sites which have been named by the members of the high school board, and certified to the superintendent of schools shall be voted upon.

Ballot

18475. Any form of ballot by which the voter signifies his choice of location shall be allowed.

Election procedure

18476. The result of the election shall be determined and certified to the superintendent of schools as provided in case of the election for the formation of the district.

Result

18477. The location which receives the largest number of votes shall be chosen as the location of the high school.

Change of site

18478. Except as otherwise provided, no change of location of any high school where once established, shall be made except upon a petition to the superintendent of schools who has jurisdiction of the high school district, signed by two-thirds of the electors of the district, and then only upon the affirmative votes of two-thirds of the qualified electors of the district voting at an election called by the superintendent of schools for that purpose.

The election shall be called and held, and the returns thereof made to the superintendent of schools, in the same manner as in the case of the election for the formation of the district.

(Amended by Stats. 1943, Ch. 696.)

[ORIGINAL SECTION]

18478. Except as otherwise provided, no change of location of any high school where once established, shall be made except upon a petition to the superintendent of schools who has jurisdiction of the high school district, signed by two-thirds of the heads of families of the district, and then only

upon the affirmative votes of two-thirds of the qualified electors of the district voting at an election called by the superintendent of schools for that purpose.

The election shall be called and held, and the returns thereof made to the superintendent of schools, in the same manner as in the case of the election for the formation of the district.

Change within city

18479. When any location has been once established in any district and the location lies within the corporate limits of any city, any change of location within the corporate limits of the city may be made upon the change of location receiving the vote of the majority of the governing board of the district whenever a new building is to be erected.

Change within elementary district

18480. When any location has been once established in any union high school district, and the location lies within the limits of any elementary school district not containing any city, any change of location within the limits of the elementary school district may be made upon the change of location receiving the vote of the majority of the board of trustees of the union high school district whenever a new building is to be erected.

Article 6. Roads to Schoolhouses

"School approach"

18501. As used in this article, "school approach" means any highway or portion thereof which:

(a) Runs from a primary or secondary State highway, or from a county highway to a public school building maintained and used as such by the district.

(b) Is not more than one-half mile in length.

(c) Is entirely outside of the boundaries of any city.

Contract with Division of Highways

18502. The governing board of any school district may contract with the Division of Highways for the construction, improvement, or maintenance of a school approach which runs from any State primary or secondary highway. The Division of Highways may enter into such contracts.

Contract with board of supervisors

18503. The governing board of any school district may contract with the board of supervisors for the construction, improvement, or maintenance of a school approach which runs from any county highway. The board of supervisors may enter into such contracts.

Improvement by governing board

18504. The governing board of any school district may construct, improve, and maintain any school approach, and may use the funds of the school district for the purpose or for the purpose of carrying out any contract entered into by the district pursuant to this article.

Lease of equipment

18505. For the purpose of constructing, improving, or maintaining a school approach, the governing board of a school district may lease such equipment as is necessary.

Chapter 5. Sale, Lease, or Other Disposition of Property

Article 1 Conveyances

Conveyances to and from district

18600. The governing board of any school district shall receive in the name of the district conveyances for all property received and purchased by it, and shall make in the name

of the district conveyances of all property belonging to the district and sold by it.

Article 2. Sale or Lease of Real Property

Power of governing board

18601. The governing body of any school district may sell or lease for a term not exceeding 99 years, without a vote of the electors of the district first being taken, any real property belonging to the school district, and which is not or will not at the time of delivery of title or possession be needed for school classroom buildings by the district owning it.

Cash or terms

18602. The sale may be made for cash, or for part cash and upon such terms of deferred payments secured by purchase money, mortgage, or deed of trust as are determined by the action of the governing board.

Use of funds

18603. The funds derived from the sale shall be used for capital outlay.

Lease

18604. Any lease may be made upon such consideration or for such rental, as is authorized by the action of the governing board.

Method

18605. Every sale or lease shall be made in the manner provided by this article.

Declaration of intention

18606. Before ordering the sale or lease of any property the governing body shall, in a regular open meeting, by a two-thirds vote of all its members, adopt a resolution, declaring its intention to sell the property, or a resolution declaring its intention to lease it, as the case may be. The resolution shall describe the property proposed to be sold, or leased, in such manner as to identify it and shall specify the minimum price, or rental, and the terms upon which it will be sold, or leased, and the commission, or rate thereof, if any, which the board will pay to a licensed real estate broker, either out of the minimum price, rental, or otherwise, and shall fix a time, not less than three weeks thereafter for a public meeting of the governing body to be held at its regular place of meeting, at which sealed proposals to purchase or lease will be received and considered.

Broker's commission

18607. If, in the discretion of the board, it is advisable to offer to pay a commission to a licensed real estate broker who is instrumental in obtaining any proposal, the commission shall be specified in the resolution. No commission shall be paid unless there is contained in or with the sealed proposal or stated in or with the oral bid, which is finally accepted, the name of the licensed real estate broker to whom it is to be paid, and the amount or rate thereof. Any commission shall, however, be paid only out of money received by the board from the sale or rental of the real property.

Notice

18608. Notice of the adoption of the resolution and of the time and place of holding the meeting shall be given by posting copies of the resolution signed by the board or by a majority thereof in three public places in the district, not less than 15 days before the date of the meeting, and by publishing the notice not less than once a week for three successive

weeks before the meeting in a newspaper of general circulation published in the county in which the district or any part thereof is situated, if any such newspaper is published therein.

Same

18609. Whenever it is proposed to lease real property and the governing body unanimously determines in the resolution that in its opinion, the monthly rental value of the property does not exceed the sum of fifty dollars ($50), the resolution may, before the date of the meeting, be published in two successive issues of a weekly newspaper of general circulation or in five successive issues of a newspaper of general circulation, published daily.

Acceptance of bids

18610. At the time and place fixed in the resolution for the meeting of the governing body, all sealed proposals which have been received shall, in public session, be opened, examined, and declared by the board. Of the proposals submitted which conform to all terms and conditions specified in the resolution of intention to sell or to lease and which are made by responsible bidders, the proposal which is the highest, after deducting therefrom the commission, if any, to be paid a licensed real estate broker in connection therewith, shall be finally accepted, unless a higher oral bid is accepted or the board rejects all bids.

Oral bids

18611. Before accepting any written proposal, the board shall call for oral bids. If, upon the call for oral bidding, any responsible person offers to purchase the property or to lease the property, as the case may be, upon the terms and conditions specified in the resolution, for a price or rental exceeding by at least 5 per cent, the highest written proposal, after deducting the commission, if any, to be paid a licensed real estate broker in connection therewith, then the oral bid which is the highest after deducting any commission to be paid a licensed real estate broker, in connection therewith, which is made by a responsible person, shall be finally accepted.

Final acceptance

18612. The final acceptance by the governing body may be made either at the same session or at any adjourned session of the same meeting held within the 10 days next following.

Rejection of bids

18613. The governing body may at the session, if it deems such action to be for the best public interest, reject any and all bids, either written or oral, and withdraw the property from sale or lease.

Deed or lease

18614. Any resolution of acceptance of any bid made by the governing body authorizes and directs the president of the governing body, or other presiding officer, or the members thereof, to execute a deed or lease and to deliver it upon performance and compliance by the purchaser or lessee of all the terms or conditions of his contract to be performed concurrently therewith.

Lease to Department of Education or University of California

18615. Notwithstanding any of the provisions of this article to the contrary, the governing board of any school district may, with the approval of the Director of Finance, lease real property owned by the school district to the State Department

of Education or to The Regents of the University of California upon such terms and conditions as may be agreed upon. The State Department of Education or The Regents of the University of California may enter into any agreement to lease real property pursuant to this section.

Article 2.5. Leasing of Real Property for Production of Gas

(Article added by Stats. 1943, Ch. 787.)

Community lease

18631. The governing board of a school district may, upon complying with the provisions of this article, enter into and be a party to a community lease to which a city or other public agency and one or more private persons or private agencies are also parties for the leasing of the parcels of lands owned by the district and the other parties for the extraction and taking of gas not associated with oil, on such terms and conditions as the governing board of the district may prescribe. Such lease may be entered into without complying with any provisions of this code except as provided in this article.

(Added by Stats. 1943, Ch. 787.)

Conditions

18632. The board shall not enter into and be a party to any such lease unless the following conditions have been met:

(a) A resolution authorizing such action and prescribing the terms of the lease has been adopted by the unanimous vote of all the members elected or appointed to the board;

(b) Such resolution has been published in a newspaper of general circulation published in the district, or if there be no such newspaper, in a newspaper having a general circulation in the district, once a week for three weeks prior to the execution of the lease by the board.

(Added by Stats. 1943, Ch. 787.)

Wells

18633. No well for the production of gas shall be drilled on any land owned by the district and leased pursuant to this article.

(Added by Stats. 1943, Ch. 787.)

Article 3. Sale or Lease of Real Property by One District to Another, the Majority of Personnel of Boards Being the Same

Powers of governing board

18641. The governing board of any school district, constituting the governing body of an elementary school district, a high school district, and a junior college district, or any two of such districts, may sell, or lease for a term not exceeding 99 years, any real property belonging to one of its respective districts to another district, upon the conditions set forth in this article, whenever the majority of the personnel of the governing body of the district selling or leasing and the majority of the personnel of the governing body of the district purchasing or to which the property is to be let, are the same.

Resolution of intention

18642. Before ordering any sale or lease of real property the board shall, in open meeting by a two-thirds vote of its members, adopt a resolution declaring its intention to sell the property, or a resolution declaring its intention to lease it.

Terms

18643. The resolution shall describe the property to be sold or leased in such manner as to identify it, and the terms and conditions, not including the price or rental, upon which it will be sold or leased.

Board of appraisers

18644. The board, by the resolution, shall appoint two members of a board of appraisers, the third member of which shall be selected by the county superintendent of schools. The compensation of the board of appraisers shall be fixed by the governing board and is a legal charge against the funds of the district selling the property.

Report

18645. The board of appraisers shall thereafter make a report in duplicate to the board and county superintendent of schools of its finding and determination of the cash market value of the property proposed to be sold, or the rental value of the property proposed to be leased.

Notice

18646. The resolution, together with a notice fixing the time and place within the district at which a public meeting of the board will be held to consider the report of the appraisers and the sale or lease of the real property described in the resolution, shall be published in a newspaper of general circulation published within the district if there is one, or if none is published in the district, in a newspaper published in the county, for not less than once a week for two weeks prior to the meeting.

Meeting

18647. At the time and place fixed in the published notice, the board shall meet and consider the sale or lease and the report of the board of appraisers.

Execution

18648. If the county superintendent of schools approves the sale or lease at the price or rental fixed by the board of appraisers and the terms and conditions of sale or lease set forth in the resolution appointing the board of appraisers, the governing board of the district owning the property may thereupon consummate the sale or lease by one district to the other district governed by it, by executing, acknowledging and delivering such instruments as are necessary to convey title or demise the property.

Article 4. Dedication of Real Property

Powers of governing board

18671. The governing board of any school district may, pursuant to this article, dedicate to the State or any political subdivision thereof, for public street or highway purposes, either with or without consideration and without a vote of the electors of the district first being taken, any real property belonging to the district, and may dedicate to any public corporation without a vote of the electors of the district first being taken and with or without consideration, an easement to lay, construct, maintain, and operate water, sewer,

or storm drain pipes over and upon any land belonging to the school district.

Resolution of intention

18672. Before ordering the dedication of any property the governing board shall in regular open meeting by a two-thirds vote of all its members adopt a resolution declaring its intention to dedicate the property. The resolution shall describe the property proposed to be dedicated in such manner as to identify it, and shall specify the purposes for which and the terms upon which it will be dedicated, and shall fix a time not less than 10 days thereafter for a public meeting of the governing board to be held at its regular place of meeting for a public hearing upon the question of making the dedication.

Notice

18673. Notice of adoption of the resolution and of the time and place of holding the meeting shall be given by posting copies of the resolution signed by the members of the board, or by a majority thereof, in three public places in the district not less than 10 days before the date of the meeting, and by publishing the notice once not less than five days before the date of the meeting in a newspaper of general circulation, published in the district, if there is one, or, if there is no such newspaper published in the district, then in a newspaper published in the county in which the district or any part thereof is situated and having a general circulation in the district.

Public meeting

18674. At the time and place fixed in the resolution for the meeting of the governing board the public hearing shall be held, and the governing board may at the meeting, or at any other meeting of the governing board held within 60 days thereafter, unless a protest is entered, adopt a resolution by a two-thirds vote of all its members authorizing and directing the president of the governing board, or any other presiding officer, or the secretary, or the members thereof, to execute a deed of dedication of the property and to deliver it. Upon the delivery and acceptance of the deed the dedication is fully effective.

Protest

18675. A petition protesting against the proposed dedication signed by at least 10 per cent of the qualified electors of the district, as shown by the affidavit of one of the petitioners, may be filed with the governing board at the meeting held at the time and place fixed in the resolution. If a protest is filed, the governing board shall, before taking any further action on the proposed dedication, submit the question of whether the proposed dedication should be made, to the superintendent of schools of the county having jurisdiction over the district, whose decision is final. If the superintendent approves the proposed dedication, the board may proceed as provided in Section 18674. If the superintendent of schools does not approve the proposed dedication, no further proceedings shall be had thereon.

Article 5. Sale of Personal Property

Notice

18701. The governing board of any school district may sell to the highest bidder for cash any personal property belonging to the district not required for school purposes, or which should be disposed of for the purpose of replacement, or because unsatisfactory, or not suitable for school use, after notice given by publication in a newspaper of general circulation published in the county for a period of not less than two weeks, or by posting notice in at least three public places in the district for not less than two weeks.

Private sale

18702. If in the unanimous judgment of the board the property does not exceed in value the sum of two hundred dollars ($200) it may be sold at private sale without advertising, by any member of the board empowered for that purpose by the majority vote of the board.

Deposit of money

18703. The money received from the sale shall be placed to the credit of the fund from which the original expenditure for the purchase of the property was made.

Sale for replacement

18704. The governing board of any school district may dispose of personal property belonging to the district for the purpose of replacement by providing in the notice calling for bids for furnishing new materials, articles, or supplies that each bidder shall agree in his bid to purchase the property being replaced and to remove it from the school grounds and shall state in his bid the amount which he will deduct from the price bid for furnishing new materials, articles, or supplies as the purchase price for the personal property being purchased from the district. The board shall let the contract to the bidder whose net bid is the lowest, after deducting the amount bid for the purchase of the property, if the bidder is a responsible person.

Removal of old material

18705. The governing board of any school district may, when calling for bids and letting contracts for constructing new school buildings, or repairing, altering, adding to, or reconstructing existing school buildings, or demolishing existing school buildings, require each bidder for the performance of the work to agree in his bid to purchase and to remove from the school grounds all old materials required by the specifications to be removed from any existing school building on the same school grounds and not required for school purposes and to state in his bid the amount which he will deduct from the price bid for the work as the purchase price of the old materials The board shall let the contract to the bidder whose net bid is the lowest after deducting the amount bid for the purchase of the old materials, if the bidder is a responsible person.

Article 6. Sale or Lease of Personal Property by One District to Another

Powers of governing board

18721. The governing board of any school district may sell any personal property or school supplies belonging to the district to another district and the governing board of the other

district may purchase the property, for an amount equal to the cost thereof plus the estimated cost of purchasing, storing, and handling the property, without advertisement for or receipt of bids or compliance with any other provisions of this code. The governing board of any school district may purchase any personal property or school supplies for the purpose of selling them, pursuant to this section.

This section does not authorize the purchase, for the purpose of resale, of standard school supplies and equipment by any elementary school district governed by school trustees.

Used personal property

18722. The governing board of any school district may sell or lease used personal property belonging to the district to another district, and the governing board of the other district may purchase or lease the property. The selling price and the terms of sale, or the lease price and the terms of lease shall be fixed by the governing boards of the school districts effecting the sale or lease, and approved by the county superintendent of schools. The sale or lease may be made without advertisement for or receipt of bids, or compliance with any other provisions of this code.

Article 7. Sale or Disposition of Buildings, Structures, and Other Fixtures by One District to Another

Powers of governing board

18741. The governing board of any school district, constituting the governing body of an elementary district, a high school district, and a junior college district, or any two of such districts, may sell any building, structure, or other fixture, belonging to one of its respective districts to another district governed by it, for an amount to be fixed by the governing body, and approved by the county superintendent of schools, without advertisement for or receipt of bids or compliance with any other provisions of this code.

Whenever any property is sold under this section it shall be removed from the premises of the district selling it within 60 days from the date of the sale.

Withdrawal from district

18742. When any territory withdrawn from a school district pursuant to this code contains a school building, site or real property, the building or site, together with the fixtures thereof, shall, upon the withdrawal of the territory becoming effective, become the property of the district of which the territory becomes a part or the whole.

Fixtures

18743. If a dispute arises between the governing boards of the two districts concerned as to what constitutes fixtures, a board of arbitrators shall be appointed who shall determine what articles in a school building located within territory withdrawn from any school district are fixtures thereof. The board shall consist of one person selected by the district from which the territory is withdrawn, one person selected by the district of which it has become a part, and a third person appointed by the county superintendent of schools of the county in which the districts are located. The two districts involved may

mutually agree that the person appointed as arbitrator by the county superintendent of schools may act as sole arbitrator of the matters to be submitted to arbitration. The necessary expenses and compensation of the arbitrators shall be divided equally between the two districts, and the payment of the portion of the expenses is a legal charge against the funds of the school districts. The arbitrator or arbitrators shall proceed to view and examine such property, articles, equipment, and fixtures as they are requested to pass upon by the respective school districts and make a written finding as to what property, articles, or equipment constitute fixtures. The written finding and determination of a majority of the board of arbitrators is final and binding upon the school districts submitting the question to the board of arbitration.

CHAPTER 6. APPARATUS AND SUPPLIES

Article 1. Purchase

Rules

18851. The county board of education shall on or before the first day of February of each year establish rules and regulations under which elementary school districts governed by school trustees shall purchase standard school supplies and equipment through the county superintendent of schools, or when so directed by him, through a county purchasing agent. The county board of education shall list as standard school supplies and equipment such supplies and equipment as can be advantageously purchased in quantity.

Powers of governing board

18852. The governing board of each school district shall, except as otherwise provided in this code, purchase school furniture, including musical instruments, and apparatus, and such other articles as are necessary for the use of schools, and may, in its discretion, purchase uniforms and other regalia for the use of school bands or orchestras, and including uniforms and equipment necessary for the use of athletic teams. Any such articles purchased shall always remain the property of the school district purchasing them. Only such books, apparatus, uniforms, and equipment shall be purchased by the governing board of an elementary school district, if the board is not a city board of education, as have been adopted by the county board of education having jurisdiction over the district.

Standard school supplies and equipment

18853. Trustees of elementary school districts shall purchase standard school supplies and equipment in accordance with the general regulations of the county board of education established pursuant to this code.

Same

18854. City boards of education and high school boards may purchase standard school supplies and equipment in the manner provided for the purchase of such supplies and equipment for elementary school districts governed by school trustees.

Other supplies and equipment

18855. The governing board of any school district may purchase any necessary school supplies and equipment, other

than standard school supplies and equipment listed by the county board of education, in the manner provided in this chapter for the purchase of standard school supplies and equipment, or they may purchase such supplies and equipment directly from the vendor.

Duty of clerk

18856. The clerk of each district shall, under the direction of the board of trustees, provide all school supplies authorized by this chapter.

Duty of county superintendent

18857. In accordance with the general rules and regulations prescribed by the county board of education, the county superintendent of schools shall provide for the purchase of all standard school supplies and equipment needed in the elementary districts of his county governed by boards of school trustees.

Agent for high school districts

18858. The county superintendent of schools, when so requested, shall act as agent for the purchase of supplies for the city and high school districts of his county.

County purchasing agent

18859. The county superintendent may arrange with a county purchasing agent for the purchase of standard school supplies and equipment in accordance with the regulations of the county board of education and the purchasing agent shall act in such capacity when so authorized.

School buses

18860. The cost of purchasing and maintaining school buses may be paid out of any funds of the district except funds derived from the sale of bonds and funds required by law to be set aside for teachers' salaries.

Article 2. School Supply Revolving Fund

School supply revolving fund

18881. The superintendent of schools of each county may transfer at the beginning of any school year from the funds of the elementary school districts of the county which are governed by boards of trustees, and from the funds of other districts of the county the governing boards of which elect to take advantage of Section 18854, to the school supply revolving fund, which fund is continued in existence, a sum not to exceed 10 per cent of the amount to be received during the school year by each district from the State General Fund.

Purchase of supplies and equipment

18882. The county superintendent of schools, or, when so directed by him, the county purchasing agent, shall, whenever a school supply revolving fund is established, purchase school supplies and equipment for the school districts of the county which are required or authorized to purchase supplies or equipment through him, and upon requisition therefor by the proper authorities of the district shall deliver or cause the supplies to be delivered to the district together with a memorandum of the amount of the cost of the supplies delivered.

Payment

18883. Upon proper evidence of the receipt by any school district of the school supplies and equipment, and upon approval by the county superintendent of schools for payment of the invoice therefor, he shall draw his requisition upon the county auditor against the proper funds of the dis-

trict in favor of the school supply revolving fund for the cost of the supplies and equipment plus a charge, not to exceed 10 per cent of the cost, to cover expenses of handling and possible losses. He shall thereupon draw his requisition upon the county auditor against the school supply revolving fund in favor of the vendor of the supplies and equipment in the amount of the approved invoice. The requisitions, when allowed and signed by the county auditor, constitute warrants on the county treasurer against the funds of the district and against the school supply revolving fund, respectively.

Assistants

18884. The county superintendent of schools, or, if so directed by him, the county purchasing agent, may employ such help as is necessary to care for the receiving, handling, and forwarding of school supplies and equipment, and the necessary wages and expenses for the help shall be paid from the school supply revolving fund on requisition by the superintendent.

Abolishment of fund

18885. The superintendent of schools may determine to abolish the school supply revolving fund in his county by serving notice in writing upon the auditor and treasurer of the county. Upon filing the notice discontinuing the fund, the superintendent of schools shall immediately arrange for the sale of supplies in his possession at their market price at the time of the sale plus any handling charges that may be charged against them. The sums secured from the sale shall be deposited by the superintendent of schools in the revolving fund which shall then be returned by the auditor to the respective districts from which it was created. A determination upon the part of the superintendent of schools to dispose of the school supply revolving fund shall not prejudice his right at a future time to recreate the fund.

Payment where no fund exists

18886. If in any county a school supply revolving fund is not established, payment for school supplies and equipment purchased through the county superintendent of schools or through the county purchasing agent shall be made by order of the governing board of the school district purchasing them, in the same manner as other payments are made from school district funds.

Article 3. United States Flags

Duties of governing board

18901. The governing board of each school district throughout the State shall provide for each schoolhouse under its control, a suitable Flag of the United States, which shall be hoisted above each schoolhouse during all school sessions, weather permitting.

The governing board of each school district shall provide smaller and suitable United States Flags to be displayed in each schoolroom at all times during the school sessions.

The governing board of each school district shall enforce this section.

Failure of governing board

18902. If a board of school trustees of any school district refuses or neglects to purchase and display United States

Flags as provided in this article, the superintendent of schools of the county shall purchase the Flags and direct the teacher or teachers to display the Flags as provided by law.

The superintendent of schools shall draw his warrant on the current expense fund of the district in payment of the cost of such Flags as he finds necessary to purchase.

Article 4. Supplies

Duties of governing board

18921. Writing and drawing paper, pens, inks, blackboards, blackboard rubbers, crayons, lead and slate pencils, and other necessary supplies for the use of the schools, shall be furnished under the direction of the governing boards of the school districts.

Audit and payment

18922. Charges for supplies shall be audited and paid in the same manner as other claims against the county school fund of the districts.

Subscriptions

18923. The governing board of a school district may pay in advance for subscriptions to newspapers, magazines, and other periodicals for the district and the schools thereof when such action will result in a decrease in the cost to the district.

Article 5. Audio-Visual Education

Elementary schools

18941. The county superintendent of schools may, with the approval of the county board of education, establish, conduct, and maintain facilities for the use in the elementary schools of the school districts under his jurisdiction of audial and visual curriculum materials, including the necessary salaries, supplies, materials, apparatus, and equipment, and other necessary expenses. The cost of the facilities may be paid out of the county unapportioned elementary school fund.

High schools

18942. The county superintendent of schools may, with the approval of the county board of education, establish, conduct, and maintain facilities for the use in the high schools of the school districts under his supervision of audial and visual curriculum materials, including the necessary salaries, supplies, materials, apparatus, and equipment, and other necessary expenses. The cost of the facilities may be paid out of the county unapportioned high school fund.

Agreements for distribution

18943. The county superintendent of schools may enter into an agreement with the State, any political subdivision, or any agency of the State or of any political subdivision, to conduct and maintain distribution among schools of districts under the jurisdiction of the county superintendent of schools, under such conditions as are agreed upon, of audial and visual instruction materials and apparatus approved by the constituted educational authorities. The State, any political subdivision, or any agency of the State or of any political subdivision may enter into any agreement with a county superintendent of schools authorized by this article.

Payment

18944. The agreement may, among other matters, provide for the payment by the county superintendent of schools

to the State, political subdivision, or agency, from the county unapportioned elementary school fund for the distribution of the materials and apparatus among elementary schools, and from the unapportioned county high school fund for the distribution of the materials and apparatus among high schools, of such money at such times as are agreed upon. All money transferred shall be used by the authorities of the State, political subdivision, or agency solely for the acquisition of audial and visual materials and apparatus as may be designated by the constituted educational authorities and for the care and distribution to schools of the county of the materials and apparatus.

Acquisition of materials

18945. The county superintendent of schools and the State, any political subdivision, or any agency of the State or of any political subdivision, may acquire materials and apparatus for distribution pursuant to this article, by purchase, rental, lease, loan, or donation, if the materials and apparatus have been adopted.

Agreements for service

18946. The governing board of any school district may contract with the county superintendent of schools having jurisdiction over the district, with the State, any political subdivision, or any agency of the State or of any political subdivision for the rendering to the schools of the district of any service authorized by this article, and may pay for the service out of any funds of the district.

All funds paid by a school district to a county superintendent of schools for services rendered to the elementary schools of the district shall be placed in the county unapportioned elementary school fund, and all funds paid by a school district for services rendered to the high schools of the district shall be placed in the county unapportioned high school fund.

Chapter 7. School Libraries

Article 1. Establishment

Control

19051. Libraries may be maintained under the control of the governing board of any school district.

Use

19052. The libraries shall be open to the use of the teachers, pupils, and all residents of the district.

Vacation

19053. Whenever practicable, the library shall be kept open during vacation and nonschool days.

Article 2. Books

List of books and apparatus

19071. County boards of education may adopt a list of books and apparatus for district school libraries.

Exclusion

19072. The governing board of any school district may exclude from schools and school libraries all books, publications, or papers of a sectarian, partisan, or denominational character.

Stamp

19073. The trustees of each district shall cause each book placed in the library, to be stamped on the flyleaf, on the

title page, and on each 100th page of the book, with the words "Department of Public Instruction, State of California, ------ County ------ District Library." The county superintendent shall procure the stamp for each district in his county, and pay for it out of the county school fund of the district.

Article 3. Management

Librarian

19091. The school trustees of a district maintaining its own library may appoint a teacher or other proper person librarian of the district library.

Duties of librarian

19092. The librarian shall manage the library as efficiently as possible, and whenever expedient request the advice and assistance of some person experienced in the art of managing libraries.

Duties of trustees

19093. The trustees are accountable for the proper care and preservation of the library, and may assess and collect all fines, penalties, and fees of membership and make all needful rules and regulations not provided for by the State Board of Education, and not inconsistent therewith.

Article 4. Affiliation with County and City Libraries.

Branch of county library

19121. Whenever the county in which a district is situated maintains a county library, the governing board of any school district may agree with the proper authorities of the county to make the school library a branch of the county library.

Property and funds

19122. If the school library becomes a branch of the county library, the governing board of the school district shall turn over the books and other property of the district library to the county library, and shall annually transfer to the county library its library fund, as soon as it is available. The county library shall thereafter make the district library a branch library, managed and maintained according to the rules and regulations established by the authorities of the county library.

Use of funds

19123. All funds transferred to a county library pursuant to this article shall be used by the county library only for: (a) the acquisition of such books and other materials as are adopted by the body authorized to adopt courses of study for the school districts of the county, and (b) the care and distribution of the books and other materials to school libraries which are branches of the county library.

Disposal of books

19124. The county librarian may (a) at his discretion dispose of books and other materials no longer fit for service, and (b) with the approval of the county board of education dispose of any books or other materials no longer needed by the course of study.

Agreement with city

19125. In any city conducting a public library owned and managed by the city, the governing board of any school district may enter into an arrangement with the governing body of the public library of the city similar to the arrangement authorized by this article between the governing boards of any school district and the county library.

Stamps

19126. Whenever a district library becomes a branch library, the provisions of this chapter relating to the stamping of library books and the care and preservation of the library shall not apply to it.

Transfer of fund

19127. Whenever a district library becomes a branch library the county, or city and county, or city superintendent of schools may draw a warrant for the whole amount of the district library fund, payable to the proper authorities of the library, upon the filing with him of a copy of the resolution of the governing board of the district embodying the agreement made with the library. The copy shall be duly certified as correct by the clerk of the district or other proper officer.

Agreement with county

19128. The governing board of any high school district lying wholly or partly within a county maintaining a county free library may enter into a contract or agreement with the board of supervisors of the county by which the high school district may secure the advantages of the county free library upon such terms and conditions as are fixed in the contract or agreement.

Care of property

19129. Whenever a district library shall have become a branch library the district shall provide for the care and custody of and assume responsibility for the books and other property delivered to it subject to the rules and regulations of the county or city library.

(Added by Stats. 1943, Ch. 700.)

Termination of agreement

19130. With the consent of the county superintendent of schools the governing board of the school district may agree with the proper authorities of the county or city to terminate the affiliation of the district with the county or city library. The proceedings shall be terminated prior to the first day of February of the school year in which begun and shall be effective on the first day of July next succeeding.

(Added by Stats. 1943, Ch. 700.)

Article 5. District Library Fund

Annual apportionment

19151. Except in cities governed by boards of education, the county superintendent of each county shall annually apportion to each school district, as a library fund, such sum as is requested by the governing board of the school district.

Request

19152. The request shall be in writing and filed with the county superintendent of schools in the month of June of each year.

Amount

19153. In no case shall the sum apportioned to any district be less than twenty-five dollars ($25) for each teacher allowed under Article 2 of Chapter 13 of Division 3, of this code.

Failure to file request

19154. If the school trustees fail to file the request in writing, the county superintendent shall apportion to the library fund of the district an amount not to exceed fifty dollars ($50) for each teacher allowed.

Deduction of amount

19155. All sums apportioned to a school district under this article shall be deducted from the amount which would otherwise be apportioned to the district from the county elementary school fund.

Article 6. Library Fund in Cities

Annual apportionment

19181. The county superintendent of each county or city and county shall annually apportion to each city or city and county not divided into school districts, as a library fund, such sums as are requested by the board of education of the city or city and county.

Request

19182. The request shall be in writing and shall be filed with the county superintendent of schools at least 30 days before the first day of the month in which the supervisors of the county or city and county are required by law to levy the amount of taxes required for county or city and county purposes for each year.

Amount

19183. In each city or city and county, comprising a single district, the amount apportioned shall not be less than forty cents ($0.40) nor more than one dollar ($1) for each pupil of average daily attendance in the elementary schools.

Deduction

19184. The amount apportioned shall be deducted from the county school fund apportioned to each city or city and county and credited to the library fund of each city or city and county.

Failure to file request

19185. If the board of education of any city or city and county fails to file the request in writing, the county or city and county superintendent shall apportion to the library fund of each city or city and county failing to make the request in writing, such amount, not in conflict with the provisions of this chapter, as he deems advisable.

Library fund

19186. The total amount of each apportionment shall constitute the library fund of each city or city and county not divided into school districts, and shall be expended only in accordance with the provisions of this chapter.

Article 7. Use of Library Fund

School apparatus and books

19201. The governing board of any school district shall expend the library fund, together with such money as is added thereto by donation, in the purchase of school apparatus and books for a school library, including books for supplementary work.

Conditions of purchase

19202. No warrant shall be drawn by the superintendent of schools upon the order of any board of trustees against the library fund of any district unless the order is accompanied by an itemized bill, showing the books and apparatus, and the price of each in payment of which the order is drawn, and unless the books and apparatus have been adopted by the county, city, or city and county board of education.

Approval

19203. All orders of the governing board of any school district for books or apparatus shall in every case be sub-

mitted to the superintendent of schools of the county, city, or city and county, respectively, for his approval, before the books or apparatus shall be purchased.

CHAPTER 8. CAFETERIAS

Establishment

19301. The governing board of any school district may establish cafeterias in the schools under its jurisdiction whenever in its judgment it is advisable to do so.

Cost

19302. The cost of housing and equipping cafeterias is a charge against the funds of the school district.

Supervision

19303. The governing board may provide for the general supervision of the cafeterias and the cost of the general supervision is a charge against the funds of the school district.

Sale of food

19304. The food served shall be sold to the patrons of the cafeterias at such a price as will pay the cost of maintaining the cafeterias, exclusive of the cost of general supervision.

"Cafeteria fund"

19305. Money received for the sale of food or for any services performed by the cafeterias may be paid into the county treasury to the credit of the "cafeteria fund" of the particular school district.

Use of fund

19306. The cafeteria fund shall be used only for such expenditures as are necessary for the operation of school cafeterias.

Cafeteria account

19307. The governing board of any school district may establish an account for each cafeteria established in a school of the district, or for all cafeterias established in the schools of the district, in one or more banks. The account shall be known as "The Cafeteria Account of (insert name of district) District." If the account is established for one of several cafeterias, it shall be known as "The Cafeteria Account of the (insert name of school) School of (insert name of district) District." All receipts of the cafeteria, or cafeterias, as the case may be, derived from the sale of food shall be deposited in the account and shall be expended only for the maintenance of the cafeteria, or cafeterias, exclusive of housing, equipment, and supervision.

Accounting

19308. The governing board of the district shall designate an employee or employees of the district to have custody of the account or accounts, who shall be responsible for the payment into the account or accounts of all moneys required to be paid into the account or accounts, and for all expenditures therefrom, subject to such regulations as the governing board prescribes.

Deposit of money

19309. Upon the order of the governing board of any district having a cafeteria fund in the county treasury and establishing an account, or accounts, the county treasurer shall deposit the money in the fund to the account, or accounts, and shall notify the county auditor and county or city and county superintendent of schools of his action. If the money is to be deposited in more than one account, the governing

board of the district shall designate the amount to be placed in each account.

Annual audit

19310. The governing board of any school district maintaining one or more cafeteria accounts shall provide for an annual audit of the accounts. The cost of the audit constitutes a charge against the funds of the district.

Sale of food

19311. Food shall not be sold at any cafeteria operated by a school district to anyone except pupils and employees of any school district, members of the governing board thereof, and members or employees of the fund or association maintaining the cafeteria; provided, however, that nothing herein contained shall prohibit the use of the cafeteria facilities by any work or harvest camp maintained by or within the district, and by persons entitled to use the school under the Civic Center Act; and provided further, that the governing board of any school district operating a cafeteria may exempt by formal resolution of the board other individuals and organizations from the operation of this section.

(Added by Stats. 1943, Ch. 637.)

CHAPTER 9. USE OF SCHOOL PROPERTY FOR PUBLIC PURPOSES

Article 1. Meetings

Conditions

19401. The governing board of any school district may grant the use of school buildings or grounds for public, literary, scientific, recreational, or educational meetings, or for the discussion of matters of general or public interest upon such terms and conditions as the board deems proper, and subject to the limitations, requirements, and restrictions set forth in this chapter.

Interference with school work

19402. No use shall be inconsistent with the use of the buildings or grounds for school purposes, or interfere with the regular conduct of school work.

Monopoly

19403. No use shall be granted in such a manner as to constitute a monopoly for the benefit of any person or organization.

Term

19404. No privilege of using the buildings or grounds shall be granted for a period exceeding one year. The privilege is renewable and revocable in the discretion of the board at any time.

Personnel examinations

19405. The governing board of any school district may grant the use of school buildings, grounds, and equipment without charge to public agencies for the purpose of holding examinations for the selection of personnel.

(Added by Stats. 1943, Ch. 575.)

Article 2. Civic Centers

Establishment

19431. There is a civic center at each and every public school building and grounds within the State where the citizens, parent-teachers' association, Campfire Girls, Boy Scout troops, farmers' organizations, clubs, and associations formed for recreational, educational, political, economic, artistic, or

moral activities of the public school districts may engage in supervised recreational activities, and where they may meet and discuss, from time to time, as they may desire, any subjects and questions which in their judgment appertain to the educational, political, economic, artistic, and moral interests of the citizens of the communities in which they reside. Governing boards of the school districts may authorize the use, by such citizens and organizations of any other properties under their control, for supervised recreational activities.

Prohibited use

19432. Any use, by any individual, society, group, or organization which has as its object or as one of its objects, or is affiliated with any group, society, or organization which has as its object or one of its objects the overthrow or the advocacy of the overthrow of the present form of government of the United States or of the State by force, violence, or other unlawful means shall not be granted, permitted, or suffered.

Rules

19433. The use of any public schoolhouse and grounds for any meeting is subject to such reasonable rules and regulations as the governing board of the district prescribes and shall in nowise interfere with the use and occupancy of the public schoolhouse and grounds, as is required for the purposes of the public schools of the State.

Management

19434. The management, direction, and control of the civic center is vested in the governing board of the school district.

Powers of governing board

19435. The governing board of the school district shall make all needful rules and regulations for conducting the civic meetings and for such recreational activities as are provided for in this chapter and which aid, assist, and lend encouragement to the activities.

Appointee of governing board

19436. The governing board of any school district may appoint a person who shall have charge of the grounds, preserve order, protect the school property, plan, promote, and supervise recreational activities, and do all things necessary in the capacity of a representative of the board. He shall have the power of a peace officer, to carry out the provisions and the intents and purposes of this chapter.

Free use

19437. The use of schoolhouses, property, and grounds pursuant to this chapter shall be granted free.

Admission fees

19438. In the case of entertainments or meetings where admission fees are charged or contributions are solicited and the net receipts of the admission fees or contributions are not expended for the welfare of the pupils of the district or for charitable purposes a charge shall be made for the use of the schoolhouses, property, and grounds.

The governing board may, however, permit such use, without charge, by organizations, clubs, or associations organized for general character building or welfare purposes, when membership dues or contributions solely for the support of the organization, club, or association, or the advancement of its character building or welfare work, are accepted.

Necessary expense

19439. Lighting, heating, janitor service, and the services of the person when needed, and other necessary expenses, in

connection with the use of public school buildings and grounds pursuant to this chapter, shall be provided for out of the county or special school funds of the respective school districts in the same manner and by the same authority as similar services are provided for.

CHAPTER 10. DISTURBING SCHOOLS

Penalty

19501. Any person who wilfully disturbs any public school or any public school meeting is guilty of a misdemeanor, and punishable by a fine of not less than ten dollars ($10) nor more than one hundred dollars ($100).

CHAPTER 11. CHILD CARE CENTERS

(Chapter 11 added by Stats. 1943, Ch. 16.)

NOTE.—Stats. 1943, Ch. 16, which added Chapter 11, contained the following:

SEC. 4. If any section, subsection, sentence, clause or phrase of this act, or of the act or acts of which this act is amendatory or supplemental, is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases of this act, or that any one or more sections, subsections, sentences, clauses or phrases of the act or acts of which this act is amendatory or supplemental, be declared unconstitutional. If any section, subsection, sentence, clause or phrase of this act for any reason be held to be unconstitutional and such unconstitutional provision shall have purported to repeal or amend any provision of the act or acts of which this act is amendatory or supplemental, the provision existing and in force at the time of the enactment of this act shall remain and be in full force and effect notwithstanding such purported repeal or amendment.

Purpose

19601. The policy of the Legislature in enacting this chapter is to provide a means for meeting an emergency, existing in certain communities in this State, created by the employment of women with children in industry as a direct result of the war in which the United States of America is now engaged, without imposing additional taxes on property which the owners of such property can not, because of the burdens imposed by such war, be reasonably expected to bear.

(Added by Stats. 1943, Ch. 16.)

Establishment

19602. The governing board of any school district may, subject to the provisions of this chapter, establish and maintain such child care centers within the district as it may deem necessary to provide for the proper supervision and care, including such health supervision as may be established under the standards established for child care centers by the Superintendent of Public Instruction as hereinafter provided, of children between two years and 16 years of age living within, and in the custody of persons residing in, the district when such care and supervision can not be provided by such persons because such persons are gainfully employed.

(Added by Stats. 1943, Ch. 16.)

19602.5. Said governing board may accommodate in a child care center maintained by it children residing in another district, upon such terms and under such conditions as may be agreed upon by the governing boards of both districts. Nonresidents

(Added by Stats. 1943, Ch. 923. In effect until 181 days after cessation of hostilities in all wars in which United States is now engaged. See note below.)

NOTE.—Stats. 1943, Ch. 923, also contained the following:

SEC. 1.5. In addition to any other sum appropriated, there is hereby appropriated out of any money in the State treasury not otherwise appropriated the sum of five hundred thousand dollars ($500,000), or as much thereof as may be necessary, to the California State War Council, to be used by the War Council during the Ninety-fifth and Ninety-sixth Fiscal Years for supplemental support of child care centers created pursuant to Chapter 3 of Part 3 of Division 6 of the School Code and Chapter 11 of Division 9 of the Education Code, where in the discretion of the War Council a demonstrated need for such supplemental support can be established. Any such allocations shall be made by the War Council directly to the governing board of the school district maintaining the child care center for which the allocation is made.

SEC. 2. Of the sum hereby appropriated twenty-two thousand two hundred dollars ($22,200) shall be expended by the State War Council only for the purpose of making allocations to the Director of Education for the purpose of supervising such child care centers.

SEC. 3. The remainder of the sum hereby appropriated shall be expended by the California State War Council only for the purpose of making allocations to local districts which have established such child care centers, for the purpose of supplementing support from the Federal Government, parents of children cared for, and industry where those sources are insufficient to meet the costs of operating the child care centers.

SEC. 4. In making this appropriation, the Legislature makes the following statement of its intent:

(a) That child care centers are intended as emergency institutions, to be conducted for the period of the war only, and are to be discontinued completely within six months after the cessation of hostilities.

(b) That the Legislature views the problem of caring for children whose parents are employed in essential war industries as essentially a part of the National defense effort, and that the obligation of supporting the child care centers is primarily a Federal responsibility.

(c) That since the parents of the children are employed in industry, they are able to contribute to the cost of their care, and are primarily liable for furnishing the necessaries of life for the children.

(d) That participation by the State or locality in payment of the costs of the program should be of supplementary or emergency nature only, until the Federal Government, parents, and industry can maintain its full support.

(e) That limitation of the operation to care for children of day workers only should be encouraged, and industry, parents, and school districts should be encouraged to arrange for employment of mothers in daytime only.

(f) That employment of mothers of more than two children of very tender years appears inadvisable except in extreme cases.

(g) That the Legislature recognizes that the cost of maintenance of the child care centers should not be imposed against local real property, but must be paid for upon a broader tax basis.

SEC. 5. Before allocating the funds appropriated the California State War Council shall make every effort to arrange for support of the child care centers by the Federal Government, parents of the children, and industry. If sufficient funds for the purpose can not be secured from these sources, the War Council may allocate to the respective child care centers such sums as it deems necessary for supplemental use only.

SEC. 6. Before making any allocation to any district, the California State War Council shall determine that the district is operating efficiently In making such allocations the War Council shall not recognize costs based on elaborate organization or standards that are excessively high or extravagant.

SEC. 7. The California State War Council shall make a survey of the respective child care centers petitioning for allocation of funds, and after determining the necessity, costs, and support derived from the Federal Government, parents, and industry, shall allocate such sums to the respective child care centers as it deems necessary to insure their efficient operation.

SEC. 8. This act shall remain in effect until the one hundred eighty-first day after the cessation of hostilities in all wars in which the United States is now engaged, and the powers hereby conferred upon the California State War Council shall thereupon terminate.

SEC. 9. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

In order that the successful prosecution of the war in which the United States of America is now engaged be not impeded, it is necessary that State funds be made available for temporary or supplemental financial assistance to child care centers where a demonstrated need can be shown and for proper supervision of child care centers so that parents who are engaged or hereafter must engage in essential war work may have assurance of proper care for their minor children during the hours of their employment. It is, therefore, necessary that this act take effect immediately.

Agreements with public agencies

19603. Said governing board may enter into agreements with any city or city and county or other public agency for the furnishing to, or use by, said governing board in carrying out the provisions of this chapter, of property, facilities, personnel, supplies, equipment and other necessary items and such city, county, city and county, or other public agency is authorized to enter into such agreements.

(Added by Stats. 1943, Ch. 16.)

Use of school facilities

19604. The said governing board may permit the use of buildings, grounds, existing administrative personnel and equipment for the purposes of this chapter.

(Added by Stats. 1943, Ch. 16.)

Standards

19605. The Superintendent of Public Instruction shall establish reasonable and uniform standards not in conflict with the provisions of this chapter for child care centers established and maintained under the provisions of this chapter and no child care center shall be so established and maintained which does not comply with such standards.

(Added by Stats. 1943, Ch. 16.)

Hours

19606. The hours in any day, the days in any week and the months in any year during which such child care centers may be maintained shall be determined by said governing board.

(Added by Stats. 1943, Ch. 16.)

Same

19606.5. Children shall be accommodated at such child centers only during the hours in which the person or persons having custody of such children are at work or unable to

care for such children for any reason connected with such work.

(Added by Stats. 1943, Ch. 16.)

Fees

19607. Said governing board shall charge and collect, in advance, from the person having custody of any child admitted to a child care center a fee which, together with all funds received under Section 19613, shall be in such amount as will reimburse the district for the cost of maintaining such child care center including supervision and care and the cost of all food furnished such child. The fees charged need not be uniform.

(Added by Stats. 1943, Ch. 16.)

Consideration of income

19607.5. Recognizing the fact that certain mothers are forced to work due to the father serving in the armed forces of the United States—the State of California, or as civilians, having been killed, reported missing, or so disabled so as to be unable to follow his employment, as a result of enemy action, it is the intent of the Legislature that consideration be given to the income of such mother and dependent children in setting fees to be charged by the school district for the care of such children.

(Added by Stats. 1943, Ch. 16.)

"Child Care Center Fund"

19608. The said governing board shall establish in the county treasury a fund to be known as the "Child Care Center Fund" into which shall be paid all funds received for, or from the operation of, child care centers. The costs incurred in the maintenance and operation of child care centers shall be paid from said fund.

No funds of a district derived from the receipts of district taxes or derived from moneys apportioned to the district for the support of the schools thereof may be expended for, or in connection with, a child care center.

(Added by Stats. 1943, Ch. 16.)

Rules

19609. Said governing board may adopt such reasonable rules and regulations governing the child care center or centers maintained by it as are not in conflict with law or the standards established for child care centers by the Superintendent of Public Instruction. Such rules and regulations may include, among others, rules and regulations relating to the admission of children to, and their exclusion from, such center or centers.

(Added by Stats. 1943, Ch. 16.)

Qualifications of employees

19610. The said governing board may employ in or for a child care center only such persons who hold permits issued by the Superintendent of Public Instruction. If persons holding such permits but who meet such standards as may be established by the Superintendent of Public Instruction are not readily available, persons who do not hold such permits may be employed for a period not to exceed five months, but such persons shall, during such period of temporary employment, attend such courses of instruction and training approved by the Superintendent of Public Instruction as will permit,

upon the successful completion thereof, such persons to qualify for the appropriate permit.

(Added by Stats. 1943, Ch. 16.)

Effect of employment

19611. No person employed in a child care center under the provisions of this chapter shall be deemed to be a person employed by a school district in a position requiring certification qualifications or employed in a status requisite for membership in the State Teachers Retirement System or district retirement system, or an employee subject to the provisions of Article 5 of Chapter 13 of Division 5 of this code.

(Added by Stats. 1943, Ch. 16.)

Standards for permits

19612. The Superintendent of Public Instruction shall establish standards for the issuance of the permits herein provided for. Such standards may be changed from time to time, but changes therein shall not affect then valid permits issued to persons.

(Added by Stats. 1943, Ch. 16.)

Acceptance of funds

19613. The governing board of each school district is hereby authorized to accept funds from the Government of the United States or any agency thereof, or from any other source other than funds derived from taxes levied by any taxing agency, for any of the purposes of this chapter and such funds may be accepted subject to such conditions as will further the purpose of this chapter. As used in this section "taxing agency" has the meaning ascribed to the phrase in the Revenue and Taxation Code.

(Added by Stats. 1943, Ch. 16.)

Discontinuance

19614. Any child care center may be discontinued at any time at the discretion of the governing board of the district upon the giving of the notice herein prescribed.

Not less than 30 days before the discontinuance of a child care center the governing board shall mail to each person having custody of a child in attendance at such child care center a notice of the intended discontinuance of the child care center and the date the discontinuance will become effective, and shall post a similar notice at the child care center.

(Added by Stats. 1943, Ch. 16.)

Approval of standards

19614.5. No standards relating to child care centers proposed to be established by the Superintendent of Public Instruction in accordance with the provisions of this chapter shall take effect unless and until such proposed standards have been reviewed and approved by the California State War Council.

(Added by Stats. 1943, Ch. 923. In effect until 181 days after cessation of hostilities in all wars in which the United States is now engaged. See note to Section 19602.5.)

Insurance

19615. Said governing board shall insure against the liability, other than a liability which may be insured against under Division 4 of the Labor Code, imposed upon the district by any law of this State, in any insurance company authorized

to do business in this State. The cost of such insurance shall be paid out of the "Child Care Center Fund" of the district.

(Added by Stats. 1943, Ch. 16.)

19616. This chapter shall have no force or effect from and after July 1, 1945, or six months after the proclamation of the President of the United States that hostilities in the existing war have ceased, whichever is the earlier. Duration

(Added by Stats. 1943, Ch. 16.)

DIVISION 10. EDUCATIONAL INSTITUTIONS

CHAPTER 1. UNIVERSITY OF CALIFORNIA

Article 1. Tuition Fees

20001. An admission fee and rate of tuition fixed by the board of Regents shall be required of each pupil, except as otherwise provided. Fees

20002. When the income of the university permits, admission and tuition shall be free to all residents of the State. The Regents shall so apportion the representation of students according to population that all portions of the State may enjoy equal privileges in the university. Admission

20003. An admission fee and rate of tuition fixed by The Regents of the University of California shall be required of each nonresident student. The Regents shall cause to be computed the actual cost to the university of maintaining one student in each of the respective courses of the several colleges for the period of one year. Each nonresident student shall be required to pay as the rate of tuition the sum provided for by the computation for the particular course the student is following, except that the maximum sum to be paid shall not exceed five hundred dollars ($500). The sums may be remitted in whole or in part in the case of graduate students in other than professional colleges and schools. Nonresident student fees

20004. "Nonresident student" means any person who has not been a bona fide resident of the State for more than one year immediately preceding the opening day of a semester during which he proposes to attend the university. "Nonresident student"

20005. The residence of each student shall be determined in accordance with the rules for determining residence prescribed by Sections 243 and 244 of the Government Code. Every alien student who has not made a valid declaration of intention to become a citizen of the United States as provided by law, prior to the opening day of a semester during which he proposes to attend the university, is deemed to be a nonresident student. Nothing in this section or in Sections 243 and 244 of the Government Code prevents the regents from causing to be classified as a resident student: Determination of residence

(a) Any citizen of the United States, or any person who prior to the opening day of a semester during which he proposes to attend the university has made a valid declaration of his intention to become a citizen, who has attained his majority

according to the laws of this State, and who for a period of one year immediately preceding the opening day of a semester during which he proposes to attend the university has been entirely self-supporting and actually present in the State, with the intention of acquiring a residence therein.

(b) Any minor child, a citizen of the United States, or any minor child, who, prior to the opening day of a semester during which he proposes to attend the university, has made a valid declaration of his intention to become a citizen, who does not receive and has not for a period of more than one year immediately preceding the opening day of a semester during which he proposes to attend the university received, directly or indirectly, any support or financial assistance from his father, if the minor lives with his mother, who is and has been for a period of more than one year immediately preceding the opening day of the semester actually present in the State with the intention of making her permanent home therein.

(Amended by Stats. 1943, Ch. 364.)

[ORIGINAL SECTION]

20005. The residence of each student shall be determined in accordance with the rules for determining residence prescribed by Section 52 of the Political Code. Every alien student who has not made a valid declaration of intention to become a citizen of the United States as provided by law, prior to the opening day of a semester during which he proposes to attend the university, is deemed to be a nonresident student. Nothing in this section or in Section 52 of the Political Code prevents the Regents from causing to be classified as a resident student:

(a) Any citizen of the United States, or any person who prior to the opening day of a semester during which he proposes to attend the university has made a valid declaration of his intention to become a citizen, who has attained his majority according to the laws of this State, and who for a period of one year immediately preceding the opening day of a semester during which he proposes to attend the university has been entirely self-supporting and actually present in the State, with the intention of acquiring a residence therein.

(b) Any minor child, a citizen of the United States, or any minor child, who, prior to the opening day of a semester during which he proposes to attend the university, has made a valid declaration of his intention to become a citizen, who does not receive and has not for a period of more than one year immediately preceding the opening day of a semester during which he proposes to attend the university received, directly or indirectly, any support or financial assistance from his father, if the minor lives with his mother, who is and has been for a period of more than one year immediately preceding the opening day of the semester actually present in the State with the intention of making her permanent home therein.

Oaths

20006. The attorney for The Regents of the University of California and any person appointed by him for the purpose of ascertaining the residence status of students and prospective students of the university may administer oaths or affirmations in connection with the taking of testimony relative to any residence status.

Article 2. Competitive Scholarship

Number and term

20026. The Regents may establish four competitive scholarships, each embracing the full term of four years in the university.

20027. One only of the scholarships shall be issued at the beginning of each university year, except to fill vacancies. Issuance

20028. The competitive examination for scholarships shall be made by the faculty. Competitive examination

20029. The applicants for the examination shall be bona fide residents of the State, and shall have been chiefly educated in any of the schools of the State, and shall, at the time of application, satisfy the Regents in respect to character and to the inability of the applicant to provide his own maintenance at the university. Qualifications

20030. Each scholarship shall be entitled to three hundred dollars ($300) per annum, to be appropriated out of the funds belonging to the university, and shall be applied, under the direction of the proper officer of the faculty, to the education and support of the scholar during his university course. Amount

20031. The scholarships shall be subject to examination at the close of each university year, and if the student having the benefit of any scholarship is not found by his acquirements, industry, and conduct to deserve the continuance of the scholarship, the President of the University shall report the finding to the Regents, who shall declare the scholarship vacant. The scholarship shall thereafter be filled in the same manner as other scholarships are filled. Vacancy

20032. The Regents may, upon the recommendation of the faculty, revoke any scholarship for improper conduct or violation of established rules, and may fill all vacancies which occur in scholarships under competitive examination. Revocation

Article 3. Transfer to University of Lands Acquired by Tax Sales

20051. Whenever the State is the owner of any property sold for taxes and the deed to the State has been filed with the Controller, and there appears of record a mortgage upon the property to The Regents of the University of California, and the mortgage and the debt secured by the mortgage have not been both paid in full and satisfied of record, the Controller, upon receiving proof, by affidavit of the president and secretary, or acting secretary or of the treasurer of the Regents, that the debt secured by the mortgage has not been fully paid, shall direct the tax collector of the county or city and county in which the lands are situated, to execute a deed of the lands in the name of the State to The Regents of the University of California. Mortgage to Regents

20052. The tax collector shall thereupon publish a notice once a week for at least three successive weeks in some newspaper published in the county or city and county in which the lands are situated, or if there is no newspaper published therein, then the tax collector shall post a notice in three conspicuous places in the county or city and county at least three weeks before the day named in the notice. Notice

20053. The notice shall state that on or after a day mentioned, which shall be not less than four weeks, and not more Contents of notice

than eight weeks after the first publication or posting of the notice, the tax collector will execute and deliver to The Regents of the University of California a deed to the property, and shall describe the property and shall state that the deed will be made because of a sale of the property to the State for delinquent taxes, and because The Regents of the University of California are interested in the property. No other matters need be contained in the notice. One or more pieces of land may be described in the affidavit, notice, deed, and report provided for in this article.

Deed

20054. Unless prior to the day mentioned in the notice, there is paid to the tax collector (a) the full amount for which the property was sold to the State, together with all interest and penalties thereon and all expenses and costs connected therewith, and (b) all subsequent State and county taxes not theretofore paid in full, and all interest and penalties thereon, and all costs and expenses connected therewith, and also (c) the expense of publishing or posting the notice, as the case may be, the tax collector shall on the day, or within 10 days thereafter, execute, acknowledge, and deliver a deed to the Regents without any payment, charge, or fee therefor, and shall within five days thereafter report in writing to the Controller the fact of the execution of the deed.

Expenses

20055. The expense of the publication and posting shall be paid by The Regents of the University of California, unless the expense is paid to the tax collector prior to the day mentioned in the notice.

Separate pieces of land

20056. If the notice describes two or more pieces of land assessed separately and sold separately to the State, and if all the payments are made within the time prescribed in respect to any one of the pieces separately assessed and sold, the piece paid upon shall not be included in the deed, and the fact of the payment and the amount paid shall be stated in the report to the Controller.

Title

20057. The deed shall transfer, grant, convey, and confirm to The Regents of the University of California the entire title to the lands, free and clear of all claims and incumbrances whatsoever. Nothing contained in this article shall be held to interfere with the right of the Regents to enforce the mortgage or the payment of the debt secured thereby, or to procure a decree of foreclosure and a sale under the decree of all or any of the property described in the mortgage.

Recitals

20058. The deed shall recite the facts provided in this article as authorizing its execution and is prima facie evidence of the facts and of all matters therein recited and of the ownership of the lands by the Regents.

Recordation

20059. The deed may be recorded in the office of the county recorder of the county or city and county in which the lands are situated, and upon the expiration of two years after it has been recorded, shall, except as against parties deriving title through a sale and purchase under decree of foreclosure of the mortgage, be conclusive evidence that the complete fee simple

title to the property therein described vested at the date of the deed in The Regents of the University of California, free and clear of all claims, liens, charges, and incumbrances whatsoever.

Prima facie evidence

20060. In any action commenced against the Regents before the expiration of two years to question the title of the Regents to the property, the deed is prima facie evidence only.

Sale by State

20061. While any mortgage to the Regents appears of record and not satisfied of record, no lands which have been sold to the State for taxes and the deed to which has been filed with the Controller, shall be sold or disposed of, except as provided in this article.

Article 4. Insurance of Property

Insurance

20081. All property of the University of California held in fee or otherwise for purposes of income may be insured against damage or loss.

Article 5. Toland Medical Department

Designation

20121. The Medical Department of the University of California shall be known and designated as the Toland Medical Department of the University of California, and all degrees, diplomas, scholarships, and records of the department shall be made out, and all proceedings in connection therewith shall be conducted in and by such name and designation.

Article 6. Hastings College of the Law

Designation

20141. The law college founded and established by S. C. Hastings shall forever be known and designated as the Hastings College of Law.

Officers

20142. The officers of the college are a dean, a registrar, and eight directors. One of the directors shall always be an heir or representative of S. C. Hastings. The dean and registrar shall be appointed by, and may be removed by the board of directors.

President

20143. The Chief Justice of the Supreme Court of the State is president of the board of directors.

Board of directors

20144. The business of the college shall be managed by the board of directors. Five directors constitute a quorum for the transaction of all business. The directors shall serve without compensation.

Vacancies

20145. Vacancies in the board of directors shall be filled by the board from members of the Bar Association of San Francisco or otherwise.

Appointment and removal of officers

20146. The acting officers of the college shall be appointed and may be removed by the directors.

Curriculum

20147. The college shall afford facilities for the acquisition of legal learning in all branches of the law. To this end it shall establish a curriculum of studies and shall matriculate students who reside at the University of California or elsewhere in the State.

Affiliation with University of California

20148. The college is affiliated with the University of California, and is the law department thereof.

Dean

20149. The dean of the college is ex officio a member of the faculty of the University of California.

Diplomas

20150. The faculty of the University of California shall grant, and the president shall sign and issue, diplomas to the students of the college.

Professorships

20151. Professorships may be established in the name of any founder who pays to the directors the sum of thirty thousand dollars ($30,000).

Appropriation

20152. The sum of 7 per cent per annum upon one hundred thousand dollars ($100,000) shall be appropriated annually by the State and shall be paid in semiannual payments to the directors of the college.

Failure to appropriate

20153. If the State fails to pay to the directors of the college the sum of seven thousand dollars ($7,000) annually, pursuant to Section 20152, or if the college ceases to exist, the State shall pay to the heirs or legal representatives of S. C. Hastings, the sum of one hundred thousand dollars ($100,000), and all unexpended accumulated interest, unless the failure is caused by mistake or accident, or the omission of the Legislature to make the appropriation at any one session.

Article 7. Education in Agriculture and Mechanic Arts

Acceptance of grant
7 U S C 321

20171. The State assents to the provisions of an act passed by Congress, entitled "An act to apply a portion of the proceeds of the Public Lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts, established under the provisions of an act of Congress, approved July second, Eighteen Hundred and Sixty-two," and approved August 30, 1890.

Acceptance of grant
7 U S C. 341

20172. The State assents to the provisions of an act passed by Congress known as the Smith-Lever Act, and entitled, "An act to provide for cooperative agricultural extension work between the agricultural colleges in the several states receiving the benefits of an act of congress approved July 2, 1862, and of acts supplementary thereto, and the United States department of agriculture;" approved May 8, 1914.

The Regents of the University of California are authorized to receive the grants of money appropriated under the act of Congress and to organize and conduct agricultural extension work in accordance with the terms and conditions expressed in the act.

Acceptance of grant
7 U S C 370

20173. The State assents to the provisions of an act passed by Congress, entitled "An act to authorize a more complete endowment of agricultural experiment stations and for other purposes, approved February 24, 1925."

The Regents of the University of California are authorized to receive grants of money authorized by the act for the benefit of the University of California Agricultural Experiment Station and to use the money in accordance with the terms and conditions expressed in the act of Congress.

20174. The State assents to the provisions of an act passed by Congress known as the Capper-Ketcham Act and entitled "An act to provide for the further development of agricultural extension work between the agricultural colleges in the several States receiving the benefits of the act, entitled 'An act donating public lands to the several States and territories which may provide colleges for the benefit of agriculture and the mechanical arts,' approved July 2, 1862, and all acts supplementary thereto, and the United States Department of Agriculture," and approved May 22, 1928. Acceptance of grant 7 U.S.C. 343a

The Regents of the University of California are authorized to receive the grant of money appropriated under the act of Congress, and to organize and conduct extension work in accordance with the terms and conditions expressed in the act.

20175. The State assents to the provisions of an act, passed by Congress and entitled "An act to provide for research into basic laws and principles relating to agriculture and to provide for the further development of cooperative agricultural extension work and the more complete endowment and support of land-grant colleges," approved June 29, 1935, Public—No. 182—74th Congress. Acceptance of grant 7 U.S.C. 343c

The Regents of the University of California are authorized to receive all grants of money appropriated under the act of Congress, and to apply, use, and expend the grants of money for the purposes and in accordance with the terms, conditions, and requirements set forth in the act.

Article 8. State Council of Educational Planning and Coordination

20201. There is in the State Government, a State Council of Educational Planning and Coordination consisting of nine members. The Superintendent of Public Instruction and the President of the University of California are ex officio members of the board. State Council of Educational Planning and Coordination

Of the seven other members of the board, five shall be persons not engaged in any manner in the direction or supervision of education, not engaged, employed, or serving in any capacity in any body charged with the direction or supervision of education, and not engaged, employed, or serving in any capacity in any school, college, or university. Each of the appointed members of the board shall be appointed for a term of one year jointly by the State Board of Education and the Board of Regents of the University of California upon the joint nomination of the Superintendent of Public Instruction and the President of the University of California.

Thereafter their successors shall be chosen in like manner for a like term. Any vacancy shall be filled by appointment by the Superintendent of Public Instruction and the President of the University of California jointly. Any person appointed to fill a vacancy shall serve only for the balance of the unexpired term.

Function

20202. The function of the State Council of Educational Planning and Coordination is to study problems affecting the relationships between the schools of the public school system and the University of California, and to make recommendations thereon jointly to the State Board of Education and The Regents of the University of California through the Superintendent of Public Instruction and the President of the University of California.

CHAPTER 2. STATE COLLEGES

Article 1. Objects of Colleges

Objects

20301. The primary function of the State colleges is the training of teachers, and there shall be no extension of the curriculum of any State college which will carry it into any other field of higher education. As a secondary function, courses in liberal arts may be given, but the courses shall be only such as are appropriate as courses of instruction for students intending to enter the teaching profession. Courses in military science and tactics may be given in conformance with the laws of the United States made and provided with reference to R. O. T. C. units in educational institutions.

Activities

20302. Each State college may engage in such activities for which provision may hereinafter be made.

Article 2. Management and Control

Control

20341. The several State colleges are in charge of the Director of Education for purposes of administration.

Expenditure of money

20342. The Director of Education shall control and expend all moneys appropriated for the support and maintenance of the State colleges, and all moneys received as donations.

Fees

20343. With the approval of the Director of Education, tuition fees and deposits may be required of and collected from students enrolled in State colleges. Special fees to cover cost of materials and services for specific courses in either regular or summer sessions, and fees for extension courses may be collected if authorized by the Director of Education, but such fees shall not be considered as part of the general tuition fee, and unexpended portions of such fees may, upon approval of the Director of Education, be refunded to the students from whom they were collected.

Appropriation

20344. All fees collected from students in any State college are appropriated for the support of the State college in addition to such other funds as may be appropriated therefor by the Legislature.

(Added by Stats. 1943, Ch. 85, as part of codification.)

Tuition fees

20345. The total tuition fees charged any student in a State college shall not exceed twenty-five dollars ($25) per year or twelve dollars and fifty cents ($12.50) per semester.

Rules

20346. The Director of Education shall prescribe rules and regulations subject to the approval of and audit by the Department of Finance covering the collection, custody, and

disposition of any and all moneys collected by any State college.

Same

20347. The State Board of Education shall prescribe rules (a) for the government of the State colleges, and (b) for the reports of officers and teachers of the colleges and for visiting other schools and institutions.

Meeting of State Board of Education

20348. A meeting of the State Board of Education shall be held annually at such time as is determined by the rules of the board to consider and act upon matters pertaining to the several State colleges.

Representative of State College

20349. Each State college may send the president of the institution, or a member of the faculty of the institution, or both to the meeting, in order to submit and discuss matters affecting the training and certification of teachers and make recommendations for the control of the training and certification of teachers.

The actual and necessary expenses incurred by officials in attending the meeting may be audited and paid in the same manner as other bills for the maintenance of the institution.

Matters to be considered

20350. At the joint meeting of the State Board of Education and the representatives of the State colleges, matters affecting the colleges may be presented by members of the board, by the Director of Education and his assistants, and by the representatives of the colleges, and, after due presentation and consideration, the board may adopt rules and regulations for the government of State colleges pursuant to this chapter.

Cooperative stores

20351. The Director of Education may rent, in the name of the State, any space in the buildings of any State college not needed for other authorized purposes to any organization composed entirely of students attending the college or members of the faculty, or both, for the purpose of establishing and maintaining cooperative stores on the campus of the colleges for the sale of materials and supplies required by students in the classes of the college and such activities of the college as are approved by the Director of Education, after a survey of the conditions, and a public hearing in the community where it is proposed to locate the store. The Director of Education shall fix a reasonable rental.

The rental fixed by the Director of Education shall be transmitted monthly to the State Treasurer to be placed to the credit of the General Fund.

Cafeterias

20352. The Director of Education may authorize an organization maintaining a cooperative store on the campus of a State college pursuant to this article to establish and maintain a cafeteria in connection with the store.

Same

20353. The Director of Education may provide for the establishment and maintenance of cafeterias in the State colleges whenever in his judgment it is desirable to do so. The food served shall be sold to the patrons of the cafeterias at such price as will pay the cost of operating and maintaining the cafeterias.

Student organizations

20354. The Director of Education may lease any property of a State college to a nonprofit organization composed exclusively of students of the college or of members of the faculty of the college, or of both, for purposes related to the activities of the college or to activities of organizations of students or members of the faculty.

Article 3. Faculties

President

20371. The president of the faculty of each State college shall be appointed by the Director of Education subject to the approval of the State Board of Education.

Members of teaching staff

20372. The other members of the teaching staff of each State college and all officers and employees of the college shall be appointed by the Director of Education, subject to the approval of the State Board of Education, only upon the recommendation of the president of the college, except that temporary appointments may be made by the director to remain in force until the next meeting of the Board of Education.

Duties and salaries

20373. The duties and salaries of all presidents, members of teaching staff, officers, and employees of State colleges shall be prescribed and fixed by the director subject to the approval of the State Board of Education. Any professors or instructors of military science and tactics courses in charge of any R. O. T. C. units which are established in any State college are not, for the purposes of this article, considered as members of a faculty or teaching staff in the State college, but have the status and prerogatives in respect to the respective faculties of the State colleges in which R O. T. C. units are established, of similar professors or instructors in respect to the faculty of the University of California

Term of employment

20374. After the president, a member of the faculty, or other collegiate officer, has served successfully and acceptably in the college for a period of two years, his appointment thereafter may, at the discretion of the State Board of Education, be made for a term not to exceed four years, unless removed for cause.

Additional compensation

20375. If a member of the faculty of a State college is engaged to instruct in extension work, evening work, special Saturday work, or summer session work, he may receive such additional compensation as is agreed upon by the State Board of Education.

Leaves of absence

20376. The Director of Education, on the recommendation of the president of a State college, may grant a leave of absence without compensation, for not to exceed one calendar year, to any employee of the State college not serving in the State civil service, after he has been employed by the State college for not less than one calendar year.

Extension of leave

20377. A leave of absence granted pursuant to Section 20376 to any person may be extended for not to exceed one calendar year by the Director of Education on the recommendation of the president of the State college in which the

employee is employed except that during any National emergency declared by the President of the United States of America, such a leave of absence may be extended from year to year by the Director of Education on the recommendation of the president of the State college in which such employee is employed.

(Amended by Stats. 1943, Ch. 126.)

[ORIGINAL SECTION]

20377. A leave of absence granted pursuant to Section 20376 to any person may be extended for not to exceed one calendar year by the Director of Education on the recommendation of the president of the State college in which the employee is employed.

Reinstatement

20378. Upon the expiration of the leave of absence the person to whom the leave of absence was granted is entitled to reinstatement in the position he held at the time the leave of absence was granted him, if the position is still in existence, or to any other comparable existing vacant position for which he is qualified.

Vacations

20379. The length of, and the time for, vacations of teachers, officers, and employees of State colleges, the California School for the Deaf, the California School for the Blind, and the California Polytechnic School shall be prescribed by the Director of Education.

Employees in military service

20380. Every employee of a State college not serving in the State civil service who has entered or who hereafter enters the active military service of the United States of America or of the State of California, including active service in any uniformed auxiliary of, or to, any branch of such military service created or authorized as such auxiliary by the Congress of the United States of America or by the Legislature of the State of California, or in the full-time paid service of the American Red Cross, during any period of National emergency declared by the President of the United States of America or during any war in which the United States of America is engaged, shall be deemed to have been entitled or shall be entitled to absent himself from his duties as an employee of the college.

Within 90 days after such employee honorably leaves such service or has been placed on inactive duty he shall be entitled to return to the position held by him at the time of his entrance into such military service, at the salary to which he would have been entitled had he not absented himself from his duties as an employee of the college under this section.

(Added by Stats. 1943, Ch. 316.)

Article 3.5. Dismissal of Employees Not in State Civil Service

(Article 3.5 added by Stats. 1943, Ch. 1032.)

Effect of reemployment

20391. Every employee of a State college not serving in the State civil service, including any such employee on leave of absence on June 30, 1943, but excluding any person taking

the place of an employee on leave of absence, who, after having been employed full time for three consecutive school years, is reappointed for the next succeeding school year shall thereafter be deemed to be reappointed from year to year unless dismissed in the manner hereinafter provided.

(Added by Stats. 1943, Ch. 1032.)

Dismissal

20392. Any employee, not serving in the State civil service may, subject to the provisions of this article, be dismissed by the Director of Education on the recommendation of the president of the college in which such employee is serving.

(Added by Stats 1943, Ch. 1032.)

Notice

20393. Notice of such dismissal must, except as herein provided, be given such employee in writing by the president of the college in which he is employed at least six months prior to the date on which such dismissal is to become effective, except that in the case of any employee who, in the considered opinion of the president of the college in which he is employed, is guilty of gross immorality or gross unprofessional conduct or is by reason of obvious physical or mental condition not fitted to instruct and/or associate with students, no notice prior to the dismissal of such employee need be given but such employee shall, in any event, be given notice in writing of his dismissal by such president not later than the date upon which his dismissal becomes effective.

In every case the reasons for the dismissal of an employee shall be stated in writing in the notice of dismissal given to the employee.

(Added by Stats. 1943, Ch. 1032.)

Review

20394. Any employee dismissed may demand a review of his dismissal by the board of appeals hereinafter provided for. Such demand must be sent by registered mail, postage prepaid, return receipt requested, to the chairman of the board of appeals within 30 days after notice of his dismissal has been given the employee. Not later than 30 days after the demand for hearing has been received at the office of the Director of Education, the board of appeals shall set a date, not less than 30 days nor more than 60 days after such employee was given his notice of dismissal, for a hearing by the board of appeals and shall notify the interested parties at least 10 days prior to the date of the hearing. The date so fixed for the hearing may be changed with the consent of the employee and the consent of the president who gave the employee notice of his dismissal. The hearing may be continued from time to time by the board.

(Added by Stats. 1943, Ch. 1032.)

Decision

20394.1. Within 60 days after the conclusion of the hearing, the board of appeals shall notify the Director of Education of its decision. No decision shall be given which is not concurred in by three or more members of the board. The decision shall be in writing, and signed by the members of the board of appeals concurring therein. The Director of

Education shall notify each interested party of the decision of the board of appeals. The decision of the board shall be final.

(Added by Stats. 1943, Ch. 1032.)

Effect of decision

20394.2. In the event that the decision of the board of appeals does not sustain such dismissal or intended dismissal the employee shall not be dismissed or, if such employee has been dismissed, he shall immediately be restored to the position from which he was dismissed, or to a comparable position, and any salary of which the employee may have been deprived because of his dismissal shall be immediately paid him. In the event the dismissal or intended dismissal of the employee is sustained by the decision of the board of appeals such dismissal shall be effective as of the date thereof fixed hereunder.

(Added by Stats. 1943, Ch. 1032.)

Board of appeals

20394.3. The board of appeals shall consist of five persons not serving in State civil service who have been employed for a period of three years or more in State colleges and selected in the manner hereinafter prescribed.

(Added by Stats. 1943, Ch. 1032.)

Selection of candidates for board

20394.4. The employees of each State college not serving in State civil service shall every two years during the month of October select an employee thereof as a candidate for the board of appeals, in accordance with a procedure to be established by said employees. The first such selection shall be made during the month of October, 1943. Such candidates shall constitute a members eligible list and shall serve as such for two years.

(Added by Stats 1943, Ch. 1032.)

Selection of board

20394.5. The members of the board of appeals shall be selected from the candidates by a nominating committee composed of the Director of Education who shall act as chairman; a president of a State college, selected by the presidents of the State colleges and the president of the Association of California State College Instructors. The members of the board of appeals first selected hereunder shall be selected not later than the first Monday of December, 1943.

(Added by Stats. 1943, Ch. 1032.)

Term

20394.6. The terms of office of the members of the board of appeals shall be four years except that the terms of office of the members of the board first selected hereunder shall be fixed by the members thereof by lot so that two members shall serve for a term of two years, and three members for a term of four years. The term of office of the members of the board of appeals first selected hereunder shall commence January 1, 1943. Their successor shall be selected in accordance with the procedure hereinbefore provided.

(Added by Stats. 1943, Ch. 1032.)

Vacancy

20394.7. The nominating committee shall within 30 days after a vacancy occurs on the board of appeals fill such vacancy.

(Added by Stats. 1943, Ch. 1032.)

Construction

20394.8. Nothing in this article shall be construed or held to confer upon any employee of any State college a contract which will be impaired by the amendment or repeal of this article or any provision thereof.

(Added by Stats. 1943, Ch. 1032.)

Method of giving notice

20394.9. Whenever in this article any notice is required or authorized, such notice shall be given by United States registered mail, return receipt requested, postage prepaid, addressed to the last known address of the addressee, and such notice shall be, except as otherwise in this article provided, deemed complete and given when deposited in the United States mail.

(Added by Stats. 1943, Ch. 1032.)

Lack of funds

20394.10. Notwithstanding anything in this article to the contrary an employee of a State college may be dismissed at any time in the event funds have not been made available for the payment of the salary of such employee.

(Added by Stats. 1943, Ch. 1032.)

California Polytechnic School

20394.11. "State colleges" or "college" as used herein does not include the California Polytechnic School.

(Added by Stats. 1943, Ch. 1032.)

Article 4. Educational Activities

School extension service

20401. The Director of Education shall detail one or more regular instructors of the colleges for school extension service in the rural schools of the State and shall pay the salary and transportation expenses of any such instructor.

Approval

20402. The school extension service in any county shall be given only with the approval of the county superintendent of schools.

Subjects

20403. The school extension service may include a special study of rural school conditions and problems, and supervision and instruction of classes in the rural schools.

Attendance at institutes

20404. The Director of Education may authorize the president of any college, or any member of the faculty of his college designated by him, to attend any county institute as a lecturer or instructor, or to attend other educational meetings and conferences.

Article 5. Admission and Exclusion of Students

Standards for admission and transfer

20426. The State Board of Education at the joint meeting of the board and the representatives of the State colleges may adopt rules and regulations for the government of the State colleges in prescribing (a) the standards of admission for students entering the State colleges, and (b) the rules for transfer of students from one State college to another.

Transfer

20427. A student for good cause may, upon recommendation of the president of the college from which he seeks to be transferred, enter any other State college and without examination be admitted to classes corresponding to those in the college which he has left.

20428. Students shall be admitted to the State colleges in accordance with the rules and regulations of the State Board of Education pursuant to this article. Admission

20429. No applicant or student shall be required as a condition to admission or attendance to make a declaration that it is his intention to become a teacher or any declaration to like effect. Declaration of student

20430. Teachers holding valid certificates to teach in any county in the State, and such other persons as are qualified for admission under the rules and regulations of the State Board of Education may be admitted to any State college. Qualifications

20431. Repealed by Stats. 1943, Ch. 264.)

[ORIGINAL SECTION]

20431 Any person submitting evidence of proper qualifications and not a resident of the State may be admitted to a State college upon payment of the nonresident tuition fee. Each nonresident student shall pay a tuition fee of seventy-five dollars ($75) for the first semester or part of a semester for which he registers; and a fee of thirty-seven dollars and fifty cents ($37.50) for each semester attended consecutively thereafter. In any State college in which the school year is divided into three periods, commonly referred to as quarters, each nonresident student shall pay a tuition fee of thirty-seven dollars and fifty cents ($37.50) for each such period or part of a period, except that the tuition fee for each nonresident student who has attended and paid tuition fees for three periods consecutively shall thereafter be twenty-five dollars ($25) for each period.

20432. The Director of Education may on recommendation of the faculty and president of a college exclude students who, because of poor scholarship or other evidence of unfitness, are judged incapable of becoming successful teachers in the public schools of the State. Exclusion

Article 6. Courses of Instruction

20451. The courses of instruction in State colleges shall not exceed four years in length. Length of courses

20452. The Director of Education shall: Courses of study

(a) Establish, with the approval of the State Board of Education, courses for training of teachers in any or all of the subjects for which special certificates of the elementary and secondary grade are granted, and upon the satisfactory completion of these courses grant diplomas of graduation therefrom.

(b) Establish, with the approval of the State Board of Education, such additional teacher-training courses as are authorized by law or by the State Board of Education in accordance with law.

(c) When authorized so to do by the State Board of Education, establish and maintain courses of instruction and teacher-training leading to a baccalaureate degree, and grant the degree.

(d) Establish and maintain courses of study only in accordance with the rules and regulations prescribed by the State Board of Education.

Rules

20453. The State Board of Education, at the joint meeting of the board and the representatives of the State colleges, may adopt rules and regulations for the government of the State colleges in the following matters:

(a) The standardizing, as far as the board deems wise and necessary, of the courses of instruction offered in the several State colleges for the preparation of teachers for the public schools of the State.

(b) The establishing and conducting in any or all of the State colleges of courses for the training of teachers in any or all of the subjects for which special certificates of the elementary and the secondary grade may by law be granted

Military science and tactics

20454. The Director of Education, with the approval of the State Board of Education, may establish at any one or more of the State colleges courses in military science and tactics complying with the laws of the United States made and provided with reference to R. O. T. C. units in educational institutions. No student enrolled in any State college shall be required to enroll in any course in military science and tactics.

Model and training schools

20455. The Director of Education may establish and maintain model and training schools of the kindergarten, elementary, and intermediate or junior high school grade, and require the students of the State colleges to teach and instruct classes therein.

Alcohol and narcotics

20456. In all teachers' training classes in the State colleges, adequate time and attention shall be given to instruction in the best methods in teaching the nature of alcohol and narcotics and their effects upon the human system.

Agriculture

20457. Such State colleges as are designated by the State Department of Education to do so, shall prepare students to become teachers of elementary agriculture.

The amount of time devoted to such preparation shall be equal to that devoted by the State colleges to preparation for the teaching of any other subject taught in the public elementary schools.

Fire prevention

20458. The State Board of Education in standardizing the courses of instruction offered in the several State colleges shall prescribe a course of fire prevention, and shall make the completion of the course a requirement for graduation.

Physical education

20459. The State Board of Education in standardizing the courses of instruction offered in the several State colleges shall prescribe a course in physical education and shall make the completion of the course a requirement for graduation.

Credit

20460. A student enrolled in a course in military science and tactics shall be given the same credit as though enrolled in the course in physical education. The receipt by the student of the same number of credits he would have received had he successfully completed the prescribed course in physical education is deemed to be the equivalent of the completion of the required course in physical education.

Summer sessions

20461. If and when provision has been made to provide funds, in the manner provided in this section, for conducting summer session, any State college may, with the approval of the Director of Education, annually conduct and maintain a summer session, and a uniform tuition fee shall be fixed by the Director of Education, which shall be annually collected in such manner as the Director of Education provides from each person enrolled in a summer session conducted by a State college. All tuition fees collected shall be paid monthly into the State Treasury to the credit of "the State Colleges Summer Session Fund," which fund is continued in existence, and from which shall be paid such part of the total cost of maintaining all the State colleges as may be incurred by reason of conducting and maintaining summer sessions at any or all of the State colleges.

The funds provided in this section are in addition to any other funds which may be appropriated for the support of the State colleges.

(Added by Stats. 1943. Ch. 86, as part of codification.)

Testing sight and hearing

20462. The State Board of Education may establish in any one or more of the State colleges courses for the giving of adequate instruction in the best methods of testing sight and hearing of public school pupils.

Article 7. Graduation

Standards

20481. The State Board of Education at the joint meeting of the board and of the representatives of the State colleges may adopt rules and regulations for:

(a) The determination of the time and standards for graduation from the State colleges except that no student who is not a candidate for a teaching credential shall be required as a condition to graduation or otherwise to enroll in more than six units of pedagogy.

No student shall be required as a condition to graduation, or for any other purpose, to enroll in any course in military science and tactics.

(b) The prescribing of standards for the granting of designated baccalaureate degrees by the State colleges.

(c) The establishing of standards for the maintenance of collegiate and degree-granting status by any of the State colleges.

(d) The authorizing of any State college, upon its application therefor and upon proper showing that it has met the standards established and prescribed, to grant baccalaureate degrees.

Diplomas

20482. The Director of Education, upon the recommendation of the faculty, may issue to those students, who worthily complete the full course of study and training prescribed, diplomas of graduation, from any of the courses of study and training authorized by law.

Article 7.5. Degrees to Vocational Teachers

(Article 7.5 added by Stats. 1943, Ch. 671.)

Board of examiners for vocational teachers

20490. There is hereby created a board of examiners for vocational teachers. The board shall consist of the Commission for Vocational Education, as created and established by the State Board of Education and two other members, selected by the Superintendent of Public Instruction and Director of Education who are presidents of State colleges and who shall hold office at the pleasure of the Superintendent of Public Instruction and Director of Education.

(Added by Stats. 1943, Ch. 671.)

Powers

20941. The board shall set up an examination or shall evaluate the qualifications of vocational teachers desirous of qualifying for the Baccalaureate Degree. The evaluation shall be based upon the education, completion of approved vocational teacher training, occupational experience, supervisory experience, and managerial experience of the candidate. The board is authorized to recommend to State colleges the number of units to be allowed towards a Baccalaureate Degree, but shall not recommend that a candidate be granted more than 40 units for occupational experience, supervisory experience and managerial experience. The evaluation shall be at the discretion of the board.

(Added by Stats. 1943, Ch. 671.)

Recommendation for degree

20492. On the basis of the examination and an evaluation of the candidate's experience and other qualifications made by the board, it shall recommend the granting of a Baccalaureate Degree in vocational arts by any State college.

(Added by Stats. 1943, Ch. 671.)

Qualifications

20493. Any candidate for a Baccalaureate Degree shall be a high school graduate, shall have had not less than seven years actual experience in the trade or occupation in which he desires to qualify, and shall have had a minimum of 1,620 hours teaching experience in an approved vocational class, or 1,000 hours teaching experience in an approved trade extension class.

In lieu of the educational qualifications, the board may evaluate and make recommendations concerning such other qualifications as it deems applicable for persons lacking the formal educational qualifications.

(Added by Stats. 1943, Ch. 671.)

Article 8. Textbooks and Equipment

Textbooks

20501. The State Board of Education, at the joint meeting of the board and the representatives of the State colleges, may adopt rules and regulations for the government of the State colleges in prescribing the use, in the grades and classes for which they are adopted, of the State series of textbooks.

Purchase

20502. The Director of Education shall provide for the purchase of apparatus, furniture, equipment, stationery, and textbooks for the use of the students.

Wind tunnel

20503. A wind tunnel and necessary appurtenances may be erected and maintained on the campus of the San Diego State College for use in the study of problems relating to aircraft.

The wind tunnel and appurtenances may be erected and maintained by the Federal Government, or by any agency thereof, or may be erected and maintained through funds granted to the State, or any agency thereof, by the Federal Government, or any agency thereof. The construction, maintenance, and use thereof shall, in any case, be subject to such terms and conditions as are agreed upon by the Federal Government or any of its agencies and the Director of Education.

The wind tunnel and appurtenances may be leased, in the manner provided by law, to industries engaged in furnishing supplies and materials to the Federal Government, or any agency or agencies thereof, and to educational institutions.

Article 9. Fresno Summer School of Music

(Article 9 added by Stats. 1943, Ch. 87, as part of codification.)

Rules

20521. The Fresno State College may establish a summer school of music at or near Huntington Lake, California. The Fresno State College, with the approval of the Director of Education, shall make rules and regulations for the operation and maintenance of the summer school of music.

Fees

20522. Only such fees as are authorized by the Director of Education, with the approval of the Department of Finance, may be charged in connection with the operation of the school.

Summer school of music

20523. All tuition and other fees received in conducting and operating the school shall be paid into the State Treasury to the credit of the "Summer School of Music Fund" which fund is continued in existence. All money in the fund is appropriated for the maintenance, operation, and support of the school and for construction of necessary housing and other facilities at the school. No money shall ever be paid from the General Fund in the State Treasury for any purpose in connection with the summer school of music.

All funds expended from the summer school of music fund shall be approved by the Director of Education.

Article 10. Student Buildings

"Student building"

20541. As used in this article, "student building" means and includes any building used exclusively by students of the college where located, for any one or more of the following purposes:

(a) Dormitory.
(b) Hospital.
(c) Infirmary.
(d) Housing and boarding.
(e) Student activities.

"Person" 20542. As used in this article, "person" includes any individual, firm, copartnership, joint adventure, association, corporation, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular number.

"College" 20543. As used in this article, "college" includes the State colleges and the California Polytechnic School.

"Board" 20544. As used in this article, "board" means the State Board of Education acting with the approval of the Director of Education.

Operation and maintenance 20545. The board may provide for the operation and maintenance of student buildings and all services incident to such use, including the establishment and maintenance of facilities and services necessary for the feeding of students.

Powers of board 20546. The board may:

(a) Enter into contracts with any person for the erection, furnishing, and equipping of student buildings.

(b) Purchase or lease lands and other appurtenances necessary for the construction of student buildings.

(c) Purchase or lease lands with buildings constructed thereon suitable for use as student buildings.

(d) Lease to any person such portions of the campus of any college as is necessary for the construction of a student building or student buildings.

(e) Borrow money for the erection, furnishing, and equipping of student buildings and appurtenances.

(f) Purchase furniture and equipment for student buildings.

Payment 20547. The governing body of any college may contract to pay as rental or otherwise over a period of not to exceed 20 years a sum sufficient to pay, on the amortization plan, the principal and interest on:

(a) The purchase price of any student building.

(b) The erection costs of any student building.

(c) The cost of furnishing and equipping any student building.

Interest in bonds 20548. The rate of interest on any bond issued pursuant to this article or on the principal on any purchase or erection cost shall not exceed 7 per cent per annum.

Revenue bonds 20549. The board may issue revenue bonds to run not over 20 years in an amount sufficient to pay:

(a) The purchase price of any student building.

(b) The erection costs of any student building.

(c) The cost of furnishing and equipping any student building.

Bonds 20550. Bonds issued pursuant to this article shall be issued in such denomination and in such form as the board prescribes but shall not be sold for less than their face value.

Charges for use 20551. The board shall fix such fees, rentals and charges for the use by the students of each of the student buildings and other facilities as will provide sufficient funds to meet all payments of principal and interest due on any indebtedness

incurred pursuant to this article, and provide for the cost of maintaining the buildings and facilities. The charges shall be collected from the students in such manner as the board provides and when collected, shall be paid into the State Treasury to the credit of the (naming the college or school) Student Building Fund, which fund is continued in existence.

All indebtedness and the interest thereon incurred pursuant to this article for any college, and the cost of maintaining student buildings and other facilities shall be paid by the board only from the fund.

(Added by Stats. 1943, Ch. 88, as part of codification.)

CHAPTER 3. CALIFORNIA POLYTECHNIC SCHOOL

Article 1. Establishment

Purpose

20651. There is in the County of San Luis Obispo, at or near the City of San Luis Obispo, the California Polytechnic School. The purpose of the school is to furnish to young people of both sexes mental and manual training in the arts and sciences, including agriculture, mechanics, engineering, business methods, domestic economy, and such other branches as will fit the students for the nonprofessional walks of life. This article shall be liberally construed, to the end that the school may at all times contribute to the industrial welfare of the State.

Agricultural project revolving fund

20652. The California Polytechnic School agricultural project revolving fund in the sum of ten thousand dollars ($10,000) is continued in existence. The fund shall be used for loans to needy and deserving students for the purchase of live stock, poultry, seed, feed, and such other materials as are necessary for the conducting of projects by students under supervision of instructors in the school. All sums borrowed shall be returned to the revolving fund as soon as projects are completed.

Disposal of property

20653. The Director of Education, with the consent of the Director of Finance, may sell or trade such of the property belonging to the State and used for the California Polytechnic School as may in his judgment be disposed of advantageously. The proceeds of the sale shall be used for the purchase of such other land for the use of the California Polytechnic School as the Director of Education and the Director of Finance may deem necessary.

Additional land

20654. The Director of Education, with the consent of the Director of Finance, may purchase such additional land as the Director of Education and the Director of Finance may deem necessary and may expend for such purpose any money donated or proceeds from the sale of real or personal property acquired as gifts by the California Polytechnic School.

CHAPTER 4. CALIFORNIA SCHOOL FOR THE DEAF

Article 1. Administration

California School for the Deaf

20751. There is in Berkeley, Alameda County, the State school for the deaf, known and designated as the California School for the Deaf.

Purpose

20752. The California School for the Deaf is a part of the school system of the State except that it derives no revenue from the Public School Fund, and has for its object the education of the deaf who, by reason of their infirmity, can not be taught in the public schools.

Administration

20753. The school is under the administration of the State Department of Education.

Duties of Department of Education

20754. The State Department of Education in relation to the California School for the Deaf shall:

(a) Prescribe rules for the government of the school.

(b) Appoint the principal and other officers and employees.

(c) Remove for cause any officer, teacher, or employee.

(d) Fix the compensation of officers, teachers, and employees.

Article 2. Teaching Force

Principal

20771. The principal of the school shall have had not less than three years' experience in the art of teaching the deaf and shall hold a credential issued by the State Board of Education authorizing him to teach in secondary schools of this State.

Powers

20772. The powers and duties of the principal are such as are assigned to him by the State Director of Education.

20773. (Repealed by Stats. 1943, Ch. 834.)

[ORIGINAL SECTION]

20773. All teachers appointed or employed in the California School for the Deaf shall hold credentials of kindergarten, elementary, or secondary grade according to the work for which they are employed. The credentials shall be granted by the State Board of Education.

Teacher training courses

20774. The Director of Education may authorize the California School for the Deaf to establish and maintain teacher training courses designed to prepare teachers of the public schools and such other persons holding a credential issued by the State Board of Education as are recommended by the president of a State college, to give instruction to the deaf and the hard of hearing. The Director of Education shall prescribe standards for the admission of persons to the courses, and for the content of the courses.

Article 3. Pupils

Qualifications

20791. Every deaf person resident of this State, of suitable age and capacity, is entitled to an education in the California School for the Deaf free of charge.

Payment of expenses

20792. If the parent or guardian of any pupil in the school is unable either himself or from the estate of the child to clothe the child, or pay for its transportation to and from school, or for necessary dental work, eye care, operations, and

hospitalization of the child while at the school, or is unable either himself or from the estate of the child to reimburse the State Department of Education for expenses incurred by it in providing dental work, eye care, operations, or hospitalization for the child in an emergency, the parent or guardian may apply for a certificate to that effect to the superior court of the county of which the parent or guardian of the child is a resident. If the court is satisfied that the parent or guardian either himself or from the estate of the child is unable to pay for any such service, it shall issue a certificate to that effect. The application for the certificate may also be made to the court by the principal of the school.

Order of court

20793. If it appears to the satisfaction of the court that the parent or guardian has sufficient pecuniary ability or that there are sufficient funds in the estate of the child to provide the service for the child or to reimburse the State Department of Education for expenses incurred by it in providing the service for the child in an emergency, the court shall not issue the certificate, but shall, according to the nature of the application before it, either order the principal to provide the child with the service or order the parent or guardian either himself or from the estate of the child, as the court determines, to reimburse the State Department of Education for expenses incurred by it in providing the service for the child in an emergency.

(Amended by Stats. 1943, Ch. 364.)

[ORIGINAL SECTION]

20793. If it appears to the satisfaction of the court that the parent or guardian has sufficient pecuniary ability or that there are sufficient funds in the estate of the child to provide the service for the child or to reimburse the State Department of Education for expenses incurred by it in providing the service for the child in an emergency, the court shall not issue the certificate, but shall, according to the nature of the application before it, either order the principal to provide the child with the service or order the parent or guardian either himself or from the estate of the child, as the court determines, to reimburse the State Department of Education for expenses incurred by it in providing the service for the child in an emergency

If the State Department of Education is not reimbursed by the parent or guardian personally or from the estate of the child for expenditures made by the principal under the order of the court or if the parent or guardian does not comply with an order of the court to reimburse the State Department of Education either personally or from the estate of the child for expenses incurred by it in providing the service for the child in an emergency the principal may sue the parent or guardian, in the name of the State, to recover any money paid out by order of the court or due the State Department of Education as reimbursement under an order of the court.

Actions

20794. If the State Department of Education is not reimbursed by the parent or guardian personally or from the estate of the child for expenditures made by the principal under the order of the court or if the parent or guardian does not comply with an order of the court to reimburse the State Department of Education either personally or from the estate of the child for expenses incurred by it in providing the service for the child in an emergency the principal may sue the parent or guardian, in the name of the State, to recover any money paid

out by order of the court or due the State Department of Education as reimbursement under an order of the court.

(Added by Stats. 1943, Ch. 364.)

County charge

20795. All money expended under the authority of any such certificate for clothing and transportation, and not to exceed the sum of seventy-five dollars ($75) per annum for necessary dental work, eye care, operations, and hospitalization, and all money expended by the State Department of Education for expenses not to exceed seventy-five dollars ($75) per annum incurred by it in providing dental work, eye care, operations, or hospitalization for the child in an emergency for which the State Department of Education can not be reimbursed by the parent or guardian of the child as shown by the certificate, constitutes a legal charge against the county from which the certificate is issued.

Payment of expenses

20796. The certificate shall be presented to the principal of the school and the principal when the certificate shows the parent or guardian of the child is unable either himself or from the estate of the child to clothe the child, or pay for his transportation to and from school, or for necessary dental work, eye care, operations, and hospitalization of the child while in school, shall clothe the child and provide the transportation, necessary dental work, eye care, operations, and hospitalization. The expense of the services, or any of them, shall be advanced by the State Department of Education out of money appropriated for the support of the school.

(Added by Stats. 1943, Ch. 89, as part of codification.)

Audit and credit

20797. Upon presentation to the board of supervisors of the county in which the certificate is issued, of an itemized claim, duly sworn to by the principal of the school before an officer authorized to administer oaths, for the expense for clothing, transportation, and other items provided and furnished under the authority of the certificate, or for the reimbursement of the State Department of Education, the board of supervisors shall audit and approve the claim, and the county auditor of the county shall thereupon include the amount thereof in his State settlement report, prescribed in Section 3868 of the Political Code. The amount of the settlement and all reimbursements of the State Department of Education under this section shall be credited by the State Controller to the current appropriation for the support and maintenance of the school.

(Added by Stats. 1943, Ch. 89, as part of codification.)

State expense

20798. All pupils in the school shall be maintained except as provided in Sections 20792 to 20797, inclusive, at the expense of the State.

Nonresidents

20799. Deaf persons not residents of this State may be admitted to the benefits of the school upon paying to the State Department of Education the school year cost for the maintenance, care, and instruction of persons at the school, payable quarterly in advance. The cost of the care, maintenance, and instruction shall be determined by the Department

of Education with the approval of the Department of Finance.

Chapter 5. California School for the Blind

Article 1. Administration

California School for the Blind

20901. There is in Berkeley, Alameda County, the State school for the blind, known and designated as the California School for the Blind.

Purpose

20902. The California School for the Blind is a part of the school system of the State except that it derives no revenue from the Public School Fund, and has for its object the education of the blind, who, by reason of their infirmity, can not be taught in the public schools.

Administration

20903. The school is under the administration of the State Department of Education.

Duties of Department of Education

20904. The State Department of Education in relation to the California School for the Blind shall:

(a) Prescribe rules for the government of the school.

(b) Appoint the principal and other officers and employees.

(c) Remove for cause any officer, teacher, or employee.

(d) Fix the compensation of officers, teachers, and employees.

Article 2. Teaching Force

Principal

20921. The principal of the school shall have had not less than three years' experience in the art of teaching the blind and shall hold a credential issued by the State Board of Education authorizing him to teach in secondary schools of this State.

Powers

20922. The powers and duties of the principal are such as are assigned to him by the State Director of Education.

20923. (Repealed by Stats. 1943, Ch. 834.)

[ORIGINAL SECTION]

20923. All teachers appointed or employed in the California School for the Blind shall hold credentials of kindergarten, elementary, or secondary grade according to the work for which they are employed. The credentials shall be granted by the State Board of Education.

Field worker

20924. There is hereby created at the California School for the Blind the position of field worker to be appointed by the principal of the school with the approval of the Superintendent of Public Instruction and the State Director of Education. The field worker shall be a member of the teaching staff of the California School for the Blind and shall receive an annual salary of not less than three thousand dollars ($3,000), payable in the same manner and at the same time as the salaries of other officers of the school are paid.

The field worker shall visit graduates and former pupils of the school in their homes to advise them regarding the extension and continuance of their education, to assist them in securing remunerative employment, to improve their economic

condition in all possible ways, and to provide them with preparatory instruction found necessary for a selected occupation. The field worker shall be a person who has had special training for such work. Blindness shall not be grounds to disqualify a person for this position.

(Added by Stats. 1943, Ch. 906.)

NOTE.—Stats. 1943, Ch 906, which added Section 20924, contained the following:

SEC. 3. Out of any moneys in the State treasury not otherwise appropriated the sum of eight thousand dollars ($8,000) is hereby appropriated to be expended during the Ninety-fifth and Ninety-sixth Fiscal Years to carry out the provisions of this act.

Article 3. Pupils

Qualifications

20941. Every blind person resident of this State, of suitable age and capacity, is entitled to an education in the California School for the Blind free of charge.

Payment of expenses

20942. If the parent or guardian of any pupil in the school is unable either himself or from the estate of the child to clothe the child, or pay for its transportation to and from school, or for necessary dental work, eye care, operations, and hospitalization of the child while at the school, or is unable either himself or from the estate of the child to reimburse the State Department of Education for expenses incurred by it in providing dental work, eye care, operations, or hospitalization for the child in an emergency, the parent or guardian may apply for a certificate to that effect to the superior court of the county of which the parent or guardian of the child is resident.

Certificate of inability to pay

If the court is satisfied that the parent or guardian either himself or from the estate of the child is unable to pay for any such service, it shall issue a certificate to that effect. The application for the certificate may also be made to the court by the principal of the school.

Order of court

20943. If it appears to the satisfaction of the court that the parent or guardian has sufficient pecuniary ability or that there are sufficient funds in the estate of the child to provide the service for the child or to reimburse the State Department of Education for expenses incurred by it in providing the service for the child in an emergency, the court shall not issue the certification, but shall according to the nature of the application before it, either order the principal to provide the child with the service, or order the parent or guardian either himself or from the estate of the child, as the court determines, to reimburse the State Department of Education for expenses incurred by it in providing the service for the child in an emergency.

Actions

20944. If the State Department of Education is not reimbursed by the parent or guardian personally or from the estate of the child for expenditures made by the principal under the order of the court or if the parent or guardian does not comply with an order of the court to reimburse the State Department of Education either personally or from the estate of the child for expenses incurred by it in providing the serv-

ice for the child in an emergency the principal may sue the parent or guardian, in the name of the State, to recover any money paid out by order of the court or due the State Department of Education as reimbursement under an order of the court.

County charge

20945. All money expended under the authority of any such certificate for clothing and transportation, and not to exceed the sum of seventy-five dollars ($75) per annum for necessary dental work, eye care, operations, and hospitalization, and all money expended by the State Department of Education for expenses not to exceed seventy-five dollars ($75) per annum incurred by it in providing dental work, eye care, operations, or hospitalization for the child in an emergency for which the State Department of Education can not be reimbursed by the parent or guardian of the child as shown by the certificate, constitute a legal charge against the county from which the certificate is issued.

Payment of expenses

20946. The certificate shall be presented to the principal of the school and the principal when the certificate shows the parent or guardian of the child is unable either himself or from the estate of the child to clothe the child, or pay for his transportation to and from school, or for necessary dental work, eye care, operations, and hospitalization of the child while in school, shall clothe the child and provide the transportation, dental work, eye care, operations, and hospitalization. The expense of the services, or any of them, shall be advanced by the State Department of Education out of money appropriated for the support of the school.

(Added by Stats. 1943, Ch. 90, as part of codification.)

Audit and settlement

20947. Upon presentation to the board of supervisors of the county in which the certificate is issued, of an itemized claim, duly sworn to by the principal of the school before an officer authorized to administer oaths, for the expense for clothing, transportation, and other items provided and furnished under the authority of the certificate, or for the reimbursement of the State Department of Education, the board of supervisors shall audit and approve the claim, and the county auditor of the county shall thereupon include the amount thereof in his State settlement report, prescribed in Section 3868 of the Political Code. The amount of the settlement and all reimbursements of the State Department of Education under this section shall be credited by the State Controller to the current appropriation for the support and maintenance of the school.

(Added by Stats. 1943, Ch. 90, as part of codification.)

State expense

20948. All pupils in the school shall be maintained, except as provided in Sections 20942 to 20947, inclusive, at the expense of the State.

Nonresidents

20949 Blind persons not residents of this State may be admitted to the benefits of the school upon paying to the State Department of Education the sum of the school year cost for the maintenance, care, and instruction of persons at

the school, payable quarterly in advance. The cost of the care, maintenance, and instruction shall be determined by the Department of Education with the approval of the Department of Finance.

Article 4. Courses

Kindergarten

20971. The State Department of Education, in connection with the California School for the Blind, shall establish and maintain a kindergarten service for the care and teaching of children under school age. The department shall prescribe the rules and regulations which shall govern the conduct of the kindergarten service, appoint such teachers as it determines necessary, and fix their salaries.

Vocational training

20972. The State Department of Education, in addition to the teaching and education of the blind of suitable age, shall adopt measures and prescribe rules for the giving of vocational training to the pupils at the school, in order that they may be equipped upon their graduation to engage in occupations or industries by which they may become self-supporting. The board shall determine the nature and scope of the vocational training, with the view of best adapting the blind to follow useful and productive pursuits, after the completion of their education.

Social work

20973. In order to prepare blind residents of California to do social work among the blind, the California School for the Blind may give special courses of instruction to blind residents of California who have received collegiate training in social service and issue a special social service certificate to those students who complete the courses satisfactorily.

Chapter 6. California Maritime Academy

Article 1. Organization of Board of Governors

Members

21101. There is in the Department of Education a board of governors of the State Nautical School consisting of five members. The State Director of Education is the executive member. The other four members are appointed by the Governor.

Terms

21102. The term of office of the appointive members of the board is four years and they shall hold office until the appointment and qualification of their successors. The terms of the appointive members of the board in office when this chapter takes effect shall expire as follows: One member, January 15, 1944; one member, January 15, 1945; one member, January 15, 1946; one member, January 15, 1947. The terms shall expire in the same relative order as to each appointive member as the term for which he holds office before this chapter takes effect.

Vacancies

Vacancies shall be filled by appointment for the unexpired term.

Compensation and expenses

21103. The members of the board of governors shall serve without pay, but each shall be allowed his actual expenses incurred in attending any regular or called meeting of the

board of governors, or in performing any service for the board of governors at the direction of the board, or in attending the session of any duly appointed subcommittee of the board or in performing any service for the subcommittee at the direction of the chairman thereof. The expenses shall be paid from any appropriations which are provided for the purposes of the nautical school.

Chairman

21104. The board of governors shall elect one of its members as chairman. The chairman has such general supervision and control of the school and of all its property and has such general direction of its work and that of the instructors and others engaged in the school as the board provides or authorizes in its regulations. The chairman shall serve for one year, or until his successor is elected. The successor to the chairman shall be elected by vote of the members of the board at a regular meeting thereof after one month's notice that the chairman is to be elected at the meeting. The chairman of the board, as well as the members of the board, before entering upon their duties as such, respectively, shall take the oath of office prescribed by law for State officers.

Secretary

21105. The board may appoint a secretary of the board, determine his duties, and fix his compensation. He shall hold office at the pleasure of the board.

Director of Education

21106. If the Director of Education is unable to attend a meeting of the board of governors, he may designate a member of the staff of the State Department of Education to represent him at the meeting. The representative of the Director of Education shall, as to the meeting, have the status of a member of the board of governors.

Article 2. Administration

Duty of board of governors

21121. The board of governors shall provide, maintain, manage, and control a State nautical school pursuant to this chapter.

Assistance from Federal Government

21122. The board may receive from the Federal Government or from other sources and use for the accommodation of the school, a vessel or vessels detailed or furnished by the Federal Government or from other sources with all apparel, charts, books, and instruments of navigation, and a reservation or reservations with all buildings and equipment thereon.

Application

21123. The Governor may make application in writing to the Federal Government to furnish a suitable vessel with all her apparel, charts, books, and instruments of navigation and a reservation or reservations with all buildings and equipment thereon to be used for the benefit of the school.

Books, etc.

21124. The board shall provide all necessary books, charts, instruments, apparatus, and supplies required in the work of the school and for the proper accommodation, comfort, recreation, and keep of the superintendent, instructors, crew, and pupils.

Quarters

21125. The board may secure in the City and County of San Francisco suitable rooms and accommodations necessary for carrying on the work of the board.

Powers of board

21126. The board shall:

(a) Appoint, and may remove, a superintendent of the school and all necessary instructors and other employees.

(b) Determine the powers, duties, and compensation of the superintendent, instructors, and employees.

(c) Fix the terms upon which students shall be received and instructed in the school, and suspended, discharged, or graduated therefrom.

(d) Make all regulations necessary for the procurement or purchase of supplies and materials for any vessel while she is cruising and for her management and control.

(e) Provide from time to time for cruises in and from San Francisco Harbor.

Superintendent and instructors

21127. The board may appoint as superintendent and as instructors of the school such officer or officers as are designated for that purpose by the Secretary of the Navy.

Gifts

21128. The board of governors may with the approval of the Director of Finance accept on behalf of, and in the name of, the State, such gifts, donations, bequests, and devises as are made to the school, by whatever name the school is known, which in the judgment of the board will be of benefit to the State and to the school. The gifts, donations, bequests, and devises may be made subject to such conditions or restrictions as the board of governors deems advisable.

Expenditures

21129. The board may annually expend for the purposes of the school any funds which the Legislature appropriates, and also any funds which are received from the Federal Government for the purpose of aiding in the maintenance of the school. All such money shall be expended according to law on vouchers, certified by the superintendent or in his absence from the State, by the chairman of the board of governors and approved by the executive member of the board, or by an assistant director of education designated by the executive member and approved by the board of governors. The board shall cause to be kept full and detailed accounts of all such expenditures and shall make a complete report thereof, with a list of all the work of the school annually to the Governor.

Budget

21130. The board shall, before each regular session of the Legislature, prepare and submit to the Governor a budget or estimate of the sum required for the maintenance and support of the school and its cruises for the ensuing biennium.

Article 3. The School

Purposes

21151. A State nautical school shall be maintained at the Port of San Francisco, for the purpose of giving instruction in the science and practice of navigation, seamanship, steam, diesel, and electrical engineering to male pupils from the several counties of the State, who have the qualifications of good moral character, education, and physical fitness, required by the board of governors of the school.

"Port of San Francisco"

21152. "Port of San Francisco" as used in this chapter includes all of San Francisco, San Pablo, and Suisun bays,

and all rivers flowing into the bays or the straits connecting them.

Name

21153. The nautical school may be known as the California State Nautical School, the California State Maritime School, or by such other name as the board of governors determines. The terms "college" or "university" shall not be used in any such designation.

Superintendent

21154. The superintendent of the school is also the commander of the school. He has, subject to the regulations of the board, the direct control, supervision, and management of the school and of all the property of the school, and has such additional powers and duties as are provided by the regulations of the board.

Admission

21155. Any male resident of the State, having the required qualifications, may be admitted to the school as a pupil, tuition free.

Fees

To cover part of the cost of the annual cruise, board and lodging, and uniforms and equipment, the board shall charge each student a fee of two hundred twenty-five dollars ($225) a year.

Reduction or suspension of fees

21155.1. The fee of two hundred twenty-five dollars ($225) set forth in Section 7 of this act may be reduced or suspended upon the recommendation of the California Maritime Academy with the approval of the Department of Education and the Department of Finance; provided, however, that in lieu thereof a payment for board and lodging is received from each student or from the Federal Government or other governmental agency. Authority to make such in lieu charge for board and lodging is hereby granted. Moneys received from such charges shall be transmitted to the State treasury as credit to the academy's support appropriation of the fiscal year for which said charges accrued. Such moneys so credited are hereby appropriated for the support of the academy.

(Added by Stats. 1943, Ch. 979.)

Nonresident students

21156. Nonresident students may be admitted to the school when vacancies occur, upon payment of an annual fee in such amount as the board of governors from time to time determines but not less than five hundred dollars ($500), to cover part of the cost of tuition, annual cruise, board and lodging, and uniforms and equipment.

Payment of fees

21157. The board of governors may provide for the payment of fees charged students by installments payable at such intervals as the board from time to time determines.

Use of fees

21158. All fees collected shall be reported to the State Controller at the end of each month and at the same time shall be remitted to the State Treasurer for deposit in the General Fund. All fees collected and deposited are appropriated for the support of the school in addition to such other funds as are appropriated therefor by the Legislature.

(Added by Stats. 1943, Ch. 91, as part of codification.)

Refunds

21159. Under rules and regulations established by the board with approval of the Director of Education, refunds of any fees paid by any student or a part thereof, may be made

to a student withdrawing from the school or ceasing to be a pupil for causes beyond the control of the student. Any refunds shall be approved by the Department of Finance.

Punishment for crime

21160. No person shall be sentenced to or received at the school as a punishment or in commutation of a punishment for crime.

Degrees

21161. The board of governors may confer any appropriate degree, including the degree of Bachelor of Nautical Science, upon the students who successfully complete the requirements therefor established by the board of governors.

Article 4. Revolving Funds

Expenses of cruise

21171. The board may, out of any appropriation made for the support of the school, without at the time furnishing vouchers and itemized statements, withdraw a sum or sums not to exceed fifteen thousand dollars ($15,000) to be paid to the commanding officer of the vessel used by the school to provide for the payment of expenses of cruises. The sum or sums so drawn for any cruise or cruises shall, not later than two months following the termination of the cruise or cruises, be accounted for and substantiated by vouchers and itemized statements submitted to and audited by the State Controller. Any unexpended balance of the sum or sums so withdrawn shall be returned to the appropriation from which originally withdrawn.

Accounting

21172. The commanding officer, in such manner as the board by regulations provides, shall account for the advances by proper vouchers, filed with the board within 30 days after the termination of the cruise. Any unexpended balance of the advances after the termination of the cruise, shall be returned by the commanding officer to the board for credit to the appropriation from which the sums were originally withdrawn.

Bond

21173. The commanding officer shall give a bond in the sum of fifteen thousand dollars ($15,000), with a surety or sureties approved by the board for the proper disbursement of and accounting for the advances.

"Clothing and small stores fund"

21174. The board of governors, or any person authorized by the board of governors, may withdraw, without at the time furnishing vouchers and itemized statements, from any appropriation made for the support of the school a sum not to exceed two thousand dollars ($2,000), as a revolving fund known as the "Clothing and small stores fund" which fund is continued in existence. The fund shall be used to purchase clothing, textbooks, and other equipment required of students of the school, not furnished by the school, for the purpose of resale to the students of the school. Receipts from the sale of the clothing, textbooks, and other equipment shall be credited to the fund. The receipts from sales together with the purchase price of materials unsold shall at all times be not less than equivalent in value to the principal amount of the fund.

CHAPTER 7. LELAND STANFORD JUNIOR UNIVERSITY

Article 1. Corporate Powers

Powers of trustees

21301. The trustees of the Leland Stanford Junior University may exercise corporate powers and privileges. To that end they may:

(a) Organize and act as a board of trustees.

(b) Elect such officers of the board as they deem necessary.

(c) Adopt by-laws.

As a board, and through the officers thereof, they may transact such business, perform such acts and exercise such powers as they in writing provide may be transacted, performed, and exercised by the board.

Seal

21302. The board may adopt a seal which shall read, "Seal of the Leland Stanford Junior University." The seal, when attached to any document or writing is prima facie evidence that the document or writing was made by and under due authority from the board and from the trustees.

Construction

21303. Nothing in this article shall be deemed to alter the tenure or limit the powers or obligations of the trustees.

Article 2. Tuition

Tuition fees

21321. The trustees of the Leland Stanford Junior University may charge residents and nonresidents of this State such fees for tuition, as are necessary for the administration of the affairs of the university.

Article 3. Taxation

Exemption

21341. The exemption from taxation of the Leland Stanford Junior University is as provided in Section 1a of Article XIII of the Constitution.

DIVISION 11. LIBRARIES

CHAPTER 1. STATE LIBRARY

Article 1. Division of Libraries in Department of Education

Division of Libraries

22001. There is in the Department of Education the Division of Libraries.

"State Librarian"

22002. The division shall be in charge of a chief who shall be a technically trained librarian and shall be known as the "State Librarian."

Same

22003. The State Librarian shall be appointed by and hold office at the pleasure of the Governor. He shall receive a salary of five thousand dollars ($5,000) per annum, and before entering upon the duties of his office shall execute an official bond to the State in the penal sum of three thousand dollars ($3,000).

Duties

22004. The State Librarian shall administer the State Library in accordance with law and such regulations as may be adopted by the State Board of Education, which board shall determine all policies for the conduct of the State Library.

Hours

22005. The State Librarian shall be in attendance at the library during office hours.

Assistant

22006. The State Librarian may appoint an assistant who shall be a civil executive officer.

Article 2. Powers and Duties

Powers and duties

22021. The Department of Education shall:

(a) Make rules and regulations, not inconsistent with law, for its government and for the government of the State Library.

(b) Authorize the librarian to appoint such other assistants as are necessary.

(c) Sell or exchange duplicate copies of books.

(d) Keep in order and repair the books and property in the library.

(e) Draw from the State Treasury at any time, all moneys therein belonging to the library fund.

(f) Prescribe rules and regulations permitting persons other than members of the Legislature and other State officers to have the use of books from the library.

(g) Collect and preserve statistics and other information pertaining to libraries, which shall be available to other public libraries within the State applying for the information.

(h) Make to the Governor, biennially, a report of its transactions.

(i) Establish, in its discretion, deposit stations in various parts of the State, under the control of an officer or employee of the State Library. No book shall be kept permanently away from the main library, which may be required for official use.

Same

22022. The Department of Education shall also:

(a) Purchase books, maps, engravings, paintings, and furniture for the library.

(b) Number and stamp all books and maps belonging to the library, and keep a catalogue thereof.

(c) Have bound all books and papers that require binding.

(d) Keep a register of all books and property added to the library, and of the cost thereof.

(e) Keep a register of all books taken from the library.

Article 3. Books

State publications

22041. The Department of Finance shall furnish to the State Library, as soon as issued, 250 copies of all reports and other publications of State officers, commissions, and departments. Twenty-five of the documents furnished shall be bound copies. Of the publications issued from day to day

during the sessions of the Legislature, there shall be furnished to the State Library as many as are required by the Department of Education. The Department of Education shall, in its discretion, distribute publications so received to the public libraries, and other educational, scientific, literary, or art institutions of this State, which may apply to be put on the mailing list for all or a portion of the State publications, and to libraries and other institutions outside this State with which the Department of Education has established exchange relations. In the discretion of the Department of Education, remaining copies of State publications, except those publications required by law to be sold, may be distributed to any person applying therefor.

Withdrawal from library

22042. Books may be taken from the library by the members of the Legislature during the sessions thereof, and by other State officers at any time.

Return

22043. Books taken by members of the Legislature shall be returned at the close of the session. Before the Controller draws his warrant in favor of any member of the Legislature for his last week's salary, he shall be satisfied that the member has returned all books taken by him and paid for any injuries thereto.

Failure to return

22044. The Controller, when notified by the Department of Education that any officer or employee of the State for whom he draws a warrant for salary has failed to return any book taken by him, or for which he has given an order, within the time prescribed by the rules, or the time within which it was agreed to be returned, and which notice shall give the value of the book, shall, after first informing the officer or employee of the notice, upon failure by him to return the book, deduct from the warrant for the salary of the officer or employee, twice the value of the book, and place the amount deducted in the State Library Fund.

Purchase of duplicate

22045. In case of the neglect or refusal on the part of any officer or employee of the State to return a book for which he has given an order or a receipt or has in his possession, the Department of Education may purchase for the library a duplicate of the book, and notify the Controller of the purchase, together with the cost of the book. Upon the receipt of the notice from the department, the Controller shall deduct twice the cost of the duplicate book from the warrant for the salary of the officer or employee, and place the amount deducted in the State Library Fund.

Legal actions

22046. The Department of Education may bring suit in its official capacity for the recovery of any book, or for three times the value thereof, together with costs of suit, against any person who has the book in his possession or who is responsible therefor. If the department has purchased a duplicate of any book, it may bring suit for three times the amount expended for the duplicate, together with costs of suit.

Liability of borrower

22047. Every person who injures or fails to return any book taken is liable in three times its value.

Hours

22048. During the session of the Legislature and of the Supreme Court, the library shall be kept open every day from 9 o'clock a.m. until 9 o'clock p.m., and at other times during such hours as the Department of Education may direct.

CHAPTER 2. COUNTY FREE LIBRARIES

Article 1. Establishment

County free libraries

22101. The boards of supervisors of the several counties may establish and maintain, within their respective counties, county free libraries pursuant to this chapter.

Establishment

22102. The board of supervisors of any county may establish at the county seat a county free library for that part of the county lying outside of cities maintaining free public libraries, and outside of library districts maintaining district libraries, and for all such additional portions of the county as elect to become a part of, or to participate in, the county free library system, as provided in this chapter.

Nature

22103. At least once a week for two successive weeks prior to taking any action, the board of supervisors shall publish, in a newspaper designated by it and published in the county, notice of the contemplated action, giving the date of the meeting at which the action is proposed to be taken.

Participation by city libraries

22104. After the establishment of a county free library, the board of trustees, common council, or other legislative body of any city in the county maintaining a free public library, or the board of trustees of any library district maintaining a district library, may notify the board of supervisors that the city or library district desires to become a part of the county free library system. Thereafter the city or library district shall be a part of the system and its inhabitants shall be entitled to the benefits of the county free library, and the property within the city or library district shall be liable to taxes levied for county free library purposes.

Withdrawal

22105. The board of trustees, common council, or other legislative body of any city or the board of trustees of any library district may on or before February 1st of any year, notify the board of supervisors that the city or library district no longer desires to be a part of the county free library system. Thereafter the city or library district shall cease to participate in the benefits of the county free library, and the property situated in the city or library district shall not be liable to taxes for county free library purposes.

Effective date of withdrawal

22106. If the notice is given after February 1st of any year, the property situated in the city or library district shall be liable to taxes for county free library purposes during the immediately succeeding year, and the notice shall not be effective until the next succeeding year, and library service shall be rendered in the city or library district during the year for which taxes are levied for library purposes in the city or library district.

Notice

22107. Before any board of trustees, common council, or other legislative body of any city, or the board of trustees of any library district gives notice that the city or library district desires to become a part of the county free library system, or gives notice of withdrawal from the system, the board of trustees, common council, or other legislative body of the city or the board of trustees of the library district shall publish at least once a week for two successive weeks prior to the giving of either notice, in a newspaper designated by the board of trustees, common council, or other legislative body of the city or the board of library trustees of the library district, and circulating throughout the city or library district, notice of the contemplated action, giving the date and the place of the meeting at which the contemplated action is proposed to be taken.

Contracts with city

22108. The board of supervisors of any county in which a county free library has been established may enter into contracts with any city maintaining a free public library, and any such city, through its board of trustees or other legislative body, may enter into contracts with the county to secure to the residents of the city the same privileges of the county free library as are granted to, or enjoyed by, the residents of the county outside of the city, or such privileges as are agreed upon in the contract, upon such consideration named in the contract as is agreed upon, to be paid into the county free library fund. Thereupon the residents of the city shall have the same privileges with regard to the county free library as the residents of the county outside of the city, or such privileges as are agreed upon by the contract.

Contracts with other counties

22109. The board of supervisors of any county in which a county free library has been established may enter into a contract with the board of supervisors of any other county to secure to the residents of the other county such privileges of the county free library as are agreed upon by the contract and upon such consideration as are agreed upon in the contract to be paid into the county free library fund. Thereupon the inhabitants of the other county shall have such privileges of the county free library as are agreed upon by the contract.

Library tax

22110. The board of supervisors of any county may enter into a contract with the board of supervisors of another county in which a county free library has been established, and may levy a library tax, for the purpose of carrying out the contract.

Termination of contract

22111. The making of the contract shall not bar the board of supervisors of the county during the continuance of the contract from establishing a county free library under the provisions of this chapter, if none is already established. Upon the establishment of any county free library, the contract may be terminated upon such terms as may be agreed upon by the parties thereto, or may continue for the term thereof.

Contract with city library

22112. Instead of establishing a separate county free library, the board of supervisors may enter into a contract with the board of library trustees or other authority in charge of the free public library of any city and the board of library trustees, or other authority in charge of the free public library, may make such a contract. The contract may provide that the free public library of the city shall assume the functions of a county free library within the county with which the contract is made, including cities in the county. The board of supervisors may agree to pay annually into the library fund of the city such sum as may be agreed upon. Either party to the contract may terminate the contract by giving six months' notice of intention to do so.

Disestablishment

22113. After a county free library has been established, it may be disestablished in the same manner as it was established. At least once a week for two successive weeks prior to taking any action, the board of supervisors shall publish, in a newspaper designated by them, and published in the county, notice of the contemplated action, giving therein the date of the meeting at which the contemplated action is proposed to be taken.

Annexation of territory

22114. Whenever any of the territory being served by a county free library is annexed to, or otherwise included within, any municipal corporation not served by the county free library, the board of supervisors of the county shall order the county free library to continue to serve the territory annexed to, or otherwise included within the municipality, until the end of the fiscal year or years for which a tax has been levied upon the property of the annexed territory for the support of the county free library.

Article 2. The County Librarian

County librarian

22131. Upon the establishment of a county free library, the board of supervisors shall appoint a county librarian, who shall hold office for the term of four years, subject to prior removal for cause, after a hearing, by the board.

Certificate

22132. No person is eligible to the office of county librarian unless prior to his appointment, he has received from the board of library examiners a certificate of qualification for the office.

Residence

22133. At the time of his appointment, the county librarian need not be a resident of the county nor a citizen of the State of California.

Sex

22134. Persons of either sex are eligible to certification for the office of county librarian.

Oath and bond

22135 The county librarian shall, prior to entering upon the duties of his office, file with the county clerk the usual oath of office and a bond, conditioned upon the faithful performance of his duties, with sufficient sureties approved by a judge of the superior court in the county of which the librarian is to be the county librarian, in such sum as is determined by the board of supervisors.

Duties

22136. The county librarian shall, subject to the general rules adopted by the board of supervisors, build up and manage, according to accepted principles of library management, a library for the use of the people of the county, and shall determine what books and other library equipment shall be purchased.

Salary

22137. The salary of the county librarians shall be paid by each of the counties in equal monthly installments, at the same time and in the same manner and out of the same fund as the salaries of other county officers are paid.

Traveling expenses

22138. The county librarian and his assistant shall be allowed actual and necessary traveling expenses incurred on the business of the office.

Article 3. Government

Board of Library Examiners

22161. There is in the State Government a commission known as the Board of Library Examiners, consisting of the State Librarian, who is ex officio chairman of the board, the librarian of the public library of the City and County of San Francisco, and the librarian of the Los Angeles public library. The members of the board shall receive no compensation for their services, except their actual and necessary traveling expenses, to be paid out of the State Library Fund.

Duties

22162. The board shall pass upon the qualifications of all persons desiring to become county librarians, and may, in writing, adopt rules and regulations not inconsistent with law for its own government, and for carrying out the purposes of this chapter.

Duties of board of supervisors

22163. The county free library is under the general supervision of the board of supervisors, which may:

(a) Make general rules and regulations regarding the policy of the county free library.

(b) Establish, upon the recommendation of the county librarian, branches and stations throughout the county and may locate the branches and stations in cities wherever deemed advisable.

(c) Determine the number and kind of employees of the library.

(d) Appoint and dismiss the employees upon the recommendation of the county librarian.

Removal of employees

22164. No employee shall be removed except for cause.

Reinstatement

22165. If any removal is made upon the ground that the services of the employee are no longer required, the removed employee shall have the first right to be restored to the employment when his services are again required.

Employment for definite term

22166. The board of supervisors may, at the time of appointing any employee, and upon the recommendation of the county librarian, enter into an agreement that the employee is employed for a definite time only.

Grades of employees

22167. All employees of the county free library whose duties require special training in library work shall be graded in grades established by the county librarian, with the advice

and approval of the State Librarian, according to the duties required of them, experience in library work and other qualifications for the service required.

Examinations

22168. Before appointment to a position in the graded service, the candidate shall pass an examination appropriate to the position sought, satisfactory to the county librarian, and show a satisfactory experience in library work. Work in approved library schools or libraries, or certificates issued by the Board of Library Examiners, may be accepted by the county librarian in lieu of such examination.

Apprentices

22169. The county librarian may accept as apprentices, without compensation, candidates possessing personal qualifications satisfactory to him and may dismiss them at any time if in his judgment their work is not satisfactory to him.

Supervision

22170. The county free libraries are under the general supervision of the State Librarian, who shall from time to time, either personally or by one of his assistants, visit the county free libraries and inquire into their condition. The actual and necessary expenses of the visits shall be paid out of the State Library Fund.

Annual convention

22171. The State Librarian shall annually call a convention of county librarians, to assemble at such time and place as he deems most convenient, for the discussion of questions pertaining to the supervision and administration of the county free libraries, the laws relating thereto, and such other subjects affecting the welfare and interest of the county free libraries as are properly brought before it. All county librarians shall attend and take part in the proceedings of the convention. The actual and necessary expenses of the county librarians attending the convention shall be paid out of the county free library fund.

Report

22172. The county librarian shall, on or before July 31st, in each year, report to the board of supervisors and to the State Librarian on the condition of the county free library, for the year ending June 30th preceding. The reports shall, in addition to other matters deemed expedient by the county librarian, contain such statistical and other information as is deemed desirable by the State Librarian. For this purpose the State Librarian may send to the several county librarians instructions or question blanks so as to obtain the material for a comparative study of library conditions in the State.

Tax

22173. The board of supervisors, after a county free library has been established, shall annually levy, in the same manner and at the same time as other county taxes are levied, and in addition to all other taxes, a tax not to exceed one mill on the dollar of assessed valuation upon all property in the county outside of cities maintaining free public libraries, and outside of library districts maintaining district libraries, and upon all property within cities and library districts, which have elected to become a part of any county free library system, for the purpose of purchasing property for, establishing, and maintaining the county free library.

22174. County bonds may be issued, in the manner prescribed in Section 4088 of the Political Code, for the erection and equipment of county free library buildings and the purchase of land therefor. Bonds

22175. The board of supervisors may receive, on behalf of the county, any gift, bequest, or devise for the county free library, or for any branch or subdivision of the library. Gifts

22176. The title to all property belonging to the county free library is vested in the county. All laws applicable to the collection of county taxes shall apply to the collection of the tax provided in Section 22173. All funds of the county free library, whether derived from taxation or otherwise, shall be in the custody of the county treasurer. They shall constitute a separate fund, called the county free library fund, and shall not be used for any purposes except those of the county free library. Property and funds

22177. Each claim against the county free library fund shall be authorized and approved by the county librarian, or in his absence from the county by his assistant. It shall then be acted upon in the same manner as other claims against the county. Claims

22178. In any county of this State where a law library exists under the provisions of Chapter 5 of Division 3 of the Business and Professions Code, the board of supervisors of the county may enter into contracts, or agreements with the board of law library trustees of the law library for the cooperation of the law library and the county free library, and, in that connection, may contract or agree with the board of law library trustees of the law library that the county librarian and other employees of the county free library perform the duties required to be done or performed by the officers and employees of the law library for a compensation to be named in the contract or agreement, and to be paid into the county free library fund. Contracts with county law libraries

22179. The board of supervisors may accept on behalf of the county free library, all books and other property of school libraries and of the teachers' library, and may manage and maintain them as a part of the county free library. School and teachers' libraries

22180. Any county library which was established and existed on April 26, 1911, under the provisions of an act entitled "An act to provide county library systems," approved April 12, 1909, is continued under the provisions of this chapter, and shall be considered the same as if established under the provisions of this chapter. If a contract has been entered into between any county board of supervisors and any city pursuant to this article, the contract shall continue in force, and the provisions of Section 22112 shall be applicable thereto, until the establishment and equipment of a county free library under the provisions of this chapter, unless sooner terminated. Continued existence

1909 Stats., p. 811

CHAPTER 3. MUNICIPAL LIBRARIES

Article 1. Establishment

Establishment

22201. The common council, board of trustees, or other legislative body of any city in the State may, and upon being requested to do so by one-fourth of the electors of the municipal corporation in the manner provided in this article, shall, by ordinance, establish in and for the municipality a public library if there is none already established therein.

Petition

22202. The request may be by a single petition, or by several petitions. The several petitions shall be substantially in the same form. The single petition, or several petitions in the aggregate, shall have, the signatures of the requisite number of electors.

Article 2. Trustees

Board of library trustees

22212. The public library shall be managed by a board of library trustees, consisting of five members, to be appointed by the mayor, president of the board of trustees, or other executive head of the municipality, with the consent of the legislative body of the municipality.

Term

22213. The trustees shall hold office for three years, serving without compensation. The members of the first board appointed shall so classify themselves by lot that one of their number shall go out of office at the end of the current fiscal year, two at the end of one year thereafter, and two at the end of two years thereafter.

Sex

22214. Men and women are equally eligible to appointment as trustees.

Vacancies

22215. Vacancies shall be filled by appointment for the unexpired term in the same manner as the original appointments are made.

Monthly meetings

22216. Boards of library trustees shall meet at least once a month at such times and places as they may fix by resolution.

Special meetings

22217. Special meetings may be called at any time by three trustees, by written notice served upon each member at least three hours before the time specified for the proposed meeting.

Quorum

22218. A majority of the board shall constitute a quorum for the transaction of business.

President

22219. The board shall appoint one of its number president, who shall serve for one year and until his successor is appointed, and in his absence shall select a president pro tem.

Records

22220. The board shall cause a proper record of its proceedings to be kept.

Rules

22221. The board of library trustees may make and inforce all rules, regulations, and by-laws necessary for the administration, government, and protection of the libraries under its management, and all property belonging thereto.

Property

22222. The board of library trustees may administer any trust declared or created for the library, and receive by gift, devise, or bequest and hold in trust or otherwise, property

situated in this State or elsewhere, and where not otherwise provided, dispose of the property for the benefit of the library.

Officers and employees

22223. The board of library trustees may prescribe the duties and powers of the librarian, secretary, and other officers and employees of the library; determine the number of and appoint all officers and employees, and fix their compensation. The officers and employees shall hold their offices or positions at the pleasure of the board.

Purchases

22224. The board of library trustees may purchase necessary books, journals, publications, and other personal property.

Real property

22225. The board of library trustees may purchase real property, and erect or rent and equip, such buildings or rooms, as may be necessary, when in its judgment a suitable building, or portion thereof, has not been provided by the legislative body of the municipality for the library.

State publications

22226. The board of library trustees may require the Secretary of State and other State officials to furnish the library with copies of any and all reports, laws, and other publications of the State not otherwise disposed of by law.

Books

22227. The board of library trustees may borrow books from, lend books to, and exchange books with other libraries, and may allow nonresidents to borrow books upon such conditions as the board may prescribe.

General duties

22228. The board of library trustees may do and perform any and all other acts and things necessary or proper to carry out the provisions of this chapter.

Report

22229. The board of library trustees shall, on or before the last day of July in each year, make a report to the legislative body of the municipality, giving the condition of the library on the thirtieth day of June preceding, together with a statement of its proceedings for the year, and shall forward a copy thereof to the Department of Education at Sacramento.

Article 3. Support of Libraries

Tax levy

22241. The legislative body of any municipality in which a public library is established pursuant to this chapter, shall in making the annual tax levy and as part thereof, if the maintenance of the library has not been otherwise provided for, levy a tax for the purpose of maintaining the library and purchasing property necessary therefor. The tax shall be in addition to other taxes, the levy of which is permitted in the municipality. After two years from the establishment of new libraries, where a maintenance corresponding thereto has not been otherwise provided, in municipalities of the first, second, and third classes, as they were classified on June 11, 1909, the tax levy shall not exceed two mills on the dollar of assessed valuation, and in municipalities of the fourth, fifth, and sixth classes, as they were classified on June 11, 1909, the levy shall not exceed three mills on the dollar of assessed valuation.

Library fund

22242. The revenue derived from the tax, together with all money acquired by gift, devise, bequest, or otherwise, for

the purposes of the library, shall be apportioned to a fund to be designated the library fund, and shall be applied to the purposes authorized in this chapter.

Administration of gifts

22243. If payment into the treasury is inconsistent with the conditions or terms of any gift, devise, or bequest, the board shall provide for the safety and preservation of the fund, and the application thereof to the use of the library, in accordance with the terms and conditions of the gift, devise, or bequest.

Warrants

22244. Payments from the fund shall be made upon warrants issued after due audit by, and an order from, the library trustees. The warrants shall be signed by the president and secretary of the board of library trustees. The treasurer of the municipality shall pay such warrants without any further order or warrant from any other authority.

Article 4. Government

Rules

22261. Every library established pursuant to this chapter shall be forever free to the inhabitants and nonresident taxpayers of the municipality, subject always to such rules, regulations, and by-laws as may be made by boards of library trustees. Any person who violates any rule, regulations, or by-law may be fined or excluded from the privileges of the library.

Contracts with county

22262. The board of library trustees and the legislative body of any neighboring municipality or the board of supervisors of the county in which the public library is situated, may contract for lending the books of the library to residents of the county or neighboring municipality, upon a reasonable compensation to be paid by the county or neighboring municipality.

Legal title

22263. The title to all property acquired for the purposes of the library, when not inconsistent with the terms of its acquisition, or otherwise designated, vests in the municipality in which the library is situated, and in the name of the municipal corporation may be sued for and defended by action at law or otherwise.

Continued existence

1880 Stats p 231

22264. Any municipal library which was established and existed on June 11, 1909, under the provisions of an act entitled "An act to establish free public libraries and reading rooms," approved April 26, 1880, is continued under the provisions of this chapter and shall be considered the same as if established under the provisions of this chapter. This chapter has no application to any library established or governed by a city charter, and any city charter is in no manner affected by this chapter.

Disestablishment

22265. Any ordinance establishing a library adopted pursuant to this chapter shall be repealed by the body which adopted it upon being requested to do so by 51 per cent of the electors of the municipal corporation, as shown by the great register. Upon the repeal of the ordinance the library is disestablished in the municipal corporation.

CHAPTER 4. LIBRARY DISTRICTS IN UNINCORPORATED TOWNS AND VILLAGES

Article 1. Formation

Establishment

22301. Any unincorporated town or village of this State may establish, equip, and maintain a public library for the dissemination of knowledge of the arts, sciences, and general literature, in accordance with this chapter.

Petition and election

22302. Upon the application, by petition, of 50 or more taxpayers and residents of any unincorporated town or village to the board of supervisors in the county in which the town or village is located, praying for the formation of a library district, and setting forth the boundaries of the proposed district, the board of supervisors shall, within 10 days after receiving the petition, by resolution, order that an election be held in the proposed district for the determination of the question and shall appoint three qualified electors of the proposed district to conduct the election.

Notice

22303. The election shall be called by posting notice in three of the most public places in the proposed library district, and by publication in a daily or weekly paper, if there is one, at least once a week for not less than 15 days. The notices shall specify the time, place, and the purposes of the election, and the hours during which the polls will be kept open.

Hours of voting

22304. In districts with a population of 10,000 or over, the polls shall be opened at 8 o'clock a.m., and kept open until 7 o'clock p.m., and in districts where the population is less than 10,000, the polls shall not be opened before 1 o'clock p.m., and shall be kept open not less than six hours.

Conduct

22305. The election shall be conducted in accordance with the general election laws of this State, where applicable, without reference to form of ballot or manner of voting, except that the ballots shall contain the words, "For library district," and the voter shall write or print after the words on his ballot the word "Yes," or the word "No."

Electors

22306. Every qualified elector, resident within the proposed district for the period requisite to enable him to vote at a general election, shall be entitled to vote at the election.

Report of results

22307. The election officers shall report the result of the election to the board of supervisors within five days after the election.

Board of library trustees

22308. If a majority of the votes at the election is in favor of a library district, the board of supervisors shall by resolution, establish the library district, and shall appoint three trustees, who shall be qualified electors and residents within the limits of the district, to be known as a board of library trustees of the town or village for which they are appointed.

Term

22309. The trustees shall severally hold office for three years from the first day of July next succeeding their election and until their successors are elected and qualified; serving without compensation.

Same: First board

22310. The members of the first board appointed shall be so classified by the board of supervisors at the time of their appointment, that one of their number goes out of office on the thirtieth day of June next succeeding his appointment, one at the end of one year thereafter, and the other at the end of two years thereafter.

Vacancies

22311. Vacancies shall be filled by the board of supervisors by appointment for the unexpired term.

Unfavorable vote

22312. If a majority of the votes cast is against a library district, the board of supervisors shall, by order, so declare, and no other proceedings shall be taken in relation thereto until the expiration of one year from the date of presentation of the petition.

Conclusiveness of proceedings

22313. The fact of the presentation of the petition, and the order establishing the library district and making the appointment of the three library trustees, shall be entered in the minutes of the board of supervisors and shall be conclusive evidence of the due presentation of a proper petition, and that each of the petitioners was, at the time of signature and presentation of the petition, a taxpayer and resident of the proposed district, and of the fact and regularity of all prior proceedings of every kind and nature provided for by this article, and of the existence and validity of the district.

Article 2. Powers

Monthly meeting

22331. The board of library trustees shall meet at least once a month, at such time and place as it may fix by resolution.

Special meetings

22332. Special meetings may be called at any time by two trustees, by written notices served upon each member at least twelve hours before the time specified for the meeting.

Quorum

22333. Two members constitute a quorum for the transaction of business.

Organization of board

22334. At its first meeting held after the first day of July the board shall organize by electing one of its number president, and another one of its number secretary. They shall serve as such for one year or until their successors are elected and qualified.

Certificate of establishment

22335. The board shall cause a proper record of its proceedings to be kept, and at the first meeting of the board of trustees, it shall immediately cause to be made out and filed with the Department of Education at Sacramento a certificate showing that the library has been established, with the date thereof, the names of the trustees, and the officers of the board chosen for the current fiscal year.

Rules

22336. The board of library trustees shall make and enforce all rules, regulations, and by-laws necessary for the administration, government, and protection of the library under its management, and all property belonging to it.

Gifts

22337. The board of library trustees shall administer any trust declared or created for the library, and receive by gift, devise, or bequest, and hold in trust or otherwise, property

situated in this State or elsewhere, and where not otherwise provided, dispose of the property for the benefit of the library.

Officers and employees

22338. The board of library trustees shall prescribe the duties and powers of the librarian, secretary, and other officers and employees of the library, determine the number of and appoint all officers and employees, and fix their compensation. The officers and employees shall hold their offices and positions at the pleasure of the board.

Purchases

22339. The board of library trustees shall purchase necessary books, journals, publications, and other personal property.

Real property

22340. The board of library trustees shall also purchase such real property, and erect or rent and equip, such building or rooms, as in its judgment is necessary to properly carry out the provisions of this chapter.

State publications

22341. The board of library trustees shall require the Secretary of State and other State officials to furnish the library with copies of any and all reports, laws, and other publications of the State not otherwise disposed of by law.

Books

22342. The board of library trustees shall borrow books from, lend books to, and exchange books with other libraries. It shall allow nonresidents to borrow books upon such conditions as it may prescribe.

General duties

22343. The board of library trustees shall do and perform any and all other acts and things necessary or proper to carry out the provisions of this chapter.

Report

22344. The board of library trustees shall file, through its secretary, on or before the last day in the month of July of each year, a report with the Department of Education at Sacramento giving the condition of the library and the number of volumes contained therein on the thirtieth day of June preceding.

Hours

22345. The board of library trustees shall designate the hours during which the library is open for the use of the public. All public libraries established under this chapter, shall be open for the use of the public during every day in the year except on such legal holidays as may be determined by the board of library trustees.

Estimate of costs

22346. In any library district formed under the provisions of this chapter, which maintains a public library, or which has petitioned for and been granted permission to establish, and intends to maintain a public library in accordance with this chapter, the board of library trustees shall furnish to the board of supervisors of the county in which the library district is situated, each and every year, on or before the first day of September, an estimate of the cost of any or all of the following:

(a) Leasing temporary quarters.

(b) Purchasing a suitable lot.

(c) Procuring plans and specifications and erecting a suitable building.

(d) Furnishing and equipping the building and fencing and ornamenting the grounds, for the accommodation of the public library.

(e) Conducting and maintaining the library for the ensuing fiscal year.

Bonds

22347. The board of library trustees may, when in its judgment it is deemed advisable, and upon the petition of 50 or more taxpayers residing within the library district shall, call an election and submit to the electors of the library district the question of whether the bonds of the library district shall be issued and sold for any or all the purposes of this chapter.

Tax levy

22348. When the estimate has been submitted to the board of supervisors, the board of supervisors shall, at the time of levying county taxes, levy a special tax upon all of the taxable property within the limits of the library district, sufficient in amount to maintain the public library, or to purchase the site, erect and equip the building, improve the grounds or building, or for any or all of the purposes of this chapter. The taxes shall be computed, entered upon the tax roll, and collected in the same manner as other taxes are computed, entered, and collected.

Library fund

22349. The revenue derived from the tax, together with all money acquired by gift, devise, bequest, or otherwise, for the purposes of the library, shall be paid into the county treasury, to the credit of the library fund of the district in which the tax is collected, subject only to the order of the library trustees of the district. If payment into the treasury is inconsistent with the terms or conditions of any gift, devise, or bequest, the board of library trustees shall provide for the safety and preservation of the fund, and the application thereof to the use of the library, in accordance with the terms and conditions of the gift, devise, or bequest.

Administration of gifts

Warrants

22350. Upon the receipt by the county auditor of an order of the library trustees of the district he shall issue his warrant upon the county treasurer for the amount stated in the order.

Nonpayment

22351. When any warrant is presented to the treasurer for payment and it is not paid for want of funds the treasurer shall endorse thereon "not paid for want of funds" with the date of presentation and sign his name thereto and from that time the warrant bears interest at the rate of 6 per cent per annum until it is paid or until funds are available for its payment and the county treasurer gives notice to the warrant holder that funds are available for payment. The giving of the notice is deemed complete upon deposit thereof in the United States mail in a sealed envelope addressed to the warrant holder at his address given by him at the time of presentation of the warrant to the treasurer, with postage thereon fully prepaid and registered.

Rules

22352. Every library established under this chapter shall be forever free to the inhabitants and nonresident taxpayers

of the library district, subject always to such rules, regulations, and by-laws as may be made by the board of library trustees. For any violation of the rules, regulations, or by-laws a person may be fined or excluded from the privileges of the library.

Contracts

22353. Boards of library trustees and the boards of trustees of neighboring library districts, or the legislative bodies of neighboring municipalities, or boards of supervisors of the counties in which public libraries are situated, may contract to lend the books of the libraries to residents of the counties or neighboring municipalities, or library districts, upon a reasonable compensation to be paid by the counties, neighboring municipalities, or library districts.

Title

22354. The title to all property acquired for the purposes of the libraries, when not inconsistent with the terms of its acquisition, or not otherwise designated, vests in the district in which the libraries are, or are to be situated.

Name

22355. Every library district shall be designated by the name and style of_____library district, (using the name of the district), of_____county, (using the name of the county in which the district is situated). In that name the trustees may sue and be sued, and may hold and convey property for the use and benefit of the district. A number shall not be used as a part of the designation of any library district.

Article 3. Annual Election of Trustees

Annual election

22371. An election shall be held in each library district, annually, at the public library, if there is one, and if there is none, at the place designated by the board of trustees, for the election of one library trustee, who shall hold office for three years dating from the first day of July next succeeding his election, or until his successor is elected, or appointed, and qualified.

Trustees

22372. The number of library trustees for any library district established under the provisions of this chapter is three.

Notice of election

22373. Not less than 10 days before the election, the trustees shall post notices in three public places in the district, one of which places shall be the public library. The notices shall specify the time and place of election, and the hours during which the polls will be kept open. If within five days of holding the election the trustees have failed to post the notices, then any three electors of the district may give notice.

Election officers

22374. Boards of trustees shall appoint one inspector and two judges to conduct the election. If they are not appointed, or, if those appointed are not present at the opening of the polls, the electors present may appoint them, and they shall conduct the election. Any member of the board of library trustees is qualified to administer the oath and swear in the election officers.

Hours of voting

22375. In library districts with a population of 10,000 or over, the polls shall be open at 8 o'clock a.m., and kept open until 7 o'clock p.m. In districts where the population is less than 10,000 the polls shall not be opened before 1 o'clock p.m., and shall be kept open not less than six hours.

Elections

22376. Every elector, resident of the library district, who is a qualified elector of the county, and who is registered in the district where the election is held at least 30 days before the election, may vote at the election.

Method of voting

22377. Voting shall be by ballot, without reference to the general election law in regard to nominations, form of ballot, or manner of voting, which shall be handed by the elector voting to the inspector, who shall then, in his presence, deposit the ballot in the ballot-box, and the judges shall enter the elector's name on the poll-list.

Challenge

22378. Any person offering to vote may be challenged by any elector of the district, and the judges of election shall thereupon administer to the person challenged an oath, in substance as follows: "You do swear that you are a citizen of the United States, that you are 21 years of age, that you have resided in this State one year, in this county 90 days, and in this library district 30 days preceding this election, and that your name is on the great register of this county and was on the great register of a precinct of this library district at least 30 days before this election, and that you have not before voted this day." If he takes the oath, his vote shall be received. Otherwise his vote shall be rejected.

Poll and tally lists

22379. A poll and tally list shall be kept and shall be returned to the board of library trustees.

Results of election

22380. The officers of election shall publicly canvass the votes immediately after closing the polls, and shall make, sign, and deliver certificates of election to the person elected, which shall, with the oath of office of the person elected attached, be forwarded to the county clerk and filed in his office.

Article 4. Bonds

Purposes

22401. The board of trustees of any library district may, when in their judgment it is deemed advisable, and shall, upon a petition of 50 or more taxpayers and residents of the library district, call an election and submit to the electors of the district the question of whether the bonds of the district shall be issued and sold for the purpose of raising money for any or all of the following:

(a) The purchase of suitable lots.

(b) Procuring plans and specifications and erecting a suitable building.

(c) Furnishing and equipping the building, and fencing and ornamenting the grounds, for the accommodation of the public library.

(d) Any or all of the purposes of this chapter.

(e) Liquidating any indebtedness incurred for the purposes

(f) Refunding any outstanding valid indebtedness, evidenced by bonds or warrants of the district.

Notice

22402. The election shall be called by posting notices, signed by the board, in three of the most public places in the district, for not less than 20 days before the election, and by publishing the notice not less than once a week for three successive weeks in a newspaper published in the district if there is one, or if there is none, in a newspaper published in the county.

Contents of notice

22403. The notice shall contain:

(a) Time and place of holding the election.

(b) The names of inspectors and judges to conduct the election.

(c) The hours during the day in which the polls will be open.

(d) The amount and denomination of the bonds, the rate of interest, and the number of years, not exceeding 40, the whole or any part of the bonds are to be run.

Conduct of election

22404. The election shall be conducted in accordance with the provisions of Article 3 of this chapter, relating to the election of trustees, in so far as they are applicable to the election for bonds.

Method of voting

22405. Voting shall be by ballot, without reference to the general election law in regard to form of ballot, or manner of voting, except that the words to appear on the ballot shall be, "bonds—Yes," and "bonds—No." Persons voting at the bond election shall put a cross (+) upon their ballots, with pencil or ink, after the words, "bonds—Yes," or "bonds—No," as the case may be, to indicate whether they have voted for or against the issuance of the bonds. The ballot shall be handed by the elector voting to the inspector, who shall then, in his presence, deposit the ballot in the ballot box, and the judges shall enter the elector's name on poll list.

Favorable vote

22406. On the seventh day after the election, at 8 o'clock p.m., the returns having been made to the board of trustees, the board shall meet and canvass the returns, and if it appears that two-thirds of the votes cast at the election are in favor of issuing the bonds, then the board shall cause an entry of the fact to be made upon its minutes and shall certify to the board of supervisors, all the proceedings had in the premises. Thereupon the board of supervisors shall issue the bonds of the district, to the number and amount provided in the proceedings, payable out of the building fund of the district, naming the district.

Taxation

22407. The money shall be raised by taxation upon the taxable property in the district, for the redemption of the bonds and the payment of the interest thereon.

Bonded limitation

22408. The total amount of bonds issued shall not exceed 5 per cent of the taxable property of the district, as shown by the last equalized assessment book of the county.

Form and term

22409. The board of supervisors by an order entered upon its minutes shall prescribe the form of the bonds and of the

interest coupons attached thereto, and shall fix the time when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 40 years from the date thereof.

Interest

22410. The bonds shall not bear a greater amount of interest than 6 per cent, to be payable annually or semi-annually.

Sale

The bonds shall be sold in the manner prescribed by the board of supervisors, but for not less than par, and the proceeds of the sale thereof shall be deposited in the county treasury to the credit of the building fund of the library district, and shall be drawn out for the purposes for which the bonds were issued as other library moneys are drawn out.

Tax levy

22411. The board of supervisors, at the time of making the levy of taxes for county purposes, shall levy a tax for that year upon the taxable property in the district, at the equalized assessed value thereof for that year, for the interest and redemption of the bonds. The tax shall not be less than sufficient to pay the interest of the bonds for that year, and such portion of the principal as is to become due during the year. In any event the tax shall be high enough to raise, annually, for the first half of the term the bonds have to run, a sufficient sum to pay the interest thereon, and during the balance of the term, high enough to pay the annual interest and to pay, annually, a proportion of the principal of the bonds equal to a sum produced by taking the whole amount of the bonds outstanding and dividing it by the number of years the bonds then have to run.

Payment of bonds

22412. All money levied, when collected, shall be paid into the county treasury to the credit of the library district, and shall be used for the payment of principal and interest on the bonds, and for no other purpose. The principal and interest on the bonds shall be paid by the county treasurer, upon the warrant of the county auditor, out of the fund provided therefor. The county auditor shall cancel and file with the county treasurer the bonds and coupons as rapidly as they are paid.

Cancellation

22413. Whenever any bonds issued under this article remain unsold for the period of six months after having been offered for sale in the manner prescribed by the board of supervisors, the board of trustees of the library district for or on account of which the bonds were issued, or of any library district composed wholly or partly of territory which, at the time of holding the election authorizing the issuance of the bonds, was embraced within the district for or on account of which the bonds were issued, may petition the board of supervisors to cause the unsold bonds to be withdrawn from market and canceled.

Notice of hearing

22414. Upon receiving the petition, signed by a majority of the members of the board of trustees, the supervisors shall fix a time for hearing the petition, which shall be not more than 30 days thereafter, and shall cause a notice, stating the time and place of hearing, and the object of the petition in

general terms, to be published for 10 days prior to the day of hearing, in some newspaper published in the library district, if there is one, and if there is no newspaper published in the library district, then in a newspaper published at the county seat of the county in which the library district or part thereof is situated.

Order

22415. At the time and place designated in the notice for hearing the petition, or at any subsequent time to which the hearing is postponed, the supervisors shall hear any reasons that are submitted for or against the granting of the petition, and if they deem it for the best interests of the library district that the unsold bonds be canceled, they shall make and enter an order in the minutes of their proceedings that the unsold bonds be canceled. Thereupon the bonds, and the vote by which they were authorized to be issued, shall cease to be of any validity whatever.

Article 5. Dissolution

Election

22431. The district may at any time be dissolved upon the vote of two-thirds of the qualified electors thereof, upon an election called by the library trustees of the district, upon the question of dissolution. The election shall be called and conducted in the same manner as other elections of the district.

Property

22432. Upon the dissolution, the property of the district shall vest in any city that is at the time in occupation of a major portion of the territory of the library district and including within its city limits the property and buildings in which the library is situated. If there is no city, then the property shall be vested in the board of supervisors of the county until the formation of a city.

Bonded indebtedness

22433. If, at the time of the election to dissolve the district, there is any outstanding bonded indebtedness of the district, the vote to dissolve the district shall dissolve the district for all purposes excepting only the levy and collection of taxes for the payment of the indebtedness.

Ex officio library board

22434. From the time the district is dissolved until the bonded indebtedness, with the interest thereon, is fully paid, satisfied and discharged, the legislative authority of the city, or the board of supervisors, if there is no city, is ex officio the library board of the district. The board shall levy such taxes and perform such other acts as are necessary in order to raise money for the payment of the indebtedness and the interest thereon.

Chapter 5. Library Districts

Article 1. Formation, Annexation, and Dissolution

Purposes

22601. A library district may be organized, as provided in this chapter. The library district may establish, equip, and maintain a public library for the dissemination of knowledge of the arts, sciences, and general literature and may exercise the powers granted or necessarily implied pursuant to this chapter.

Territory

22602. The library district may include incorporated or unincorporated territory, or both, in any one or more counties, so long as the territory of the district consists of contiguous parcels and the territory of no city is divided.

Petition

22603. Whenever the formation of a library district is desired, a petition which may consist of any number of instruments, may be presented at a regular meeting of the board of supervisors of the county in which is located the largest proportionate value of the lands within the proposed district as shown by the last equalized county assessment roll. The board of supervisors to whom the petition is presented is designated in this chapter as the supervising board of supervisors.

Signatures

22604. The petition shall be signed by registered voters residing within the proposed library district equal in number to at least 5 per cent of the number of votes cast in the territory comprising the proposed district at the last preceding general State election at which a Governor was elected.

Proceedings

22605. The proceedings for the filing and hearing of the petition are governed and controlled by the provisions of Sections 103, 104, 105, 106, and 107 of the District Organization Act.

Final hearing

22606. The proceedings for final hearing of the petition and the formation of the district are governed and controlled by the provisions of Chapter 2 of Division 1 of the District Organization Act.

Protests

22607. On the filing of written protests by registered voters residing in the proposed district equal in number to at least 50 per cent of the number of votes cast in the territory comprising the proposed district at the last preceding general State election at which a Governor was elected, the proceeding for the formation of the district shall be terminated as provided in Sections 159 and 160 of the District Organization Act.

Districts in more than one county

22608. No library district including territory in more than one county shall be organized under this chapter without the concurrent consent by resolution of each board of supervisors involved, as well as the consent of the governing body of each city to be included.

Annexation of territory

22609. Territory may be annexed to or excluded from a library district organized under this chapter in the manner provided in Division 3 of the District Organization Act, upon petition signed by the same number of qualified petitioners required for signature on the petition for organization of the district under this chapter.

Consolidation

22610. Two or more districts organized under this chapter may be consolidated in the manner provided in Chapter 1 of Division 4 of the District Organization Act.

Dissolution

22611. A library district organized under this chapter may be dissolved in the manner provided in Chapter 2 of Division 4 of the District Organization Act.

Article 2. Trustees

Trustees

22626. Within 30 days after the filing with the Secretary of State of the resolution declaring the organization of the district, a board of three library trustees shall be appointed for the district. The board shall consist of one trustee to be appointed from each unit, in the case of any unincorporated territory by the board of supervisors and in the case of a city by the governing body thereof.

If a board thus appointed would consist of more than three members, the supervising board of supervisors shall appoint three library trustees from the district at large.

If the board thus appointed consists of less than three members, the supervising board of supervisors shall appoint from the district at large enough additional members to make a board of three trustees.

As used in this section, "unit" means all unincorporated territory in the district which lies in a single county and also means each city in the district.

Designation

22627. The governing board of the district shall be called "the board of library trustees of_____library district" (inserting the name of the particular district).

Term

22628. The trustees shall hold office for the term of three years beginning on the second day of the calendar year next succeeding their appointment or election.

Same. First board

22629. The first board of library trustees appointed in a district shall at their first meeting so classify themselves by lot that their terms shall expire: one on the second day of the second calendar year next succeeding his appointment, one at the end of one year thereafter, and one at the end of two years thereafter.

Organization

22630. At its first meeting called after the original appointment of the board, and annually thereafter at its first meeting called after the second day of the calendar year, the board shall organize by electing one of its number president, and another one of its number secretary. They shall serve as such for one year or until their successors are elected and qualified.

Certificate of establishment

22631. The board shall cause a proper record of its proceedings to be kept, and at the first meeting of the board of trustees of the library district, it shall immediately cause to be made out and filed with the Department of Education at Sacramento a certificate showing that the library district has been established, with the date thereof, the names of the trustees, and the officers of the board chosen for the current fiscal year.

Vacancies

22632. A vacancy in the board of library trustees shall be filled for the unexpired term by appointment of the supervising board of supervisors.

Holding

22633. Each library trustee shall hold office until his successor is elected and qualified.

Monthly meetings

22634. The board of library trustees shall meet at least once a month, at such time and place as it may fix by resolution.

Special meetings

22635. Special meetings may be called at any time by two trustees, by written notices served upon each member at least 12 hours before the time specified for the meeting.

Quorum

22636. Two members constitute a quorum for the transaction of business.

Article 3. Powers

Rules

22651. The board of library trustees shall make and enforce all rules, regulations, and by-laws necessary for the administration, government, and protection of the library under its management, and all property belonging to the district.

Gifts

22652. The board of library trustees shall administer any trust declared or created for the library, and received by gift, devise, or bequest, and hold in trust or otherwise, property situated in this State or elsewhere, and where not otherwise provided, dispose of the property for the benefit of the library.

Officers and employees

22653. The board of library trustees shall prescribe the duties and powers of the librarian, secretary, and other officers and employees of the library, determine the number of and appoint all officers and employees, and fix their compensation. The officers and employees shall hold their offices and positions at the pleasure of the board.

Purchases

22654. The board of library trustees shall purchase necessary books, journals, publications, and other personal property.

Real property

22655. The board of library trustees shall purchase real property, and erect or rent and equip, such buildings or rooms, as in its judgment are necessary properly to carry out the provisions of this chapter.

State publications

22656. The board of library trustees shall require the Secretary of State and other State officials to furnish the library with copies of any and all reports, laws, and other publications of the State not otherwise disposed of by law.

Books

22657. The board of library trustees shall borrow books from, lend books to, and exchange books with other libraries, and may allow nonresidents of the district to borrow books upon such conditions as the board may prescribe.

General powers

22658. The board of library trustees shall borrow money, give security therefor, purchase on contract, and do and perform any and all other acts and things necessary or proper to carry out the provisions of this chapter.

Report

22659. The board of library trustees shall file, through its secretary, on or before the last day of July of each year, a report with the State Librarian at Sacramento giving the condition of its library and the number of volumes contained therein on the 30th day of June preceding.

Hours

22660. The board of library trustees shall designate the hours during which the library shall be open for the use of the public. All public libraries established under this chapter shall be open for the use of the public during every day in the year.

Estimate of costs

22661. Annually, at least 15 days before the first day of the month in which county taxes are levied, the board of library trustees of each library district shall furnish to the board of supervisors of the county in which the district or any part thereof is situated, an estimate in writing of the amount of money necessary for all purposes required under this chapter during the next ensuing fiscal year.

Tax levy

22662. Each board of supervisors in which any part of the district is situated shall thereupon levy a special tax upon all taxable property of the county lying within the district sufficient in amount to maintain the district.

Rate

22663. The tax shall in no case exceed the rate of fifteen cents ($0.15) on each one hundred dollars ($100) of the assessed valuation of all taxable property within the district, but it may be in addition to all other taxes allowed by law to be levied upon the property.

Library district fund

22664. The tax shall be computed, entered upon the tax rolls, and collected in the same manner as county taxes are computed, entered, and collected. All money collected shall be paid into the county treasury to the credit of the particular library district fund and shall be paid out on the order of the district board, signed by the president and secretary.

District in more than one county

22665. If the district embraces territory lying in more than one county, the amount estimated shall be ratably apportioned among the several counties in the district in proportion to the exact value of the property in the several counties included within the district as shown upon the last equalized assessment rolls of the counties. The estimates apportioned to the several counties shall be rendered to the respective boards of supervisors, and the tax shall be levied and collected by the officials of the counties upon the property of the district lying in each county.

Gifts

22666. All money acquired by gift, devise, bequest, or otherwise, for the purposes of the library, shall be paid into the county treasury to the credit of the library fund of the district, subject only to the order of the library trustees of the district.

Administration of gifts

22667. If payment into the treasury is inconsistent with the terms or conditions of any gift, devise, or bequest, the board of library trustees shall provide for the safety and preservation of the fund, and the application thereof to the use of the library, in accordance with the terms and conditions of the gift, devise, or bequest.

Warrants

22668. Upon the receipt by the county auditor of an order of the library trustees of the district, he shall issue his warrant upon the county treasurer for the amount stated in the order.

Nonpayment

22669. When any warrant is presented to the treasurer for payment and it is not paid for want of funds, the treasurer shall indorse thereon "not paid for want of funds" with the date of presentation and sign his name thereto, and from that time the warrant bears interest at the rate of 6 per cent per annum until it is paid or until funds are available for its payment and the county treasurer gives notice to the warrant holder that funds are available for the payment. The giving of the notice is deemed complete upon deposit thereof in the United States mail in a sealed envelope addressed to the warrant holder at his address given by him at the time of presentation of the warrant to the treasurer, with postage thereon fully prepaid and registered.

Rules

22670. Every library established under this chapter shall be forever free to the inhabitants and nonresident taxpayers of the library district, subject always to such rules, regulations, and by-laws as may be made by the board of library trustees. For violation of any rule, regulation, or by-law a person may be fined or excluded from the privileges of the library.

Title

22671. The title to all property acquired for the purposes of the library, when not inconsistent with the terms of its acquisition, or not otherwise designated, vests in the district in which the library is or is to be situated.

Name

22672. Every library district shall be designated by the name and style of_____library district (using the name of the district) of_____county (using the name of the county or counties in which the district is situated). In that name the trustees may sue and be sued, and may hold and convey property for the use and benefit of the district. A number shall not be used as a part of the designation of any library district.

Contracts

22673. The board of library trustees and the boards of trustees of neighboring library districts, or the governing bodies of neighboring cities, or boards of supervisors of counties in which public libraries are situated, may contract to lend the books of libraries created under this chapter to residents of the counties, neighboring cities, or library districts, upon a reasonable compensation to be paid by the counties, neighboring cities, or library districts.

Construction

22674. Anything in Chapter 3 of this division to the contrary notwithstanding, the property in any library district created under this chapter is subject to taxation for county free library purposes as though the library district had not been created.

Article 4. Annual Election of Trustees

Annual election

22691. An election shall be held annually in each library district for the election of one library trustee who shall hold office for three years beginning on the second day of the calendar year next succeeding his election. This election shall be known as the general district election and shall be

held in the district on the same day as the State general election in the even-numbered years, and in the odd-numbered years on the first Tuesday after the first Monday in November.

Elections

22692. To be qualified to vote at any library district election a person shall be a resident of the library district, a qualified elector of the county, and shall be registered in the district in which the election is held at least 30 days before the election.

Notices and elections

22693. The provisions of Chapters 1 and 2 of Division 2 of the District Organization Act relating to notices and elections shall govern and control this chapter.

Article 5. Bonds

Purposes

22721. The board of trustees of any library district may, when in their judgment it is deemed advisable, and shall, upon a petition of 50 or more taxpayers and residents of the library district, call an election and submit to the electors of the district, the proposition of whether the bonds of the district will be issued and sold for the purpose of raising money for any or all of the following:

(a) The purchase of suitable lots.

(b) Procuring plans and specifications and erecting a suitable building.

(c) Furnishing and equipping the building and fencing and ornamenting the grounds, for the accommodation of the public library.

(d) Any or all of the purposes of this chapter.

(e) Liquidating any indebtedness incurred for the purposes.

(f) Refunding any outstanding valid indebtedness, evidenced by bonds or warrants of the district.

Election

22722. The bond election shall be called and conducted and the results thereof canvassed, returned, and declared in the manner provided in Chapter 2 of Division 2 of the District Organization Act.

Bond data

22723. In addition to the information required in Section 232 of the District Organization Act, in the resolution calling a bond election the board of trustees shall set forth the amount and denomination of the bonds, the rate of interest, and the number of years the whole or any part of the bonds are to run.

Method of voting

22724. Voting shall be by ballot, without reference to the general election law in regard to form of ballot, or manner of voting, except that the words to appear on the ballot shall be "Bonds—Yes," and "Bonds—No." Persons voting at the bond election shall put a cross (+) upon their ballots, with pencil or ink, after the words "Bonds—Yes," or "Bonds—No," as the case may be, to indicate whether they have voted for or against the issuance of the bonds.

Favorable vote

22725. Upon the canvass of the returns, if it appears that two-thirds of the votes cast at the election were cast in favor of issuing the bonds, then the board of library trustees shall cause an entry of the fact to be made upon its minutes and shall certify to the supervising board of supervisors all the proceedings

had in the premises. Thereupon the board of supervisors shall issue the bonds of the district, to the number and amount provided in the proceedings, payable out of the building fund of the district, naming it. The money for the redemption of the bonds and the payment of interest thereon shall be raised by taxation upon the taxable property in the district.

Bonded limitation

22726. The total amount of bonds issued shall not exceed 5 per cent of the taxable property of the district, as shown by the last equalized assessment roll of the county or counties in which the district is situated.

Form and term

22727. The supervising board of supervisors by an order entered upon its minutes shall prescribe the form of the bonds and of the interest coupons attached thereto, and shall fix the time when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 40 years from the date thereof.

Interest

22728. The bonds shall not bear a greater amount of interest than 6 per cent, to be payable annually or semiannually.

Sale

The bonds shall be sold in the manner prescribed by the board of supervisors, but for not less than par, and the proceeds of the sale thereof shall be deposited in the county treasury to the credit of the building fund of the library district, and shall be drawn out for the purposes for which the bonds were issued as other library money is drawn out.

Tax levy

22729. The board of supervisors of each county in which any part of the district is situated, at the time of making the levy of taxes for county purposes, shall levy a tax for that year upon the taxable property in the district, at the equalized assessed value thereof for that year, for the interest and redemption of the bonds. The tax shall not be less than sufficient to pay the interest of the bonds for that year, and such portion of the principal as is to become due during the year. In any event the tax shall be high enough to raise, annually, for the first half of the term the bonds are to run, a sufficient sum to pay the interest thereon, and during the balance of the term, high enough to pay the annual interest and to pay, annually, a proportion of the principal of the bonds equal to a sum produced by taking the whole amount of the bonds outstanding and dividing it by the number of years the bonds then have to run.

Payment of bonds

22730. All money levied, when collected, shall be paid into the county treasury to the credit of the library district, and shall be used for the payment of principal and interest on the bonds, and for no other purpose. The principal and interest on the bonds shall be paid by the county treasurer, upon the warrant of the county auditor, out of the fund provided therefor. The county auditor shall cancel and file with the county treasurer the bonds and coupons as rapidly as they are paid.

Cancellation

22731. Whenever any bonds issued under this article remain unsold for the period of six months after having been offered for sale in the manner prescribed by the supervising board of supervisors, the board of trustees of the library dis-

trict for or on account of which the bonds were issued, or of any library district composed wholly or partly of territory which, at the time of holding the election authorizing the issuance of the bonds, was embraced within the district for or on account of which the bonds were issued, may petition the supervising board of supervisors to cause the unsold bonds to be withdrawn from the market and canceled.

Notice of hearing

22732. Upon receiving the petition, signed by a majority of the members of the board of trustees, the supervising board of supervisors shall fix a time for hearing the petition, which shall be not more than 30 days thereafter, and shall cause a notice, stating the time and place of hearing, and the object of the petition in general terms, to be published as provided in this chapter.

Order

22733. At the time and place designated in the notice for hearing the petition, or at any subsequent time to which the hearing is postponed, the supervising board of supervisors shall hear any reasons that are submitted for or against the granting of the petition, and if they deem it for the best interests of the library district named in the petition that the unsold bonds be canceled, they shall make and enter an order in the minutes of their proceedings that the unsold bonds be canceled. Thereupon the bonds, and the vote by which they were authorized to be issued, shall cease to be of any validity whatever.

CHAPTER 6. UNION HIGH SCHOOL DISTRICT PUBLIC LIBRARIES

Article 1. Definitions

"Trustees"

22801. "Trustees," or "library trustees" as used in this chapter mean the regularly elected union high school trustees who reside within the library district.

"Library district"

22802. "Library," "library district," or "library districts" as used in this chapter mean "union high school library district."

Article 2. Establishment

Purposes

22821. Any union high school district may establish, equip, and maintain a public library for the dissemination of knowledge of the arts, sciences, and general literature, in accordance with this chapter.

Property

22822. The title to all property acquired for the purposes of the library, when not inconsistent with the terms of its acquisition, or not otherwise designated, vests in the district in which the library is, or is to be, situated.

Rules

22823. Every union high school library established under this chapter shall be forever free to the inhabitants and nonresident taxpayers of the library district, subject always to such rules, regulations, and by-laws as may be made by the board of library trustees. For violations of any rule, regulation, or by-law a person may be fined or excluded from the privileges of the library.

Article 3. Formation of District

Petition and election

22841. Upon the application by petition of 50 or more taxpayers and residents of any union high school district to the board of supervisors in the county in which the union high school district is located, praying for the formation of a library district, and setting forth the boundaries of the proposed district, the board of supervisors shall, within 10 days after receiving the petition, by resolution, order that an election be held in the proposed district for the determination of the question and shall appoint three qualified electors thereof to conduct the election.

Notice

22842. The election shall be called by posting notices in three of the most public places in the proposed library district, and by publication in a daily or weekly paper therein, if there is one, at least once a week for not less than 15 days. The notices shall specify the time, place, and the purpose of the election, and the hours during which the polls will be kept open.

Hours of voting

22843. In districts with a population of 10,000 or over, the polls shall be opened at 8 o'clock a.m. and kept open until 7 o'clock p.m., and in districts where the population is less than 10,000, the polls shall not be opened before 1 o'clock p.m. and shall be kept open not less than six hours.

Conduct of election

22844. The election shall be conducted in accordance with the general election laws of this State, where applicable, without reference to form of ballot or manner of voting, except that the ballots shall contain the words, "For Union High School Library District." The voter shall write or print after the words on his ballot the word "yes" or the word "no."

Electors

22845. Every qualified elector, resident within the proposed district for the period requisite to enable him to vote at a general election, shall be entitled to vote at the election.

Result of election

22846. The election officers shall report the result of the election to the board of supervisors within five days subsequent to the holding thereof.

Favorable vote

22847. If two-thirds of the votes cast at the election are in favor of a union high school library district, the board of supervisors shall, by resolution, establish the library district, and place the district in the control of the governing board of the union high school district.

Unfavorable vote

22848. If more than one-third of the votes cast in the election is against a library district, the board of supervisors shall, by order, so declare and no other proceedings shall be taken in relation thereto until the expiration of one year from the date of presentation of the petition.

Conclusive evidence

22849. The fact of the presentation of the petition and the order establishing the library district shall be entered on the minutes of the board of supervisors, and shall be conclusive evidence of the due presentation of a proper petition, and that each of the petitioners was, at the time of signature

and presentation of the petition a taxpayer and resident of the proposed district, and of the fact and regularity of all prior proceedings of every kind and nature provided for by this article, and of the existence and validity of the district.

Name

22850. Every library district shall be designated by the name and style of "_____ library district (using the name of the district) of _____ County (using the name of the county in which the district is situated)." A number shall not be used as a part of the designation of any library district.

Legal action

22851. In the name of the library district, the governing board may sue and be sued, and may hold and convey property for the use and benefit of the district.

Term of trustees

22852. The trustees in whose control the library district has been placed shall severally hold office during the term for which they have been elected as trustees of the union high school district.

Article 4. Dissolution of Districts

Election

22871. The district may at any time be dissolved upon the vote of two-thirds of the qualified electors thereof, at an election called by the library trustees upon the question of dissolution.

Conduct of election

22872. The election shall be called and conducted in the same manner as other elections of the district.

Property

22873. Upon dissolution, the property of the district shall vest in any union high school district in which the library is situated.

Bonded indebtedness

22874. If at the time of the election to dissolve the district, there is any outstanding bonded indebtedness of the district, the vote to dissolve the district shall dissolve it for all purposes excepting only the levy and collection of taxes for the payment of the indebtedness. From the time the district is dissolved until the bonded indebtedness, with the interest thereon, is fully paid, satisfied, and discharged, the board of supervisors is ex officio the library board of the district. The board shall levy such taxes and perform such other acts as are necessary in order to raise money for the payment of the indebtedness and the interest thereon.

Article 5. Meetings of Boards of Trustees

Regular meetings

22901. The boards of library trustees shall meet at least once a month, at such time and place as it may fix by resolution.

Special meetings

22902. Special meetings may be called at any time by two trustees, by written notices served upon each member at least 12 hours before the time specified for the meeting.

Quorum

22903. Three members constitute a quorum for the transaction of business.

Organization

22904. At its first meeting held after the first day of July the board shall organize by electing one of its number president, and another one of its number secretary. They shall

serve as such for one year or until their successors are elected and qualified.

Records

22905. The board shall cause a proper record of its proceedings to be kept.

Certificate of establishment

22906. At the first meeting of the board of trustees of any library district formed under this chapter it shall immediately cause to be made out and filed with the Department of Education at Sacramento a certificate showing that the library has been established, with the date thereof, the names of the trustees, and the officers of the board chosen for the current fiscal year.

Article 6. Powers of Boards of Trustees

Rules

22921. The board of library trustees shall make and enforce all rules, regulations, and by-laws necessary for the administration, government, and protection of the library under its management, and all property belonging to the library.

Gifts

22922. The board of library trustees shall administer any trust declared or created for the library and receive by gift, devise, or bequest, and hold in trust or otherwise, property situated in this State or elsewhere, and where not otherwise provided, dispose of the property for the benefit of the library.

Officers and employees

22923. The board of library trustees shall prescribe the duties and powers of the librarian, secretary, and other officers and employees of the library, determine the number of and appoint all officers and employees, and fix their compensation. The officers and employees shall hold their offices and positions at the pleasure of the boards.

Purchases

22924. The board of library trustees shall purchase necessary books, journals, publications, and other personal property.

Real property

22925. The board of library trustees shall purchase such real property, and erect or rent and equip such buildings or rooms, as in its judgment are necessary to properly carry out the provisions of this chapter.

State publications

22926. The board of library trustees shall require the Secretary of State and other State officials to furnish the library with copies of any and all reports, laws, and other publications of the State not otherwise disposed of by law.

Books

22927. The board of library trustees shall borrow books from, lend books to, and exchange books with other libraries, and shall allow nonresidents to borrow books upon such conditions as it may prescribe.

General powers

22928. The board of library trustees shall do and perform any and all other acts and things necessary or proper to carry out the provisions of this chapter.

Report

22929. The board of library trustees shall file through its secretary on or before the last day in July of each year, a report with the State Librarian at Sacramento, giving the condition of its library and the number of volumes contained therein on the thirtieth day of June preceding.

22930. The board of library trustees shall designate the hours during which the library will be open for the use of the public. Hours

22931. All public libraries established under this chapter, shall be open for the use of the public at all reasonable times. Same

22932. Boards of library trustees and the boards of trustees of neighboring library districts, or the legislative bodies of neighboring municipalities, or boards of supervisors of the counties in which public libraries are situated, may contract to lend the books of the libraries to residents of the counties, neighboring municipalities, or library districts, upon a reasonable compensation to be paid by the counties, neighboring municipalities, or library districts. Contracts

Article 7. Estimates of Funds Needed

22951. In any library district formed under this chapter, which maintains a public library, or which has petitioned for and has been granted permission to establish, and intends to maintain, a public library in accordance with this chapter, the board of library trustees shall furnish to the board of supervisors of the county in which the library district is situated, each and every year, on or before the first day of September, an estimate of the cost of any or all of the following: Estimate of costs

(a) Leasing temporary quarters.

(b) Purchasing a suitable lot.

(c) Procuring plans and specifications and erecting a suitable building.

(d) Furnishing and equipping the building, and fencing and ornamenting the grounds for the accommodation of the public library.

(e) Conducting and maintaining the library for the ensuing fiscal year.

Article 8. Tax Levy

22971. When the estimate provided for in Section 22951 has been submitted to the board of supervisors of any county in which a library district has been established, the board of supervisors shall, at the time of levying county taxes, levy a special tax upon all taxable property within the limits of the library district. Tax levy

22972. The tax levied shall be sufficient in amount to maintain the union high school library, or to purchase the site, erect and equip the building, improve the grounds or building, or for any or all of the purposes enumerated in Section 22951. Amount

22973. The taxes levied shall be computed, entered upon the tax roll, and collected in the same manner as other taxes are computed, entered, and collected. Computation and collection

22974. The revenue derived from the tax, together with all money acquired by gift, devise, bequest, or otherwise for the purposes of the library, shall be paid into the county treasury to the credit of the library fund of the district in which the tax was collected, subject only to the order of the library trustees of the district. Library fund

Administration of gifts

22975. If the payment into the treasury is inconsistent with the terms or conditions of any gift, devise, or bequest, the board of library trustees shall provide for the safety and preservation of the fund, and the application thereof to the use of the library, in accordance with the terms and conditions of the gift, devise, or bequest.

Article 9. Election for Issuance of Bonds

Purposes

23001. The board of trustees of any union high school library district may, when in its judgment it is deemed advisable, and shall upon a petition of 50 or more taxpayers and residents of the library district, call an election and submit to the electors of the district the proposition of whether the bonds of the district shall be issued and sold for the purpose of raising money for any or all of the following purposes:

(a) The purchase of suitable lots.

(b) Procuring plans and specifications and erecting a suitable building.

(c) Furnishing and equipping the building and fencing and ornamenting the grounds, for the accommodation of the union high school library.

(d) Any or all of the purposes of this chapter.

(e) Liquidating any indebtedness incurred for the purposes.

(f) Refunding any outstanding valid indebtedness evidenced by bonds or warrants of the district.

Hours of voting

23002. The polls shall be opened during the election from 8 a.m. to 5 p.m.

Method of voting

23003. Voting shall be by ballot, without reference to the general election law in regard to form of ballot or manner of voting, except that the words to appear on the ballot shall be "Bonds—Yes" and "Bonds—No." Persons voting at the bond election shall put a cross (+) upon their ballot with pencil or ink, after the words "Bonds—Yes" or "Bonds—No," as the case may be, to indicate whether they have voted for or against the issuance of the bonds. The ballot shall be handed by the elector voting to the inspector, who shall then, in his presence, deposit it in the ballot box, and the judges shall enter the elector's name on the poll list

Canvass

23004. On the seventh day after the election, at 8 o'clock p.m., the returns having been made to the board of trustees, the board shall meet and canvass the returns.

Favorable vote

23005. If it appears that two-thirds of the votes cast at the election are in favor of issuing the bonds, the board shall cause an entry of the fact to be made upon its minutes and shall certify to the board of supervisors of the county all the proceedings had in the premises.

Article 10. Issuance and Sale of Bonds

Issuance

23021. After the provisions of Article 9 of this chapter have been complied with, the board of supervisors shall issue

the bonds of the district, to the number and amount provided in the proceedings, payable out of the building fund of the district, naming it, and the money shall be raised by taxation upon the taxable property in the district, for the redemption of the bonds and the payment of the interest thereon.

Bonded limitation

23022. The total amount of bonds issued, shall not exceed 5 per cent of the taxable property of the district, as shown by the last equalized assessment book of the county.

Interest

23023. The bonds shall not bear a greater amount of interest than 6 per cent, payable annually or semi-annually.

Form

23024. The board of supervisors by an order entered upon its minutes shall prescribe the form of the bonds and of the interest coupons attached thereto.

Time of payment

23025. The board of supervisors by an order entered upon its minutes shall fix the time when the whole or any part of the principal of the bonds will be payable, which shall not be more than 40 years from the date thereof.

Sale of bonds

23026. The bonds shall be sold in the manner prescribed by the board of supervisors, but for not less than par.

Deposit of proceeds

23027. The proceeds of the sale of the bonds shall be deposited in the county treasury to the credit of the building fund of the library district, and shall be drawn out for the purposes for which the bonds were issued as other library money is drawn out.

Article 11. Cancellation of Bonds

Petition

23051. Whenever any bonds issued under the provisions of this chapter remain unsold for the period of six months after having been offered for sale in the manner prescribed by the board of supervisors, the board of trustees of the library district for or on account of which the bonds were issued, or of any library district composed wholly or partly of territory which, at the time of holding the election authorizing the issuance of the bonds, was embraced within the district for or on account of which the bonds were issued, may petition the board of supervisors to cause the unsold bonds to be withdrawn from market and canceled.

Notice of hearing

23052. Upon receiving the petition, signed by a majority of the members of the board of trustees, the supervisors shall fix a time for hearing the petition, which shall not be more than 30 days thereafter, and shall cause a notice, stating the time and place of hearing, and the object of the petition in general terms, to be published for 10 days prior to the day of hearing in a newspaper published in the library district, if there is one, and if there is no newspaper published in the library district, then in a newspaper published at the county seat of the county in which the library district or part thereof is situated.

Order

23053. At the time and place designated in the notice for hearing the petition, or at any subsequent time to which the hearing may be postponed, the supervisors shall hear any reasons that may be submitted for or against the granting of the

petition, and if they deem it for the best interests of the library district named in the petition that the unsold bonds be canceled, they shall make and enter an order in the minutes of their proceedings that the unsold bonds be canceled.

Cancellation

23054. Thereupon the bonds and the vote by which they were authorized to be issued, shall cease to be of any validity whatever.

Article 12. Tax for Interest and Redemption of Bonds

Tax levy

23071. The board of supervisors, at the time of making a levy of taxes for county purposes, shall levy a tax for that year upon the taxable property in the district, at the equalized assessed value thereof for that year, for the interest and redemption of the bonds.

Amount

23072. The tax shall not be less than sufficient to pay the interest of the bonds for that year, and such portion of the principal as is to become due during the year. In any event the tax shall be high enough to raise, annually, for the first half of the term the bonds have to run, a sufficient sum to pay the interest thereon, and, during the balance of the term, high enough to pay the annual interest, and to pay annually, a proportion of the principal of the bonds equal to a sum produced by taking the whole amount of the bonds outstanding and dividing it by the number of years the bonds then have to run.

Use of funds

23073. All money levied, when collected, shall be paid into the county treasury to the credit of the library district, and be used for the payment of principal and interest on the bonds, and for no other purpose.

Article 13. Payment of Interest and Bonds

Payment

23101. The principal and interest on the bonds shall be paid by the county treasurer, upon the warrant of the county auditor, out of the fund provided therefor.

Cancellation of bonds

23102. The county auditor shall cancel and file with the county treasurer the bonds and coupons as rapidly as they are paid.

Chapter 7. Corporations to Administer Libraries

Payment

23201. Three or more persons may incorporate pursuant to this chapter for the purpose of establishing a library, to be conducted without pecuniary profit. The articles of incorporation shall state that the corporation is formed under this chapter but otherwise shall contain the statements required by Section 593 of the Civil Code.

Powers

23202. Any such corporation shall not issue capital stock and its business shall not be carried on for profit. It shall have the capacity and right to receive and take any gift, bequest, devise, or conveyance of property either as grantee for its own use or as trustee and to be or be made the beneficiary of a trust.

Powers of trustees or directors

23203. The trustees or directors of the corporation shall compose its members and shall have control and management of its affairs and property. The trustees or directors shall elect officers of the corporation from their number, fill by election vacancies occurring in their own number by death, incapacity, retirement, or otherwise, subject to the approval of the Commissioner of Corporations, and may fix the charges to be paid by persons using the property and quarters of the corporation.

Powers of corporation

23204. Each corporation incorporated under this chapter shall have the powers granted by the provisions of the Civil Code and other laws of the State relating to private corporations, which are not inconsistent with those granted by this chapter.

Agents and officers

23205. The corporation may appoint such agents and officers as its business requires, which may be either persons or corporations, and may, employ such persons as are necessary in the conduct of its affairs.

Property

23206. The corporation may purchase, lease or otherwise acquire, hold, own and enjoy, sell, lease, mortgage and otherwise encumber, and dispose of any, all, and every kind of real or personal property, including stock in other corporations, subject to the terms and conditions of bequests, donations, and gifts whenever applicable.

General powers

23207. The corporation may also carry on any and all operations necessary or convenient in connection with the transaction of any of its business, make contracts, borrow money, issue bonds, debentures, promissory notes, or other obligations and secure the obligations.

Securities

23208. No such corporation shall sell, or offer for sale, negotiate for the sale of, or take subscriptions for any security of its own issue until it has first applied for and secured from the Commissioner of Corporations a permit authorizing it so to do, and has complied with all the terms and conditions of the Corporate Securities Act. All provisions of the Corporate Securities Act are applicable to and binding upon corporations incorporated under this chapter.

Adoption of by-laws

23209. The corporation shall within one month after filing articles of incorporation, adopt a code of by-laws for its government and management not inconsistent with the provisions of this chapter. The vote or written assent of a majority of the trustees or directors shall be necessary to adopt the by-laws. The provisions of Sections 301, 302, and 303 of the Civil Code, which are not inconsistent with the provisions of this chapter, shall apply to the by-laws.

By-laws

23210. The corporation may also provide in its by-laws for the following matters:

(a) The manner of removal of any one or more of its trustees or directors, and of filling all vacancies in the board of trustees or directors.

(b) The terms and conditions under which bequests, donations, and gifts will be accepted, and the manner in which they will be administered.

(c) The method of fixing charges for the use of the property of the corporation, and the uses to which the property may be put.

Quo warranto

23211. The right of a corporation claiming to be organized and incorporated and carrying on its business under this chapter, to do and continue its business, may be inquired into by quo warranto proceedings at the suit of the Attorney General, and not otherwise.

Approval

23212. The articles of incorporation shall not be accepted for filing by the Secretary of State without the indorsement upon them of the approval of the Commissioner of Corporations and the Attorney General. Such approval shall be given where it appears to the Commissioner of Corporations and the Attorney General that it is sought to organize the proposed corporation in good faith, and shall be refused where it does not appear that it is sought to organize the proposed corporation in good faith.

CHAPTER 8. MISCELLANEOUS PROVISIONS RELATING TO LIBRARIES

Article 1. Deposit of Newspapers in Libraries

Newspapers

23301. The board of supervisors of any county may authorize the county recorder to deposit with any free public library maintained at the county seat, or with the State Library, such newspaper files, or portions thereof, as may be in the custody of the recorder by virtue of Chapter 110 of the Statutes of 1862, relating to the purchase and preservation of newspapers, or by virtue of any other act.

1862 Stats., p. 141

Care of newspapers

23302. Before making the deposit, the board of supervisors shall obtain from the board of trustees or authorities in charge of the free public library, or the Department of Education, an agreement that it will properly preserve and care for the newspaper files, and make them accessible to the public.

Deposit in State library

23303. The board of supervisors of any county may authorize the boards of trustees or other authorities in charge of any free public library with which newspaper files have been deposited in accordance with Section 23301 to deposit the newspaper files with the State Library.

Article 2. Offenses Against Libraries

Malicious mischief

23321. Any person who maliciously cuts, tears, defaces, breaks, or injures any book, map, chart, picture, engraving, statue, coin, model, apparatus, or other work of literature, art, mechanics, or object of curiosity, deposited in any public library, gallery, museum, collection, fair, or exhibition, is guilty of a misdemeanor.

Retention of property

23322. Any person who wilfully detains any book, newspaper, magazine, pamphlet, manuscript, or other property

belonging to any public or incorporated library, reading room, museum, or other educational institution, for 30 days after notice in writing to return the article or property, given after the expiration of the time for which by the rules of the institution the article or property may be kept, is guilty of a misdemeanor.

DIVISION 12. MISCELLANEOUS PROVISIONS RELATING TO EDUCATION

CHAPTER 1. FOUNDATIONS AND TRUSTS

Article 1. Foundations for Educational Purposes

Purposes

24001. Any person desiring in his lifetime to promote the public welfare by founding, endowing, and maintaining within this State a university, college, school, seminary of learning, mechanical institute, museum, botanic garden, public park, or gallery of art, or any or all thereof, may, for such purposes, by grant in writing convey to a trustee, or any number of trustees, named in the grant, and to their successors, any property, real or personal, belonging to him and situated within this State. If he is married and the property is community property, then both husband and wife shall join in the grant.

Grant

24002 The grantor may designate in the grant:

(a) The nature, object, and purposes of the institution to be founded, endowed, and maintained.

(b) The name by which it shall be known.

(c) The powers and duties of the trustees, and the manner in which they shall account, and to whom, if accounting is required. Such powers and duties shall not be exclusive of other powers and duties which may be necessary to enable the trustees to fully carry out the objects of the grant.

(d) The mode and manner, and by whom, the successors to the trustee or trustees named in the grant are to be appointed.

(e) Such rules and regulations for the management of the property conveyed as the grantor may elect to prescribe. Such rules shall, unless the grantor otherwise prescribes, be deemed advisory only, and shall not preclude the trustees from making such changes as new conditions may from time to time require.

(f) The place where and the time when the buildings necessary and proper for the institution shall be erected, and the character and extent thereof.

Administration

24003. The grantor may also provide for all other things necessary and proper to carry out the purposes of the grant, and especially may provide for the trades and professions which shall be taught in the institution, and the terms upon which deserving scholars of the public and private schools of the various counties of this State may be admitted to all the privileges of the institution, as a reward for meritorious conduct and good scholarship.

Scholarships

24004. The grantor may also provide for maintaining free scholarships for children of persons who have rendered service to or who have died in the service of the State and for maintaining free scholarships for children of mechanics, tradesmen, and laborers, who have died without leaving means sufficient to give their children a practical education, fitting them for the useful trades or arts.

Use of facilities

24005. The grantor may also provide the terms and conditions upon which students in the public and private schools, and other deserving persons, may, without cost to themselves, attend the lectures of any university established, and also the terms and conditions upon which the museums, art galleries, and conservatories of music, connected with any such institution, shall be open to all deserving persons without charge, and without their becoming students of the institution.

Legal actions

24006. The trustee or trustees named in the grant, and their successors, may, in the name of the institution, as designated in the grant, sue and defend, in relation to the trust property, and in relation to all matters affecting the institution.

Management by grantor

24007. The grantor, by a provision in the grant, may elect, in relation to the property conveyed, and in relation to the erection, maintenance, and management of the institution, to perform, during his life, all the duties and exercise all the powers which, by the terms of the grant, are enjoined upon and vested in the trustee or trustees.

Management

24008. If the grantor is a married person, he may further provide that if his wife survives him, she, during her life, may, in relation to the property conveyed, and in relation to the election, maintenance, and management of the institution, perform all the duties and exercise all the powers which, by the terms of the grant, are enjoined upon and vested in the trustee and trustees.

Trustees

24009. In the cases referred to in Sections 24007 and 24008, the powers and duties conferred and imposed upon the trustee or trustees shall be exercised and performed by the grantor, or by his wife, during his or her life, as the case may be. Upon the death of the grantor, or his surviving wife, as the case may be, the powers and duties shall devolve upon and shall be exercised by the trustees named in the grant, and their successors.

Amendment of trust

24010. The grantor may reserve the right to alter, amend, or modify the terms and conditions of the grant, and the trusts created, in respect to any of the matters mentioned or referred to in Sections 24002 to 24005, inclusive.

Reservation by grantor

24011. The grantor may also reserve, during his life, the right of absolute dominion over the personal property conveyed, and also over the rents, issues, and profits of the real property conveyed, without liability to account therefor in any manner whatever, and without any liability over against his estate.

Reservation to grantor's wife

24012. If the grantor is married, he may further provide in the grant that if his wife survives him, she, during her life, may have the same absolute dominion, over the personal property, and the rents, issues, and profits, without liability to account therefor in any manner whatever, and without liability over against the estate of either the grantor or his wife.

Relinquishment of rights

24013. The founder or founders, surviving founder, or wife or widow of any founder, of a university, college, school, seminary of learning, mechanical institute, museum, gallery of art, library or any other institution, or any or all thereof, founded pursuant to this article, may, by an instrument in writing, resign, relinquish, and surrender all the rights, powers, privileges and duties reserved to or vesting in him, over, in, or concerning any of the property granted or given to the institution, or over or concerning the institution founded. Thereupon all estates, rights, powers, privileges, trusts, and duties which would otherwise vest in or devolve upon the trustee or trustees of the trusts and estates created upon the death of the person resigning, relinquishing, and surrendering, by the terms of the grant and amendments thereof, and by the terms of any grants, gifts, bequests, and devices supplementary thereto, or of any confirmatory grants, shall immediately vest in and devolve upon the trustee or trustees. Nothing herein contained shall prevent the person resigning, relinquishing and surrendering the rights, powers, privileges, or duties from thereafter becoming and serving as one of the trustees, or from becoming and serving as an officer of any board of trustees.

Custody of minors

24014. The grantor may provide in the grant that the trustees and their successors, may, in the name of the institution, become the custodian of the person of minors. When any such provision is made in a grant, the trustees and their successors may take the custody and control in the manner and for the time and in accordance with the provisions of Chapter 4 of Division 3 of the Labor Code.

Execution of grant

24015. The grant shall be executed, acknowledged, and recorded in the same manner as is provided by law for the execution, acknowledgment, and recording of grants of real property.

Limitation of actions

24016. No suit, action, or proceeding shall be commenced or maintained by any person to set aside, annul, or affect the conveyance, or to affect the title to the property conveyed, or the right to the possession, or to the rents, issues, and profits thereof, unless the action is commenced within two years after the date of filing the grant for record. No defense shall be made to any suit, action, or proceeding commenced by the trustee or trustees named in the grant, or their successors, privies, or persons holding under them, which involves the legality of the grant, or affects the title to the property conveyed, or the right to the possession, or the rents, issues, and profits thereof, unless the defense is made in a suit, action, or proceeding commenced within two years after the grant has been filed for record.

Sale under execution

24017. The property conveyed by the grant shall not, after a lapse of two years from the date of the filing for record of the grant, be subject to forced sale, under execution, or judicial proceedings of any kind, against the grantor or his privies, unless the action under which the execution is issued, or the proceedings under which the sale is ordered, has been commenced within two years after the grant has been filed for record. No property shall be subject to execution or forced sale under any judgment obtained in any proceedings instituted within two years, if there is other property of the grantor, subject to execution or forced sale sufficient to satisfy the judgment. Nothing in this section contained shall be construed to affect mechanics' or laborers' liens.

Bequest to State

24018. Any person making the grant may, at any time thereafter, by last will or testament, devise and bequeath to the State all or any of the property, real and personal, mentioned in the grant, or in any supplemental grant, and the devise or bequest shall only take effect if, from any cause whatever, the grant is annulled or set aside, or the trusts therein declared for any reason fail. Such devise and bequest is permitted to be made by way of assurance that the wishes of the grantor shall be carried out, and in the faith that the State, if it succeeds to the property, or any part thereof, will, to the extent and value of the property, carry out, in respect to the objects and purposes of the grant, all the wishes and intentions of the grantor.

Religious instruction

24019. No wish, direction, act, or condition expressed, made, or given by any grantor, under this article, as to religious instruction to be given in any school, college, seminary, mechanical institute, museum, or gallery of art, or in respect to the exercise of religious belief, on the part of any pupil of the school or institution of learning, shall be binding upon the State. The State shall not enforce, or permit to be enforced or carried out, any such wish, direction, act, or condition.

Construction

24020. The provisions of this article shall be liberally construed with a view to effect its objects and promote its purposes.

Article 2. Foundations of Institutions of Arts and Sciences

Purposes

24041. Any person intending in his lifetime or by will or trust deed, to operate after his death, to found, maintain, and perpetuate in this State a public library, museum, gallery of art, or any or all thereof, for the diffusion of mechanical, scientific, artistic, and general knowledge, may for that purpose, convey in writing by words denoting a gift or grant to one or more trustees named in the gift or grant, and to their successors, any library or collection of books and works, for the public library, or any museum, or gallery of art in this State.

Future additions

24042. The gift or grant may also express and shall be construed to be a conveyance of the future additions and accretions thereof.

Other property

24043. The grantor may also in like manner, convey by grant to the trustee or trustees any real property within this State belonging to him, which may be necessary or proper for the erection and maintenance of buildings suitable to the institution, and the buildings erected thereon, with grounds, conveniently adjacent thereto, and other lands, tenements, and hereditaments for the purpose of producing an income for the support and maintenance of the institutions and any collateral burdens which may be imposed by the terms of the foundation as part and parcel of the regulations for its conduct, and also personal property of all descriptions, which may subserve the purposes of the institution and maintenance of the library, museum, or gallery of art.

Gifts

24044. Any contributions or gifts by any other person than the founder, of any property suitable to the general plan or support of any institution mentioned in this article, shall immediately vest in the trustees, and become incorporated into and subject to the trust, and to all its terms and conditions, and be managed under the rules and regulations prescribed therefor.

Conditions of gift

24045. The person making the gift, grant, or conveyance, as founder, may therein designate:

(a) The name by which the institution shall be known.

(b) Its nature, object, and purposes.

(c) The powers and duties of the trustees, which shall not be exclusive of other powers and duties that, in their judgment, may be necessary more effectually to carry out the purposes of the institution.

(d) The mode, manner, and by whom the successors to the trustees named in the gift or grant shall be appointed.

(e) Such rules and regulations for the management of the institution, and the furtherance of its purposes, as the grantor may elect to prescribe. Such rules and regulations shall, unless the grant shall otherwise prescribe, be deemed advisory only, and shall not preclude the trustees or their successors from making such changes as new conditions may, from time to time, require.

(f) The place or places where the necessary buildings shall be erected, and the general character thereof. The grantor may provide in the grant for all other things necessary or proper to carry out the purposes of the grant, or otherwise, by his last will or testament.

Legal actions

24046. The trustees named in the gift or grant, and their successors, may, in the name of the institution, sue and defend in relation to the trust property, and to all matters affecting the institution.

Reservations by grantor

24047. By a provision in the gift or grant, the founder may elect, in respect to the personal and real property conveyed, and the additions and increase thereof, and in respect

to the erection, maintenance, and management of any buildings auxiliary thereto, and in respect to any property connected with the institution, to reserve to himself a veto and right of annulment or modification of any act of the trustees.

Notice

24048. If he elects to veto, annul, or modify any act of the trustees, he shall, within 30 days after notice of the performance of the act, file in the office of the trustees, or deliver to their president or principal officer, a notice in writing, of the veto, annulment, or modification.

Management

24049. Upon a like notice, in conformity with a provision in the gift or grant, he may elect to perform during his life all the powers which, by the terms of the grant, are vested in or enjoined upon the trustees, and their successors. Upon the death or disability to act of the founder and grantor, the powers and duties shall devolve upon, and be exercised by, the trustees, and their successors.

Modification

24050. The founder may also reserve the right to alter, amend, or modify, at any time during his life, or by his last will and testament, the terms and conditions of the grant, and the trust created in respect to the institution, its buildings, and the property conveyed.

Trustees

24051. The founder may in the deed of trust name and describe the character and personality of any one or more of the immediate or future trustees, the librarian, and other officers, and name and impose any particular duty to be performed by any one or more trustees or other officers so described and characterized. He may declare and limit any compensation, and fix the character and method of the compensation he chooses to provide for the trustee or other officer whom the terms of his foundation may characterize, and upon whom specific or general duties are imposed.

Execution of grant

24052. The gift or grant shall be executed, acknowledged, and recorded in the manner provided by law for the execution, acknowledgment, and recording of grants of real property.

Limitation of actions

24053. No suit, action, or proceeding shall be commenced or maintained by any person to set aside, annul, or affect any gift, grant, or conveyance, or to affect the title to the property conveyed, or the right to the possession or to the rents, issues, and profits thereof, unless the action is commenced within two years after the date of the filing of the grant for record.

Bequest to State

24054. Any founder, making a gift or grant for any of the purposes mentioned in this article, may, at any time thereafter, by last will or testament, devise or bequeath to the State all or any of the property, real and personal, mentioned in the gift or grant, or in any supplemental grant or gift, and the devise or bequest shall take effect if, from any cause whatever, the gift or grant is annulled or set aside, or the trusts therein declared for any reason fail. Such devise or bequest is suffered to be made by way of assurance that the intentions of the grantor shall be carried out, and in the faith that the State, if it succeeds to the property, or any part thereof,

will, to the extent and value of the property carry out, in respect to the objects and purposes of the grant, all the wishes and intentions of the grantor.

Construction

24055. The provisions of this article shall be liberally construed, with a view to effect its objects and purposes.

Article 3. Legal Validation Proceedings

Purposes of proceedings

24076. The trustee or trustees of any trust or trusts created for the founding, endowment, and maintenance of a university, college, school, seminary of learning, mechanical institute, museum, gallery of art, library, or any other institution, or any or all thereof, pursuant to Articles 1 and 2 of this chapter, may commence a special proceeding to determine all questions of law and fact affecting the existence of, and the due and voluntary execution and delivery, and the terms, validity, and legal effect of the grant founding the institution, and of all amendments or attempted amendments to the grant, and of any supplemental grants or gifts, and of any confirmatory conveyances, of the founder, or surviving founder, or wife or widow of the founder.

Same

24077. The special proceeding may also be commenced to determine all questions of law and fact affecting the due and voluntary execution and delivery, and the validity and legal effect, of any gift or grant made in general terms for the benefit of the institution, or of any department of the institution, or of any gift or grant made in general terms for the benefit of the institution, or of any department of the institution, upon the trusts provided for in the grant founding the institution, and amendments thereof and grants, bequests, and devises supplementary thereto.

Same

24078. The special proceeding may also be commenced to determine all questions bearing upon the passing to the trustee or trustees of the legal title to the properties, real and personal, conveyed or attempted to be conveyed, so far as the property or the proceeds thereof, or any property acquired in exchange therefor or with proceeds thereof, is described in the petition provided for in this article, and the interest or title of the trustee or trustees in or to any property described in the petition.

Same

24079. The special proceeding may also be commenced to determine all questions of law and fact affecting the due and voluntary execution and delivery, and the validity and legal effect, of any grant or surrender by any founder, surviving founder, or wife or widow of any founder, to, or in favor of, the trustee or trustees, of any rights, powers, privileges, or duties reserved to or vesting in any such person over or concerning any property described in the petition, or over or concerning the institution, which would otherwise vest in or devolve upon the trustee or trustees upon the death of the person granting or surrendering the rights, powers, privileges, or duties, and of any relinquishment or release by the founder, surviving founder, or wife or widow of any founder, of any

other rights, powers, privileges, or duties reserved to or vesting in any such person.

Petition in superior court

24080. The trustee or trustees of any trust created pursuant to Articles 1 and 2 of this chapter in the name of the institution or institutions, or in the name of the trustee or trustees of the institution, or in the name of the board of trustees of the institution, may file, in the superior court of the county in which the lands described in the founding grant, or some portion thereof, are situated, or, if no real estate has been granted to the trustees, then in the county where the main part of the institution is situated, a petition in writing, signed by counsel for the trustee or trustees, or by counsel for a majority thereof.

Contents

24081. The petition shall contain copies of all grants, amendments, attempted amendments, supplemental grants, instruments of gift, confirmatory conveyances, and grants and instruments of surrender, relinquishment or release, so far as known to the trustee or trustees.

Allegations

24082. The petition shall allege in general terms the due and voluntary execution and delivery, and the validity, of any and all instruments, copies of which are set out in the petition, and shall describe all property, real and personal, the legal title to which is held or claimed to be held by the trustee or trustees under or by virtue of any or all of the instruments, whether or not the property is the original property conveyed, the proceeds thereof, or reinvested proceeds.

Estate or interest

24083. The petition shall allege in general terms the estate or interest which the trustee or trustees have or claim in or to the property described.

Prayer

24084. The petition shall pray, in effect, that the court:

(a) Examine and determine all questions of law and fact affecting the due and voluntary execution and delivery, and the terms, validity, and legal effect of all the instruments, copies of which are set out in the petition.

(b) Examine and determine all questions bearing upon the passing to the trustee or trustees, of the legal title to all the properties, real and personal, conveyed or attempted to be conveyed, so far as the property or the proceeds thereof, or any property acquired in exchange therefor or with the proceeds thereof, is described in the petition.

(c) Examine and determine the interest or title of the trustee or trustees in or to the property.

(d) Establish and determine that the trustee or trustees are rightfully vested with the legal title thereto.

Notice of hearing

24085. The court or judge shall fix the time for hearing the petition, and shall order the clerk of the court to post in at least three public places in the county a notice of the filing of the petition, attached to a copy of the petition, and order a copy of the notice together with a copy of the petition to be personally served upon the founder, if living, and upon the surviving wife or widow of any founder, and upon any living grantor or donor of any other grant or gift set out in

the petition, and may order such other or further notice to be given as the judge or court may deem proper. The notice shall be posted and served at least 10 days before the hearing.

Improper notice

24086. If the court or judge finds upon the hearing that due and proper notice has not been given as provided in Section 24085, it shall reset the hearing and cause due and proper notice to be given.

Title of proceedings

24087. The notice and petition shall be entitled substantially in the following form:

In the Superior Court of the_____County of _____, State of California.

In the matter of the petition of_____(giving the name or names in which the petition is brought) for the ascertainment of the existence and terms of, and for the determination of the validity and legal effect of grants or other instruments creating, changing, or affecting trusts and estates for the founding, endowment, and maintenance of_____ _____(naming the institution or institutions founded).

Contents of notice

24088. The notice shall state the time and place fixed for the hearing of the petition and shall be addressed to the founder or founders, if living, and to the surviving wife or widow of any deceased founder, and the living grantor or donor of any other grant or gift set out in the petition, and in general terms to all other persons having or claiming any interest in, or rights, powers, or duties over or concerning the property described in the petition; and shall direct that they and each of them appear and answer the petition on or before the time set for the hearing. The notice shall also state that unless they so appear and demur or answer, the petitioners will apply to the court to grant the prayer of the petition, and that each person failing to so appear and answer, shall be deemed to admit as true all the material allegations of the petition.

Service

24089. Any person required to be served, or any other person interested may waive notice by written waiver filed with the clerk of the court.

Appearances

24090. Any person interested in the determination of any of the questions presented by the petition may demur to or answer the petition and may set up any new matter affecting the determination of the questions.

Information and belief

24091. Any allegation of the petition or answer may be made upon information and belief.

Procedure

24092. The provisions of the Code of Civil Procedure respecting the demurrer and the answer to a verified complaint, shall be applicable to a demurrer or answer to the petition.

Defendants

24093. The persons demurring to or answering the petition shall be the defendants to the special proceeding and the petitioners shall be the plaintiffs.

Admissions

24094. Every material statement of the petition not specifically controverted by the answer shall, for the purposes of the special proceeding, be taken as true, and each person

failing to answer the petition shall be deemed to admit as true all the material allegations of the petition.

Rules of pleading and practice

24095. The rules of pleading and practice provided for by the Code of Civil Procedure, which are not inconsistent with this article, are applicable to the special proceeding provided for.

Hearing

24096. Upon the hearing of the special proceeding, the court shall examine into and determine all questions of law and fact within the scope of the proceeding herein provided for, whether presented by the petition or answer, or by the proofs upon the hearing.

The court shall find and determine whether the notice of the filing of the petition has been duly given for the time and in the manner prescribed in this article.

Costs

24097. The costs of the special proceeding may be allowed and apportioned between all parties, in the discretion of the court.

Recordation of judgment

24098. A certified copy of the judgment of the court in the special proceeding shall be recorded in the office of the recorder of the county in which the action is brought and in the office of the recorder of every county in which any of the real property affected is situated.

Effect of judgment

24099. The judgment of the court in the special proceeding is determinative of the terms and trusts upon which any property thereafter given for the benefit of the institution, or any department thereof, is held by the trustee or trustees, unless otherwise provided by the grantor or donor.

CHAPTER 2. COLLEGES

Article 1. Incorporation

Articles of incorporation

24201. A corporation may be formed for the purpose of establishing, conducting, and maintaining a college or seminary of learning as provided in Part 4 of Division 1 of the Civil Code, except that in lieu of the requirements of Section 290, the articles of incorporation shall state:

(a) The name of the corporation.

(b) The purpose for which it is organized.

(c) The county in this State where the principal office for the transaction of the business of the corporation is to be located.

(d) The number of its trustees, which shall not be fewer than five nor more than 30, and the names and residences of the trustees. The term for which the trustees named and their successors are to hold office may also be stated. If it is desired that the trustees, or any portion of them, shall belong to any organization, society, or church, such limitation shall be stated.

(e) If the corporation is to be authorized to issue shares of stock, the total number of shares which the corporation shall have authority to issue and (1) the aggregate par value, if any, of all shares, and the par value of each of the shares, or (2) a statement that all the shares are to be without par value.

(f) If the corporation is not to be authorized to issue shares of stock, it shall be so stated.

The articles of incorporation shall not provide for more than one class of shares or members.

Evidence of property ownership

24202. If a corporation incorporated after September 19, 1939, is authorized by its articles of incorporation, or amended articles of incorporation to issue certificates or diplomas evidencing the completion of any course of instruction in medicine, surgery, chiropody, drugless practice, dentistry, pharmacy, optometry, veterinary medicine, chiropractic, osteopathy, public accountancy, law, architecture, nursing, or civil engineering, or to confer degrees of any kind or character whatsoever, or if any existing corporation is authorized after September 19, 1939, by its amended articles of incorporation to confer such degrees or to issue such certificates or diplomas, the corporation shall not conduct classes, give instruction, or accept tuition fees therefor until it has performed either or both of the following acts:

(a) Filed with the Secretary of State a copy of an instrument evidencing its ownership of or interest in real property in this State, certified by the recorder of the county in which the original instrument was recorded.

(b) Recorded with the Secretary of State an instrument evidencing its ownership of or interest in personal property in this State.

The corporation shall also file an affidavit by the president or other head of the corporation, setting forth that the real or personal property, or both real and personal property, is to be used exclusively for the purposes of education, and an appraisal by a person, firm, or corporation, to be selected by the Secretary of State, describing the real or personal property, or both real and personal property, and showing the value of the interest of the corporation therein to be at least fifty thousand dollars ($50,000).

Valuation of corporation's interest

24203. The value of the interest of the corporation in the property shall be deemed to be the appraised value of the property less the unpaid balance on any note secured by a mortgage or deed of trust thereon, the unpaid balance of any mortgage thereon, or the unpaid balance on a contract of sale thereof.

Distribution to shareholders or members

24204. No corporation incorporated after September 19, 1939, under this article, whose articles of incorporation authorize it to confer the degrees or to issue the certificates or diplomas described in Section 24202, and no corporation whose articles of incorporation are amended after September 19, 1939, so as to give it such authority, shall make distributions to its shareholders or members, whether by way of dividends or otherwise, unless it is in the process of winding up.

Issuance of certificates or diplomas

24205. The power to issue certificates or diplomas evidencing the completion of any course of instruction in medicine, surgery, chiropody, drugless practice, dentistry, pharmacy,

optometry, veterinary medicine, chiropractic, osteopathy, public accountancy, law, architecture, nursing, or civil engineering, or to confer degrees of any kind or character whatsoever, is limited to corporations incorporated pursuant to this article, whose articles of incorporation, or amended articles of incorporation, confer such authority, and which comply with Sections 24202 to 24204, inclusive. This section shall not apply to any university, college, or seminary of learning which prior to September 19, 1939, has been given, or whose trustees have been given, the right to exercise corporate powers and privileges by special legislative act or which has been chartered under existing laws as an educational institution with the power to confer degrees and has continuously, since the first day of January, 1939, offered regular resident courses of instruction in such subjects and regularly conducted classes therein.

Same· Hospital courses

24206. The provisions of Sections 24202 to 24205, inclusive, shall not apply to any corporation furnishing courses of instruction and issuing certificates or diplomas or conferring degrees evidencing completion thereof in and in connection with the operation of a hospital owned or operated by the corporation if the corporation has performed either or both of the following acts: (a) filed with the Secretary of State a copy of an instrument evidencing its ownership of or interest in real property in this State, certified by the recorder of the county in which the original instrument was recorded, (b) recorded with the Secretary of State an instrument evidencing its ownership of or interest in personal property in this State, and has also filed an affidavit by the president or other head of the corporation, setting forth that the real or personal property, or both real and personal property, is to be used exclusively for hospital and educational purposes, and an appraisal by a person, firm, or corporation, selected by the Secretary of State describing the real or personal property, or both real and personal property, and showing the value of the interest of the corporation therein to be at least fifty thousand dollars ($50,000). The value of the interest of the corporation in such property shall be deemed to be the appraised value of the property less the unpaid balance on any note secured by a mortgage or deed of trust thereon, the unpaid balance of any mortgage thereon, or the unpaid balance on a contract of sale thereof.

Nothing herein contained shall be construed as a repeal either directly or by implication of Chapter 6 of Division 2 of the Business and Professions Code. The provisions of Article 4 comprising Sections 2785 to 2789 of said code, together with all other pertinent provisions of Chapter 6 of Division 2 of the Business and Professions Code are made specifically applicable to any corporation issuing certificates or diplomas evidencing completion of any course of instruction in nursing.

Terms of trustees

24207. Unless otherwise provided in the articles of incorporation the board of trustees shall, as soon as organized, so classify themselves that one-fifth of their number shall go out of office every year. Thereafter the trustees shall hold office for five years.

Quorum

24208. A majority of the trustees constitute a quorum for the transaction of business, except where the number of trustees exceeds thirteen they may, in the by-laws, provide that not less than seven shall constitute a quorum.

Office

24209. The office of the corporation shall be at the college or seminary or at such place as is designated by the board of trustees.

Powers of trustees

24210. The trustees may:

(a) Elect, by ballot, annually one of their number as president of the board.

(b) Upon the death, removal out of the State, or other vacancy in the office, or expiration of the term of any trustee, elect another in his place who shall hold office for the time and under the conditions prescribed in the by-laws of the corporation. Where there are graduates of the institution, the graduates may, under such rules as the board prescribes, nominate persons to fill vacancies in the board of trustees. The nominations shall be considered by the board, but it may reject any or all such nominations, and of its own motion appoint others.

(c) Elect additional trustees. The whole number elected shall not exceed 30 at any one time.

(d) Declare vacant the seat of any trustee who absents himself from eight succeeding meetings of the board.

(e) Receive and hold, by purchase, gift, devise, bequest, or grant, real or personal property for educational purposes connected with the corporation, or for the benefit of the institution.

Same

24211. The trustees may also:

(a) Sell, mortgage, lease, and otherwise use and dispose of the property of the corporation in such manner as they deem most conducive to the prosperity of the corporation.

(b) Direct and prescribe the course of study and discipline to be observed in the college or seminary.

(c) Appoint a president of the college or seminary, who shall hold his office during the pleasure of the trustees.

(d) Appoint such professors, tutors, and other officers as they deem necessary, who shall hold their offices during the pleasure of the trustees.

(e) Grant such literary honors as are usually granted by any university, college, or seminary of learning in the United States and in testimony thereof give suitable diplomas under their seal, and the signature of such officers of the corporation and the institution as they deem expedient.

(f) Fix salaries of the president, professors, or other officers and employees of the college or seminary.

(g) Subject to the consent and approval of the organization, society, or church to which it is required by the articles of incorporation that the trustees shall belong, make all by-laws and ordinances necessary and proper to carry into effect the preceding powers and necessary to advance the interests of the college or seminary. No by-laws or ordinances shall conflict with the constitution or laws of the United States, or of this State.

Corporations existing on March 14, 1885

24212. Any educational corporation, or body claiming to be such, existing on March 14, 1885, may, by a unanimous vote of those of its trustees present at a special meeting called for that purpose, and of which due notice is given to each trustee, convey all its property, rights, and franchises to a corporation organized pursuant to this article. The fact that due notice of the meeting was given to each trustee shall be conclusively proven by the entries in the minutes of the corporation or body making the conveyance. The minutes shall be certified to be correct by the president and secretary.

Annual reports

24213. Every corporation incorporated pursuant to this article, and every school, college, or seminary of learning chartered under existing laws, or created under special legislative act, as an educational institution with the power to confer any professional degree, diploma, or certificate, shall file annually with the Superintendent of Public Instruction a verified report showing the number of students of the corporation, together with the names and addresses of the students, the courses of study offered by the corporation, the names and addresses of the teachers employed by the corporation, the subjects taught by them, the degrees, diplomas, or certificates, if any, granted by the corporation, and to whom granted, the curricula upon the basis of which the degrees, diplomas, or certificates were granted, and any other information concerning the educational work or activities of the corporation that may be required by the Superintendent of Public Instruction.

Dissolution by Attorney General

24214. The Attorney General, if he has notice of a failure of any corporation organized pursuant to this article to comply with the provisions of this article, or of any fraudulent practice by any such corporation, or by any firm, person, or association in connection with the granting of degrees, diplomas, or certificates, or of any abuse, misuse, or violation of the articles of incorporation, shall take steps by bill in equity or otherwise to dissolve the corporation, or to restrain and enjoin the fraudulent practices, abuse, misuse, or violation, or to punish any person guilty of fraudulent practices.

Violations

24215. Any person or persons, firm, association, or corporation violating any provision of this article is guilty of a misdemeanor.

Article 2. Consolidation

Consolidation

24241. Whenever any benevolent, religious, or fraternal organization or society, having a grand lodge, assembly, conference, or other legislative or representative head in the State, and having two or more colleges or institutions of

higher education under its patronage, desires, for the purpose of greater efficiency and simplicity in the administration of its educational interests, to consolidate the institutions under one management, the organization or society may consolidate the institutions under one management, pursuant to this article.

New corporation

24242. The grand lodge, assembly, conference, or other legislative or representative head having authorized a consolidation of its institutions, a new corporation shall be formed.

Board of trustees

24243. The board of trustees of the new corporation shall at first consist of the persons constituting the boards of trustees of the several institutions consolidating, and others. The number of trustees shall not exceed 45. The board of trustees shall be so classified that the term of office of one-third of its members expires each year, and unless otherwise provided in the articles of incorporation or by-laws, the successors of the trustees, as their terms expire shall be elected by the grand lodge, assembly, conference, or other legislative or representative head, at its annual meeting.

Reduction of number

24244. After the two or more colleges or institutions of higher education under the patronage of any benevolent, religious, or fraternal organization or society, having a grand lodge, assembly, conference, or other legislative or representative head in the State have become consolidated, the board of trustees of the new corporation may be reduced in number after it has transacted the business of the corporation for a period of five years after the consolidation.

Method of reduction

24245. Unless other provision is made in the articles of incorporation the number of trustees shall be reduced by the grand lodge, assembly, conference, or other legislative or representative head of the colleges or institutions of higher education. At any annual session of the grand lodge, assembly, conference, or other legislative or representative head, there shall be dropped from the number of trustees to be elected at that session such a number of trustees as those present at the session determine, except that at no time shall the number of trustees composing the board be less than 15.

Trustees

24246. Provision may be made in the articles of incorporation, in addition to any other matters required by law, for the number of trustees, for the method of nominating and electing trustees, and special qualifications, if any, required of persons to be elected or of any particular number of such persons. If not made in the articles of incorporation, such methods and qualifications may be set forth in the by-laws.

By-laws

24247. By-laws may be adopted and amended by the trustees except as otherwise provided in the articles or the by-laws. The by-laws may set forth the particular officers or persons in the grand lodge, conference, assembly, or other legislative or representative head entitled to vote as members of the corporation, and also the manner and method by which the voting is had. The by-laws may limit or restrict the power of the trustees to adopt, amend, or repeal by-laws. After the

limitation or restriction is made it shall be complied with unless it is removed with the consent of the officers or persons entitled to vote as members. Where applicable the provisions of Section 598 of the Civil Code apply to the by-laws.

Powers

24248. Except as otherwise provided in Section 24247, in the articles of incorporation, or the by-laws, the board of trustees of the new corporation have all of the powers granted to boards of trustees by and enumerated in Section 597 of the Civil Code, and in Sections 23204 to 23208, inclusive, 24205, 24210, and 24211 of this code.

Annual report

24249. The board of trustees of the new corporation shall report annually to the grand lodge, conference, assembly, or other legislative or representative head controlling it, the condition of affairs of the corporation, and the amount and manner of its receipts and expenditures.

Property

24250. The several boards of trustees of the consolidating institutions shall transfer all property, real and personal, held by them, to the new corporation, together with all powers, privileges, and authority conferred upon or enjoyed by them under their respective charters or acts of incorporation. The new corporation receiving the property shall assume all indebtedness and liabilities of the consolidating institutions, but shall not transfer the property from one location to another, except by an affirmative vote of not less than three-fourths of the board of trustees of the new corporation, nor divert specific grants, donations, or bequests from the purposes for which the grants, donations, or bequests were made. After the boards of trustees have conveyed the property, real and personal, of the various institutions to the new corporation, and the property has been accepted by the new corporation, the franchises held by the consolidating corporations shall cease, and the corporations are dissolved.

CHAPTER 3. CALIFORNIA STATE HISTORICAL ASSOCIATION

Purpose

24351. The California State Historical Association is established by the State for the purpose of promoting interest in and disseminating knowledge of the history of California

Management

24352. The full control and responsibility for the conduct of the affairs of the association, subject only to the constitution and statutes of the State is vested in the State Board of Education as trustees of the State Historical Association.

Gifts

24353. The trustees of the State Historical Association may receive contributions, donations, and bequests from members of the association or from other sources. All funds received shall be used solely for the benefit of the State Historical Association and shall be kept and expended as the trustees of the association determine, with the approval of the Department of Finance.

Property

24354. The title to all property, records, and archives formerly held by the California Historical Survey Commission is vested in the State to be administered through the

State Board of Education as trustees of the California State Historical Association.

24355. All expenses for the support of the California State Historical Association other than those paid from funds received as contributions, donations, and bequests to the association shall be paid from the appropriation for the support of the Department of Education. Expenses

CHAPTER 4. COMMUNITY RECREATION

24401. The purposes of this chapter are: Purposes

(a) To promote and preserve the health and general welfare of the people of the State and to cultivate the development of good citizenship by provision for adequate programs of community recreation.

(b) To authorize cities, counties, cities and counties, and public school districts to organize, promote, and conduct such programs of community recreation as will contribute to the attainment of general educational and recreational objectives for children and adults of the State.

24402. The following terms, wherever used or referred to in this chapter have the following meanings, respectively, unless a different meaning clearly appears from the context: Definitions

(a) "Public authority" means any city of any class, city and county, county of any class, or school district in the State. "Public authority"

(b) "Governing body" means, in the case of a city, the city council, municipal council, or common council; in the case of a county or city and county, the board of supervisors; and in the case of a school district, the governing board of the school district. "Governing body"

(c) "Recreation" means any activity, voluntarily engaged in, which contributes to the physical, mental, or moral development of the individual or group participating therein, and includes any activity in the fields of music, drama, art, handicraft, science, literature, nature study, nature contacting, aquatic sports, and athletics, or any of them, and any informal play incorporating any such activity. "Recreation"

(d) "Community recreation" and "public recreation" mean such recreation as may be engaged in under direct control of a public authority. "Community recreation" "Public recreation"

(e) "Recreation center" means a place, structure, area, or other facility under the jurisdiction of a governing body of a public authority used for community recreation whether or not it may be used also for other purposes, playgrounds, playing fields or courts, beaches, lakes, rivers, swimming pools, gymnasiums, auditoriums, rooms for arts and crafts, camps, and meeting places. "Recreation center"

24403. The governing body of every public authority may (a) organize, promote, and conduct programs of community recreation, (b) establish systems of playgrounds and recreation, and (c) acquire, improve, maintain, and operate recreation Powers

centers within or without the territorial limits of the public authority.

No events for which an admission price is charged shall be held pursuant to this chapter, except amateur athletic contests, demonstrations, or exhibits and other educational and noncommercial events.

Cooperation

24404. The governing bodies of any two or more public authorities may cooperate with each other or with the Federal Government or any department thereof to carry out the purposes of this chapter, and to that end may enter into agreements with each other, and may do any and all things necessary or convenient to aid and cooperate in carrying out the purposes of this chapter.

The governing bodies of any two or more public authorities having jurisdiction over any of the same territory or over contiguous territories may jointly establish a system or systems of recreation, and may jointly do any act which either is authorized to do under Section 24403. Nothing in this chapter shall be construed to prohibit any joint or cooperative action authorized by this section.

Management

24405. The governing body of any public authority other than a school district may designate any already existing board, officer, or employee of the public authority to exercise the powers granted by this chapter to carry out the purposes of this chapter, or may provide for the appointment of a board of recreation commissioners to exercise such powers.

Board of recreation commissioners

24406. The board of recreation commissioners shall consist of five members, who shall serve without compensation.

Powers

24407. The board of recreation commissioners in each public authority, or the board, officer, or employee of the authority designated to exercise the powers, shall exercise such powers and perform such duties, pursuant to this chapter, as the governing body of the public authority may prescribe.

Use of school property

24408. The governing body of any school district may use the buildings, grounds, and equipment of the school district, or any of them, to carry out the purposes of this chapter, or may grant the use of any building, grounds, or equipment of the district to any other public authority for the purposes, whenever the use of the buildings, grounds, or equipment for community recreational purposes will not interfere with use of the buildings, grounds, and equipment for any other purpose of the public school system. Nothing in this section is intended to repeal any provision of, or to restrict or otherwise affect the use of school buildings under Chapter 9 of Division 9 of this code.

Employees

24409. Every public authority may appoint, prescribe the duties of, and provide for the compensation and necessary expenses of such recreational directors, supervisors, custodians, assistants, deputies, and other employees as it deems reasonably necessary for carrying out the provisions and purposes of this chapter. Only persons employed in positions

requiring certification qualifications shall be paid out of funds set aside for the payment of teachers' salaries.

Fees

24409.1. The governing body of a school district may require persons, other than students, or organizations desiring to use the recreational facilities on school grounds or belonging to a school or the facilities provided by the district at a community recreation center maintained solely by the district to pay such fees for such use as the said governing body may prescribe.

(Added by Stats. 1943, Ch. 320.)

Expenses

24410. All necessary expenses incurred by the governing body of any school district in carrying out the purposes of this chapter are a charge against the funds of the district from whatever source the funds have been received. All such expenditures shall be made in the same manner as funds are expended for other school purposes.

Nothing in this chapter shall be construed to change in any way existing laws regarding the use of school grounds or school buildings by governing boards of school districts, except as specifically provided in this chapter.

Duties of Department of Education

24411. The Department of Education may advise and assist public school authorities, and upon request any public authority other than school districts, in establishing, developing, and maintaining a system or systems of recreation in accordance with this chapter.

Chapter 5. Protection of Pupils of All Schools

Article 1. First Aid Equipment

First aid kits

24501. The governing board of any school district, superintendent of schools, or principal in whom is vested the administration or supervision of any public or private school in the State shall equip the school with a first aid kit containing the articles mentioned in Section 24503, whenever any pupils of the school are conducted or taken on field trips under the supervision or direction of any teacher in, or employee or agent of, the school.

Field trips

24502. The teacher, agent, or employee shall have the first aid kit in his possession, or immediately available, while conducting the field trip.

Contents of kits

24503. Every first aid kit shall include the following articles and such other equipment as the school officials charged with the duty of maintaining it may consider useful or necessary for the purposes of this chapter:

(a) Six standard packages each containing two (2) pieces of sterile gauze, one (1) ribbon bandage, one (1) triangular cambric picture bandage in antiseptic container.

(b) Written instructions for the use of the contents.

Antivenom medicine

24504. Whenever a field trip is conducted into an area which is commonly known to be infested by poisonous snakes, the first aid kit shall include some form of antivenom medicine intended to counteract the effects of poisonous snake bites.

Violations

24505. Any member of the governing board of any school district and any superintendent of schools, principal, teacher, or agent who wilfully violates the provisions of this article is guilty of a misdemeanor.

Article 2. Uniform Fire Signals

Fire alarm signals

24526. Every person and public officer managing, controlling, or in charge of any public, private, or parochial school shall give fire alarm signals upon any sound making apparatus already installed, used, or provided for the purpose, in the manner prescribed in this article only.

Intermittent sound signals

24527. When the signal is given by means of an apparatus emitting intermittent sound signals, the signal shall be given by repeated successive short intermittent signals for a full period of ten (10) seconds, to be immediately followed by an intermission or period of silence of five (5) full seconds before the signal is repeated.

Continuous sound signals

24528. When the signal is given by means of an apparatus emitting prolonged or continuous sound signals, the signal shall be given by prolonged whistle blast or other sound signal continuously sounded for a full period of ten (10) seconds, to be immediately followed by an intermission or period of silence of five (5) full seconds before the signal is repeated.

Duration

24529. In no case shall the signal be given for less than a one-minute period, and then only in the manner indicated.

California uniform fire code signal

24530. The signal system provided for in this article shall be known as the California uniform fire code signal.

Chapter 6. Miscellaneous

Article 1. Dissemination of Knowledge of Election Propositions

Propositions and constitutional amendments

24601. For the purpose of encouraging the study and investigation of the various propositions and constitutional amendments which are submitted to the people and to stimulate interest in, and study of, the propositions by addresses, debates, and general discussions throughout the various institutions of learning of the State, the Secretary of State shall, within six months after the adjournment of each session of the Legislature, have printed in the manner prescribed by Article 3 of Chapter 1 of Division 4 of the Elections Code a sufficient number of all propositions and constitutional amendments which are to be submitted to a vote of the people at any election.

Number of copies

24602. The Secretary of State shall supply each institution of higher learning with 25 copies, and each high school and elementary school with 10 copies of the propositions and constitutional amendments and deliver them to the Superintendent of Public Instruction.

Instructions

24603. The Superintendent of Public Instruction shall immediately prepare such instructions to the heads of the institutions and schools as he deems sufficient to properly

accomplish the object expressed in Section 24601 and shall forward the propositions and constitutional amendments to the heads of the institutions and schools together with the instructions.

Article 2. County Support of Agricultural and Home Economics Extension Work

Appropriations by boards of supervisors

24626. The boards of supervisors of any county may appropriate and use county funds, not to exceed thirty thousand dollars ($30,000) in any one year, for the support and maintenance of extension work in agriculture and home economics. The extension work shall be designed for the benefit of the respective counties and conducted under the approval of the United States Department of Agriculture and in cooperation with the University of California.

DIVISION 20. REPEALS

Repeals

40001. The following sections of the Civil Code are repealed:

649	651a	651e	652.3	653ac
649a	651b	652	652.4	653ad
650	651c	652.1	653	653ae
651	651d	652.2	653ab	653af
				653ag

Same

40002. The following sections of the Penal Code are repealed:

623 623½

Same

40003. The following sections of the Political Code are repealed:

1385–1394, inclusive	2236–2239, inclusive
1394½	2241–2246, inclusive
1395–1405, inclusive	2251–2254, inclusive
1415	2256–2263, inclusive
1425–1439, inclusive	2292–2293
1449–1451, inclusive	2295
1461–1463, inclusive	2295a
1473–1477, inclusive	2296–2301, inclusive
1478–1482, inclusive	2305
1484–1486, inclusive	2327
1486a–1486d, inclusive	3898a
1507	4208–4210, inclusive

Same

40004. Chapter 23 of the Statutes of 1929 at page 45 is repealed, except for Sections 4.10, 4.20, 4.21, 4.22, 4.30, 4.40, 4.41, 4.42, 4.43, 4.44, 4.50, 4.51, 4.52, 4.53, 4.54, 4.55, 4.56, 4.80, 4.81, 4.82, 4.83, 4.84, 4.85, 4.90, 4.91, 4.100, 4.101, 4.102, 4.102a, 4.103, 4.110, 4.111, 4.112, 4.120, 4.122, 4.123, 4.762-1, 4.778-1, 4.780, 4.781, 4.782, 4.783, 4.784, 4.785, 4.786, 4.787, 4.790, 4.791, 4.792, 4.793, 4.794, 4.795, 4.796, 4.797, 4.798, 4.870, 4.871, 4.871a, 4.872, 4.873, 4.874, 4.874-1, 4.875, 4.877, 4.878, 4.880, 4.881, 4.882, 4.883, 4.884, 4.884a, 4.885, 4.886, 4.886-1, 4.887, 4.888, 4.910, 5.21, 5.94, 5.119, and 5.853, which sections are not repealed by this Section 40004.

Repeals

40005. The following acts are repealed:

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1853	101	148
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1858	173	126
1859	53	37
1860	115	84
1860	128	100
1860	204	167
1860	246	211
1860	255	226
1861	46	38
1861	55	44
1861	57	45
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1861	103	84
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1861	299	295
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1861	412	475
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1862	76	64
1862	105	95
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1862	354	477
1863	44	46
1863	107	120
1863	108	258
1863	216	298
1863	224	302
1863	271	355
1863	367	568
1863	398	601
1863	404	624
1863	442	717
1863	450	727
1863	535	775
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1863–4	63	67
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1865–6	253	278
1865–6	342	383
1865–6	350	431
1865–6	360	440
1865–6	367	451
1865–6	395	484
1865–6	432	540
1865–6	449	579
1865–6	509	659
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1869–70	5	4
1869–70	90	87
1869–70	99	95
1869–70	114	106
1869–70	168	231
1869–70	172	235
1869–70	270	379
1869–70	272	381
1869–70	282	388
1869–70	340	448
1869–70	392	546
1869–70	423	583
1869–70	479	700
1869–70	529	787
1869–70	567	865
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1939	722	2253
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40006. Section 4.10 of the School Code is repealed. Repeals
(Added by Stats. 1943, Ch. 72, as part of codification.)

40007. Sections 4.20 to 4.22, inclusive, of the School Code are repealed. Same
(Added by Stats. 1943, Ch. 73, as part of codification.

40008. Section 4.30 of the School Code is repealed. Same
(Added by Stats. 1943, Ch. 74, as part of codification.)

40009. Sections 4.40 to 4.44, inclusive, of the School Code are repealed. Same
(Added by Stats. 1943, Ch. 76, as part of codification.)

Repeals 40010. Sections 4.50 to 4.56, inclusive, of the School Code are repealed.

(Added by Stats. 1943, Ch. 75, as part of codification.)

Same 40011. Sections 4.80 to 4.85, inclusive, 4.90 and 4.91 of the School Code are repealed.

(Added by Stats. 1943, Ch. 77, as part of codification.)

Same 40012. Sections 4.100, 4.101, 4.102, 4.102a, 4.103, 4.110, 4.111, 4.112, 4.120, 4.122 and 4.123 of the School Code are repealed.

(Added by Stats. 1943, Ch. 78, as part of codification.)

Same 40013. Sections 4.762-1, 4.778-1, and 4.780 to 4.787, inclusive, of the School Code are repealed.

(Added by Stats. 1943, Ch. 79, as part of codification.)

Same 40014. Sections 4.790 to 4.798, inclusive, and Section 4.910 of the School Code are repealed.

(Added by Stats. 1943, Ch. 80, as part of codification.)

Same 40015. Sections 4.870, 4.871, 4.871a, 4.872, 4.873, 4.874, 4.874-1, 4.875, 4.877 and 4.878 of the School Code are repealed.

(Added by Stats. 1943, Ch. 81, as part of codification.)

Same 40016. Sections 4.880 to 4.884, inclusive, 4.884a, 4.885, 4.886, 4.886-1, 4.887 and 4.888 of the School Code are repealed.

(Added by Stats. 1943, Ch. 82, as part of codification.)

Same 40017. Chapter 904 of the Statutes of 1941 at page 2491 is repealed.

(Added by Stats. 1943, Ch. 83, as part of codification.)

Same 40018. Section 5.853 of the School Code is repealed.

(Added by Stats. 1943, Ch. 84, as part of codification.)

Same 40019. Section 5.21 of the School Code is repealed.

(Added by Stats. 1943, Ch. 85, as part of codification.)

Same 40020. Section 5.94 of the School Code is repealed.

(Added by Stats. 1943, Ch. 86, as part of codification.)

Same 40021. Chapter 1064 of the Statutes of 1931 at page 2222 is repealed.

(Added by Stats. 1943, Ch. 87, as part of codification.)

Same 40022. Section 5.119 of the School Code is repealed.

(Added by Stats. 1943, Ch. 88, as part of codification.)

Same 40023. Section 2240 of the Political Code is repealed.

(Added by Stats. 1943, Ch. 89, as part of codification.)

Same 40024. Section 2255 of the Political Code is repealed.

(Added by Stats. 1943, Ch. 90, as part of codification.)

Same 40025. Section 7 of Chapter 661 of the Statutes of 1929 at page 1108 is repealed.

(Added by Stats. 1943, Ch. 91, as part of codification.)

CHAPTER 72

An act to add Article 2, comprising Section 5171, to Chapter 2 of Division 3, and to add Section 40006 to Division 20, of the Education Code, thereby consolidating and revising the law relating to payments from State general funds for support of the elementary schools.

Stats 1943, Ch 71, amended

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

In effect August 4, 1943

Note.—See Stats. 1943, Ch. 71.

CHAPTER 73

An act to add Article 1, comprising Sections 5301 to 5303, inclusive, to Chapter 3 of Division 3, and to add Section 40007 to Division 20 of the Education Code, thereby consolidating and revising the law relating to the State High School Fund.

Stats 1943, Ch 71, amended

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

In effect August 4, 1943

Note.—See Stats. 1943, Ch. 71.

CHAPTER 74

An act to add Article 2, comprising Section 5321, to Chapter 3 of Division 3, and to add Section 40008 to Division 20 of the Education Code, thereby consolidating and revising the law relating to payments from State general funds for support of the high schools.

Stats. 1943, Ch 71, amended

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

In effect August 4, 1943

Note.—See Stats. 1943, Ch. 71.

CHAPTER 75

An act to add Article 1, comprising Sections 5451 to 5457, inclusive, to Chapter 4 of Division 3, and to add Section 40010 to Division 20 of the Education Code, thereby consolidating and revising the law relating to the State Junior College Fund.

Stats 1943, Ch 71, amended

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

In effect August 4, 1943

Note.—See Stats. 1943, Ch. 71.

CHAPTER 76

Stats 1943, Ch 71, amended

An act to add Chapter 5, comprising Sections 5601 to 5605, inclusive, to Division 3, and to add Section 40009 to Division 20 of the Education Code, thereby consolidating and revising the law relating to the support of schools from funds received from potash bearing lands.

In effect August 4, 1943

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

Note.—See Stats. 1943, Ch. 71.

CHAPTER 77

Stats 1943, Ch 71, amended

An act to add Chapter 6, comprising Sections 5701 to 5727, inclusive, to Division 3, and to add Section 40011 to Division 20 of the Education Code, thereby consolidating and revising the law relating to the Vocational Education Fund.

In effect August 4, 1943

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

Note.—See Stats. 1943, Ch. 71.

CHAPTER 78

Stats 1943, Ch 71, amended

An act to add Chapter 7, comprising Sections 5801 to 5843, inclusive, to Division 3, and to add Section 40012 to Division 20 of the Education Code, thereby consolidating and revising the law relating to the Vocational Rehabilitation Fund.

In effect August 4, 1943

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

Note.—See Stats. 1943, Ch. 71.

CHAPTER 79

Stats 1943, Ch 71, amended

An act to add Article 3, comprising Sections 6951 to 6960, inclusive, to Chapter 13 of Division 3, and to add Section 40013 to Division 20 of the Education Code, thereby consolidating and revising the law relating to the apportionment of the State School Fund to elementary schools.

In effect August 4, 1943

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

Note.—See Stats. 1943, Ch. 71.

CHAPTER 80

An act to add Article 4, comprising Sections 6971 to 6979, inclusive, and Article 5, comprising Section 6991, to Chapter 13 of Division 3, and to add Section 40014 to Division 20 of the Education Code, thereby consolidating and revising the law relating to apportionments from the State General Fund to elementary schools.

Stats 1943, Ch 71, amended

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

In effect August 4, 1943

Note.—See Stats. 1943, Ch. 71.

CHAPTER 81

An act to add Article 1, comprising Sections 7101 to 7110, inclusive, to Chapter 14 of Division 3, and to add Section 40015 to Division 20 of the Education Code, thereby consolidating and revising the law relating to apportionment of the State High School Fund.

Stats 1943, Ch 71, amended

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

In effect August 4, 1943

Note—See Stats. 1943, Ch. 71.

CHAPTER 82

An act to add Article 2, comprising Sections 7131 to 7141, inclusive, to Chapter 14 of Division 3, and to add Section 40016 to Division 20 of the Education Code, thereby consolidating and revising the law relating to apportionments from the State General Fund to high schools.

Stats 1943, Ch 71, amended

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

In effect August 4, 1943

Note.—See Stats. 1943, Ch. 71.

CHAPTER 83

An act to add Article 12, comprising Sections 9176 to 9178, inclusive, to Chapter 7 of Division 4, and to add Section 40017 to Division 20 of the Education Code, thereby consolidating and revising the law relating to education in connection with National defense

Stats 1943, Ch 71, amended

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

In effect August 4, 1943

Note.—See Stats. 1943, Ch. 71.

CHAPTER 84

Stats 1943, Ch 71, amended

An act to add Sections 14458 and 40018 to the Education Code, relating to the transfer of funds from the State General Fund to the Teachers' Permanent Fund.

In effect August 4, 1943

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

Note.—See Stats. 1943, Ch. 71.

CHAPTER 85

Stats 1943, Ch 71, amended

An act to add Sections 20344 and 40019 to the Education Code, relating to the support of State colleges.

In effect August 4, 1943

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

Note.—See Stats. 1943, Ch. 71.

CHAPTER 86

Stats 1943, Ch 71, amended

An act to add Sections 20461 and 40020 to the Education Code, relating to the State College Summer Session Fund.

In effect August 4, 1943

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

Note.—See Stats. 1943, Ch. 71.

CHAPTER 87

Stats 1943, Ch 71, amended

An act to add Article 9, comprising Sections 20521 to 20523, inclusive, to Chapter 2 of Division 10, and to add Section 40021 to Division 20 of the Education Code, thereby consolidating and revising the law relating to the Fresno Summer School of Music.

In effect August 4, 1943

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

Note.—See Stats. 1943, Ch. 71.

CHAPTER 88

Stats 1943, Ch 71, amended

An act to add Sections 20551 and 40022 to the Education Code, relating to the Student Building Fund of State colleges.

In effect August 4, 1943

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

Note.—See Stats. 1943, Ch. 71.

CHAPTER 89

An act to add Sections 20796, 20797 and 40023 to the Education Code, relating to the payment of certain expenses of pupils of the California School for the Deaf.

Stats 1943 Ch 71, amended

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

In effect August 4, 1943

Note.—See Stats. 1943, Ch. 71.

CHAPTER 90

An act to add Sections 20946, 20947 and 40024 to the Education Code, relating to the payment of certain expenses of pupils of the California School for the Blind.

Stats 1943, Ch 71, amended

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

In effect August 4, 1943

Note.—See Stats. 1943, Ch. 71.

CHAPTER 91

An act to add Sections 21158 and 40025 to the Education Code, relating to payments by students of the California Maritime Academy.

Stats 1943, Ch 71, amended

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

In effect August 4, 1943

Note.—See Stats. 1943, Ch. 71.

CHAPTER 92

An act to amend Section 4 of "An act to create a fund to be known as the United States Forest Reserve Fund and to provide for the payment out of such fund to the treasuries of the several counties entitled thereto of certain moneys received from the Government of the United States, and also to regulate the manner of expenditure by the counties of the moneys so paid," approved March 18, 1907, as amended, relating to the apportionment of moneys received by counties from the United States Forest Reserve Fund.

Stats 1907, p 346, amended

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 4 of the act cited in the title hereof is amended to read:

Stats 1941, p 2628

Sec. 4. It shall be the duty of the county auditor of any county receiving a payment of money under the provisions of

County auditor to apportion money

this act, immediately to apportion such money by placing 50 per cent thereof to the credit of the unapportioned county elementary school fund of such county, and 50 per cent to the credit of the general road fund.

CHAPTER 93

An act to amend Section 928 of the Penal Code, relating to county grand juries.

In effect August 4, 1943

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

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

Stats 1929, p 590

SECTION 1. Section 928 of the Penal Code is amended to read:

Grand jury to examine records

928. It shall be the duty of the grand jury annually to make a careful and complete examination of the books, records and accounts of all the officers of the county, and of every city board of education within the county, and especially those pertaining to the revenue, and report as to the facts they have found, with such recommendations as they may deem proper and fit; and if, in their judgment, the services of an expert are necessary, they shall have power to employ one, at an agreed compensation, to be first approved by the court; and if, in their judgment, the services of assistants to such expert are required, they shall have power to employ such, at a compensation to be agreed upon and approved by the court.

Investigation and report on needs of officers

It shall be the duty of every grand jury first impaneled in even numbered years to investigate and report upon the needs for increase or decrease in salaries of the county supervisors, the district attorney and the auditor, and it shall cause a copy of such report to be transmitted to each member of the Legislature representing the county in which it has been impaneled before the commencement of the regular session of the Legislature in odd numbered years. It shall also be the duty of every grand jury to investigate and report upon the needs of all county officers in its county, including the abolition or creation of offices and the equipment for, or the method or system of performing the duties of, the several offices, and it shall cause a copy of such report to be transmitted to each member of the board of supervisors in its county.

Ex officio officers included

It shall be the duty of the grand jury, when making an examination of the books, records, and accounts of all the officers of the county and when investigating and reporting upon the needs of all county officers in its county, to include an examination and report upon all the books, records and accounts of all the officers of such county which are kept in their ex officio capacity, as incumbents or officers of any special

legislative district or other district created by or under the laws of the State of California, in their respective counties.

The judge, on impanelment of the grand jury shall charge them especially as to their duties under this section; provided, that if any grand jury, shall, in the report above mentioned, comment upon any person or official who has not been indicted by the said grand jury the said comments shall not be deemed to be privileged. Judge to charge grand jury. Reports not privileged

Any and all expenses incurred under this section, and also the per diem and mileage where allowed by law, of the grand jurors, shall be paid by the treasurer of the county out of the general fund of said county upon warrants drawn by the county auditor upon the written order of the judge of the superior court in said county. Expenses

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CHAPTER 94

An act to amend Section 688.1 of the Code of Civil Procedure, relating to liens upon causes of action and judgments.

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.] In effect August 4, 1943

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

SECTION 1. Section 688.1 of the Code of Civil Procedure is hereby amended to read as follows: Stats 1941, p 2856

688 1. Upon motion of a judgment creditor of a plaintiff or plaintiffs in an action or special proceeding made in the court in which the action or proceeding is pending upon written notice to all parties, the court, judge or justice thereof may, in his discretion, order that the judgment creditor be granted a lien upon the cause of action and upon any judgment subsequently procured in such action or proceeding, and, during the pendency of said action, may permit said judgment creditor to intervene therein. Such judgment creditor shall have a lien to the extent of his judgment upon all moneys recovered by his judgment debtor in such action or proceeding, and no compromise, settlement or satisfaction shall be entered into by or on behalf of said debtor without the consent of said judgment creditor, unless his lien is sooner satisfied or discharged. The clerk or justice of the court shall indorse upon the judgment recovered in such action or proceeding a statement of the existence of the lien, the date of the entry of the order creating the lien, and the place where entered, and any abstract issued upon the judgment shall contain, in addition to the matters set forth in Section 674 of the Code of Civil Procedure, a statement of the lien in favor of such judgment creditor. Lien of judgment creditor on pending action

CHAPTER 95

An act to amend Section 117b of the Code of Civil Procedure, relating to the small claims affidavit and order.

In effect August 4, 1943

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

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

Stats 1941, p. 2360

SECTION 1. Section 117b of the Code of Civil Procedure is amended to read:

Form of affidavit

117b. The affidavit mentioned in the last section shall be on a blank substantially in the following form:

In the Small Claims Court of_____, County of_____,

State of California

_____ Plaintiff

vs.

_____ Defendant

State of California, } ss.
County of_____, }

_____, being duly sworn, deposes and says: That the defendant is indebted to the plaintiff in the sum of $_____; that this affiant has demanded payment of said sum that the defendant refused to pay the same and no part thereof has been paid; that the defendant resides at_____, in the above named county, or city and county, (or, "that the obligation sued on was contracted to be performed at_____in the above named county, or city and county"); that this affiant resides at_____, county (or city and county) of_____, in the State of California.

Subscribed and sworn to before me this_____ day of _____, 19___.

_____
Justice (Clerk or notary public)

On the affidavit shall be printed:

ORDER

The people of the State of California, to the within named defendant, greeting:

You are hereby directed to appear and answer the within and foregoing claim at my office in_____, _____ (name of building or residence) in_____, County of_____, State of California (or at the court room of Department _____of the municipal court in, etc.), on the_____day of_____, 19___, at the hour of_____o'clock in the _____noon of said day; and to have with you, then and there, all books, papers, and witnesses needed by you to establish your defense to said claim.

And you are further notified that in case you do not so appear, judgment will be given against you for the amount of said claim as it is stated in said affidavit, and in addition costs of the action including costs of service of the order.

Dated this _____ day of _____ 19 ___.

_____

Justice of the Peace (or, clerk of the court.)

CHAPTER 96

An act relating to jurisdiction over lands in the Kings Canyon National Park and to add Section 119 to the Government Code, relating to the jurisdiction over said lands.

Stats 1943, Ch 134, amended

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

In effect August 4, 1943

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

SECTION 1. Exclusive jurisdiction shall be and the same is hereby ceded to the United States over and within all of the territory which is now or may hereafter be included in those several tracts of land in the State of California set aside and dedicated for park purposes by the United States as "Kings Canyon National Park"; saving however to the State of California the right to serve civil or criminal process within the limits of the aforesaid park in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes committed in said State outside of said park; and saving further to the said State the right to tax persons and corporations, their franchises and property on the lands included in said park, and the right to fix and collect license fees for fishing in said park; and saving also to the persons residing in said park now or hereafter the right to vote at all elections held within the county or counties in which said park is situate; provided, however, that jurisdiction shall not vest until the United States through the proper officer notifies the State of California that it assumes police jurisdiction over said park.

Cession of jurisdiction over Kings Canyon National Park land

Note.—See Stats. 1943, Ch. 134.

SEC. 3. Section 2 of this act shall take effect only if a Government Code is enacted by the Legislature at its Fifty-fifth Session, and in such case, at the same time as the Government Code takes effect; at which time Section 1 of this act is hereby repealed.

Effect Stats 1943, Ch 134 Repeal

CHAPTER 97

Stats 1931, p 587, amended

An act to amend Section 1530 and to repeal Section 1531 of the Probate Code, relating to the sale or encumbrance of property by guardians.

In effect August 4, 1943

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

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

Stats 1937, p 589

SECTION 1. Section 1530 of the Probate Code is amended to read:

Sale of ward's property

1530. If the income of an estate under guardianship is insufficient for the support, maintenance and education of the ward or of such members of his family as he is legally obligated to support and maintain, including his care, treatment and support, if confined in a State hospital for the insane, or if the personal estate and the income from the real estate is insufficient to pay his debts, or if it is for the advantage, benefit, and best interests of the estate or ward or of such members of his family as he is legally bound to support and maintain, his guardian may sell any of his real or personal property, or mortgage or give a deed of trust upon any of his real property for any of such purposes, subject to authorization, confirmation or direction by the court as hereinafter provided.

Stats 1941, p 2140

SEC. 2. Section 1531 of the Probate Code is repealed.

CHAPTER 98

Stats 1933, p 60, amended

An act to add a new section to the Agricultural Code to be numbered 30.5, relating to pest and disease surveys and investigations.

In effect August 4, 1943

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

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

New section

SECTION 1. A new section to be numbered 30.5 is hereby added to the Agricultural Code, to read:

Investigations of agricultural pests and diseases

30.5. The department may conduct surveys or investigations of the nurseries, orchards, vineyards, agricultural commodities, agricultural appliances, farms and other premises within the State liable to be infested or infected with pests or diseases for the purpose of detecting the presence of, or determining the status of, pests or diseases therein and may with the approval of the Governor, cooperate with officials of the United States Department of Agriculture or with officials of other States in the conduct of pest or disease investigations outside of this State in the interest of the protection of the agricultural industry of this State from pests and diseases not generally distributed therein.

CHAPTER 99

An act to amend Section 111 of the Agricultural Code, relating to the inspection of plants and articles for pests.

Stats. 1933, p. 60, amended

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 111 of the Agricultural Code is hereby amended to read:

Stats. 1933, p. 1789

111. Any person who transports, receives or imports into the State any things against which quarantine has been established or any plants and who fails immediately after the arrival thereof to notify the director or the commissioner of the county in which the plants or things are received, of their arrival, and to hold them for immediate inspection by the director or commissioner, without unnecessarily moving them, or placing them where they may be harmful, is guilty of a misdemeanor.

Plants imported, etc. Failure to notify, etc

The director may designate certain plants arriving from certain areas not for planting, propagation or ornamental purposes within this State which may be released without inspection, if he finds upon investigation that such plants from such areas are not liable to cause the introduction of pests into this State.

Release without inspection

CHAPTER 100

An act to amend Section 1022 of the Agricultural Code, pertaining to definitions of fertilizing materials.

Stats. 1933, p. 60, amended

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 1022 of the Agricultural Code is amended to read:

Stats. 1937, p. 1933

1022. As used in this article the substances and mixtures of substances referred to in the preceding section are defined as follows:

Definitions

(a) "Commercial fertilizers" are substances and mixtures of substances containing 5 per cent or more of nitrogen, available phosphorous pentoxide, or potassium oxide soluble in distilled water, singly, collectively or in combination, except manures, hays, straws, peat and leaf mold.

(b) "Agricultural minerals" are mineral substances, mixtures of mineral substances, and mixtures of mineral and organic substances, containing less than 5 per cent in available form of nitrogen, phosphorous pentoxide, or potassium oxide, singly, collectively, or in combination, except sand and soil.

(c) "Manures" are the excreta of domestic animals or domestic fowls when not artificially mixed with any material or materials other than those which have been used for bedding, sanitary or feeding purposes for said animals or fowls or for the preservation of manure.

(d) "Auxiliary plant chemicals" are substances such as hormones, auxins, materials for reducing pre-harvest drop of fruit, materials for promoting rooting of cuttings, bacterial inoculants, and similar products intended to be used for influencing plants.

(e) "Soil amendments" are all substances, except those included within subdivisions (a), (b), (c), and (d), and includes hays, straws, peat, leaf mold and sand.

CHAPTER 101

Stats 1933, p. 60, amended

An act to amend Section 1021 of, and to add Section 1031.1 to, the Agricultural Code, relative to fertilizing materials and the labels thereon.

In effect August 4, 1943

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

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

Stats 1939, p 1436

SECTION 1. Section 1021 of the Agricultural Code is amended to read:

Application

1021. The provisions of this article apply to any substance or mixture of substances intended to be used for promoting or stimulating the growth of plants, increasing the productiveness of plants, improving the quality of crops or producing any chemical or physical change in the soil. Except as provided in Section 1031.1 hereof, they do not apply to sales for export outside the State, nor to sales of agricultural minerals to any registered producer, manufacturer, importer, agent, or dealer in agricultural minerals, nor to sales of fertilizing materials to any registered producer, manufacturer, importer, agent or dealer in commercial fertilizers; provided, however, such exemptions shall not relieve such registered persons from the tonnage license tax provided for in Section 1038 when purchased fertilizing materials are used upon their own lands within this State.

Exception

New section

SEC. 2. A new section is hereby added to the Agricultural Code to be numbered 1031.1 and to read:

Warranty

1031.1. Any label or descriptive tag attached to a lot, parcel or package of commercial fertilizer or agricultural mineral stating any of the things mentioned in Section 1023 hereof shall be deemed a warranty as to the things stated thereon by the seller attaching the same in favor of the buyer and of each successive buyer purchasing the goods relying thereon.

CHAPTER 102

An act to amend Section 1038 of the Agricultural Code, relating to fertilizer tonnage license tax. Stats 1933, p 60, amended

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.] In effect August 4, 1943

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

SECTION 1. Section 1038 of the Agricultural Code is amended to read: Stats. 1939, p. 1454

1038. Upon any sale not exempt from the provisions of this article, of commercial fertilizer, the registered person selling the same shall pay twenty cents ($0.20) per ton or fraction thereof, and upon such a sale of agricultural minerals, ten cents ($0.10) per ton or fraction thereof, except where the agricultural mineral is sold to be used and is used in the manufacture of commercial fertilizer. Each registered person shall keep accurate accounts of sales of commercial fertilizers and/or agricultural minerals, and such accounts shall be open at all times to inspection by the director. A statement of sales, sworn to by the registered seller, shall be rendered to the director quarterly within one calendar month after March 31st, June 30th, September 30th, and December 31st, of each year, and shall be accompanied by the amount of tonnage license tax required by this section. Any delinquency in making a statement and return, or any deficiency in any return, shall subject the registrant to the payment of a penalty of ten per cent (10%) of the amount due. Tonnage tax

On receipt of the tonnage license tax and statement, the director shall issue to the registered seller a certificate of compliance with this section.

Whenever a registered person shall have paid the tonnage license tax herein required, any person acting as his selling agent shall not be required to pay the tonnage license tax.

CHAPTER 103

An act to amend Section 1062 of the Agricultural Code, relating to materials exempt from the economic poisons provisions of said code. Stats. 1933, p. 60, amended

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.] In effect August 4, 1943

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

SECTION 1. Section 1062 of the Agricultural Code is amended to read: Stats 1933, p. 60

1062. The provisions of this article do not apply to any of the preparations, drugs or chemicals intended to be used or sold solely for medicinal use by humans, or for toilet purposes. Exemptions

CHAPTER 104

Stats 1933, p 60, amended

An act to amend Section 28.5 of the Agricultural Code, relating to refunds.

In effect August 4, 1943

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

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

Stats 1939, p 2276

SECTION 1. Section 28.5 of the Agricultural Code is hereby amended to read:

Refunds

28.5. The director may authorize the refund of moneys received or collected by the department in payment of fees, licenses, permits, or other services wherein the license, permit, or other service can not lawfully be issued or rendered to the applicant, or in cases where the payment in whole or in part represents over-payment or payment in duplicate.

CHAPTER 105

Stats 1933, p 60, amended

An act to amend Section 560 of the Agricultural Code, relating to modified milk.

In effect August 4, 1943

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

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

Stats 1941, p 3202

SECTION 1. Section 560 of the Agricultural Code is hereby amended to read as follows:

Modified milk

560. Modified milk is market milk which has been altered in composition to conform to special nutritional requirements. Modified milk may be sold only upon prescription of a regularly licensed physician.

CHAPTER 106

An act to amend Section 817 of the Penal Code, relating to the definition of peace officers.

In effect August 4, 1943

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

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

Stats 1939, p 1985

SECTION 1. Section 817 of the Penal Code is hereby amended to read as follows:

Peace officers

817. A peace officer is a sheriff of a county, marshal of a municipal court, constable of a township, marshal, policeman of a city or town, inspectors of the California State Board of Pharmacy not exceeding 10 in number, special agents and

assistant special agents of the Board of Medical Examiners of the State of California, an inspector of the Board of Osteopathic Examiners of the State of California, an inspector of the Board of Chiropractic Examiners of the State of California, the superintendent and the special criminal investigators of the Bureau of Criminal Identification and Investigation, the Chief and inspectors of the Division of Narcotic Enforcement, and any parole officer of the State Board of Prison Directors.

CHAPTER 107

An act to amend Sections 1217, 3600, 3602, and 3603 of the Penal Code, relating to the death penalty.

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.] In effect August 4, 1943

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

SECTION 1. Section 1217 of the Penal Code is hereby amended to read as follows: Stats 1935, p. 1867

1217. When judgment of death is rendered, a commitment signed by the judge, and attested by the clerk under the seal of the court must be drawn and delivered to the sheriff. It must state the conviction and judgment, and must direct the sheriff to deliver the defendant, within 10 days from the time of judgment, to the warden of the State prison of this State designated by the State Board of Prison Directors for the execution of the death penalty, to be held pending the decision upon his appeal. Commitment on judgment of death

SEC. 2. Section 3600 of the Penal Code is hereby amended to read as follows: Stats 1941, p 1080

3600. Every male person, upon whom has been imposed the judgment of death, shall be delivered to the warden of the California State Prison designated by the State Board of Prison Directors for the execution of the death penalty, there to be kept until the execution of the judgment. Delivery to prison Males

SEC. 3. Section 3602 of the Penal Code is hereby amended to read as follows: Stats 1941, p 1080

3602. Upon the affirmance of her appeal, the female person sentenced to death shall thereafter be delivered to the warden of the California State Prison designated by the State Board of Prison Directors for the execution of the death penalty, not earlier than three days before the day upon which judgment is to be executed; provided, however, that in the event of a commutation of sentence said female prisoner shall be returned to the California Institution for Women, there to be confined pursuant to such commutation. Removal of females

CHAPTER 108

An act to amend Sections 4570, 4571, 4572, 4573 and 4574 of the Penal Code, relating to unauthorized communications with the prisons and prisoners.

In effect August 4, 1943

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

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

Stats. 1941, p. 1080

SECTION 1. Section 4570 of the Penal Code is amended to read:

Unauthorized communication with prisoner

4570. Every person who, without the permission of the warden or other officer in charge of any State prison, or prison road camp, or prison forestry camp, or other prison camp or prison farm or any other place where prisoners of the State prison are located under the custody of prison officials, officers or employees, or any jail, or any county road camp in this State, communicates with any prisoner or person detained therein, or brings therein or takes therefrom any letter, writing, literature, or reading matter to or from any prisoner or person confined therein, is guilty of a misdemeanor.

Stats. 1941, p 1080

SEC. 2. Section 4571 of the Penal Code is amended to read:

Persons prohibited from coming near place where prisoners located Exconvicts

4571. Every person who, having been previously convicted of a felony and confined in any State prison in this State, without the consent of the warden or other officer in charge of any State prison or prison road camp, or prison forestry camp, or other prison camp or prison farm or any other place where prisoners of the State prison are located under the custody of prison officials, officers or employees, or any jail or any county road camp in this State, comes upon the grounds of any such institution, or lands belonging or adjacent thereto, is guilty of a felony.

Stats 1941, p 1080

SEC. 3. Section 4572 of the Penal Code is amended to read:

Tramps and vagrants

4572. Any tramp, vagrant, or person who is a known associate of thieves, who comes into any State prison or prison road camp, or prison forestry camp, or other prison camp or prison farm or any other place where prisoners of the State prison are located under the custody of prison officials, officers or employees, or any jail or any county road camp in this State, or upon the grounds belonging or adjacent thereto, and communicates with any of the inmates of such institution, or place, without the consent of the supervising officer or other person having charge thereof, is guilty of a misdemeanor.

Stats. 1941, p 2963

SEC. 4. Section 4573 of the Penal Code is amended to read:

Bringing in narcotics

4573. Any person, who brings into any State prison or prison road camp or prison forestry camp, or other prison camp or prison farm or any other place where prisoners of the State prison are located under the custody of prison officials, officers or employees, or any jail or any county road

camp in this State or within the grounds belonging or adjacent to any such institution, any narcotic, the possession of which is prohibited by Division 10 of the Health and Safety Code, or any alcoholic beverage, is guilty of a felony.

SEC. 5. Section 4574 of the Penal Code is amended to read: Stats 1941, p. 1080

4574. Any person, who brings into any State prison or prison road camp or prison forestry camp, or other prison camp or prison farm or any other place where prisoners of the State prison are located under the custody of prison officials, officers or employees, or any jail or any county road camp in this State, or within the grounds belonging or adjacent to any such institution, any firearms, deadly weapons or explosives is guilty of a felony and punishable by imprisonment in the State prison for not less than one year. Bringing in firearms

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CHAPTER 109

An act to amend the title of, and Section 1 of an act entitled "An act providing for the creation of revolving funds in the counties of the State," approved May 9, 1923, as amended, relating to revolving funds in the counties and townships of the State. Stats 1923, p. 289, amended

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.] In effect August 4, 1943

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

SECTION 1. The title of the act referred to in the title hereof is hereby amended to read as follows: Stats 1923, p. 289

"An act providing for the creation of revolving funds in the counties and townships of the State." Title

SEC. 2. Section 1 of the act cited in the title hereof is hereby amended to read as follows: Stats 1931, p 2518

Section 1. The board of supervisors of any county desiring to establish a revolving fund for the use of any officer of the county may do so by adopting a resolution setting forth the necessity for the revolving fund, the office, department, service, or institution for which such fund shall be available, and the amount of such fund, which amount shall not exceed the sum of one thousand dollars ($1,000); provided, that in their discretion, the board of supervisors in counties having a population of 90,000 or more according to the latest Federal census may establish any such fund in any sum not exceeding five thousand dollars ($5,000). Certified copies of such resolution shall be transmitted to the county auditor and county treasurer. The term "officer of the county" as used in this act shall be understood to include any elective or appointive county or township officer, and any person in charge of any office, department, service, or institution of the county, except a deputy or assistant of a county officer. Establishment of revolving fund; Particular counties

CHAPTER 110

Stats 1933, p 60, amended

An act to add Section 644.6 to the Agricultural Code, relating to sanitation.

In effect August 4, 1943

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

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

New section

SECTION 1. Section 644.6 is added to the Agricultural Code, to read:

Exceptions

644.6. The provisions of paragraphs (a) and (b) in Section 644 and of Section 644.5 shall not apply to any milk products plant, its utensils, apparatus and equipment used for the processing, manufacturing, handling and storing milk, goat's milk, sheep's milk or any products thereof when such milk products plant and the equipment thereof is devoted exclusively to the preparation of products for animal and poultry feeds.

CHAPTER 111

Stats. 1933, p. 60, amended

An act to amend Section 736.15 of the Agricultural Code, relating to local control boards for marketing areas for fluid milk and cream.

In effect August 4, 1943

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

Stats 1937, p 1372

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

See also Stats 1943, Ch 619

SECTION 1. Section 736.15 of the Agricultural Code is amended to read:

Local control boards

736.15. The director may appoint local control boards for the marketing areas established pursuant to this chapter to assist and advise him in matters pertaining to the marketing, distribution and sale of fluid milk or fluid cream or both. The board shall consist of eight members, who shall be residents of or engaged in business within the marketing area for which they are appointed by the director, three of whom shall be persons whose major interest is the distribution, marketing or sale of fluid milk or fluid cream or both, one producer-distributor, two retail storekeepers, one person active in the restaurant business, and one person, representative of the consuming public, who has no connection with the milk or cream business. The terms of office of each member shall be two years, unless the plan is terminated before said term expires. Said local board shall meet in regular session each month, and each member shall be allowed five dollars ($5) per diem and mileage at the rate of five cents ($0.05) per mile for attending such regular meetings. Said board with the previous approval

of the director may employ such personnel as may be necessary in the performance of its duties and shall adopt rules and regulations for its conduct. The board shall submit a budget of its expenses to the director for his approval The funds to be used for the maintenance of the board shall be paid from the proceeds of fees and licenses paid to the director under the plan upon verified claims presented by the board to the director. The board shall not incur any expenses other than those for per diem and mileage, unless approved by the director.

CHAPTER 112

An act to amend Section 38c of the State Employees' Retirement Act, relating to retirement systems.

Stats 1931, p 1442, amended

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

In effect August 4, 1943

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

Stats 1939, p 2605

SECTION 1. Section 38c of the act cited in the title hereof is amended to read:

See also Stats 1943, Ch 640

Sec. 38c. After receiving from the Board of Administration, a quotation of the approximate contribution provided for in Section 58b, any municipal corporation in the State may participate in the State Employees' Retirement System, making its employees members of said system, by contract entered into between the legislative body of said municipal corporation and the Board of Administration of the said retirement system, subject to the provisions of this act. Said contract may include any provisions consistent with this act, necessary in the administration of the retirement system as it affects said employees and municipal corporation. The approval and termination of said contract shall be subject to the following provisions, in addition to the other provisions of this act:

Participation by cities Contracts

Approval and termination

(1) Said legislative body shall adopt a resolution giving notice of intention to approve said contract, which resolution shall contain a summary of the major provisions of the proposed retirement system. Such contract shall not be approved unless and until an election has been held to permit the employees proposed to be included in the retirement system to express by secret ballot their approval or disapproval of said retirement proposal. The ballot at such election shall include the summary of the retirement system as set forth in the foregoing resolution. The election shall be conducted in such a manner as to permit the firemen, the policemen, and the other city employees proposed to be included in the system separately to express their approval or disapproval thereof. Said election shall be conducted in such manner as shall be prescribed by the legislative body of the city. Approval of the contract shall be by ordinance adopted by the affirmative

vote of two-thirds of the members of said legislative body, not less than 20 days after the adoption of said resolution, or by an ordinance adopted by a majority vote of the electorate of the city voting thereon. The legislative body shall not include in the retirement system any of the three groups above mentioned, a majority of whose members voted to disapprove the proposed system.

(2) If the contract was approved by an ordinance adopted by the legislative body, said legislative body may terminate said contract by the adoption of a resolution giving notice of intention to terminate, and by the adoption, not less than one year after the adoption of said resolution and by the affirmative vote of two-thirds of the members of said legislative body, of an ordinance terminating said contract. If the contract was approved by an ordinance adopted by a majority vote of the electorate voting thereon, the legislative body may terminate said contract in the manner provided in this subdivision but only under authority granted by ordinance adopted by such a majority vote of the electorate of the contracting city.

(3) The Board of Administration may and it shall be its duty to terminate said contract, by resolution adopted by a majority vote of its members, effective 60 days after notice of the adoption of said resolution has been mailed by registered mail to the legislative body of said city; provided, said city shall fail for one year to pay to the system any installment of contributions required of it by this act.

(4) Forthwith upon the termination of said contract, all memberships in the retirement system existing because of said contract, shall be terminated, and for the purposes of Section 75, the employees whose memberships are terminated, shall be considered as permanently out of State service, and their accumulated contributions shall be refunded accordingly. Notwithstanding anything in this act to the contrary, no event occurring on or after the effective date of said termination, shall be considered in determining the right of any such employee to a death benefit or to retire for service or disability.

The right to a retirement allowance, of a person who has retired prior to the effective date of the termination of said contract, or who has qualified and applied for retirement by written document received at the board's office in Sacramento, California, prior to said effective date, even though the board shall not approve said application until a later date, and the right of any person to a benefit on account of a death which occurred prior to said effective date, shall not be affected by said termination of said contract, except as herein provided in the event the contracting city shall fail to make contributions required of it because of the participation of its employees in the system.

(5) Upon the termination of said contract, the Board of Administration shall refund to said contracting city such por-

tion of the accumulated contributions then held by the retirement system and credited to, or as having been made by it, as are in excess of an amount actuarially equivalent, as determined by the actuary and approved by the board, to all benefits the system is obligated to pay after the effective date of said termination, to or on account of persons who are or have been employed by said city, and on account of service rendered by said persons to said city. If the said accumulated contributions credited to, or as being made by said city at the date of said termination, shall not be at least equal to said actuarial equivalent, said city shall contribute to the retirement system under terms fixed by the Board of Administration, an amount equal to the difference between said accumulated contributions and said actuarial equivalent. If said city shall fail to make such contribution, the portion of benefits described in the first sentence of this paragraph, payable after the board declares said city in default of said contribution, from the contributions previously made by said city, shall be reduced in the proportion the said accumulated contributions credited to, or as having been made by said city, bears to said actuarial equivalent of said benefits as of the date said board declared the default. The right of an employee of a contracting city, or his beneficiary, to a benefit under the system, whether before or after retirement or death, shall be subject to the adjustment provided in the sentence next preceding. The Board of Administration may postpone the payment of any amount due to said city, under this paragraph, if to make said payment would require the sale of securities, which, in the opinion of the board, would affect adversely the interests of the retirement system. If the board delays said payment longer than the period reasonably necessary for the determination of the amount due and for the necessary action by the board, interest shall be allowed on the amount remaining due and unpaid from time to time, at the rate then in use under the system, and shall be paid to the contracting city at the same time and in the manner as the original amount due.

Employees included within contract

(6) Said municipal corporation shall include under said contract all of its firemen and policemen and/or all of its other employees, except as exclusions may be agreed to between it and the Board of Administration, said exclusions to be based on groups of employees such as by departments, by duties or by age, and not on individual employees. The Board of Administration, however, shall have the right to disapprove the exclusion of any group, if in its opinion said exclusion affects adversely the interests of said retirement system. Membership in the retirement system shall be compulsory for all employees included under said contract.

CHAPTER 113

Stats. 1915, p 841, amended

An act to amend Sections 3 and 7 of "An act authorizing municipalities to declare noxious or dangerous weeds growing upon the streets or sidewalks, or upon private property within municipalities, to be a public nuisance, creating a lien upon the property fronting upon such streets or sidewalks or upon which such nuisance exists for the cost of abating the same," approved May 26, 1915, relating to noxious or dangerous weeds.

In effect August 4, 1943

[Approved by Governor April 7, 1943 Filed with Secretary of State April 7, 1943.]

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

Stats 1915, p 841

SECTION 1. Section 3 of the act cited in the title hereof is amended to read:

Notice to destroy weeds

Sec. 3. After the passage of said resolution, the street superintendent shall cause to be conspicuously posted on or in front of the property on which or in front of which such nuisance exists, one notice to each piece or parcel of property in separate ownership of not over 50 feet frontage, or not more than two notices to any piece or parcel of property in separate ownership with a frontage of 100 feet or less. If the frontage of any piece or parcel of property in separate ownership is greater than 100 feet notices shall be posted at not more than 100 feet apart. Such notices shall be headed "notice to destroy weeds," such heading to be in words not less than one inch in height and substantially in the following form:

NOTICE TO DESTROY WEEDS

Notice is hereby given that on the_____day of_____, 19___, the (name of the legislative body) passed a resolution declaring that noxious or dangerous weeds were growing upon or in front of the property on this street, in said_____, and more particularly described in said resolution, and that the same constitute a public nuisance which must be abated by the removal of said noxious or dangerous weeds, otherwise they will be removed and the nuisance will be abated by the municipal authorities, in which case the cost of such removal shall be assessed upon the lots and lands from which or in front of which such weeds are removed, and such costs will constitute a lien upon such lots or lands until paid. Reference is hereby made to said resolution for further particulars.

All property owners having any objections to the proposed removal of such weeds are hereby notified to attend a meeting of the (name of the legislative body) of said (city or town) to be held (give date), when their objections will be heard and given due consideration.

Dated this_____day of_____, 19___.

_____

Street Superintendent (city or town of_____)

Said notices shall be posted at least five days prior to the time for hearing objections by the legislative body of the municipality.

SEC. 2. Section 7 of said act is amended to read: Stats 1937, p 183

Sec. 7. At the time fixed for receiving and considering said report, the legislative body shall hear the same, together with any objections which may be raised by any of the property owners liable to be assessed for the work of abating said nuisance and thereupon make such modifications in the report as they may deem necessary, after which, by motion or resolution, said report shall be confirmed. Confirmation of report

The amounts of the cost for abating such nuisance in front of or upon the various parcels of the land mentioned in said report shall constitute special assessments against the respective parcels of land, and after thus made and confirmed shall constitute a lien on said property for the amount of such assessments, respectively. Special assessments

After confirmation of said report a copy shall be turned over to the assessor and the tax collector of such municipality, whereupon it shall be the duty of said officers to add the amounts of the respective assessments to the next regular bills for taxes levied against the said respective lots and parcels of land for municipal purposes. Where the duties of assessing property and collecting municipal taxes are performed for such municipality by the county assessor and the county tax collector in the manner provided by law, a certified copy of said report shall be filed with the county auditor on or before the tenth day of August. In each such report so filed with the county auditor, the descriptions of the properties reported shall be the descriptions used for the same properties on the map books of the county assessor for the then current year. The county auditor shall enter the amounts of the respective assessments on the county tax roll opposite the respective parcels of land and thereafter said amounts shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure under foreclosure and sale in case of delinquency as provided for ordinary municipal taxes; provided, that, as an alternative method of procedure, when the municipal taxes are collected by the county tax collector, the said county tax collector may, in his discretion, proceed to collect such assessments without reference to the general taxes, by issuing separate bills therefor and issuing separate receipts for collections on account of such assessments. All laws applicable to the levy, collection, and enforcement of county taxes are hereby made applicable to such special assessment taxes. Collection

The superintendent of streets is authorized to receive the amount due for the cost of abating such nuisance, and to issue Time of payment

receipts therefor at any time after the confirmation of said report and until 10 days before a copy of said report shall be turned over to the assessor and tax collector of such municipality, or, where the duties of assessing property and collecting municipal taxes are performed for such municipality by the county assessor and the county tax collector in the manner provided by law, until the first day of August next succeeding the confirmation of said report.

CHAPTER 114

An act to amend Section 1557 of the Penal Code, relating to the return of fugitives from justice.

In effect August 4, 1943

[Approved by Governor April 7, 1943. Filed with Secretary of State April 7, 1943.]

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

Stats. 1929, p. 483

SECTION 1. Section 1557 of the Penal Code is hereby amended to read as follows:

Expense of return to this State of fugitives from justice

1557. When the Governor of this State, in the exercise of the authority conferred by Section 2, Article IV, of the Constitution of the United States, or by the laws of this State, demands from the executive authority of any State of the United States, or of any foreign government, the surrender to the authorities of this State of a fugitive from justice, who has been found and arrested in such State or foreign government, the accounts of the person employed to bring back such fugitive, including any money paid by such person to the authorities of a sister State for subsistence of the fugitive while detained by such sister State and without payment of which, the authorities of such State refuse to surrender such fugitive, must be audited by the Board of Control and paid out of the State Treasury; provided, however, that the State shall not pay the expenses of any such person so employed where the fugitive so returned is not so arraigned or placed on trial, that such expenses shall be a charge upon the county asking the requisition; provided further, that when a warrant has been issued by any magistrate after the filing of a complaint or the finding of an indictment and its presentation to the court and filing by the clerk, and the person named therein as defendant is a fugitive from justice, who has been found and arrested in any State of the United States or in any foreign government, the county auditor shall draw his warrant and the county treasurer shall pay to the person designated to return the fugitive, the amount of expenses estimated by the district attorney to be incurred in the return of such fugitive; provided further, the person designated to return the fugitive shall make no disbursements from any such fund so advanced without a receipt being obtained therefor showing the amount,

Receipt for disbursement

the purpose for which said sum is expended, place, date, and to whom paid.

Such receipts must be filed by such person with the county auditor or State Board of Control, as the case may be, together with an affidavit by such person that the expenditures represented by said receipts were necessarily made in the performance of duty, and when such advance has been made by the county treasurer to the person designated to return the fugitive, and has thereafter been audited by the State Board of Control, the payment thereof shall be made by the State Treasurer to the county treasury, which has advanced the said funds; provided further, that when no advance has been made to the person designated to return the fugitive, the sums expended by him, when audited by the Board of Control, shall be paid by the State Treasury to the said person so designated. In every case where the expenses of such person so employed to bring back such fugitive as herein provided, are less than the amount advanced on the recommendation of the district attorney, such persons so employed to bring back such fugitive shall return to the county treasurer the difference in amount between the aggregate amount of receipts so filed by him, as herein employed, and the amount advanced to such person upon the recommendation of the district attorney.

Affidavit

When no advance made

Return of excess advances

CHAPTER 115

An act to add Section 1160.5 to the Harbors and Navigation Code, relating to pilots, to take effect immediately.

Stats 1937, p 792, amended

[Approved by Governor April 13, 1943. Filed with Secretary of State April 13, 1943]

In effect immediately

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

SECTION 1. Section 1160.5 is added to the Harbors and Navigation Code, to read:

New section

1160.5. Subject to the provisions of this division, except Sections 1160, 1190, 1191, 1192 and 1193, the board may examine and issue temporary licenses to 10 bar pilots in addition to the 20 bar pilots it is authorized to license pursuant to Section 1160. Such temporary licenses are revocable at the pleasure of the board with or without cause. A temporary license to act as a bar pilot shall not be issued while the number of bar pilots licensed pursuant to Section 1160 is less than 20. If the number of outstanding licenses to act as bar pilot issued pursuant to Section 1160 falls below 20 and there are at the time outstanding temporary licenses to act as bar pilot, persons holding such temporary licenses shall be entitled to be licensed under Section 1160 in the relative order in which they received their temporary licenses and prior to any other person, but the number of licenses issued and outstanding under Section 1160 shall not at any time exceed 20.

Temporary licenses

Suspension or revocation

A temporary license to act as bar pilot may be suspended or revoked by the board at any time with or without cause upon written notice of such suspension or revocation by the board to the holder of the license.

Bar pilots need not keep any vessels for their exclusive use.

Duration

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever

Existing law

first occurs While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section; but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

Urgency

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

This act provides for an increase in the number of bar pilots under Division V Chapter 2 of the Harbors and Navigation Code. Emergency conditions made necessary by the war and the volume and manner of shipping to and from San Francisco Bay and tributaries make immediately necessary the appointment of additional bar pilots to take care of this condition and unless this act becomes effective immediately the expeditious movement of shipping and vital war cargoes will be impaired.

CHAPTER 116

Stats 1933, p 394, amended

An act to add Sections 103.9, 615.3 and 615.4 to the Fish and Game Code, relating to creation of new fish and game district and the taking of fish therein.

In effect August 4, 1943

[Approved by Governor April 13, 1943 Filed with Secretary of State April 13, 1943]

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

New section

SECTION 1. Section 103.9 is added to the Fish and Game Code, to read:

District 103 9

103.9. District 103.9. The following shall constitute Fish and Game District 103.9: Scott Creek from its mouth upstream to the confluence of Little Creek with Scott Creek. Except as otherwise provided in this code all provisions therein relating to District 3 shall apply to District 103.9.

New section

SEC. 2. Section 615.3 is added to the said code, to read:

Season

615.3. In District 103.9 it is unlawful to take any fish at any time, except from the first day of December to the last

day of February on the Saturdays, Sundays, Wednesdays, and any legal holiday within such period including the opening and closing days of the season. The bag limit on trout or salmon is two per day in the aggregate, irrespective of size, and not more than one daily bag limit may be possessed by any person during one day. Bag limit

SEC. 3. Section 615 4 is added to the said code, to read: New section

615.4. It is unlawful to use or possess within 100 yards of that part of Scott Creek and its tributaries comprising District 103.9 any treble hooks, landing gear, gaffs, nets, or spears. Scott Creek

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CHAPTER 117

An act to repeal Sections 180 and 181 of the Fish and Game Code, relating to fish refuges. Stats 1933, p 394 amended

[Approved by Governor April 13, 1943 Filed with Secretary of State April 13, 1943] In effect August 4, 1943

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

SECTION 1. Sections 180 and 181 of the Fish and Game Code are repealed. Repeals

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CHAPTER 118

An act to amend Sections 812.4 and 829.35 of the Agricultural Code, relating to containers for bunched carrots, declaring the urgency hereof and that this act take effect immediately. Stats 1933, p 60, amended

[Approved by Governor April 13, 1943. Filed with Secretary of State April 13, 1943] In effect immediately

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

SECTION 1. Section 812.4 of the Agricultural Code is amended to read: Stats 1939, p. 2434

812.4. Bunched carrots when in closed wooden containers shall be packed either in standard container 45C, with a nine-inch depth, or in standard container 45 or until September 30, 1945, in standard container 45B. Bunched carrots Containers

SEC. 2. Section 829.35 of the Agricultural Code is amended to read: Stats 1937, p 1481

829.35. 14. Carrots, number 45 or 45B. Standard packs and containers

15. Cauliflower, number 46.

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of Section 1, Urgency

Article IV of the Constitution of the State of California and as such shall take effect immediately. The following is a statement of the facts constituting such necessity:

Crates used for the transportation and sale of carrots as well as containers used in the handling of other fruits and vegetables, are made from lumber which is a material vital to the war effort.

Because of the scarcity of box lumber and the burden of orders for war material shipping containers, the box shook factories are having great difficulty in accumulating any amount of shook suitable for the construction of the "heads" (ends) of vegetable crates previously used for carrots. Material suitable for the construction of the heads for vegetable crates required in container 45B (17½ inches wide) proposed as standard for carrots in this act, is accumulated by the factories in the manufacture of box shook for other fruits and vegetables and, therefore, is more readily obtainable during the present scarcity of box lumber. Carrots are now being harvested and shipped in several parts of the State and producers and packers are unable to obtain the proper size crate as now required by law, for the transportation and sale of this product, for which reason it is necessary that this act take immediate effect.

CHAPTER 119

Stats. 1939, p 2979, amended

An act amending Section 1 of "An act granting to the City of San Diego certain parcels of the State-owned lands in Mission Bay State Park upon certain trusts and conditions," approved July 24, 1939, relating to tidelands in Mission Bay State Park.

In effect August 4, 1943

[Approved by Governor April 13, 1943. Filed with Secretary of State April 13, 1943]

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

Stats 1939, p 2979

SECTION 1. Section 1 of the act cited in the title hereof is amended to read:

Grant

Section 1. There is hereby granted to the City of San Diego all of the right, title and interest of the State of California in and to those certain parcels of land described in Section 2 of this act owned by it in Mission Bay State Park.

Charter

All of said real property hereby granted shall be held by the City of San Diego as a part of its city park system, and administered by said city in accordance with the provisions of its charter.

Right to fish

There is hereby reserved to the people of the State of California the absolute right to fish in the waters of Mission Bay, with the right of convenient access to such waters over the real property hereby granted, for the purpose of fishing.

There is also reserved to the State of California all the deposits of minerals, including oil and gas, in the real property hereby granted, and there is reserved to the State of California, or persons authorized by the State of California, the right to prospect for, mine, and remove such deposits from the real property granted and to occupy and use so much of the surface as may be required therefor. Mineral deposits

CHAPTER 120

An act to amend Section 1550 of the Probate Code, relating to inventory and appraisement.

[Approved by Governor April 13, 1943. Filed with Secretary of State April 13, 1943] In effect August 4, 1943

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

SECTION 1. Section 1550 of the Probate Code is amended to read: Stats 1941, p. 1739 See also Stats 1943, Ch 1053

1550. Within three months after his appointment, or within such further time as the court or judge for a reasonable cause may allow, the guardian must file with the clerk of the court an inventory and appraisement of the estate of his ward, together with a copy of the same which copy shall be delivered by the clerk to the county assessor. The guardian must make oath to the inventory, and the property therein described must be appraised, by an appraiser or appraisers appointed by the court or judge, in the manner provided for the inventory and appraisement of estates of decedents. Whenever any ward is or has been during the guardianship confined in a State hospital in this State the guardian must deliver or mail a copy of the inventory to the Director of Institutions or the Attorney General. Whenever any property of the ward is discovered which was not included in the inventory, and whenever any other property has been inherited or acquired by the ward, other than by purchase by the guardian, like proceedings must be had for the inventory and appraisement thereof and the delivery or mailing of a copy thereof as are herein provided in relation to the first inventory. Inventory and appraisement

CHAPTER 121

An act to add Section 189.5 to the Code of Civil Procedure, relating to vouchers filed in court proceedings.

[Approved by Governor April 13, 1943. Filed with Secretary of State April 13, 1943] In effect August 4, 1943

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

SECTION 1. Section 189.5 is added to the Code of Civil Procedure, to read: New section

189.5. Two years after judgment in any civil action or proceeding has become final the court may order any vouchers Vouchers Delivery

Destruction

on file therein delivered to the person who filed them, or to his attorney; in the event such person or his attorney can not be located or fails after reasonable notice to obtain such vouchers, the court may order that they be destroyed by the clerk of the court.

CHAPTER 122

An act to add Section 439.5 to the Political Code, relating to the administration of oaths by employees of the State Controller.

In effect August 4, 1943

[Approved by Governor April 13, 1943. Filed with Secretary of State April 13, 1943]

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

New section

SECTION 1. Section 439.5 is added to the Political Code, to read:

Administration of oaths

439.5. The State Controller may designate any one or more of his employees to administer oaths to any persons in respect to returns, reports, affidavits or other documents that are required to be filed with the Controller.

CHAPTER 123

Stats 1941, p 1225, amended

An act to amend the title and Sections 1, 2, 3, 4, 5, 6 and 7 of an act entitled "An act providing for the creation of county treasurers' cash difference funds and overage funds in the counties of the State," approved April 23, 1941, relating to county officers' cash difference funds and overage funds.

In effect August 4, 1943

[Approved by Governor April 13, 1943. Filed with Secretary of State April 13, 1943]

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

Stats 1941, p 1225

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

Title

An act providing for the creation of county officers' cash difference funds and overage funds in the counties of the State.

Stats 1941, p 1225

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

Cash difference fund

Section 1. The board of supervisors of any county desiring to establish a county treasurer's cash difference fund for the use of the treasurer of the county, or a county tax collector's cash difference fund for the use of the tax collector of the county, may do so by adopting a resolution setting forth the

Resolution

amount of such fund. Any such board of supervisors may

establish either of such funds or may, by separate resolutions, establish both of such funds separately. Certified copies of such resolution shall be transmitted to the county auditor and county treasurer. In the event the board of supervisors of any county elects to establish such a fund, said board of supervisors shall by said resolution also establish a county fund to be known as an overage fund for such treasurer or for such tax collector. Overage fund

SEC. 3. Section 2 of said act is amended to read: Stats 1941, p 1225

Sec. 2. Upon the adoption of such resolution it shall be the duty of the county auditor to draw his warrant in favor of the county treasurer, or the county tax collector as the case may be, in the amount set forth in said resolution, and the county treasurer shall cash said warrant. The county treasurer, or the county tax collector, so entrusted with such a cash difference fund shall not be authorized to expend any portion thereof except for cash deficits reported in the manner hereinafter set forth. Drawing of warrant

SEC. 4. Section 3 of said act is amended to read: Stats 1941 p 1225

Sec. 3. Each cashier, teller, or person similarly receiving and disbursing the county moneys and all other money placed in his custody as directed by law or by official authority, in the office of such county treasurer, or in the office of such county tax collector, shall, at the close of each business day render a written report, setting forth the exact sum constituting any cash deficit or overage in his account for that day, to said county treasurer, or to said county tax collector as the case may be. A failure to so report any cash deficit or overage at the close of the business day in which it occurred shall be a violation of this act. Report to treasurer

SEC. 5. Section 4 of said act is amended to read: Stats 1941, p 1225

Sec. 4. Immediately upon the county treasurer, or the county tax collector, receiving such a written report setting forth the sum constituting a cash deficit, he shall reimburse the cash charged to such person in the amount of such cash deficit; provided, such reimbursement can not exceed the amount in the cash difference fund unless said fund is replenished by the board of supervisors in the manner hereinafter provided, and then only in an amount not exceeding the sum so appropriated by said board of supervisors. Upon his receiving such a written report setting forth the sum constituting an overage, he shall immediately deposit such overage in the overage fund in the county treasury. Reimbursement of deficit

SEC. 6. Section 5 of said act is amended to read: Stats 1941, p 1225

Sec. 5. The county treasurer, or the county tax collector, entrusted with such a cash difference fund shall upon demand of the auditor or board of supervisors give account of said fund. Account

SEC. 7. Section 6 of said act cited is amended to read: Stats 1941, p 1225

Sec. 6. If at any time such cash difference fund becomes exhausted, the county treasurer, or the county tax collector as the case may be, may make a written application to the Replenishment of fund

board of supervisors to have said fund replenished and shall itemize in such application each and every cash deficit as to amount, date of occurrence, and the name of the cashier, teller or person, whose account was reimbursed from said cash difference fund in the manner hereinabove set forth. The board of supervisors may then in its discretion replenish such a cash difference fund by resolution directing the county auditor to draw his special warrant therefor on the county general fund, and the county treasurer, or the county tax collector as the case may be, shall cash said warrant and be entrusted with any such sum in accordance with, and in conformity to, the provisions of this act relating to such a cash difference fund.

Stats 1941, p 1225

SEC. 8. Section 7 of said act is amended to read:

Discontinuance of fund

Sec. 7. The board of supervisors may at any time discontinue such a cash difference fund. If such a cash difference fund is discontinued, the county treasurer, or the county tax collector as the case may be, shall immediately give account thereof and deposit any balance remaining therein in the county general fund.

CHAPTER 124

Stats 1933, p 394, amended

An act to add Sections 101 and 480.5 to the Fish and Game Code, relating to the creation of a new fish and game district and the taking of fish therein.

In effect August 4, 1943

[Approved by Governor April 13, 1943. Filed with Secretary of State April 13, 1943]

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

New section

SECTION 1. Section 101 is added to the Fish and Game Code, to read:

District 101

101. District 101. The following shall constitute Fish and Game District 101: All that portion of Kings County lying within the following boundaries: Beginning at the southwest corner of Section seven (7) Township twenty-three (23) south, Range twenty (20) east, M. D. B. & M., thence north along section lines, fifteen (15) miles to the one-quarter (¼) section corner, between Sections twenty-five (25) and thirty-six (36), Township twenty (20) south, Range nineteen (19) east, M. D. B. & M., which point is the point of intersection of the said line and the Reclamation Company Canal (Blakeley Canal); thence along said Reclamation Company Canal in a northeasterly direction to the Empire Weir, Number 2, at which point the said line intersects the head-gate of Tulare Lake Canal; thence along said Tulare Lake Canal in a southeasterly direction to the northwest corner of Section four (4) Township twenty-one (21) south, Range twenty-one (21) east, M. D. B. & M., thence east along section lines a distance of eight (8) miles to the northeast corner of Section three (3) Township twenty-one (21) south, Range twenty-two (22) east

M. D. B. & M., thence south along section lines a distance of fourteen (14) miles to the southeast corner of Section ten (10) Township twenty-three (23) south, Range twenty-two (22) east M. D. B. & M., thence west along section lines a distance of sixteen (16) miles to the point of beginning; together with all that portion of Kern County lying west of a line running north and south through said Kern County and being tangent to the most easterly portion of Buena Vista Lake in said Kern County.

Except as provided in Section 480.5, all provisions relating to District 1 shall apply to District 101. District 1 provisions

SEC. 2. Section 480.5 is added to said code, to read: New section

480.5. In District 101 fishermen holding a sporting fishing license may take fish of any species at any time with hook and line only without regard to size or limit of fish so taken. Fish can not otherwise be taken or sold except under special permit issued by the Fish and Game Commission. Sporting fishing license

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CHAPTER 125

An act to amend Section 1 of an act entitled "An act to authorize and control the deposit in banks of money belonging to or in the custody of any county, city and county, city, town, municipality or other public or municipal corporation within this State, and to repeal all acts or parts of acts in conflict with this act," approved April 28, 1933, relating to deposit of public moneys, to declare the urgency thereof, and to provide that this act shall take effect immediately. Stats. 1933, p. 642, amended

[Approved by Governor April 13, 1943. Filed with Secretary of State April 13, 1943] In effect immediately

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

SECTION 1. Section 1 of the act referred to in the title hereof is hereby amended to read as follows: Stats 1941, p. 1591

Section 1. All moneys belonging to or in the custody of any county, city and county, city, town, municipality or other public or municipal corporation within the State, including all moneys collected by, or paid to the treasurer of any county, city and county, city, town, municipality, or other public or municipal corporation within the State, or other official having authority to collect or receive the same, for the payment of principal, interest or penalties of bonds required by law, ordinance or resolution, to be paid to, or collected by, such treasurer or other official, shall, so far as possible, be deposited in such State or National bank or banks in the State as the treasurer of the county, city and county, city, town, municipality or other public or municipal corporation, as the case may be, or other official having the legal custody thereof, shall Deposit of public funds

select for safekeeping of such deposits, and any sum so deposited shall be deemed to be in the treasury of such county, city and county, city, town, municipality or other public or municipal corporation; provided, that the bank or banks in which such money is deposited shall furnish security as hereinafter provided and said bank or banks are hereby empowered so to do. Such depositary bank or banks shall be selected from those agreeing to pay the highest rate of interest, not less than 2 per centum per annum, for such deposits, as may be determined by bids to be submitted at such times and in such manner as the treasurer shall direct; provided, however, that until and including September 1, 1945, such treasurer may in the absence of a higher bid or bids deposit such moneys upon interest of not less than one-half of 1 per centum per annum on active deposits and one-half of 1 per centum per annum on inactive deposits; and provided further, that such deposit shall not exceed the paid-up capital, exclusive of reserve and surplus of any depositary bank. Any and all bids may be rejected by the treasurer and new bids asked for. The expenses of transportation of moneys to and from such depositaries shall be borne by such depositaries and they shall handle, collect and pay all checks, drafts and other exchange without cost to such county, city and county, city, town, municipality or other public or municipal corporation. Such deposits, with interest thereon, shall be subject to withdrawal at any time upon the demand of the treasurer or other authorized official; provided, however, that all inactive deposits shall be subject to notice of at least 30 days for the payment thereof; and provided further, that the treasurer may, with the consent of the governing body of the county, city and county, city, town, municipality or other public or municipal corporation, deposit any part of such moneys for a definite term and may agree with any depositary bank or banks as to the period of time of any deposit or deposits, but no such agreement shall provide for the deposit of any of said moneys for a longer period than one year; and provided further, that such treasurer is hereby authorized, under such conditions as he, with the approval of the governing body of such county, city and county, city, town, municipality or other public or municipal corporation may fix, to deposit moneys in any bank, or banks within or without this State, necessary for the payment of the principal and interest of bonds at the place or places at which the same are payable, and the requirements of this act shall not apply to deposits for such purposes.

Selection of banks

Authority until Sept 1, 1945

Conditions of deposit

Urgency

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

Unless this act becomes effective immediately, grave doubt may exist as to the validity of many millions of dollars of

public funds which may be on deposit in banks on September 1, 1943, due to inability to effect deposits in compliance with the terms of the present law and unless this act is in effect on that date, treasurers of cities, counties, school districts, and other political subdivisions of this State may be compelled to withdraw from banks large sums of public money then on deposit at interest, and either hold the same in currency in their offices or deposit the same without interest. It is necessary that the withdrawal of such an amount of currency from circulation at one time, and the loss of interest thereon, be prevented, and that the radical and objectionable changes in the handling of public financial transactions that would immediately ensue as an inevitable consequence of such withdrawal and holding of currency be obviated, and that the means of deriving revenue from the deposit of such public funds be impeded as little as possible.

CHAPTER 126

An act to amend Section 5.45 of the School Code and to amend Section 20377 of the Education Code, relating to leaves of absence of employees of State colleges not in State civil service.

Stats. 1943, Ch. 71, amended

[Approved by Governor April 13, 1943. Filed with Secretary of State April 13, 1943]

In effect August 4, 1943

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

SECTION 1. Section 5.45 of the School Code is amended to read:

Stats 1941, p 2238
See also Stats 1943, Ch 71

5.45. The Director of Education, on the recommendation of the president of a State college, may grant a leave of absence, without compensation, for not to exceed one calendar year, to any employee of such State college not serving in the State civil service, after said person has been employed by the State college for not less than one calendar year

Leave of absence Non-civil service employee

A leave of absence granted hereunder to any person may be extended for not to exceed one calendar year by the Director of Education on the recommendation of the president of the State college in which the employee is employed except that during any National emergency declared by the President of the United States of America, such a leave of absence may be extended from year to year by the Director of Education on the recommendation of the president of the State college in which such employee is employed.

Extension

Upon the expiration of any such leave of absence the person to whom such leave of absence was granted shall be entitled to reinstatement in the position he held at the time such leave of absence was granted him, if such position is

Reinstatement

still in existence, or to any other comparable existing vacant position for which the person is qualified.

Note.—See Stats. 1943, Ch. 71.

Effect Stats 1943, Ch. 71

SEC. 3. Section 2 of this act becomes operative only if the Education Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said code takes effect; at which time Section 5.45 of the School Code amended by this act is hereby repealed.

Repeal

CHAPTER 127

Stats. 1937, p. 1229, amended

An act to add Division 4 and Parts 1 and 2 thereof, comprising Sections 10000 to 11020, inclusive, and Section 30042 to the Business and Professions Code, thereby consolidating and revising the law supervised, administered and enforced by the State Division of Real Estate of the Department of Investment regulating transactions affecting interests in real or personal property, licensing brokers and salesmen with respect to dealings in real or personal property, imposing disciplinary and criminal penalties for the violation thereof and repealing acts and parts of acts specified therein.

In effect August 4, 1943

[Approved by Governor April 13, 1943. Filed with Secretary of State April 13, 1943]

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

New division

SECTION 1. Division 4 and Parts 1 and 2 thereof, comprising Sections 10000 to 11020, inclusive, are added to the Business and Professions Code, to read:

DIVISION 4. REAL ESTATE

PART 1. LICENSING OF PERSONS

CHAPTER 1. GENERAL PROVISIONS

Short title

10000. This part may be cited as the Real Estate Law.

Applicability of definitions

10001. The definitions in this chapter apply to the provisions of this part only and do not affect any other provisions of this code.

"Board"

10002. "Board" refers to the Real Estate Board.

"Commissioner"

10003. "Commissioner" refers to the Real Estate Commissioner.

"Department"

10004. "Department" refers to the Department of Investment.

"Division"

10005. "Division" refers to the State Real Estate Division in the Department of Investment.

"Person"

10006. "Person" includes copartnership, corporation, company and firm.

10007. "Provisions of this part relating to real estate" refers to the provisions of Chapters 1, 2, 3 and 6 of Part 1. Provisions relating to real estate

10008. "Provisions of this part relating to business opportunity regulation" refers to the provisions of Chapters 1, 2, 4 and 6 of Part 1. Provisions relating to business opportunity regulation

10009. "Provisions of this part relating to cemetery brokerage" refers to the provisions of Chapters 1, 2, 5 and 6 of Part 1. Provisions relating to cemetery brokerage

10010. "Provisions of this part relating to hearings" refers to the provisions of Article 3 of Chapter 2 of Part 1. Provisions relating to hearings

10011. "Licensee," when used without modification, refers to a person, whether broker or salesman, licensed under any of the provisions of this part. "Licensee"

10012. "Broker," when used without modification, refers to a person licensed as a broker under any of the provisions of this part. "Broker"

10013. "Salesman," when used without modification, refers to a person licensed as a saleman under any of the provisions of this part. "Salesman"

10014. "Real estate licensee" refers to a person, whether broker or salesman, licensed under Chapter 3 of this part. "Real estate licensee"

10015. "Real estate broker" refers to a person licensed as a broker under Chapter 3 of this part. "Real estate broker"

10016. "Real estate salesman" refers to a person licensed as a salesman under Chapter 3 of this part. "Real estate salesman"

10017. "Business opportunity licensee" refers to a person, whether broker or salesman, licensed under Chapter 4 of this part. "Business opportunity licensee"

10018. "Business opportunity broker" refers to a person licensed as a broker under Chapter 4 of this part. "Business opportunity broker"

10019. "Business opportunity salesman" refers to a person licensed as a salesman under Chapter 4 of this part. "Business opportunity salesman"

10020. "Cemetery brokerage licensee" refers to a person, whether broker or salesman, licensed under Chapter 5 of this part. "Cemetery brokerage licensee"

10021. "Cemetery broker" refers to a person licensed as a broker under Chapter 5 of this part. "Cemetery broker"

10022. "Cemetery salesman" refers to a person licensed as a salesman under Chapter 5 of this part. "Cemetery salesman"

Chapter 2. Administration

Article 1. The Real Estate Board

10050. There is in the Department of Investment a State Real Estate Division, the chief officer of which division is the Real Estate Commissioner. Division created

10051. There is a Real Estate Board which consists of the Real Estate Commissioner and six other members. Board created

All members of the board shall be appointed by the Governor.

10052. Members of the board shall be appointed for a term of four years and they shall hold office until the appointment and qualification of their successors. Terms of board members

The terms of the members of the board in office when this section takes effect shall expire as follows: One member, January 15, 1944; two members, January 15, 1945; two members, January 15, 1946; and two members, including the Real Estate Commissioner, January 15, 1947.

The terms shall expire in the same relative order as to each member as the term for which he holds office before this section takes effect.

Vacancies from any cause shall be filled by the Governor for the unexpired term.

Business of board member

10053. No person shall be appointed a member of the board who has not been for five years a real estate broker actively engaged in business as such in California.

Districts appointed from

10054. Three members of the board shall be residents of the northern district of California, and three members shall be residents of the southern district of California. The commissioner shall be appointed at large. Not more than two members shall be appointed from any one county.

The northern district shall consist of all that portion of the State north of the northerly lines of the counties of San Luis Obispo, Kern and San Bernardino, and the southern district shall consist of all that portion of the State south of the northerly lines of these three counties.

Salary of commissioner

10055. Each member of the board, except the commissioner, shall serve without compensation.

See also Stats. 1943, Ch. 672

The commissioner shall receive an annual salary of six thousand dollars ($6,000), to be paid monthly out of the State Treasury upon a warrant of the Controller.

Expenses

Each member shall be allowed his actual and necessary traveling expenses in the discharge of his duties.

Board meetings

10056. The board shall meet together for the transaction of business at least once each quarter-year, at such place in California as it may designate. It may meet more often upon five days' written notice of the time and place of meeting, signed by the commissioner or a majority of the members of the board.

Chairman of board

10057. The commissioner shall be chairman of the board.

Quorum

10058. A majority of the board constitutes a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power or authority of the board.

A vacancy on the board does not impair the right of the remaining members to perform all the duties and exercise all the power and authority of the board.

The act of the majority of the board, when in session as a board, is the act of the board.

Functions of board

10059. The board may:

(a) Inquire into the needs of the real estate licensees of California, the functions of the division and the matter of the business policy thereof.

(b) Confer and advise with the Governor and other State officers as to how the division may best serve the State and the real estate licensees of the division.

(c) Make such recommendations and suggestions of policy to the commissioner as the board deems beneficial and proper for the welfare and progress of the real estate licensees and of the public and of the real estate business in California.

Article 2. The Real Estate Commissioner

Commissioner as representative

10070. The Real Estate Commissioner shall be the representative of the State Real Estate Division in the Department of Investment for the purpose of representation in the Governor's Council.

Enforcement

10071. The commissioner shall enforce the provisions of this part and of Chapter 1 of Part 2. He has full power to regulate and control the issuance and revocation, both temporary and permanent, of all licenses to be issued under the provisions of this part, and to perform all other acts and duties provided in this part and Chapter 1 of Part 2 and necessary for their enforcement.

Bond

10072. The commissioner shall execute to the people of the State of California a bond in the penal sum of ten thousand dollars ($10,000), executed by two or more sureties or by a surety company duly authorized to do business in California, to be approved by the Governor of the State, for the faithful discharge of the duties of his office.

Personnel

10073. The commissioner shall employ such deputies, clerks and employees as he may need to discharge in proper manner the duties imposed upon him by law.

Vocations restricted See also Stats. 1943, Ch. 749

10074. After qualifying as such, neither the commissioner nor any of the deputies, clerks or employees of the division shall be interested in any business opportunity company, business opportunity brokerage firm, cemetery business, cemetery brokerage firm, real estate company or any real estate brokerage firm, as director, stockholder, officer, member, agent or employee, or act as a broker or salesman, or act as a copartner or agent for any broker or brokers, salesman or salesmen.

Duties and compensation

10075. Deputies, clerks and employees shall perform such duties as the commissioner shall assign to them.

Subject to the powers of the State Personnel Board and the Director of Finance, the commissioner shall fix the compensation of such deputies, clerks and employees, which compensation shall be paid monthly on a certificate of the commissioner, and on the warrant of the Controller out of the State Treasury.

Oath of office

10076. Each deputy shall, after his appointment, take and subscribe to the constitutional oath of office and file the same in the office of the Secretary of State.

Each clerk and employee shall take such oaths as may be required by law.

Main and branch offices

10077. The commissioner shall have his principal office in the City of Sacramento, and may establish branch offices in the

City and County of San Francisco, the City of Los Angeles and in such other cities as the commissioner may deem necessary, subject to the approval of the Department of Finance.

Seal

10078. The commissioner shall adopt a seal with the words "Real Estate Commissioner State of California" and such other device as the commissioner may desire engraved thereon, by which he shall authenticate the proceedings of his office.

Copies of all records and papers in the office of the commissioner certified under the hand and seal of the commissioner shall be received in evidence in all cases equally and with like effect as the originals.

Legal adviser

10079. The Attorney General shall render to the commissioner opinions upon all questions of law relating to the construction or interpretation of this part or Chapter 1 of Part 2 or arising in the administration thereof that may be submitted to him by the commissioner. The Attorney General shall act as the attorney for the commissioner in all actions and proceedings brought by or against him under or pursuant to any of the provisions of this part or of Chapter 1 of Part 2.

Rules

10080. The commissioner may from time to time promulgate necessary rules and regulations for the conduct of his office and the administration and enforcement of the provisions of this part and of Chapter 1 of Part 2.

Right to injunctions

10081. Whenever the commissioner believes from evidence satisfactory to him that any person has violated or is about to violate any of the provisions of this part or of Chapter 1 of Part 2 or any order, license, permit, decision, demand or requirement, or any part or provision thereof, he may bring an action in the name of the people of the State of California in the superior court of the State of California against such person to enjoin such person from continuing such violation or engaging therein or doing any act or acts in furtherance thereof.

In this action an order or judgment may be entered awarding such preliminary or final injunction as may be proper, but no preliminary injunction or temporary restraining order shall be granted without at least five days' notice to the opposite party.

Directory

10082. The commissioner shall publish or cause to be published on or about the first day of October of each year a directory or list of licensed brokers and salesmen and may publish therewith such matter as he may deem pertinent to this part and Chapter 1 of Part 2. He shall mail one copy of such directory to each licensed broker upon his request therefor, without charge.

Bulletin

10083. The commissioner may periodically issue a bulletin containing matter relating to his division, and to the provisions of this part and of Chapter 1 of Part 2, and the administration thereof, and may publish the same character of matter in any established periodical published in the State which in his opinion would be most likely to disseminate such matter and information to licensees under this part.

Enforcement

10084. The commissioner shall enforce the provisions of this part relating to cemetery brokerage.

So far as practicable, the commissioner and his appointees have all of the powers and duties given them by the provisions of this part relating to real estate for the purpose of enforcing the provisions of Chapter 5 of this part.

Application to cemetery brokerage

10085. The provisions of this part relating to real estate shall govern, so far as possible, the treatment of violations of Chapter 5 of this part.

The enumeration of certain powers of the commissioner in Chapter 5 of this part is not exclusive and the commissioner has all the powers, in enforcing Chapter 5 of this part, which he has under any other statute.

Article 3. Hearings

Disciplinary procedure

10100. Before denying, suspending or revoking any license issuable or issued under the provisions of this part, the commissioner shall proceed as prescribed by this article.

Temporary broker's license

10101. In case a hearing is called on an application for a broker's license, the commissioner, upon the request of the applicant, and upon the payment of the additional temporary broker's license fee shall issue a temporary broker's license in accordance with that chapter of this part under which the applicant held an unrevoked or unsuspended license on June 30th of the preceding fiscal year as an individual broker, a corporation, an officer of a corporation, a copartnership or member of a copartnership. The temporary broker's license shall expire at the time the decision rendered by the commissioner takes effect.

Temporary salesman's license

10102. In case a hearing is called on an application for a salesman's license, the commissioner, upon the request of the applicant, accompanied by the recommendation of the broker under whom the salesman is seeking a license, and upon the payment of the additional temporary salesman's license fee, shall issue a temporary salesman's license in accordance with that chapter of this part under which the applicant held an unrevoked or unsuspended salesman's or broker's license on June 30th of the preceding fiscal year. The temporary salesman's license shall expire at the time the decision rendered by the commissioner takes effect.

Disciplinary procedure

10103. The commissioner shall notify, in writing, the applicant or licensee of the charges against him and afford him an opportunity to be heard in person or by counsel with reference to the charges.

Service upon the licensee or applicant of the charges against him or of the notice of the time and place of trial shall be fully effected by mailing a true copy of the charges or notice by United States registered mail in a sealed envelope with postage fully prepaid thereon to the licensee or applicant at his latest address of record in the division. Within 10 days after service of a copy of the charges, the accused licensee or applicant shall appear and file a verified answer to the charges.

When decision takes effect

10104. In suspending or revoking any license, or in denying any application for a license where the applicant is the holder of a temporary license, either as a broker or salesman, the decision of the commissioner shall not take effect until 10 days after its date.

Review of decision

10105. The decision of the commissioner in denying, suspending or revoking any license is subject to judicial review in accordance with law.

Transcript

10106. Any party aggrieved by the decision of the commissioner may make a demand in writing for a certified transcript of all the papers on file in his office affecting or relating to such decision and all the evidence taken on the hearing and paying ten cents ($0.10) for each folio of the transcript and one dollar ($1) for the certification thereof. Thereupon the commissioner shall, within 30 days, make and certify such transcript.

Powers of commissioner

10107. The commissioner may administer oaths, certify to all official acts and issue subpenas for the attendance of witnesses and the production of books and papers.

Service of process

10108. In any hearing in any part of the State the process issued by the commissioner shall extend to all parts of the State and may be served by any person authorized to serve process of courts of record or by any person designated for that purpose by the commissioner.

Compensation for service of process

10109. The person serving any process issued by the commissioner shall receive such compensation as may be allowed by the commissioner, not to exceed the fees prescribed by law for similar service. The fees shall be paid in the same manner as provided in this article for the payment of the fees of witnesses.

Witness fees

10110. Each witness who appears by order of the commissioner shall receive for his attendance the same fees and mileage allowed by law to a witness in civil cases, which amount shall be paid by the party at whose request the witness is subpenaed.

Witness fees

10111. When any witness who has not been required to attend at the request of any party is subpenaed by the commissioner his fees and mileage shall be paid from the funds appropriated for the use of the division in the same manner as other expenses of the division are paid.

Powers of superior court

10112. The superior court in and for the county in which any hearing may be held by the commissioner may compel the attendance of witnesses, the giving of testimony and the production of books and papers as required by any subpena issued by the commissioner.

Attendance of witnesses

10113. In case of the refusal of any witness to attend or testify or produce any papers required by such subpena, the commissioner may petition the superior court in and for the county in which the hearing is pending, setting forth:

(a) That due notice has been given to the witness of the time and place of attendance or for the production of papers.

(b) That the witness has been summoned in the manner prescribed in this article.

(c) That the witness has failed and refused to attend or produce the papers required by subpena before the commissioner in the cause or proceeding named in the subpena, or has refused to answer questions propounded to him in the course of the hearing.

(d) A request for an order of court compelling the witness to attend and testify or produce the papers before the commissioner.

Order to show cause to witness

10114. The court upon petition of the commissioner shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days from the date of the order, and then and there show cause why he has not attended or testified or produced the papers before the commissioner. A copy of the order shall be served upon the witness.

Contempt of court

If it shall appear to the court that the subpena was regularly issued by the commissioner, the court shall thereupon enter an order that the witness appear before the commissioner at the time and place fixed in the order and testify or produce the required papers, and upon failure to obey the order, the witness shall be dealt with as for contempt of court.

Depositions

10115. The commissioner may in any hearing before him cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in the superior courts of this State, and to that end may compel the attendance of witnesses and the production of books and papers.

Right of attendance of witnesses

10116. Any party to any hearing before the commissioner shall have the right to the attendance of witnesses in his behalf at such hearing or upon deposition upon making request therefor to the commissioner and designating the person or persons sought to be subpenaed.

CHAPTER 3. REAL ESTATE REGULATIONS

Article 1. Scope of Regulation

License required

10130. It is unlawful for any person to engage in the business, act in the capacity of, advertise or assume to act as a real estate broker or a real estate salesman within this State without first obtaining a real estate license from the division.

Prosecution for violations

The commissioner may prefer a complaint for violation of this section before any court of competent jurisdiction, and the commissioner and his counsel, deputies or assistants may assist in presenting the law or facts at the trial.

It is the duty of the district attorney of each county in this State to prosecute all violations of this section in their respective counties in which the violations occur.

Broker defined

10131. A real estate broker within the meaning of this part is a person who, for a compensation, sells or offers for sale, buys, or offers to buy, lists, or solicits for prospective purchasers, or

negotiates the purchase or sale or exchange of real estate, or who, for compensation, negotiates loans on real estate, leases, or offers to lease, or negotiates the sale, purchase, or exchange of leases, rents, or places for rent, or collects rent from real estate, or improvements thereon, for another or others.

Salesman defined

10132. A real estate salesman within the meaning of this part is a natural person who for a compensation is employed by a licensed real estate broker to sell, or offer for sale, or to list, or to buy, or to offer to buy, or to negotiate the purchase or sale or exchange of real estate, or to solicit for prospective purchasers of real estate, or to negotiate a loan on real estate, or to lease, or to negotiate the sale, purchase or exchange of leases, or offer to lease, rent or place for rent, any real estate, or improvements thereon.

Persons exempt

10133. The provisions of this chapter, except Section 10140, do not apply to:

(a) Anyone who directly performs any of the acts within the scope of this chapter with reference to his own property or, in the case of a corporation which, through its regular officers receiving no special compensation therefor, performs any of the acts with reference to the corporation's own property.

(b) Anyone holding a duly executed power of attorney from the owner.

(c) Services rendered by an attorney at law in performing his duties as such attorney at law.

(d) Any receiver, trustee in bankruptcy, or any person acting under order of any court.

(e) Any trustee selling under a deed of trust.

One act constitutes person, etc., broker or salesman

10134. One act, for a compensation of buying or selling real estate of or for another, or offering for another to buy or sell or exchange real estate, or negotiating the purchase or sale or exchange of, or listing or soliciting prospective purchasers of real estate, or negotiating a loan on or leasing or renting or placing for rent real estate, or collecting rent therefrom constitutes the person making such offer, sale or purchase, exchange or lease, or negotiating the loan, or so renting or placing for rent or collecting the rent or listing or soliciting, a real estate broker or real estate salesman within the meaning of this part.

Lease

10135. When a lease or leasing is referred to in this article, it includes any lease, whether such lease is the sole transaction involved, or the principal or an incidental part of the transaction involved.

Action for compensation

10136. No person engaged in the business or acting in the capacity of a real estate broker or a real estate salesman within this State shall bring or maintain any action in the courts of this State for the collection of compensation for the performance of any of the acts mentioned in this article without alleging and proving that he was a duly licensed real estate broker or real estate salesman at the time the alleged cause of action arose.

Unlawful payment of compensation

10137. It is unlawful for any licensed real estate broker to employ or compensate, directly or indirectly, any person for

performing any of the acts within the scope of this chapter who is not a licensed real estate broker, or a real estate salesman licensed under the broker employing or compensating him.

No real estate salesman shall be employed by or accept compensation from any person other than the broker under whom he is at the time licensed.

It is unlawful for any licensed real estate salesman to pay any compensation for performing any of the acts within the scope of this chapter to any real estate licensee except through the broker under whom he is at the time licensed.

For a violation of any of the provisions of this section, the commissioner may temporarily suspend or permanently revoke the license of the real estate licensee, in accordance with the provisions of this part relating to hearings.

Misdemeanor punishable by fine

10138. It is a misdemeanor, punishable by a fine of not exceeding fifty dollars ($50) for each offense, for any person, whether obligor, escrow holder or otherwise, to pay or deliver to anyone a compensation for performing any of the acts within the scope of this chapter, who is not known to be or who does not present evidence to such payor that he is a regularly licensed real estate broker at the time such compensation is earned.

Penalty for violation

For a violation of any of the provisions of this section, the commissioner may temporarily suspend or permanently revoke the license of the real estate licensee in accordance with the provisions of this part relating to hearings.

Penalty acting without license

10139. Any person acting as a real estate broker or real estate salesman without a license or who advertises using words indicating that he is a real estate broker without being so licensed shall, upon conviction thereof, if a natural person, be punished by a fine of not to exceed five hundred dollars ($500), or by imprisonment in the county jail for a term not to exceed six months, or by both such fine and imprisonment in the discretion of the court; or if a corporation, be punished by a fine of not to exceed five thousand dollars ($5,000).

Penalty for false statements

10140. Every officer, agent or employee or any company, and every other person who knowingly authorizes, directs or aids in the publication, advertisement, distribution or circularization of any false statement or representation concerning any land or subdivision thereof (as defined in Chapter 1 of Part 2 of this division), offered for sale or lease, and every person who, with knowledge that any advertisement, pamphlet, prospectus or letter concerning any said land or subdivision (as defined in Chapter 1 of Part 2 of this division) contains any written statement that is false or fraudulent, issues, circulates, publishes or distributes the same, or causes the same to be issued, circulated, published or distributed, or who, in any other respect, wilfully violates or fails to comply with any of the provisions of this section, or who in any other respect wilfully violates or fails, omits or neglects to obey, observe or comply with any order, permit, decision, demand or

requirement of the commissioner under this section, is guilty of a public offense, and shall be punished by imprisonment in the county jail for a term not to exceed two years, by a fine of not to exceed two thousand dollars ($2,000), and, if a real estate licensee, he shall be held to trial by the commissioner for a suspension or revocation of his license, as provided in the provisions of this part relating to hearings. The district attorney of each county in this State shall prosecute all violations of the provisions of this section in respective counties in which the violations occur.

Article 2. Licenses

Application broker's license

10150. Application for license as real estate broker shall be made in writing to the commissioner. The application shall be accompanied by the real estate broker's examination fee and the original real estate broker's license fee and by the recommendation of two real estate owners of the county in which the applicant resides or has his place of business, certifying that the applicant is honest, truthful and of good reputation, and recommending that a real estate broker's license be granted to him.

If the applicant has resided, or has engaged in business for less than one year in the county from which the application is made, the application shall also be accompanied by the recommendation of two real estate owners of each of the counties where he has formerly resided or engaged in business during this period of one year prior to the filing of the application, certifying that the applicant is honest, truthful and of good reputation and recommending that a license be granted the applicant.

Salesman's application

10151. Application for license as real estate salesman shall be made in writing to the commissioner. The application shall be signed by the applicant, and shall set forth the period of time during which he has been engaged in the business, stating the name of his last employer and the name and place of business of the person then employing him, or in whose employ he is to enter. The application shall be accompanied by the real estate salesman's examination fee and the original real estate salesman's license fee and by the recommendation of his employer, if employed, certifying that the applicant is honest, truthful and of good reputation, and recommending that a real estate salesman's license be granted to the applicant.

Hearing on application

10152. The commissioner may require such other proof as he may deem advisable concerning the honesty, truthfulness and good reputation of any applicant for a real estate license, or of the officers of any corporation, or of the members of any copartnership making such application, before authorizing the issuance of a real estate license. For this purpose the commissioner may call a hearing in accordance with the provisions of this part relating to hearings.

Qualification test

10153. In addition to the proof of honesty, truthfulness and good reputation required of any applicant for a real estate license, the commissioner shall ascertain by written examination that the applicant, and in case of a copartnership or corporation applicant for a real estate broker's license that each officer, agent or member thereof through whom it proposes to act as a real estate licensee, has:

(a) Appropriate knowledge of the English language, including reading, writing and spelling and of elementary arithmetic.

(b) A fair understanding of the rudimentary principles of real estate conveyancing, the general purposes and general legal effect of deeds, mortgages, land contracts of sale and leases, and of the elementary principles of land economics and appraisals.

(c) A general and fair understanding of the obligations between principal and agent, of the principles of real estate practice and the canons of business ethics pertaining thereto, as well as of the provisions of this part relating to real estate and of Chapter 1 of Part 2.

Provisional salesman's license

10154. In the case of any applicant for a salesman's provisional real estate license, who complies with the required qualifications of honesty, truthfulness and good reputation, the commissioner need only ascertain by written examination that the applicant has (i) appropriate knowledge of the English language, including reading, writing and spelling, and of elementary arithmetic, and (ii) a fair understanding of the obligations between principal and agent and the provisions of this part relating to real estate and of Chapter 1 of Part 2.

After filing a complete application with the division and after qualifying by examination, the commissioner shall issue to the applicant a provisional real estate salesman's license upon the payment of the provisional licensee fee. The provisional real estate salesman's license is good either for (i) the remainder of the fiscal year or (ii) for not exceeding 120 days from the date of issuance, whichever is the shorter. The holder of a provisional real estate salesman's license shall not be entitled after the expiration of his provisional license to further real estate license unless he has first satisfied the commissioner by written examination that he has a fair understanding of (i) the rudimentary principles of real estate conveyancing, (ii) the general purposes and general legal effect of deeds, mortgages, land contracts of sale and leases, the elementary principles of land economics and appraisals and (iii) the principles of real estate practice and the canons of business ethics pertaining thereto.

Provisional salesman's license not transferable or renewable

10155. The holder of a provisional salesman's license may not transfer his employment under the license to another real estate broker or brokers. A provisional real estate salesman's license shall not be renewed.

Waiver of test

10156. The commissioner may, in his discretion, waive the examination of any applicant for a real estate broker's license who held an unrevoked or unsuspended real estate license on

June 30th of the preceding fiscal year, as an individual broker, an officer of a corporation or member of a copartnership.

The commissioner may, in his discretion, waive the examination of any applicant for a real estate salesman's license who held an unrevoked or unsuspended real estate salesman's license on June 30th of the preceding fiscal year and who had previously qualified by passing the written examination.

License limitations

10157. No real estate license gives authority to do any act specified in this chapter to any person, other than the person to whom the license is issued.

Corporation and partnership licenses

10158. When a real estate license is issued to a corporation, if it desires any of its officers other than its president, to act under its license as a real estate broker, it shall procure an additional license to so employ each of such officers. When a real estate license is granted to a copartnership, if it desires any of its members other than the one or ones through whom it is already licensed to act as a real estate broker, it shall procure an additional license to so employ each of such additional members.

Limitations on corporation and partnership licenses

10159. Each officer of a corporation through whom it is licensed to act as a real estate broker, and each member of a copartnership through whom it is licensed to act as a real estate broker, is, while so employed under such license, a licensed real estate broker, but licensed only to act as such for and on behalf of the corporation or the copartnership, as officer or member, respectively.

Display of license

10160. The real estate licenses of both broker and salesman shall be prominently displayed in the office of the real estate broker.

The real estate salesman's license shall remain in the possession of the licensed real estate broker employer until canceled or until the salesman leaves the employ of the broker.

Cancellation of salesman's license

10161. Immediately upon the real estate salesman's withdrawal from the employ of the real estate broker, the real estate broker shall return the real estate salesman's license to the commissioner for cancellation. A license canceled but not suspended or revoked may be reinstated within the fiscal year upon receipt of application therefor and the fee for the reinstatement of his license.

Definite office required

10162. Every licensed real estate broker shall have and maintain a definite place of business in the State of California which shall serve as his office for the transaction of business.

No real estate license authorizes the licensee to do business except from the location stipulated in the real estate license.

Change of business location

Notice in writing shall be given the commissioner of change of business location of a real estate broker, whereupon the commissioner shall issue a new license for the unexpired period. The change or abandonment of business location without notification to the commissioner and the issuance by him of a new real estate license shall automatically cancel the license theretofore issued.

Additional license for branch office

10163. If the applicant for a real estate broker's license maintains more than one place of business within the State he shall apply for and procure an additional license for each branch office so maintained by him. Every such application shall state the name of the person and the location of the place or places of business for which such license is desired. The commissioner may determine whether or not a real estate broker is doing a real estate brokerage business at or from any particular location which requires him to have a branch office license.

Display of sign

10164. Each real estate broker shall erect and maintain a sign in a conspicuous place on the premises to indicate that he is a licensed real estate broker and his name shall be clearly shown thereon. The size and place of the sign shall conform to regulations that may be adopted by the commissioner.

Penalties for violations

10165. For a violation of any of the provisions of Sections 10160, 10161, 10162, and 10164, the commissioner may temporarily suspend or permanently revoke the license of the real estate licensee in accordance with the provisions of this part relating to hearings.

Article 3. Disciplinary Action

Revocation or suspension of licenses

10175. Upon grounds provided in this article and the other articles of this chapter, the license of any real estate licensee may be revoked or suspended in accordance with the provisions of this part relating to hearings.

Revocation of licenses

10176. The commissioner may, upon his own motion, and shall upon the verified complaint in writing of any person, investigate the actions of any person engaged in the business or acting in the capacity of a real estate licensee within this State, and he may temporarily suspend or permanently revoke a real estate license at any time where the licensee within the immediately preceding three years, while a real estate licensee, in performing or attempting to perform any of the acts within the scope of this chapter has been guilty of any of the following:

Causes for revocation

(a) Making any substantial misrepresentation.

(b) Making any false promises of a character likely to influence, persuade or induce.

(c) A continued and flagrant course of misrepresentation or making of false promises through real estate agents or salesmen.

(d) Acting for more than one party in a transaction without the knowledge or consent of all parties thereto.

(e) Commingling the money or other property of his principal with his own.

(f) Any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing.

Additional causes for revocation

10177. The commissioner may suspend or revoke the license of any real estate licensee, who within three years immediately preceding has done any of the following:

(a) Procured a real estate license, for himself or any salesman, by fraud, misrepresentation or deceit.

(b) Been convicted of a felony, knowledge of which the commissioner did not have at the time of last issuing a real estate license to him.

(c) Knowingly authorized, directed, connived at or aided in the publication, advertisement, distribution, or circulation of any material false statement or representation concerning his business or any land or subdivision (as defined in Chapter 1 of Part 2 of this division) offered for sale.

(d) Wilfully disregarded or violated any of the provisions of this part relating to real estate or of Chapter 1 of Part 2.

(e) Wilfully used the term "realtor" without legal right so to do.

(f) Acted or conducted himself in a manner which would have warranted the denial of his application for a real estate license, or for a renewal thereof.

Employer's statements

10178. When any real estate salesman is discharged by his employer for a violation of any of the provisions of this article prescribing a ground for disciplinary action, a certified written statement of the facts with reference thereto shall be filed forthwith with the commissioner by the employer and if the employer fails to notify the commissioner as required by this section, the commissioner may temporarily suspend or permanently revoke the real estate license of the employer, in accordance with the provisions of this part relating to hearings.

Knowledge by employer of violation

10179. No violation of any of the provisions of this part relating to real estate or of Chapter 1 of Part 2 by any real estate salesman or employee of any licensed real estate broker shall cause the revocation or suspension of the license of the employer of the salesman or employee unless it appears upon a hearing by the commissioner that the employer had guilty knowledge of such violation.

Effect upon corporations and partnerships

10180. The commissioner may deny, suspend or revoke the real estate license of a corporation as to any officer or agent acting under its license, and the real estate license of a copartnership as to any member acting under its license, without revoking the license of the corporation or of the copartnership.

Article 4. Fees

License fees

10200. The fee for all real estate licenses shall at all periods of the fiscal year be the same as provided in this article. All real estate license fees shall be payable in advance of issuing the licenses and all examination fees shall be payable before taking the examination.

Unless otherwise provided, all licenses expire on June 30th of each year at midnight.

Renewals

10201. If a person fails to apply for a renewal of his real estate license prior to the date of expiration thereof, no license

shall be issued to him except upon another original application, except that within one year of such expiration, a renewal license may be issued upon payment of a fee double the amount otherwise required for renewal.

Application of definitions

10202. The definitions contained in this article are solely for the purposes of this article.

Original broker's license

10203. An original real estate broker's license is a real estate license issued to a person who did not have a real estate broker's license on June 30th of the fiscal year previous to the fiscal year for which the license is issued.

Renewal broker's license

10204. A renewal real estate broker's license is a real estate license issued to a person who had a real estate broker's license unrevoked and unsuspended on June 30th of the fiscal year previous to the fiscal year for which the renewal real estate license is issued.

Salesman's license

10205. An original real estate salesman's license is a real estate license issued to a person who did not have a real estate salesman's or a broker's license either individually or as an officer of a corporation, or as a member of a copartnership, on June 30th of the fiscal year previous to the fiscal year for which the salesman's license is issued.

Renewal salesman's license

10206. A renewal real estate salesman's license is a real estate license issued to a person who had a real estate salesman's or a broker's license either individually or as an officer of a corporation, or as a member of a copartnership, on June 30th of the fiscal year previous to the fiscal year for which the salesman's license is issued.

Fixing of fees

10207. The amount of the real estate fees prescribed for a license under this chapter is that fixed by the following provisions of this article.

Broker's fees

10208. The original real estate broker's license fee is five dollars ($5). The real estate broker's examination fee is fifteen dollars ($15) which examination fee covers all examinations prior to the issuance of such original broker's license.

Temporary broker's license fee

10209. The additional temporary broker's license fee is five dollars ($5).

Renewal broker's fee

10210. For a renewal real estate broker's license, the annual fee is five dollars ($5).

When licensee is corporation

10211. If the licensee is a corporation, the renewal license issued to it entitles the president thereof, on behalf of the corporation, to engage in the business of real estate broker without the payment of any further fee. For each officer other than the president of a licensed corporation, through whom it engages in the business of real estate broker, the annual fee is two dollars ($2) in addition to the fee paid by the corporation.

When licensee is a partnership

10212. If the licensee is a copartnership, the license issued to it entitles one member only of the copartnership to engage on behalf of the copartnership in the business of real estate broker, which member shall be designated in the application of the copartnership for a license. For each other member of the copartnership who on behalf of the copartnership

engages in the business of real estate broker the annual fee is two dollars ($2) in addition to the fee paid by the copartnership.

Salesman's fees

10213. The original real estate salesman's license fee is two dollars ($2). The real estate salesman's examination fee is three dollars ($3), which examination fee covers all examinations prior to the issuance of an original salesman's license.

Temporary salesman's fee

10214. The additional temporary salesman's license fee is two dollars ($2).

Renewal salesman's fee

10215. For a renewal real estate salesman's license, the annual fee is two dollars ($2).

Provisional fees

10216. The provisional license fee is two dollars ($2). The examination fee for a provisional license is three dollars ($3).

Branch office fee

10217. For a branch office broker's license the fee is one dollar ($1).

Change of name or address

10218. For change of name or of address of licensee on the records of the division the fee is one dollar ($1).

Transfer of salesman's license

10219. For transfer of a salesman's license on change of employer, the fee is one dollar ($1).

Duplicate license fee

10220. For a duplicate license the fee is one dollar ($1).

Reinstatement of license fee

10221. For reinstatement of a license within the fiscal year the fee is one dollar ($1).

CHAPTER 4. BUSINESS OPPORTUNITY REGULATIONS

Article 1. Scope of Regulation

License required for business opportunity broker and salesman

10250. It is unlawful for any person to engage in the business, act in the capacity of, or assume to act as a business opportunity broker or a business opportunity salesman within this State without first obtaining a license from the division.

Complaint for violation

The commissioner may prefer a complaint for violation of this section before any court of competent jurisdiction, and the commissioner and his counsel, deputies or assistants may assist in presenting the law or facts at the trial.

Duty of district attorney

It is the duty of the district attorney of each county in this State to prosecute all violations of this section in their respective counties in which the violations occur.

"Business opportunity"

10251. As used in this part, the words "business opportunity" shall mean and include business, business opportunity and good will of an existing business or any one or combination thereof.

Business opportunity broker

10252. A business opportunity broker within the meaning of this part is a person who, for a compensation, sells or offers for sale, rents, or offers to rent, or collects rent, buys, or offers to buy, lists, leases or offers to lease, or solicits for prospective tenants or purchasers, or negotiates the purchase or sale or the renting, leasing or exchanging of a business, business opportunity, or interest therein, or the good will of an existing business, for another or others.

Business opportunity salesman

10253. A business opportunity salesman within the meaning of this part is a natural person who for a compensation

is employed by a licensed business opportunity broker to sell, or offer for sale, to rent, or offer to rent, or collect rent, or to list or offer to list, or to buy, or to offer to buy, or to lease or offer to lease, or to solicit for prospective tenants or purchasers, or to negotiate the purchase or sale or the renting, leasing, or exchanging of a business, business opportunity, or interest therein, or the good will of an existing business.

Persons exempt

10254. The provisions of this chapter, except Section 10261, do not apply to:

(a) Anyone who directly performs any of the acts within the scope of this chapter with reference to his own property or, in case of a corporation, through its regular officers receiving no special compensation therefor, performs any of the acts with reference to the corporation's own property.

(b) Anyone holding a duly executed power of attorney from the owner.

(c) Services rendered by an attorney at law in performing his duties as such attorney at law.

(d) Any receiver, trustee in bankruptcy, or any person acting under order of any court.

(e) A trustee selling under a deed of trust.

(f) A real estate broker or real estate salesman while acting as such in connection with the sale, lease or exchange of real property or an interest therein when the transfer of a business, business opportunity or good will of an existing business is purely incidental to the sale, lease or exchange of real property.

One act constitutes person, etc., broker or salesman

10255. One act, for a compensation of buying or selling a business opportunity of or for another, or offering for another to buy or sell or exchange a business opportunity, or negotiating the purchase or sale or exchange of, or listing or soliciting prospective purchasers of business opportunities, or negotiating a loan on or leasing or renting or placing for rent a business opportunity, or collecting rent therefrom constitutes the person making such offer, sale or purchase, exchange or lease, or negotiating the loan, or so renting or placing for rent or collecting the rent or listing or soliciting, a business opportunity broker or salesman within the meaning of this part.

Lease

10256. When a lease or leasing is referred to in this article, it includes any lease, whether such a lease is the sole transaction involved, or the principal or an incidental part of the transaction involved.

Action for compensation

10257. No person engaged in the business or acting in the capacity of a business opportunity broker or a business opportunity salesman within this State shall bring or maintain any action in the courts of this State for the collection of compensation for the performance of any of the acts mentioned in this article without alleging and proving that he was a duly licensed business opportunity broker or business opportunity salesman at the time the alleged cause of action arose.

Unlawful payment of compensation

10258. It is unlawful for any licensed business opportunity broker to employ or compensate, directly or indirectly, any person for performing any of the acts within the scope of this

chapter who is not a licensed business opportunity broker, or a business opportunity salesman licensed under the broker employing or compensating him.

No business opportunity salesman shall be employed by or accept compensation from any person other than the business opportunity broker under whom he is at the time licensed.

It is unlawful for any licensed business opportunity salesman to pay any compensation for performing any of the acts within the scope of this chapter to any business opportunity licensee except through the business opportunity broker under whom he is at the time licensed.

For a violation of any of the provisions of this section, the commissioner may temporarily suspend or permanently revoke the license of the business opportunity licensee in accordance with the provisions of this part relating to hearings.

Misdemeanor punishable by fine

10259. It is a misdemeanor, punishable by a fine of not exceeding fifty dollars ($50) for each offense, for any person, whether obligor, escrow holder or otherwise, to pay or deliver to anyone a compensation for performing any of the acts within the scope of this chapter, who is not known to be or who does not present evidence to such payor that he is a regularly licensed business opportunity broker at the time such compensation is earned.

Penalty for violation

For a violation of any of the provisions of this section, the commissioner may temporarily suspend or permanently revoke the license of the business opportunity licensee in accordance with the provisions of this part relating to hearings.

Penalty acting without license

10260. Any person acting as a business opportunity broker or business opportunity salesman without a license shall, upon conviction thereof, if a natural person, be punished by a fine of not to exceed five hundred dollars ($500), or by imprisonment in the county jail for a term not to exceed six months, or by both such fine and imprisonment in the discretion of the court; or if a corporation, be punished by a fine of not to exceed five thousand dollars ($5,000).

Penalty for false statements

10261. Every officer, agent or employee of any company, and every other person who knowingly authorizes, directs or aids in the publication, advertisement, distribution or circularization of any false statement or representation concerning any business opportunity, and every person who, with knowledge that any advertisement, pamphlet, prospectus or letter concerning any business opportunity or any written statement that is false or fraudulent, issues, circulates, publishes or distributes the same, or causes the same to be issued, circulated, published or distributed, or who in any other respect wilfully violates or fails, omits, or neglects to obey, observe or comply with any order, permit, decision, demand or requirement of the commissioner under the provisions of this part relating to business opportunity regulation, is guilty of a misdemeanor, and shall be punished by imprisonment in the county jail for a term not to exceed six months, or by a fine of not to exceed five hundred dollars ($500), and, if a business opportunity

licensee, he shall be held to trial by the commissioner for a suspension or revocation of his business opportunity license, as provided in the provisions of this part relating to hearings. It shall be the duty of the district attorney of each county in this State to prosecute all violations of the provisions of this section in respective counties in which the violations occur.

Article 2. Licenses

Application business opportunity broker's license

10275. Application for license as business opportunity broker shall be made in writing to the commissioner. The application shall be accompanied by the business opportunity broker's examination fee and the original business opportunity broker's license fee and by the recommendation of two real estate owners of the county in which the applicant resides or has his place of business, certifying that the applicant is honest, truthful and of good reputation, and recommending that a business opportunity broker's license be granted to him.

If the applicant has resided, or has engaged in business for less than one year in the county from which the application is made, the application shall also be accompanied by the recommendation of two real estate owners of each of the counties where he has formerly resided or engaged in business during this period of one year prior to the filing of the application, certifying that the applicant is honest, truthful and of good reputation and recommending that a license be granted to the applicant.

Application business opportunity salesman's license

10276. Application for license as business opportunity salesman shall be made in writing to the commissioner. The application shall be signed by the applicant and shall set forth the period of time during which he has been engaged in the business, stating the name of his last employer and the name and place of business of the person then employing him, or in whose employ he is to enter. The application shall be accompanied by the business opportunity salesman's examination fee and the original business opportunity salesman's license fee and by the recommendation of his employer, if employed, certifying that the applicant is honest, truthful and of good reputation, and recommending that a business opportunity license be granted to the applicant.

Hearing on application

10277. The commissioner may require such other proof as he may deem advisable concerning the honesty, truthfulness and good reputation of any applicant for a business opportunity license, or of the officers of any corporation, or of the members of any copartnership making such application, before authorizing the issuance of a business opportunity license. For this purpose the commissioner may call a hearing in accordance with the provisions of this part relating to hearings.

Qualification test

10278. In addition to the proof of honesty, truthfulness and good reputation required of an applicant for a business opportunity license, the Real Estate Commissioner shall ascertain by written examination that the applicant, and in case of a copartnership or corporation applicant for a business opportunity

broker's license that each officer, agent or member thereof through whom it proposes to act as a business opportunity licensee, has:

(a) Appropriate knowledge of the English language, including read, writing and spelling, and of elementary arithmetic.

(b) A fair understanding of the general purposes and general legal effect of deeds, mortgages, chattel mortgages, contracts of sale, bills of sale, liens and leases, of the elementary principles of business economics, appraisals, and the purchase, sale, renting and leasing of personal property.

(c) A general and fair understanding of the obligations between principal and agent, of the principles of business opportunity brokerage practice and the business ethics pertaining thereto, as well as of the provisions of this part relating to business opportunity regulation.

Waiver of examination

10279. The commissioner may, in his discretion, waive the examination of any applicant for a business opportunity broker's license who held an unrevoked or unsuspended business opportunity license on June 30th of the preceding fiscal year as an individual broker, an officer of a corporation, or member of a copartnership.

The commissioner may, in his discretion, waive the examination of any applicant for a business opportunity salesman's license who held an unrevoked or unsuspended business opportunity salesman's license on June 30th of the preceding fiscal year and who had previously qualified by passing the written examination.

License limitations

10280. No business opportunity license gives authority to do any act specified in this chapter to any person, other than the person to whom the license is issued.

Corporation and partnership licenses

104281. When a business opportunity license is issued to a corporation, if it desires any of its officers other than its president, to act under its license as a business opportunity broker, it shall procure an additional license to so employ each of such officers. When a business opportunity license is granted to a copartnership, if it desires any of its members other than the one or ones through whom it is already licensed to act as a business opportunity broker, it shall procure an additional license to so employ each of such additional members.

Limitations on corporation and partnership licenses

10282. Each officer of a corporation through whom it is licensed to act as a business opportunity broker, and each member of a copartnership through whom it is licensed to act as a business opportunity broker, is, while so employed under such license a licensed business opportunity broker, but licensed only to act as such for and on behalf of the corporation or the copartnership, as officer or member, respectively.

Display of licenses

10283. The business opportunity licenses of both broker and salesman shall be prominently displayed in the office of the business opportunity broker.

The business opportunity salesman's license shall remain in the possession of the licensed business opportunity broker

employer until canceled or until the salesman leaves the employ of the broker.

Cancellation of salesman's license

10284. Immediately upon the salesman's withdrawal from the employ of the broker, the broker shall return the salesman's license to the commissioner for cancellation. A license canceled but not suspended or revoked may be reinstated within the fiscal year upon receipt of application therefor and the fee for the reinstatement of his license.

Definite office required

10285. Every licensed business opportunity broker shall have and maintain a definite place of business in the State of California which shall serve as his office for the transaction of business.

No business opportunity license authorizes the licensee to do business except from the location stipulated in the business opportunity license.

Change of location

Notice in writing shall be given the commissioner of change of business location of a business opportunity broker, whereupon the commissioner shall issue a new business opportunity license for the unexpired period. The change or abandonment of business location without notification to the commissioner and the issuance by him of a new business opportunity license shall automatically cancel the business opportunity license theretofore issued.

Additional license for branch office

10286. If the applicant for a business opportunity broker's license maintains more than one place of business within the State he shall apply for and procure an additional license for each branch office so maintained by him. Every such application shall state the name of the person and the location of the place or places of business for which such license is desired.

The commissioner may determine whether or not a broker is doing a business opportunity brokerage business at or from any particular location which requires him to have a branch office license.

Display of sign

10287. Each business opportunity broker shall erect and maintain a sign in a conspicuous place on the premises to indicate that he is a licensed business opportunity broker and his name shall be clearly shown thereon. The size and place of the sign shall conform to regulations that may be adopted by the commissioner.

Penalties for violations

10288. For a violation of any of the provisions of Sections 10283, 10284, 10285 and 10287, the commissioner may temporarily suspend or permanently revoke the license of the business opportunity licensee in accordance with the provisions of this part relating to hearings.

Article 3. Disciplinary Action

Revocation or suspension of business opportunity licenses

10300. Upon grounds provided in this article and the other articles of this chapter, the license of any business opportunity licensee may be revoked or suspended in accordance with the provisions of this part relating to hearings.

Revocation of licenses

10301. The commissioner may, upon his own motion, and shall, upon the verified complaint in writing of any person,

investigate the actions of any person engaged in the business or acting in the capacity of a business opportunity licensee, within this State, and he may temporarily suspend or permanently revoke a business opportunity license at any time if the licensee, within the immediately preceding three years, while a business opportunity licensee, in performing or attempting to perform any of the acts within the scope of this chapter has been guilty of any of the following:

Causes for revocation

(a) Making any substantial misrepresentation.

(b) Making any false promises of a character likely to influence, persuade or induce.

(c) A continued and flagrant course of misrepresentation or making of false promises through business opportunity agents or salesmen.

(d) Acting for more than one party in a transaction without the knowledge or consent of all parties thereto.

(e) Commingling the money or other property of his principal with his own.

(f) Any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing.

Additional causes for revocation

10302. The commissioner may suspend or revoke the license of any business opportunity licensee, who within three years immediately preceding has done any of the following:

(a) Procured a business opportunity license, for himself or any salesman, by fraud, misrepresentation or deceit.

(b) Been convicted of a felony, knowledge of which the commissioner did not have at the time of last issuing a business opportunity license to him.

(c) Knowingly authorized, directed, connived at or aided in the publication, advertisement, distribution, or circulation of any material false statement or representation concerning his business or any business opportunity offered for sale.

(d) Wilfully disregarded or violated any of the provisions of this part relating to business opportunity regulation.

(e) Acted or conducted himself in a manner which would have warranted the denial of his application for a business opportunity license, or for a renewal thereof.

Employer's statements

10303. When any business opportunity salesman is discharged by his employer for a violation of any of the provisions of this article prescribing a ground for disciplinary action, a verified written statement of the facts with reference thereto shall be filed forthwith with the commissioner by the employer and, if the employer fails to notify the commissioner as required by this section, the commissioner may temporarily suspend or permanently revoke the business opportunity license of the employer in accordance with the provisions of this part relating to hearings.

Effect upon corporations and partnerships

10304. The commissioner may deny, suspend or revoke the business opportunity license of a corporation as to any officer or agent acting under its business opportunity license, and the business opportunity license of a copartnership as to any mem-

ber acting under its business opportunity license, without revoking the business opportunity license of the corporation or of the copartnership.

Article 4. Fees

License fees

10320. The fee for all business opportunity licenses shall at all periods of the fiscal year be the same as provided in this article. All business opportunity license fees shall be payable in advance of issuing the licenses and all examination fees shall be payable before taking the examination.

Term of license

10321. All business opportunity licenses shall be issued for the fiscal year of July 1st to June 30th, inclusive, and shall expire on June 30th of each fiscal year at midnight.

Application of definitions

10322. The definitions contained in this article are solely for the purposes of this article.

Original business opportunity broker's license

10323. An original business opportunity broker's license is a business opportunity license issued to a person who did not have a business opportunity broker's license on June 30th of the fiscal year previous to the fiscal year for which the license is issued.

Renewal license

10324. A renewal business opportunity broker's license is a business opportunity license issued to a person who had a business opportunity broker's license unrevoked and unsuspended on June 30th of the fiscal year previous to the fiscal year for which the renewal business opportunity license is issued.

Original business opportunity salesman's license

10325. An original business opportunity salesman's license is a business opportunity license issued to a person who did not have a business opportunity salesman's or a broker's license either individually or as an officer of a corporation, or as a member of a copartnership, on June 30th of the fiscal year previous to the fiscal year for which the salesman's license is issued.

Renewal license

10326. A renewal business opportunity salesman's license is a business opportunity license issued to a person who had a business opportunity salesman's or a broker's license either individually or as an officer of a corporation, or as a member of a copartnership, on June 30th of the fiscal year previous to the fiscal year for which the salesman's license is issued.

Fixing of fees

10327. The amount of the business opportunity fees prescribed for a license under this chapter is that fixed by the following provisions of this article.

Broker's fees

10328. The original business opportunity broker's license fee is five dollars ($5). The business opportunity broker's examination fee is fifteen dollars ($15) which examination fee covers all examinations prior to the issuance of such original broker's license.

Temporary broker's license fee

10329. The additional temporary broker's license fee is five dollars ($5).

Renewal broker's fee

10330. For a renewal business opportunity broker's license, the annual fee is five dollars ($5).

Licenses for corporations

10331. If the licensee is a corporation, the renewal license issued to it entitles the president thereof, on behalf of such corporation, to engage in the business of business opportunity broker without the payment of any further fee. For each officer other than the president of a licensed corporation, through whom it engages in the business of business opportunity broker, the annual fee is two dollars ($2) in addition to the fee paid by the corporation.

Licenses for partnerships

10332. If the licensee is a copartnership, the license issued to it entitles one member only of the copartnership to engage on behalf of the copartnership in the business of business opportunity broker, which member shall be designated in the application of the copartnership for a license. For each other member of the copartnership who on behalf of the copartnership engages in the business of business opportunity broker the annual fee shall be two dollars ($2) in addition to the fee paid by the copartnership.

Salesman's fees

10333. The original business opportunity salesman's license is two dollars ($2). The business opportunity salesman's examination fee is seven dollars and fifty cents ($7.50), which examination fee covers all examinations prior to the issuance of an original salesman's license.

Temporary salesman's fee

10334. The additional temporary salesman's license fee is two dollars ($2).

Renewal salesman's fee

10335. For a renewal business opportunity salesman's license, the annual fee is two dollars ($2).

Branch office fee

10336. For a branch office broker's license the fee is one dollar ($1).

Change of name or address

10337. For change of name or of address of licensee on the records of the division the fee is one dollar ($1).

Transfer of salesman's license

10338. For transfer of a salesman's license on change of employer, the fee is one dollar ($1).

Duplicate license fee

10339. For a duplicate license the fee is one dollar ($1).

Reinstatement of license fee

10340. For reinstatement of a license within the fiscal year the fee is one dollar ($1).

CHAPTER 5. CEMETERY BROKERAGE REGULATIONS

Article 1. Scope of Regulation

License required

10350. No person shall engage in the business of, act in the capacity of, advertise or assume to act as, a cemetery broker or cemetery salesman in this State without first obtaining a license from the commissioner.

Cemetery broker

10351. A cemetery broker is a person who, for a compensation, sells or offers for sale, buys, or offers to buy, lists, leases or offers to lease, or solicits, or negotiates the purchase or sale, lease or exchange of cemetery property, or interest therein, for another.

Cemetery salesman

10352. A cemetery salesman is a natural person who for a compensation is employed by a cemetery broker to sell, or offer for sale, list or offer to list, or to buy, or to offer to buy, or to lease, or to offer to lease, or to solicit, or to negotiate the pur-

chase or sale or lease or exchange of cemetery property, or any interest therein.

"Burial park" 10353. "Burial park" has the meaning ascribed to it by Section 7004 of the Health and Safety Code.

"Mausoleum" 10354. "Mausoleum" has the meaning ascribed to it by Section 7005 of the Health and Safety Code.

"Columbarium" 10355. "Columbarium" has the meaning ascribed to it by Section 7007 of the Health and Safety Code.

"Cemetery" 10356. "Cemetery" has the meaning ascribed to it by Section 7003 of the Health and Safety Code.

Persons exempt 10357. This chapter, except Section 10363, does not apply to the following cases or to the following persons:

(a) A person acting with reference to his own property.

(b) The regular officers of a cemetery corporation acting with reference to the corporation's property when they receive no special compensation therefor.

(c) Persons holding a duly executed power of attorney from others.

(d) The services rendered by an attorney at law in performing his duties as such.

(e) A receiver, trustee in bankruptcy, any person acting under orders of any court, or a trustee selling under a deed of trust.

(f) A real estate broker or real estate salesman, acting as such in connection with the sale, lease or exchange of real property, or interest therein, when the transfer of cemetery property is purely incidental to the sale, lease or exchange of real property.

One act constitutes person, broker or salesman 10358. Any act for a compensation of buying or selling, leasing or exchanging cemetery property of or for another, or offering for another to buy or sell, lease or exchange cemetery property, or negotiating the purchase or sale, lease or exchange of cemetery property, or negotiating the purchase or sale, lease or exchange of, or listing or soliciting, or negotiating a loan on or leasing of cemetery property constitutes the person making such offer, sale or purchase, exchange or lease, or negotiating the loan, or listing or soliciting, a cemetery broker or a cemetery salesman.

Action for compensation 10359. No person engaged in the business or acting in the capacity of a broker or a salesman within this State shall bring or maintain any action in the courts of this State for the collection of compensation for the performance of any of the acts mentioned in this article without alleging and proving that he was a duly licensed cemetery broker or cemetery salesman at the time the alleged cause of action arose.

Unlawful payment of compensation 10360. No cemetery broker shall employ or compensate, directly or indirectly, any person for performing any of the acts within the scope of this chapter who is not a licensed cemetery broker, or a cemetery salesman licensed under the cemetery broker employing or compensating him. No cemetery salesman shall be employed by or accept compensation

from any person other than the cemetery broker under whom he is at the time licensed.

No salesman shall pay any compensation for performing any of the acts within the scope of this chapter to any licensee except through the cemetery broker under whom he is at the time licensed.

For a violation of any of the provisions of this section, the commissioner may temporarily suspend or permanently revoke the license of the cemetery licensee in accordance with the provisions of this part relating to hearings.

Misdemeanor punishable by fine

10361. It is a misdemeanor, punishable by a fine not exceeding fifty dollars ($50) for each offense, for any person, whether obligor, escrow holder or otherwise, to pay or deliver to anyone a compensation for performing any of the acts within the scope of this chapter, who is not known to be or who does not present evidence to such payor that he is a licensed cemetery broker at the time such compensation is earned.

Penalty for false statements

For violation of any of the provisions of this section, the commissioner may temporarily suspend or permanently revoke the license of the cemetery licensee in accordance with the provisions of this part relating to hearings.

Penalties imposed

10362. Any person acting as a cemetery broker or cemetery salesman without a license, or who advertises so as to indicate he is a cemetery broker without being so licensed, is guilty of a misdemeanor. If such person is a corporation, it shall be punished by a fine of not to exceed five thousand dollars ($5,000).

Penalty for false statements

10363. Every officer, agent or employee of any company, and every other person who knowingly authorizes, directs or aids in the publication, advertisement, distribution or circularization of any false statement or representation concerning any cemetery or cemetery brokerage business and every person who, with knowledge that any advertisement, pamphlet, prospectus or letter concerning any cemetery brokerage business or any written statement that is false or fraudulent, issues, circulates, publishes or distributes the same, or causes it to be issued, circulated, published or distributed, or who in any other respect wilfully violates or fails, omits or neglects to obey, observe or comply with any order, permit, decision, demand or requirement of the commissioner under the provisions of this part relating to cemetery brokerage, is guilty of a misdemeanor, and, if a cemetery licensee, he shall be held to trial by the commissioner for a suspension or revocation of his cemetery license, as provided in the provisions of this part relating to hearings.

Article 2. Licenses

Application and recommendations for cemetery broker's license

10375. Application for license as cemetery broker shall be made in writing to the commissioner. The application shall be accompanied by the cemetery broker's examination fee and the original cemetery broker's license fee and by the

recommendation of two real estate owners of the county in which such applicant resides or has his place of business, certifying that the applicant is honest, truthful and of good reputation, and recommending that a cemetery license be granted to him. If the applicant has resided or has engaged in business for less than one year in the county from which the application is made, the application shall also be accompanied by the recommendation of two real estate owners of each of the counties where he has formerly resided or engaged in business during this period of one year prior to the filing of the application, certifying that the applicant is honest, truthful and of good reputation and recommending that a license be granted the applicant.

Salesman's application and recommendation

10376. Application for license as cemetery salesman shall be made in writing to the commissioner, signed by the applicant, and shall set forth the period of time during which he has been engaged in the business, state the name of his last employer and the name and place of business of the person then employing him or about to employ him. The application shall be accompanied by the cemetery salesman's examination fee and the original cemetery salesman's license fee and by the recommendation of his employer, if employed, certifying that the applicant is honest, truthful and of good reputation, and recommending that a cemetery license be granted to the applicant.

Additional proof

10377. The commissioner may require such other proof as he may deem advisable concerning the honesty, truthfulness and good reputation of any applicant for a cemetery license, or of the officers of any corporation, or of the members of any copartnership making such application, before authorizing the issuance of a cemetery license. For this purpose, the commissioner may call a hearing in accordance with the provisions of this part relating to hearings.

Qualification test

10378. In addition to proof of honesty, truthfulness and good reputation required of an applicant for a cemetery license, the commissioner shall ascertain by written examination that the applicant, and, in case of a copartnership or corporation applicant for a cemetery broker's license, that each officer, agent or member thereof through whom it proposes to act as a cemetery licensee has:

(a) Appropriate knowledge of the English language, including reading, writing and spelling, and of elementary arithmetic.

(b) A fair understanding of:

(1) Cemetery associations, cemetery corporations and duties of directors.

(2) Plot ownership, deeds, certificates of ownership, contracts of sale, liens and leases.

(3) Establishing, dedicating, maintaining, managing, operating, improving and conducting a cemetery.

(4) The care, preservation and embellishment of cemetery property.

(5) The care and preservation of perpetual care funds, trust funds, and the investment thereof.

(c) A general and fair understanding of the obligations between principal and agent, of the principles of cemetery brokerage practice and the business ethics pertaining thereto, as well as of the provisions of this part relating to cemetery brokerage.

Waiver of test

10379. The commissioner may, in his discretion, waive the examination of any applicant for a cemetery broker's license who held an unrevoked or unsuspended cemetery license on June 30th of the preceding fiscal year as an individual broker, an officer of a corporation, or member of a copartnership. The commissioner may waive the examination of any applicant for a cemetery salesman's license who held an unrevoked or unsuspended cemetery salesman's license on June 30th of the preceding fiscal year and who previously qualified by passing a written examination.

Temporary salesman's license

10380. The commissioner shall issue, without examination, to any person who otherwise qualifies, a temporary salesman's license, good for a period of three months from the date of issuance, irrespective of the fact that the fiscal year may terminate within such three months. An applicant shall not be entitled to more than one temporary license without examination.

License limitations

10381. No cemetery license gives authority to do any act specified in this chapter to any person other than the person to whom the license is issued.

Corporation and co-partnership licenses

10382. When a cemetery brokerage license is issued to a cemetery brokerage corporation, if it desires any of its officers other than the officer through whom it is already licensed to act under its license as a cemetery broker, it shall procure an additional license for each such officer. When a cemetery brokerage license is granted to a cemetery brokerage copartnership, if it desires any of its members other than the one through whom it is already licensed to act as a cemetery broker, it shall procure an additional license for each such member.

Limitations on corporation and co-partnership licenses

10383. Each officer of a corporation through whom it is licensed to act as a cemetery broker, and each member of a copartnership through whom it is licensed to act as a cemetery broker, is, while so employed under such license, a licensed cemetery broker, but licensed only to act as such for and on behalf of the corporation or the copartnership, as officer or member, respectively.

Display of license

10384. The cemetery licenses of both broker and salesman shall be prominently displayed in the office of the broker.

The cemetery salesman's license shall remain in the possession of the licensed cemetery broker employer until canceled or until the salesman leaves the employ of the broker.

Cancellation of salesman's license

10385. Immediately upon the salesman's withdrawal from the employ of the broker, the broker shall return the salesman's license to the commissioner for cancellation. A license

canceled but not suspended or revoked may be reinstated within the fiscal year upon receipt of application therefor and the fee for the reinstatement of his license.

Definite office required

10386. Every licensed cemetery broker shall have and maintain a definite place of business in this State which shall serve as his office for the transaction of business.

No cemetery license authorizes the licensee to do business except from the location stipulated in the cemetery license.

Change of business location

Notice in writing shall be given the commissioner of change of business location of a cemetery broker, whereupon the commissioner shall issue a new cemetery license for the unexpired period. The change or abandonment of business location without notification to the commissioner and the issuance by him of a new cemetery license shall automatically cancel the license theretofore issued.

Additional license for branch office

10387. If the applicant for a cemetery broker's license maintains more than one place of business within the State he shall apply for and procure an additional license for each branch office so maintained by him. Every such application shall state the name of the person and the location of the place of business for which such license is desired.

The commissioner may determine whether or not a broker is doing a cemetery brokerage business at or from any particular location which requires him to have a branch office license.

Display of sign

10388. Each cemetery broker shall erect and maintain a sign in a conspicuous place on the premises to indicate that he is a licensed cemetery broker and his name shall be clearly shown thereon. The size and place of the sign shall conform to regulations that may be adopted by the commissioner.

Penalties for violations

10389. For a violation of any of the provisions of Sections 10384, 10385, 10386, and 10388, the commissioner may temporarily suspend or permanently revoke the license of the cemetery licensee in accordance with the provisions of this part relating to hearings.

Article 3. Disciplinary Action

Revocation or suspension of licenses

10400. Upon grounds provided in this article and the other articles of this chapter, the license of any cemetery licensee may be revoked or suspended in accordance with the provisions of this part relating to hearings.

Revocation of licenses

10401. The commissioner may, upon his own motion, and shall, upon the verified complaint in writing of any person, investigate the actions of any person engaged in the business or acting in the capacity of a cemetery licensee, and he may temporarily suspend or permanently revoke a license at any time where the licensee, within the immediately preceding three years, while a cemetery licensee, in performing or attempting to perform any of the acts specified in this chapter, has been guilty of any of the following:

Causes for revocation

(a) Making any substantial misrepresentation.

(b) Making any false statement of a character likely to influence or persuade.

(c) A continued and flagrant course of misrepresentation or making of false promises through cemetery agents or salesmen.

(d) Acting for more than one party in a transaction without the knowledge or consent of all parties thereto.

(e) Commingling the money or other property of his principal with his own.

(f) Any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing.

The misrepresentations and false statements mentioned in this section include also misrepresentation and false statements as to other property than that which the cemetery licensee may be selling or attempting to sell.

Additional causes for revocation

10402. The commissioner may suspend or revoke the license of any cemetery licensee who, within three years immediately preceding has done any of the following:

(a) Procured a cemetery license, for himself or any salesman, by fraud, misrepresentation or deceit.

(b) Been convicted of a felony, knowledge of which the commissioner did not have at the time of last issuing a cemetery license to him.

(c) Knowingly authorized, directed, connived at or aided in the publication, advertisement, distribution, or circulation of any material false statement or representation concerning his business or any cemetery property offered for sale.

(d) Wilfully disregarded or violated any of the provisions of this part relating to cemetery brokerage.

(e) Acted or conducted himself in a manner which would have warranted the denial of his application for a cemetery license, or for a renewal thereof.

Employer's statements

10403. When any salesman is discharged by his employer for a violation of any of the provisions of this article prescribing a ground for disciplinary action, a verified written statement of the facts with reference thereto shall be filed forthwith with the commissioner by the employer and, if the employer fails to notify the commissioner as required by this section, the commissioner may temporarily suspend or permanently revoke the cemetery license of the employer in accordance with the provisions of this part relating to hearings.

Effect upon corporations and partnerships

10404. The commissioner may deny, suspend or revoke the cemetery license of a corporation as to any officer or agent acting under its cemetery license, and the cemetery license of a copartnership as to any member acting under its cemetery license, without revoking the cemetery license of the corporation or of the copartnership.

Article 4. Fees

License fees

10420. The fee for all cemetery licenses at all periods of the fiscal year is the same as provided in this article. All cemetery license fees are payable in advance of issuing the

licenses and all examination fees are payable before taking the examination. Except a temporary salesman's license, for which other provision is made, all licenses shall be issued for the fiscal year and shall expire on June 30th of each fiscal year at midnight.

Application of definitions

10421. The definitions contained in this article are solely for the purposes of this article.

Original cemetery broker's license

10422. An original cemetery broker's license is a cemetery license issued to a person who did not have a cemetery broker's license on June 30th of the fiscal year previous to the fiscal year for which the license is issued.

Renewal license

10423. A renewal cemetery broker's license is a cemetery license issued to a person who had a cemetery broker's license unrevoked and unsuspended on June 30th of the fiscal year previous to the fiscal year for which the renewal cemetery license is issued.

Original cemetery salesman's license

10424. An original cemetery salesman's license is a cemetery license issued to a person who did not have a cemetery salesman's or a broker's license either individually or as an officer of a corporation, or as a member of a copartnership, on June 30th of the fiscal year previous to the fiscal year for which the salesman's license is issued.

Renewal license

10425. A renewal cemetery salesman's license is a cemetery license issued to a person who had a cemetery salesman's or a broker's license either individually or as an officer of a corporation, or as a member of a copartnership, on June 30th of the fiscal year previous to the fiscal year for which the salesman's license is issued.

Fixing of fees

10426. The amount of the cemetery fees prescribed for a license under this chapter is that fixed by the following provisions of this article.

Broker's fees

10427. The original cemetery broker's license fee is five dollars ($5). The cemetery broker's examination fee is fifteen dollars ($15), which examination fee shall be paid for each examination taken by applicant.

Temporary broker's fee

10428. The additional temporary broker's license fee is five dollars ($5).

Renewal broker's fee

10429. For a renewal cemetery broker's license the annual fee is five dollars ($5).

Licenses for corporations

10430. If the licensee is a cemetery brokerage corporation, the renewal license issued to it entitles one officer only, on behalf of such corporation, to engage in the business of cemetery broker without the payment of further fee, such officer to be designated in the application of the corporation for a license. For each other officer of a licensed cemetery brokerage corporation, through whom it engages in the business of cemetery broker, the annual fee is two dollars ($2), in addition to the fee paid by the corporation.

Licenses for partnerships

10431. If the licensee is a cemetery brokerage copartnership, the license issued to it entitles one member only of the copartnership to engage on behalf of the copartnership in

the business of cemetery broker, which member shall be designated in the application of the copartnership for a license. For each other member of the copartnership who on behalf of the copartnership engages in the business of cemetery broker, the annual fee is two dollars ($2) in addition to the fee paid by the copartnership.

Fees for salesman's license

10432. The original cemetery salesman's license fee is two dollars ($2). The cemetery salesman's examination fee is three dollars ($3), which examination fee shall be paid for each examination taken by an applicant.

Temporary salesman's fee

10433. The additional temporary salesman's license fee is two dollars ($2).

Renewal salesman's fee

10434. For a renewal cemetery salesman's license the annual fee is two dollars ($2).

Branch office fee

10435. For a branch office broker's license, the fee is one dollar ($1).

Change of name or address

10436. For change of name or of address of licensee on the records of the commissioner, the fee is one dollar ($1).

Transfer of salesman's license

10437. For transfer of a salesman's license on change of employer, the fee is one dollar ($1).

Duplicate license fee

10438. For a duplicate license the fee is one dollar ($1).

Reinstatement of license fee

10439. For reinstatement of a license within the fiscal year, the fee is one dollar ($1).

CHAPTER 6. REVENUE

Article 1. Real Estate Fund

Real Estate Fund

10450. All fees charged and collected under this part and under Chapter 1 of Part 2 shall be paid by the commissioner at least once a week, accompanied by a detailed statement thereof, into the Treasury of the State to the credit of the Real Estate Fund, which fund is continued in existence.

Use to which fund appropriated

10451. All money paid into the State Treasury and credited to the Real Estate Fund is hereby appropriated to be used by the commissioner in carrying out the provisions of this part and Chapter 1 of Part 2, including the payment of the salaries of the commissioner and his deputies, clerks and assistants. The money credited to the fund shall remain therein.

Warrants on fund

10452. The Controller shall draw his warrant on the fund from time to time in favor of the commissioner for the amounts expended under his direction, and the Treasurer shall pay the same.

Expenditures

10453. All of the expenditures of the commissioner, including his salary, shall be paid only from the Real Estate Fund.

Revolving fund

10454. The commissioner may, with the consent of the Department of Finance, withdraw from the Real Estate Fund moneys to be used as a revolving fund where cash advances are necessary. The commissioner shall account for the sum withdrawn from the revolving fund at any time upon demand of the Department of Finance. The commissioner

semiannually shall certify under oath to the State Treasurer and Secretary of State the total amount of receipts and expenditures of his department for the six months preceding.

Reversion of funds

10455. All moneys in excess of one hundred thousand dollars ($100,000) remaining in the State Treasury to the credit of the Real Estate Fund at noon on the thirtieth day of June of each year shall on or before the fifteenth day of the succeeding month be transferred from the Real Estate Fund to the General Fund of the State.

Article 2. Exemption from Fees

Military licensees

10460. As used in this article:

(a) "Military licensee" refers to all of the following:

(1) A person who, while licensed under the California Real Estate Act, entered the Military Service of the United States and notified the commissioner in accordance with the provisions of Section 10c of that act.

(2) A person who, while licensed under the Business Opportunity Act, entered the Military Service of the United States and notified the commissioner in accordance with the provisions of Section 9b of that act.

(3) A person who, while licensed under the Cemetery Brokerage Act, entered the Military Service of the United States and notified the commissioner in accordance with the provisions of Section 115 of that act.

(4) A person who, while licensed under the California Real Estate Act, the Business Opportunity Act or the Cemetery Brokerage Act entered the Military Service of the United States and notifies the commissioner of that fact under this article within two months of his entry.

(5) A person who, while licensed under this part, enters the Military Service of the United States and notifies the commissioner of that fact within two months of his entry.

(b) "Military service," "period of military service" and "person in the Military Service of the United States" have the meanings ascribed to them by Section 101 or the Soldiers' and Sailors' Civil Relief Act of 1940.

Renewal of license by military licensee

10461. A military licensee shall not be required for the period of military service to renew his license under this part. His license shall remain in full force and effect for the period of military service and until the termination of the license period during which his period of military service terminates. If his period of military service terminates during the last two months of the license period, no penalty shall attach for failure to file renewal application within the time required by law, and the time for filing his application shall be extended for two months after termination of the license period.

PART 2. REGULATION OF TRANSACTIONS

CHAPTER 1. SUBDIVIDED LANDS

Article 1. General Provisions

Definitions

11000. "Subdivided lands" and "subdivision" refer to land or lands divided or proposed to be divided for the purpose of sale or lease, whether immediate or future, into five or more lots or parcels.

Rules

11001. The Real Estate Commissioner (hereafter referred to in this chapter as the commissioner) may from time to time promulgate rules and regulations for the administration and enforcement of the provisions of this chapter and he is authorized to issue any order, permit, decision, demand, or requirement to effect this purpose.

Liens existing Aug. 14, 1931

11002. No lien, encumbrance, option, contract or trust agreement existing on August 14, 1931, and no extension, renewal or refinancing of any such existing lien, encumbrance, option, contract or trust agreement shall be affected by any amendment to Section 20a of the California Real Estate Act by Chapter 601 of the Statutes of 1931 and any continuation of such amendments in this chapter.

Article 2. Investigation, Regulation and Report

Notify commissioner of subdivisions

11010. Prior to the time when subdivided lands are to be offered for sale or lease, the owner, his agent or subdivider shall notify the commissioner in writing of his intention to sell such offering.

The notice of intention shall contain the following information:

(a) The name and address of the owner.

(b) The name and address of the subdivider.

(c) The legal description and area of lands.

(d) A true statement of the condition of the title to the land, particularly including all encumbrances thereon.

(e) A true statement of the terms and conditions on which it is intended to dispose of the land, together with copies of any contracts intended to be used.

(f) Such other information as the owner, his agent, or subdivider, may desire to present.

Additional information and fee

11011. After receiving the notice of intention, the commissioner may require such additional information concerning the project as he deems necessary, for which purpose he may prepare a questionnaire for the owner, his agent or subdivider, to answer. A filing fee of fifty dollars ($50) shall accompany the answered questionnaire.

Notice of change in setup required

11012. It is unlawful for the owner, his agent, or subdivider, of the project, after it is submitted to the Real Estate Division, to materially change the setup of such offering without first notifying the Real Estate Division in writing of such intended change.

Encumbered lands

11013. In case the lands to be subdivided are subject to a lien or encumbrance securing or evidencing the payment of money other than taxes or assessments levied by public authority, or in case the interest of the owner, his agent, or subdivider, is held under option or contract of purchase or in trust, it is unlawful to sell any land in such subdivision unless provisions exist in such lien, encumbrance, option, contract or trust agreement, or in a valid supplementary agreement enabling the vendor to deliver title to each parcel sold free of the lien, encumbrance, option, contract or trust agreement, upon completion of all payments and performance of all the terms and provisions required to be made and performed, or either, by the vendee under the agreement of sale. Certified or verified copies of documents containing the required provisions shall be filed with the Real Estate Division prior to the sale of any part of the subdivision.

Expense of inspection

11014. The commissioner at the expense of the owner, his agent, or subdivider, may investigate any subdivision being offered for sale or lease in this State. The total cost of such examination shall be borne by the owner, his agent, or subdivider, of the project on the basis of actual costs to the Real Estate Division.

Out-of-State lands

11015. When an inspection is to be made of subdivided lands, situated outside the State of California, being offered for sale or lease in this State, the questionnaire shall be accompanied by the filing fee, together with an amount equivalent to five cents ($0.05) a mile for each mile going and returning, estimated by the commissioner to be traveled by railroad from Sacramento to the location of the project, and an amount estimated to be necessary to cover the additional expenses of such inspection, not to exceed ten dollars ($10) a day for each day consumed in the examination of the project.

Lands within State

11016. When an inspection is to be made of subdivided lands, situated within this State, being offered for sale or lease, and not to be used for residential or for business purposes, the questionnaire shall be accompanied by the filing fee, together with an amount estimated by the Real Estate Commissioner to be necessary to cover the actual expenses of such inspection, not to exceed ten dollars ($10) a day for each day consumed in the examination of the project. If the subdivided lands are situated in this State, and are to be offered for sale or lease for residential and for business purposes, or for either, the questionnaire shall be accompanied by the filing fee only.

Deposit of funds

11017. All fees and earned expense collected under this chapter shall be deposited in the Real Estate Fund under Chapter 6 of Part 1 of Division 4 of this code.

Public report

11018. When the Real Estate Division makes an examination of any subdivision, the commissioner shall make a public report of his findings thereon. He may publish the report.

Order prohibiting sale or lease

11019. An order prohibiting the sale and lease, or either, of the property in this State may be issued by the commissioner if the examination of the project shows that the sale or lease would constitute misrepresentation to or deceit or fraud of the purchasers of lots or parcels in the subdivision.

Hearing on order of prohibition

Before such order of prohibition shall be issued by the commissioner, a hearing shall be held by the Real Estate Division, and the same procedure shall be followed as provided in Article 3 of Chapter 2 of Part 1 of Division 4 of this code. An order of the commissioner is subject to judicial review in accordance with law.

Penalties for violations of provisions of chapter

11020. Every officer, agent or employee of any company, and every other person who knowingly authorizes, directs or aids in the publication, advertisement, distribution or circularization of any false statement or representation concerning any land, or subdivision thereof offered for sale or lease, and every person who, with knowledge that any advertisement, pamphlet, prospectus or letter concerning any said land or subdivision contains any written statement that is false or fraudulent, issues, circulates, publishes or distributes the same, or shall cause the same to be issued, circulated, published or distributed, or who, in any other respect, wilfully violates or fails to comply with any of the provisions of this chapter, or who in any other respect wilfully violates or fails, omits or neglects to obey, observe or comply with any order, permit, decision, demand or requirement of the commissioner under this chapter, is guilty of a public offense, and shall be punished by imprisonment in the county jail for a term not to exceed two years, or by a fine of not to exceed two thousand dollars ($2,000), and, if a real estate licensee, he shall be held to trial by the commissioner for a suspension or revocation of his license, as provided in Article 3 of Chapter 2 of Part 1 of Division 4 of this code. The district attorney of each county in this State shall prosecute all violations of the provisions of this chapter in respective counties in which the violations occur.

Duty of district attorneys

SEC. 2. Section 30042 is added to said code, to read:

Acts repealed

30042. The following acts, together with all acts amendatory thereof or supplementary thereto, are hereby repealed:

General Laws

Year	Chapter	Page
1919	605	1252
1937	588	1633
1937	785	2235

CHAPTER 128

An act to add Chapter 2, comprising Sections 11500 to 11628, inclusive, and Chapter 3, comprising Sections 11650 to 11658, inclusive, to Part 2 of Division 4 of the Business and Professions Code, to add Section 30043 to the Business and Professions Code and to amend Section 325 of the Revenue and Taxation Code, thereby consolidating and revising the law relating to the surveying, subdividing and mapping of real estate; the sale and disposal of real estate by reference to maps; the powers and duties of cities, counties and towns with reference to the surveying, subdividing and mapping of real estate, and the preparation of official maps; prescribing penalties for violations thereof and repealing acts and parts of acts specified therein.

Stats 1937, p 1229, amended

Stats 1939, p 1274, amended

[Approved by Governor April 13, 1943. Filed with Secretary of State April 13, 1943]

In effect August 4, 1943

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

SECTION 1. Chapter 2, comprising Sections 11500 to 11628, is added to Part 2 of Division 4 of the Business and Professions Code, to read:

New chapter

CHAPTER 2. SUBDIVISION MAPS

Article 1. General Provisions

11500. This chapter may be cited as the Subdivision Map Act.

Short title

11501. The definitions in this article apply to the provisions of this chapter only and do not affect any other provisions of this code.

Limitation of definitions

11502. "County surveyor" includes county engineer, if there is no county surveyor.

"County surveyor"

11503. "Tentative map" refers to a map made for the purpose of showing the design of a proposed subdivision and the existing conditions in and around it and need not be based upon an accurate or detailed final survey of the property.

"Tentative map"

11504. "Final map" refers to a map prepared in accordance with the provisions of this chapter and those of any applicable local ordinance, which map is designed to be placed on record in the office of the county recorder of the county in which any part of the subdivision is located.

"Final map"

11505. "Record of survey map" refers to a map prepared as provided in this chapter and conforming to the provisions of Chapter 15 of Division 3 of this code.

"Record of survey map"

11506. "Local ordinance" refers to an ordinance regulating the design and improvement of subdivisions, enacted by the governing body of any city or county under the provisions of this chapter or any prior statute, regulating the design and improvement of subdivisions, in so far as the provisions

"Local ordinance"

of the ordinance are consistent with and not in conflict with the provisions of this chapter.

"Subdivision" 11507. "Subdivision" refers to any land or portion thereof subject to the provisions of this chapter. See Section 11535.

"Subdivider" 11508. "Subdivider" refers to a person, firm, corporation, partnership or association who causes land to be divided into a subdivision for himself or for others.

"Advisory agency" 11509. "Advisory agency" refers to an official or an official body designated by a local ordinance and charged thereby with the duty of making investigations and reports on the design and improvement of proposed subdivisions.

"Design" 11510. "Design" refers to street alignment, grades and widths, alignment and widths of easements and right of ways for drainage and sanitary sewers and minimum lot area and width.

"Improvement" 11511. "Improvement" refers to only such street work and utilities to be installed, or agreed to be installed, by the subdivider on the land dedicated or to be dedicated for streets, highways, public ways, and easements, as are necessary for the general use of the lot owners in the subdivision and local neighborhood traffic and drainage needs, as a condition precedent to the approval and acceptance of the final map thereof.

Article 2. Administration

Control of design and improvement of land subdivisions 11525. Control of the design and improvement of subdivisions is vested in the governing bodies of cities and of counties but, in all matters concerning such design and improvement, any decision by a governing body is subject to review as to its reasonableness by the superior court in and for the county in which the land is situated.

Superior court proceedings Any subdivider or person claiming to be aggrieved by the decision of a governing body may within 90 days after the rendering of the decision bring a special proceeding in the superior court to determine the reasonableness of the decision. The proceeding shall take precedence over all matters upon the calendar of the court, criminal, probate, eminent domain and forcible entry and unlawful detainer proceedings excepted.

Governing provisions 11526. The design, improvement and survey data of subdivisions and the form and content of tentative, record of survey and final maps thereof, and the procedure to be followed in securing official approval are governed by the provisions of this chapter and by the additional provisions of local ordinances dealing with subdivisions, the enactment of which is authorized by this chapter.

Jurisdiction of governing body 11527. The governing body of a county has jurisdiction only to approve the map of a subdivision, or such part thereof, as may lie within unincorporated area, and the governing body of a city has jurisdiction only to approve a map of a subdivision, or such part thereof, as may lie within the incorporated area of the city.

Subdivisions outside territorial boundaries 11528. The legislative body of any city or county which desires to inspect and make recommendations concerning the

map or maps of proposed subdivisions adjacent to but outside of its jurisdictional boundary line, may file with the clerk of the governing body or the advisory agency of any adjoining city or county having jurisdiction, a map or an amended map of territory within such second mentioned city or county in which territory it is interested in proposed subdivisions. The territory may not extend a distance of more than three miles from the common boundary line of the cities or counties.

Receipt and transmission of map

The clerk of the governing body or the advisory agency of the city or county having jurisdiction shall issue a receipt for the territorial map and thereafter shall transmit to the official designated by the requesting city or county, within three days after the receipt thereof, one copy of each tentative map of any subdivision located wholly or partly within the territory outlined on the territorial map.

Recommendations

Any requesting city or county, which receives a copy of a tentative map, shall make its recommendations, if any, to the clerk of the governing body or advisory agency from which the tentative map was received within 15 days after receipt thereof. The recommendations shall be taken into consideration by the governing body or advisory agency of the city or county having jurisdiction before action is taken upon the tentative map.

Certificate required

11529. The county surveyor or city engineer shall make such detailed examination of final maps and record of survey maps and such field check, if any, as may be necessary to enable him to make the certificate required by subsection (c) of Section 11576 and by Section 11593. Local ordinances may provide a proper and reasonable fee to be collected from the subdivider for such examination.

Recordation of certified copy of ordinance

11530. A certified copy of each local ordinance and amendments thereto shall be recorded in the office of the county recorder.

See also Stats 1943, Ch 668

Article 3. Scope of Regulation

"Subdivision"

11535. (a) "Subdivision" refers to any land or portion thereof, shown on the last preceding tax roll as a unit or as contiguous units, which is divided for the purpose of sale, whether immediate or future, by any subdivider into five or more parcels within any one-year period.

Exemptions

(b) "Subdivision" does not include either of the following:

(1) Any parcel or parcels of land in which all of the following conditions are present: (i) which contain less than five acres, (ii) which abut upon dedicated streets or highways, (iii) in which street opening or widening is not required by the governing body in dividing the land into lots or parcels, and (iv) the lot design meets the approval of the governing body.

(2) Any parcel or parcels of land divided into lots or parcels, each of a net area of two and one-half acres or more, a tentative map of which has been submitted to the governing body and has been approved by it as to street alignment and widths, drainage provisions and lot design.

Filing of map

(c) In either case provided in subsection (b) of this section, there shall be filed a record of survey map pursuant only to the provisions of Chapter 15 of Division 3 of this code.

Permissible recording

11536. Nothing contained in this chapter prevents the recording under the provisions of this chapter and any applicable local ordinances of a final map of any land not defined as a subdivision.

Scope of chapter

11537. (a) This chapter does not prohibit the filing of a map in accordance with (i) the provisions of Chapter 3 of this part and the use thereof for purposes therein provided or (ii) the provisions of any act requiring the filing of licensed surveyor's or registered civil engineer's records of surveys.

Previously subdivided acreage land, etc

(b) A final map may be recorded under the provisions of this chapter for the purpose of showing as acreage land previously subdivided into parcels or lots or blocks, and a map may likewise be recorded if it does not divide into two or more taxable parcels any parcel of land which is described as a unit on the latest adopted county tax roll. In either of the cases mentioned in this subsection, if sufficient recorded data exist from which an accurate map may be compiled, there need not be a certificate by a surveyor or engineer.

Tax bond not required

(c) A tax bond shall not be required in any of the cases covered by this section.

Recordation or filing of map prior to sale

11538. (a) It is unlawful for any person to offer to sell, to contract to sell or to sell any subdivision or any part thereof until a final map or record of survey map thereof in full compliance with the provisions of this chapter and any local ordinance has been duly recorded or filed in the office of the recorder of the county in which any portion of the subdivision is located.

Exceptions

(b) Subsection (a) does not apply to any parcel or parcels of a subdivision offered for sale, contracted for sale or sold in compliance with or exempt from any law (including a local ordinance), regulating the design and improvement of subdivisions in effect at the time the subdivision was established.

Restriction on conveyance

11539. Conveyances of any part of a subdivision shall not be made by lot or block number, initial or other designation, unless and until a final map has been recorded.

Voidable contracts, etc

11540. Any sale or contract to sell made contrary to the provisions of this chapter is voidable at the sole option of the buyer or person contracting to purchase, his heirs, personal representative, or trustee in insolvency or bankruptcy within one year after the date of execution of the sale or contract to sell, but the sale or contract to sell is binding upon any assignee or transferee of the buyer or person contracting to purchase, other than those above enumerated, and upon the vendor, or person contracting to sell, or his assignee, heir or devisee.

Penalties

11541. Any offer to sell, contract to sell or sale contrary to the provisions of this chapter is a misdemeanor, and any person, firm, or corporation, upon conviction thereof, shall be punishable by a fine of not less than twenty-five dollars

($25) and not more than five hundred dollars ($500), or imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment.

Civil remedies not barred

11542. This chapter does not bar any legal, equitable, or summary remedy to which any aggrieved municipality or other political subdivision, or any person, firm or corporation may otherwise be entitled, and any such municipality or other political subdivision or person, firm or corporation may file a suit in the superior court of the county in which any property attempted to be subdivided or sold in violation of this chapter is located, to restrain or enjoin any attempted or proposed subdivision or sale in violation of this chapter.

Article 4. Tentative Maps

Preparation and filing of tentative maps

11550. The initial action in connection with the making of any subdivision shall be the preparation of a tentative map or maps which shall show, or be accompanied by, such data as are specified in the local ordinance in addition to the data specified by the provisions of this chapter.

The subdivider shall file copies of the tentative map or maps with the advisory agency or with the clerk of the governing body if there is no advisory agency.

The official with whom the tentative map or maps are filed shall comply with the provisions of Section 11528 with respect to the request of any adjoining city or county.

Compliance with local requirements

See also Stats 1943, Ch 668

11551. In case there is a local ordinance, the subdivider shall comply with its provisions before the map or maps of a subdivision may be approved. In case there is no local ordinance, the governing body may, as a condition precedent to the approval of the map or maps of a subdivision, require streets and drainage ways properly located and of adequate width, but may make no other requirements.

Approval or disapproval of tentative maps

11552. If there is no advisory agency, the clerk of the governing body shall submit the tentative map to the governing body at its next regular meeting, which shall act thereon within 40 days thereafter.

If there is an advisory agency, it shall report on the map or maps of any subdivision submitted to it within 30 days after the tentative map has been filed and the report shall approve, conditionally approve or disapprove the map or maps of the subdivision.

The governing body may authorize the advisory agency to report its action direct to the subdivider. If the governing body does not so authorize the advisory agency, the advisory agency shall make its report to the governing body, which body shall act upon the report within 10 days or at its next succeeding regular meeting after receipt of the report.

Appeal to legislative body

If the subdivider is dissatisfied with any action of the advisory agency he may, within 15 days after such action, appeal to the governing body. The governing body shall hear the appeal, unless the subdivider consents to a continuance, within 10 days or at its next succeeding regular meeting.

The governing body may, by a majority vote of its members, overrule any ruling of the advisory agency in regard to the tentative map and may make such findings as are not inconsistent with the provisions of this chapter or local ordinance adopted pursuant to this chapter.

Failure to act, etc

11553. The time limits for acting and reporting on tentative maps as specified in this article may be extended by mutual consent of the subdivider and the governing body or advisory agency as the case may be.

If no action is taken within these time limits, the tentative map as filed shall be deemed to be approved and it shall be the duty of the clerk of the governing body to certify the approval.

Preparation of final map or sale
See also Stats 1943, Ch 668

11554. Within one year after approval or conditional approval of the tentative map or maps, the subdivider may cause the subdivision, or any part thereof, to be surveyed and a final map to be prepared in accordance with the tentative map as approved, or he may proceed with the sale by metes and bounds or other similar definite description of the parcels or parts thereof as shown on an approved record of survey map.

Failure to record map
See also Stats 1943, Ch 668

11555. Any failure to record a final map or to file a record of survey map within one year from the approval or conditional approval of the tentative map shall terminate all proceedings. Before a final map may thereafter be recorded, approved record of survey map filed or any sales made, a new tentative map shall be submitted.

Article 5. Final Maps

Election to record final map

11565. In case the subdivider desires to record a final map under the provisions of this chapter, he shall comply with all the provisions of the chapter, and, if there is a local ordinance, with all of its provisions.

Survey and final map

11566. The survey and final map shall be made by a registered civil engineer or licensed surveyor who shall set sufficient durable monuments so that another engineer or surveyor may readily retrace the survey. Monuments need not be set at the time the survey is made if a satisfactory assurance is given of their being set later.

Form of final map

11567. The final map shall conform to all of the following provisions:

(a) It shall be clearly and legibly drawn in black waterproof India ink upon good tracing cloth, but affidavits, certificates and acknowledgments may be legibly stamped or printed upon the map with opaque ink.

(b) The size of each sheet shall be 18 by 26 inches. A marginal line shall be drawn completely around each sheet, leaving an entirely blank margin of one inch. The scale of the map shall be large enough to show all details clearly and enough sheets shall be used to accomplish this end. The particular number of the sheet and the total number of sheets comprising

the map shall be stated on each of the sheets, and its relation to each adjoining sheet shall be clearly shown.

(c) It shall show all survey and mathematical information and data necessary to locate all monuments and to locate and retrace any and all interior and exterior boundary lines appearing thereon, including bearings and distances of straight lines, and radii and arc length for all curves, and such information as may be necessary to determine the location of the centers of curves.

(d) Each lot shall be numbered and each block may be numbered or lettered. Each street shall be named.

(e) The exterior boundary of the land included within the subdivision shall be indicated by colored border. The map shall show the definite location of the subdivision, and particularly its relation to surrounding surveys.

(f) It shall also satisfy any additional survey and map requirements of the local ordinance.

Article 6. Record of Survey

Filing record of survey map

11575. If the subdivider does not elect to prepare and record a final map, then before proceeding with the sale of any part of the subdivision, he shall file, in the office of the county recorder, a record of survey map conforming, in respect to design, to the approved tentative map or maps.

In this event, the governing body may require only such street grading and surfacing and drainage provisions reasonably necessary for lot access and local neighborhood traffic and drainage needs.

The construction of any of these improvements may be accomplished as provided in Article 9.

Certificates on record of survey map

11576. The following certificates shall appear on a record of survey map:

(a) A certificate for execution by the clerk of each approving governing body stating that the body approved the map for subdivision purposes in accordance with the conditional approval of the tentative map.

(b) A certificate by the engineer or surveyor responsible for the survey giving the date of the survey and stating that the survey was made by him or under his direction and setting forth the name of the owner who authorized him to make the survey and that the survey is true and complete as shown. This certificate shall also state that the monuments are of the character and occupy the positions indicated or that they will be set in such positions and at such time as is agreed upon under Section 11566. This certificate shall also state that the monuments are or will be sufficient to enable the survey to be retraced.

(c) A certificate or certificates of the county suveyor or city engineer relating to the examination of the map such as is required in the case of a final map.

Article 7. Certificates and Acknowledgments on Final Maps

Certificates and acknowledgments on final map

11585. The certificates and acknowledgments for which provision is made in this article shall appear on the final map and may be combined where appropriate.

Liens

11586. A lien for State, county, municipal or local taxes and for special assessments or beneficial interest under trust deeds or trust interest under bond indentures, does not constitute an interest in land for the purpose of this article.

Omission of signatures

11587. Signatures required by this article, of parties owning the following types of interests, may be omitted if their names and the nature of their respective interests are indorsed on the map:

(a) Rights of way, easements or other interests, none of which can ripen into a fee and which signatures are not required by the governing body.

(b) Rights of way, easements or reversions, which by reason of changed conditions, long disuse or laches appear to be no longer of practical use or value and which signatures it is impossible or impractical to obtain. In this case a reasonable statement of the circumstances preventing the procurement of the signatures shall also be indorsed on the map.

Recording of maps without consent

11588. Any map including territory originally patented by the United States or the State of California, under patent reserving interest to either or both of these entities, may be recorded under the provisions of this chapter without the consent of the United States or the State of California thereto or to dedications made thereon.

Consent to preparation and recording by interested parties

11589. A certificate, signed and acknowledged by all parties having any record title interest in the land subdivided, consenting to the preparation and recordation of the final map is required.

Dedication requires certificate

11590. In event of dedication, there is required a certificate, signed and acknowledged by those parties having any record title interest in the land subdivided, offering certain parcels of land for dedication for certain specified public uses, subject to such reservations as may be contained in any such offer.

The certificate may state that any certain parcel or parcels are not offered for dedications. However, a local ordinance may require as a condition precedent to the approval of any final map that any or all of the parcels of land shown thereon and intended for any public use shall be offered for dedication for public use except those parcels, other than streets, intended for the exclusive use of the lot owners in the subdivision, their licensees, visitors, tenants and servants.

Certificate by approving governing bodies

11591. There is required a certificate for execution by the clerk of each approving governing body stating that the body approved the map and accepted or rejected on behalf of the public any parcels of land offered for dedication for public use in conformity with the terms of the offer of dedication.

Certificate by one responsible for survey and final map

11592. A certificate by the engineer or surveyor responsible for the survey and final map is required. His certificate shall give the date of the survey and state that the survey was made by him or under his direction and that the survey is true and complete as shown.

The certificate shall also state that the monuments are of the character and occupy the positions indicated, or that they will be set in such positions and at such time as is agreed upon under Section 11566. The certificate shall also state that the monuments are or will be sufficient to enable the survey to be retraced.

Certificate by county surveyor or city engineer

See also Stats 1943, Ch 668

11593. (a) If a subdivision lies within an unincorporated area, a certificate by the county surveyor and, if a subdivision lies within a city, a certificate by the city engineer is required. The appropriate official shall state that:

(1) He has examined the map.

(2) The subdivision as shown is substantially the same as it appeared on the tentative map, and any approved alterations thereof.

(3) All provisions of this chapter and of any local ordinance applicable at the time of approval of the tentative map have been complied with.

(4) He is satisfied that the map is technically correct.

(b) Upon mutual agreement between the county surveyor and any city engineer, with the approval of their respective governing bodies, the county surveyor may perform any or all of the duties assigned to the city engineer, including the required certification. Whenever such duties are divided between the county surveyor and the city engineer, each officer shall certify to the duties performed by him.

Article 8. Taxes and Assessments

Certificate of official computing redemptions, etc.

11600. Prior to the filing of the final map with the governing body, the subdivider shall file with the clerk of the board of supervisors of the county, in which any part of the subdivision is located, a certificate from the official computing redemptions in any county or any municipal corporation in which any part of the subdivision is located, showing that, according to the records of his office, there are no liens against the subdivision or any part thereof for unpaid State, county, municipal or local taxes or special assessments collected as taxes, except taxes or special assessments not yet payable.

As to taxes or special assessments collected as taxes not yet payable, the subdivider shall file with the clerk of the board of supervisors mentioned, a certificate by each proper officer giving his estimate of the amount of taxes and assessments which are a lien but which are not yet payable.

Bond or deposit to secure payment of taxes

11601. Whenever any part of the subdivision is subject to a lien for taxes or special assessments collected as taxes which are not yet payable, the final map shall not be recorded until the owner or subdivider executes and files with the board of supervisors of the county wherein any part of the subdivision

is located, a good and sufficient bond to be approved by the board and by its terms made to inure to the benefit of the county and conditioned upon the payment of all State, county, municipal and local taxes and all special assessments collected as taxes, which at the time the final map is recorded are a lien against the property, but which are not yet payable. In lieu of a bond, a deposit may be made of money or negotiable bonds in the same amount, and of the kind approved for securing deposits of public money.

Bond where portion of larger parcel

11602. If the land being subdivided is a portion of a larger parcel shown on the last preceding tax roll as a unit, the bond or deposit for payment of taxes need be only for such sum as may be determined by the board of supervisors to be sufficient to pay the taxes on the land being subdivided, together with all accrued penalties and costs if such taxes are allowed to become delinquent.

Redemption of portion of larger parcel

If the land being subdivided is sold for taxes it may be redeemed from such sale without the redemption of the remainder of the larger parcel of which it is a part pursuant to the provisions of the Revenue and Taxation Code as if it were held in ownership separate from and other than the ownership of the remainder.

Security for payment of special assessments

11603. Whenever land subject to a special assessment or bond which may be paid in full, is divided by the line of a lot or parcel of the subdivision, such assessment or bond shall be paid in full or a bond filed with the board of supervisors in all respects similar to that provided in this article, payable to the county as trustee for the assessment bondholders for the payment of such special assessments.

Recovery on bond

11604. If the taxes or special assessments secured by bond or deposit are allowed to become delinquent, the county shall recover from the surety the principal sum of the bond without proof of loss.

The clerk of the board of supervisors shall apply the sum received in payment of any or all of such taxes or special assessments, including penalties and costs, if any, accruing thereto, to the proper State, county, municipal or district officers, for the satisfaction of the tax and special assessment liens, and shall pay the balance, if any, over to the surety.

Sale of securities

11605. In the event that a deposit of money or negotiable bonds has been made with the clerk of the board in lieu of a bond required by this article, the clerk shall, subject only to such rules as the board of supervisors may in its discretion provide, dispose of the negotiable bonds, if any, and apply the proceeds thereof, and any money deposited with him, to the payment of the taxes and special assessments including penalties and costs in the same manner provided when a bond has been executed. In the event the clerk of the board, as a result of this section, has funds in his possession and can not locate the owner thereof, he shall deposit the same in the county treasury for the benefit of the persons entitled thereto.

Article 9. Final Approvals

Filing of final map for approval

11610. When all the certificates which appear on the final map (except the approval certificate of the governing body) have been signed and, where necessary, acknowledged, the final map may be filed for approval.

If the subdivision lies entirely within the territory of a city, then the filing shall be with the governing body of that city; if entirely within the unincorporated area of a county, then with the governing body of the county; and if partially within two or more of such territories then with the governing body of each, and in the latter case each body shall act thereon as provided in this article.

Approval of final map

11611. The governing body shall at its next meeting or within a period of not more than 10 days after the filing approve the map if it conforms to all the requirements of this chapter and of any local ordinance applicable at the time of approval of the tentative map, or any rulings made thereunder.

The governing body shall at that time also accept or reject any or all offers of dedication and may, as a condition precedent to the acceptance of any streets or easements, require that the subdivider, at his option, either improve or agree to improve the streets or easements.

Agreement to improve streets. Bond See also Stats 1943, Ch 668

11612. In the event an agreement for the improvement of the streets or easements is entered into, the governing body may require that the agreement shall be secured by a good and sufficient bond in an amount not in excess of the estimated cost of the improvement. However, the subdivider, at his option, in lieu of the agreement to construct improvements, and the bond to secure it, may enter into a contract with the governing body, secured by a faithful performance bond, if required by the governing body, in an amount not to exceed the estimated cost of the improvement, by which he agrees, within such time as may be provided in the contract, to initiate and to consummate proceedings under an appropriate special assessment act for the formation of a special assessment district covering the subdivision or part thereof, for the financing and construction of designated improvements upon the streets or easements dedicated by the map.

Deposit in lieu of bond

11613. In lieu of any bond, a deposit may be made, either with the proper governing body or a responsible escrow agent or trust company, subject to the approval of the governing body, of money or negotiable bonds of the kind approved for securing deposits of public money.

Approval and recordation of final map

11614. Upon the execution by the subdivider, of either one of the agreements or contracts and the posting of the required bond, or the deposit of the required money or negotiable bonds, the map of such subdivision shall forthwith be approved and accepted for recordation.

Title to dedicated property

11615. Title to property the dedication of which is accepted shall not pass until the final map is duly recorded under the provisions of this chapter.

Offer of dedication

11616. If at the time the final map is approved any streets are rejected, the offer of dedication shall remain open and the governing body may by resolution at any later date, and without further action by the subdivider, rescind its action and accept and open the streets for public use, which acceptance shall be recorded in the office of the county recorder.

If a resubdivision or reversion to acreage of the tract is subsequently filed for approval, any offer of dedication previously rejected shall be deemed to be terminated upon the approval of the map by the governing body.

Transmission of map to board of supervisors and county recorder

11617. If the subdivision lies within a city, subsequent to the approval of the final map by the governing body of the city, the clerk of the governing body of the city shall thereupon transmit the map to the clerk of the county board of supervisors. When all bonds, money or negotiable bonds required under the provisions of this chapter to secure the payment of taxes and assessments which are a lien on some part of the subdivision but which are not yet payable, have been deposited with and approved by the board of supervisors, the clerk of the board shall transmit the final map to the county recorder.

If the subdivision lies within unincorporated territory, then when the map has been approved and the bonds, money or negotiable bonds have been deposited and approved, the clerk of the board of supervisors shall transmit the map to the recorder.

In either case the clerk of the board of supervisors shall certify to the recorder that the provisions of this chapter have been complied with regarding deposits.

Article 10. Recording

Evidence of parties

11625. The subdivider shall present to the recorder evidence that, upon the date of recording, as shown by public records, the parties consenting to the recordation of the map are all the parties having a record title interest in the land subdivided whose signatures are required by the provisions of Article 7, otherwise the map shall not be recorded.

Acceptance of final map for recording

11626. Except as provided in Section 11537, no final map of a subdivision shall be accepted by the county recorder for record unless there has been a compliance with all provisions of this chapter and of any local ordinance.

The recorder may have not more than 10 days to examine the final map before accepting or refusing it for recordation.

Final determination of validity of map

11627. The approval in accordance with the provisions of this chapter by the appropriate governing body or bodies, and the recordation of the final map or the filing of a record of survey map shall automatically and finally determine the validity of the map, so far as the property thereon shown is included within such city, or county, under the terms and provisions of this chapter and local ordinances.

Public record

11628. When any final map is presented to the county recorder and is accepted by him, he shall so certify on the face

thereof and shall fasten the same securely in a book of maps of subdivisions or of cities and towns which he shall keep in his office. Upon acceptance by the recorder, the final map shall be a public record.

The county recorder shall also keep a separate indexed book of local ordinances relating to subdivisions.

SEC. 2. Chapter 3, comprising Sections 11650 to 11658, is added to Part 2 of Division 4 of the Business and Professions Code, to read: New chapter

CHAPTER 3. OFFICIAL MAPS

11650. This chapter applies to all counties and, whether incorporated or not, to all cities, towns and villages in this State. Application of chapter

11651. As used in this chapter: Definitions

(a) "City council or board of supervisors" includes the proper corresponding governing board and authority in each place where the chapter applies.

(b) "City engineer" and "county surveyor" includes the like or corresponding officer, subject to the direction of the corresponding governing board and authority in each place where the chapter applies.

(c) If there is no city engineer or county surveyor subject to such direction, the corresponding board and authority may employ competent engineers and surveyors to the extent necessary for the carrying out of the purposes of this chapter in the places subject to its jurisdiction, and the persons so appointed shall have the same authority and shall perform the same duties as are given to and enjoined upon city engineers and county surveyors, respectively, in like cases. The services of engineers and surveyors so employed shall be contracted for, examined, passed upon, audited and paid as are other debts contracted by such governing boards and authorities.

11652. Whenever any city, town or subdivision of land is platted or divided into lots or blocks, and whenever any addition to any city, town or subdivision is laid out into lots or blocks for the purpose of sale or transfer, the city engineer or the county surveyor, under the direction and with the approval of the city council or board of supervisors, may make an official map of the city, town or subdivision, giving to each block on the map a number, and to each lot or subdivision in the block a separate number or letter, and giving names to such streets, avenues, lanes, courts, commons or parks, as may be delineated on the official map. Official map of additions to city

11653. The engineer or surveyor, under the direction and with the approval of the city council or board of supervisors, may compile the map from maps on file, or may resurvey or renumber the blocks, or renumber or reletter the lots in the blocks, or change the names of streets. Compilation of maps

11654. Each and every map made and adopted under this chapter shall be certified under the hands of a majority of the members and the presiding officer and secretary and Maps to be certified

official seal, if any, of the authority adopting the same. The certificate shall set forth in full the resolution adopting the map, with the date of adoption.

Maps to be filed with recorder

11655. The map, so certified, shall be forthwith filed in the office of the county recorder of the county wherein the platted lands are situate. The recorder shall immediately securely fasten and bind each map so filed in one of a series of firmly bound books to be provided, together with the proper indexes thereof and appropriately marked for the reception of the maps provided for in this chapter.

Official map

11656. The map shall become an official map for all the purposes of this chapter when certified, filed and bound, but not before.

Description of lot by map reference

11657. Whenever the city council or board of supervisors adopts a map prepared under this chapter as the official map of the subdivision, town, city or county, it shall be lawful and sufficient to describe the lots or blocks in any deeds, conveyances, contracts, or obligations affecting any of the lots or blocks as designated on the official map, a reference sufficient for the identification of the map being coupled with the description.

Surveys and field notes

11658. All surveys and the field notes thereof made by any engineer or surveyor, under the provisions of this chapter, or in surveying officially any lots or parcels of land in any city, town or county for the purposes of any map under this chapter, shall be filed in the office of the surveyor or engineer, as the case may be, and shall become a part of the public records of the city, town or county.

New section

SEC. 3. Section 30043 is added to the Business and Professions Code, to read:

Repeals

30043. The following acts and parts of acts, together with all acts amendatory thereof and supplementary thereto, are repealed.

General Laws

Year	Chapter	Page
1937	670	1863

Political Code, Section 3658a.

Stats. 1939, p 1274

SEC. 4. Section 325 of the Revenue and Taxation Code is amended to read:

Official maps

325. When a map has been adopted as an official map under Chapter 3 of Part 2 of Division 4 of the Business and Professions Code, land may be described by numbers or letters as shown on the official map.

CHAPTER 129

An act to add Section 30022.1 to the Business and Professions Code, repealing certain laws relating to the tare on baled hops.

Stats 1937, p 1229, amended

[Approved by Governor April 13, 1943. Filed with Secretary of State April 13, 1943]

In effect August 4, 1943

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

SECTION 1. Section 30022.1 is added to the Business and Professions Code, to read:

New section

30022.1. The following acts, together with all acts amendatory thereof and supplementary thereto, are repealed:

Repeals

General Laws

Year	Chapter	Page
1891	236	452

Civil Code section

995.

CHAPTER 130

An act to add Article 4, comprising Section 12925, to Chapter 9 of Division 5 of the Business and Professions Code and to add Section 30022.4 to the Business and Professions Code, relating to wool products and repealing acts and parts of acts specified herein.

Stats 1937, p 1229, amended

[Approved by Governor April 13, 1943. Filed with Secretary of State April 13, 1943]

In effect August 4, 1943

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

SECTION 1. Article 4, comprising Section 12925, is added to Chapter 9 of Division 5 of the Business and Professions Code, to read:

New article

Article 4. Wool Products

12925. No person purchasing wool from a producer shall make a specific deduction for tags, fribs, crutchings or other off-wools, either on a basis of the percentage of the weight or percentage of the value of the wool. Any provision in a contract to purchase wool from a producer, providing for such a deduction, is invalid.

Deductions prohibited

Violation of this section is a misdemeanor.

Penalty

SEC. 2. Section 30022.4 is added to the Business and Professions Code, to read:

New section

30022.4. Chapter 465 of the Statutes of 1937, at page 1407, together with all acts amendatory thereof and supplementary thereto, is repealed.

Repeals

CHAPTER 131

Stats 1937, p 1229, amended

An act to add Article 3, comprising Sections 12915 to 12921, inclusive, to Chapter 9 of Division 5 of the Business and Professions Code, and to add Section 30022.3 to the Business and Professions Code, thereby codifying and revising the law relating to the baling and pressing of hay and repealing acts and parts of acts specified herein.

In effect August 4, 1943

[Approved by Governor April 13, 1943. Filed with Secretary of State April 13, 1943]

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

New article

SECTION 1. Article 3, comprising Sections 12915 to 12921, inclusive, is added to Chapter 9 of Division 5 of the Business and Professions Code, to read:

Article 3. Baling Hay

"Baler" or "presser"

12915. As used in this article, the term "baler" or "presser" refers to a person owning or having possession of or operating a hay press.

Scales

12916. Any person baling hay for compensation shall employ scales that have been tested and sealed by a sealer.

Record of weight

12917. Any record of weight forming the basis in settlement for baling hay shall be the true net weight of the baled hay.

Any record of weight forming the basis of settlement in the sale or purchase of baled hay shall be the true net weight of the baled hay.

Fraudulent increase of weight

12918. No baler or presser of hay shall put or conceal in any bale of hay anything whatever for the purpose of increasing the weight of the bale with intent to defraud.

Standard for sales

12919. Hay shall be sold by avoirdupois weight and a ton shall consist of 2,000 pounds net weight.

Hay may be sold by the bale in which case the net weight of the bale shall be indicated on a tag securely fastened to the bale.

Weight when damaged in transit

12920. When any hay is shipped by a common carrier in bales and the bales become broken, the approximate weight of the broken bales shall be included in the total weight of the hay shipped.

Penalty

12921. Any person violating any of the provisions of this article is guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars ($50) or more than one hundred dollars ($100).

New section

SEC. 2. Section 30022.3 is added to the Business and Professions Code, to read:

Repeals

30022.3. Chapter 355 of the Statutes of 1919, at page 750, together with all acts amendatory thereof and supplementary thereto, is repealed.

CHAPTER 132

An act to add Article 7.5, comprising Sections 7125 and 7126 to Chapter 9 of Division 3 of, and to add Section 30016.5 to, the Business and Professions Code, thereby consolidating and revising the law relating to workmen's compensation reports of licensed contractors, and repealing acts and parts of acts therein specified.

Stats 1937, p. 1229, amended

[Approved by Governor April 13, 1943. Filed with Secretary of State April 13, 1943]

In effect August 4, 1943

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

SECTION 1. Article 7.5 comprising Sections 7125 and 7126, is added to Chapter 9 of Division 3 of the Business and Professions Code:

New article

Article 7.5. Workmen's Compensation Insurance Reports

7125. Every person licensed as a contractor shall report in writing the name and address of the insurer carrying workmen's compensation insurance on his employees to the registrar within 10 days after any policy of insurance is issued to him and he shall send a copy of this report to the insurer.

Report of insurer carrying workmen's compensation insurance

The insurer, including the State Compensation Insurance Fund, shall thereafter report to the registrar any cancellation or lapse of the policy within 10 days after such cancellation or lapse. A renewal of a policy or a new policy in lieu of one that has expired is not considered a cancellation or lapse.

Report of cancellation of policy

7126. Any licensee or agent or officer thereof, who violates, or omits to comply with, any of the provisions of this article is guilty of a misdemeanor.

Penalty

SEC. 2. Section 30016.5 is added to said code, to read:

New section

30016.5. Chapter 771 of the Statutes of 1931, at page 1610, together with all acts amendatory thereof and supplementary thereto, is hereby repealed.

Repeals

CHAPTER 133

Stats 1937, p 1229, amended

An act to add Chapter 8, comprising Sections 6850 to 6955, inclusive, to Division 3 of, and to add Section 30044 to, the Business and Professions Code, thereby consolidating and revising the law regulating and licensing collection agencies, penalizing violations thereof and repealing acts and parts of acts specified therein.

In effect August 4, 1943

[Approved by Governor April 13, 1943 Filed with Secretary of State April 13, 1943]

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

New chapter

SECTION 1. Chapter 8, comprising Sections 6850 to 6955, is added to Division 3 of the Business and Professions Code, to read:

CHAPTER 8. COLLECTION AGENCIES

Article 1. General Provisions

6850. The following terms as used in this chapter have the meanings expressed in this article.

"Person"

6851. "Person" includes firm, partnership, association or corporation.

"Collection agency"

6852. "Collection agency" means and includes all persons engaging, directly or indirectly and as a primary or secondary object, business or pursuit, in soliciting claims for collection or in the collection of claims owed or due or asserted to be owed or due to another. Any person, when engaged in collecting claims for another, where the employment is for one or more persons, is engaged as a collection agency.

Person using fictitious name for collection

6853. Any person using a fictitious name in collecting its own claims with the intention of conveying to the debtor that a third party has been employed and any person, who sells, or offers to sell, forms represented to be a collection system, scheme, or device, intended or calculated to be used to collect claims is a collection agency and is subject to the provisions of this chapter.

Exemptions See also Stats 1943, Ch 549

6854. "Collection agency" does not include any of the following unless they are conducting collection agencies:

(a) Attorneys at law.

(b) Persons regularly employed on a regular wage or salary, in the capacity of credit men or in similar capacity, except as an independent contractor.

(c) Banks.

(d) Common carriers.

(e) Abstract companies, while doing an escrow business.

(f) Duly licensed real estate brokers or agents doing a real estate business.

(g) Merchant-owned nonprofit credit associations.

"Claim" 6855. "Claim" means any obligation for the payment of money or its equivalent and any sum or sums owed or due or asserted to be owed or due to another, for which any person may be employed to demand payment and to collect or enforce payment thereof.

"Customer" 6856. "Customer" means any person authorizing or employing a collection agency for any of the purposes permitted or authorized by this chapter.

"Superintendent" 6857. (a) "Superintendent" refers to the Superintendent of Collection Agencies.

"Board" (b) "Board" refers to the Examining Board.

Article 2. Administration

Administration of chapter 6860. The administration of this chapter is vested in the office of the Secretary of State as set forth in this chapter.

Superintendent of collection agencies 6861. The Secretary of State shall appoint one Superintendent of Collection Agencies whose duties are provided in this chapter, and whose salary may be fixed by the Secretary of State with the approval of the Director of Finance.

Employees The Secretary of State shall appoint such clerical, expert, technical and other assistants as may be necessary to carry out the provisions of this chapter, and one or more assistants to the superintendent who may perform the duties delegated to the superintendent under the supervision of the superintendent.

Collection Agency Fund All personnel shall be paid for services rendered from the Collection Agency Fund.

Qualifications of superintendent 6862. The superintendent shall be a resident of the State for a period of not less than five years immediately preceding the date of appointment and he shall have had at least five years actual collection agency experience in this State immediately preceding the date of appointment.

Duties of superintendent 6863. The superintendent shall discover violations of this chapter by persons engaged in business as collection agencies who fail to obtain licenses and shall gather evidence of violations and furnish the same to prosecuting officers of any county or city for the purpose of prosecuting all violations of this chapter occurring within their jurisdiction.

The superintendent, for the purpose of discovering violations of this chapter, shall investigate the business and examine the books, accounts, records and files used therein by the licensee and for such purpose the superintendent shall have free access to the offices and places of business, books, accounts, records, papers, files, safes and vaults of all licensees.

Examining board 6864. The Secretary of State may constitute and appoint an examining board of three members.

The board may examine all applicants and certify the names of those applicants who fulfill the requirements of Article 5 and successfully pass the examination.

The superintendent shall act as secretary of the board.

Membership requirement

6865. One of the members of the board shall be a licensee and shall have had at least five years actual collection experience in this State immediately preceding the date of appointment.

Term of office

The members of the board shall be appointed for a period of three years, except that an appointment to fill a vacancy shall be for the unexpired term only. The terms of the members of the board in office when this chapter takes effect shall expire in the order heretofore determined. Each member shall serve until his successor has been appointed and qualified.

Expenses

No member of the board shall receive any other compensation than his necessary expenses connected with the performance of his duties as a member of the board, which expenses shall be paid out of the Collection Agency Fund.

Rules and regulations: Enforcement

6866. The Secretary of State may establish and enforce such rules and regulations as may be reasonable or necessary for the examination and licensing of applicants, for the conduct of licensees and for the general enforcement of the various provisions of this chapter in the protection of the public. All rules shall be printed, published and issued by the Secretary of State.

Revocation of license

The wilful violation of any rules and regulations established by the Secretary of State for the conduct of licensees is sufficient ground for revocation of the license of a licensee after hearing and determination as provided in this chapter.

Record of applications and bonds

6867. The Secretary of State shall keep in his office in a suitable record provided for the purpose all applications for licenses, accompanying certificates, statements and documents and all bonds required to be filed under this chapter. The record shall state whether or not a license has been issued under the application and bond, and if revoked the date of filing the order of revocation, and if reinstated the date of filing the order of reinstatement. The Secretary of State shall keep a list of all persons, whose licenses have been revoked. In the record all licenses issued shall be indicated by their serial numbers as well as by the name and address of the licensee. The record shall be open for inspection as a public record in the office of the Secretary of State.

Article 3. Scope of Chapter

Collection agencies to be licensed

6870. No person shall conduct within this State a collection agency or engage within the State in the business of collecting claims for others, or of soliciting the right to collect or receive payment for another of any claim, or advertise, or solicit, either in print, by letter, in person or otherwise, the right to collect or receive payment for another of any claim, or seek to make collection or obtain payment of any claim on behalf of another without having first applied for and obtained a license.

Penalty

6871. In addition to any other penalty, any person, firm, corporation or voluntary association, or any officer or director of any corporation or association carrying on business as a collection agency without first having obtained from the Secretary of State a license or who carries on such business after the revocation or expiration of any license is guilty of a misdemeanor and punishable by a fine not exceeding five hundred dollars ($500) or by imprisonment not exceeding six months or by both fine and imprisonment.

Prosecuting officer

The prosecuting officer of any county or city shall prosecute all violations of this chapter occurring within his county.

Practice of law

6872. Nothing in this chapter authorizes or empowers a collection agency to practice law either directly or indirectly.

Suit on assigned claim

No collection agency shall bring a suit on any claim assigned to it in its own name as the real party in interest in any court unless it appears by a duly authorized and licensed attorney at law; nor shall any appearance be made in any court by a collection agency unless made by a duly authorized and licensed attorney at law.

Article 4. Applications for License

Application for license

6875. Application for a license shall be made in writing to the Secretary of State in such form as may be required by him.

Subject to the provisions of this chapter, any application for a license may be made by any person who has passed the examination.

Statements in application

6876. The application shall state, among other things that may be required, the name of applicant together with the name under which the applicant expects to do business, and the location by street and number, city and State of the office of the business for which the license is sought.

The application shall also state in the case of an individual, the full residence address of the applicant, including street and number, city and State; in the case of a partnership, the full name and residence address of all partners and, in the case of a corporation or voluntary association, the name and residence address of each of the directors and officers.

Additional statements required

6877. The application shall further disclose that the applicant, if an individual, is a qualified elector, or if a partnership, corporation or voluntary association, that the partner, director or trustee signing the application is a qualified elector of the State.

The application shall state that the applicant, if an individual, or the signer thereof, if the applicant is a partnership, voluntary association or corporation, is to be actively in charge of the business for which the license is sought.

Verification and filing

6878. The application shall be subscribed and sworn to by the applicant, if an individual, or, if a partnership, corporation or voluntary association, by a partner, director or trustee on its behalf. It shall be filed with the Secretary of State.

Statement of character and competency

6879. The application shall be accompanied by sworn statements of three reputable freeholders, each of whom shall certify that he has personally known the person who signed the application for a period of at least five years prior to the date of execution, that he is not related or connected by blood or marriage to the person concerning whom he is certifying, and that the person is competent to engage in the collection business, is honest, truthful and of good character and reputation.

Financial statement

6880. The application shall also be accompanied by a financial statement of the applicant, showing the assets and liabilities of the applicant and truly reflecting that the applicant's net worth is not less than the sum of two thousand dollars ($2,000), in cash or its equivalent available for the use of licensee's business. The financial statement shall be sworn to by the applicant, if the applicant is an individual, or by a partner, director or trustee in its behalf, if the applicant is a partnership, corporation or voluntary association. The information contained in the financial statement shall be confidential and not a public record.

Examination

6881. Any applicant may be examined concerning his competency, experience, character and qualifications by the Secretary of State or by the superintendent, either of whom may take testimony of anyone in regard thereto under oath, which each may administer.

Article 5. Examinations

Application and examination for license

6885. No application for an original license shall be granted by the Secretary of State unless the applicant has met the requirements of this article in addition to all other requirements of this chapter and any rules and regulations established under the chapter.

In addition to applicants for license, any other person may take the examination upon filing with the Secretary of State an application, in such form as may be required by rules and regulations, which shall show among other things that he possesses the qualifications required of an applicant for a license by this article.

Examination fee

Any person taking the examination shall pay the examination fee to the Secretary of State. Subject to such conditions as may be imposed by the rules and regulations he shall be permitted to take subsequent examinations without payment of an additional fee therefor.

Qualifications

6886. The applicant, if an individual, or a partner, director or trustee, if a partnership, corporation or voluntary association, shall:

(a) Be a citizen of the United States.

(b) Be at least 21 years of age.

(c) Be of good moral character.

(d) Be a bona fide resident of this State continuously for at least one year prior to the date of the filing of the application.

(e) Possess the necessary qualifications of learning and ability.

(f) Pass the examination required.

Rules and regulations

6887. The Secretary of State, subject to the provisions of this chapter, may fix and determine by rule and regulation the qualifications of applicants.

Requirements of rules and regulations

The rules and regulations shall require, among other things, both of the following:

(a) That the educational qualifications of applicants shall be at least graduation from a four-year high school, or proof satisfactory to the examining board that applicants are possessed of the equivalent of a four-year high school education in point of intellectual competency and achievement.

(b) Proof satisfactory to the examining board that applicants have diligently and in good faith studied the subjects specified as subjects for examination.

Time and place of examinations

6888. Examinations shall be held at least every six months, at such times and places as the Secretary of State directs and according to the rules and regulations established by him.

Publication of notice

Notice of the examination shall be published at least one month prior to the date of each examination in two or more newspapers of general circulation and in one publication circulated among collection agencies. The newspapers and publication shall be selected by the Secretary of State from newspapers or publications published within this State.

Character and subjects of examinations

6889. All examinations shall be practical in character and sufficiently thorough to ascertain the fitness of the persons required to be examined, and both questions and answers shall be written in the English language.

Questions on the following subjects may be included: Business mathematics, elementary accounting, business English, economics, psychology, sociology, money and banking, investments and investment analysis, merchandising and salesmanship, credits and credit management, collection methods and practices and the canons of business ethics pertaining thereto as well as the rules and regulations governing collection agencies.

There may also be included elementary questions in business law, covering such subjects as agency, bankruptcy, contracts, creditor's rights, negotiable instruments, partnership, real and personal property, sales, and securities.

Submission of questions to Secretary of State

6890. The examining board shall prepare and submit to the Secretary of State, at least 10 days prior to the examination, all questions for that examination. The questions may be approved, rejected, changed or altered in any manner by the Secretary of State.

Details of examinations

The number of the questions, the method of grading them, the general average to be obtained by the person examined, and other details of the examination not covered expressly by this chapter may be determined by rules and regulations established by the Secretary of State.

Retention of examination papers

6891. The examination papers of any person shall be kept for the period of one year and may then be destroyed.

Inspection

The examination papers shall be open to inspection during the one-year period only by the Secretary of State, the superintendent, members of the examining board, their clerical assistants, and by the applicant or by someone appointed by the latter to inspect them, or by a court of competent jurisdiction in a proceeding where the contents of the papers is properly involved.

Article 6. Bonds

Surety bond

6895. The applicant for a license shall file with the Secretary of State within such time after the filing of the application as may be fixed by the Secretary of State by rules and regulations a bond in the sum of one thousand dollars ($1,000) which shall run to the people of the State of California.

The bond shall be executed and acknowledged by the applicant as principal, and by a corporation which is licensed by the Insurance Commissioner of this State to transact the business of fidelity and surety insurance, as surety.

Conditions of bond

6896. The bond shall be conditioned that the principal shall and will, upon demand in writing, pay and turn over to or for the use of any customer from whom any claim is taken or received for collection the proceeds of the collection, in accordance with the terms of the agreement made between the principal and the customer, and conditioned that the principal will comply with all requirements of this or any other statute now in force or hereafter enacted and any rules and regulations established under this chapter with respect to the duties, conduct, obligations and liabilities of licensees.

Scope of bond

6897. The bond shall cover all claims collected or property converted by the licensee during the term of the license applied for.

The aggregate liability of the surety for any and all claims which arise under the bond shall in no event exceed the amount of the penalty of the bond.

Limitation of actions

6898. No action shall be brought upon any bond after the expiration of one year from the revocation or expiration of the license issued thereunder. From and after the expiration of the period of one year, all liability of the surety upon the bond shall cease if no action has been commenced upon the bond before the expiration of the period.

Form and duration of bond

6899. The bond shall be continuous in form and remain in full force and effect and shall run concurrently with the license period and for any renewals thereof, as provided in Section 2852 of the Civil Code, unless terminated or canceled by action of the surety as provided by law or unless terminated or canceled as provided in this chapter.

Withdrawal as surety

6900. Upon the filing of notice with the Secretary of State by any surety company of its withdrawal as the surety of any licensee pursuant to Section 2851 of the Civil Code, the Secretary of State shall forthwith give notice to the licensee of the withdrawal which notice shall be by registered mail with request for return receipt and shall be addressed to the licensee

at his main office as shown by the records of the Secretary of State. The license of any licensee shall be void upon the termination of the bond of the surety company as provided in Section 2851 unless, prior to the termination, a new bond has been filed with the Secretary of State.

New bond

6901. A licensee may file a new bond with the Secretary of State at any time.

Cancellation of bond

6902. The Secretary of State shall forthwith cancel the bond of any surety company upon being advised that its license to transact the business of fidelity and surety insurance has been revoked by the Insurance Commissioner and shall forthwith advise any licensee for whom the company acted as surety of the fact of the cancellation, by collect telegram addressed to the licensee at his main office, as shown by the records of the Secretary of State. The license of the licensee shall be suspended, subject to the right of the licensee to file a new bond with the Secretary of State within 30 days thereafter and upon the filing of the new bond the license of the licensee to conduct a collection agency shall forthwith be restored.

Suspension of license pending new bond

Article 7. Licenses

Issuance of license

6905. Upon receiving and filing the application and bond specified in Articles 4 and 6, and upon a showing by the applicant of compliance with the other requirements of this chapter and any rules and regulations established under it, the Secretary of State shall grant and issue a license substantially in the form provided in this chapter.

Prohibitions

6906. The Secretary of State shall not issue a license:

(a) If the applicant was previously a licensee and his license was revoked.

(b) If, where the applicant is a partnership, trust, association or corporation, any member, partner, trustee, officer, stockholder or employee was previously a licensee and his license was revoked for cause.

(c) If a certified copy of the record of the conviction of an applicant, or the managing partner, trustee or director thereof, for the crime of fraud, embezzlement or any crime involving moral turpitude, is filed with the Secretary of State.

Disciplinary proceedings pending

6907. If upon the filing of an application it is found that the applicant, if an individual, or if a partnership, trust, association or a corporation, that any member, partner, trustee, officer, stockholder or employee, was previously a licensee against whom there was a disciplinary action filed, and the disciplinary action was not disposed of for any reason, the Secretary of State shall not issue a license to the applicant until there has been a hearing upon the complaint and a disposition thereof as provided for in Article 10.

Statements in license

6908. The license, when issued, shall state:

(a) The name of the licensee.

(b) The name under which the licensee is to operate.

(c) The location by street and number, city, county and State where the licensee is to carry on business.

(d) The number and the date of the license.

The license shall further state that it is issued pursuant to this chapter and the rules and regulations established under it, and that the licensee is duly authorized under this chapter.

Right to conduct business

6909. Upon receipt of the license, the licensee has the right to conduct the business of a collection agency, with all the powers and privileges contained in but subject always to all the provisions of this chapter and any rules and regulations established under it.

Display

6910. Each license shall be framed in a suitable frame under glass, and hung in a conspicuous place upon the walls of the place of business.

Nontransferable

6911. The license shall not be transferable.

Term

The license shall be valid and effectual until the first day of July next ensuing the date thereof unless previously revoked.

Change of location

6912. Upon removal from any location or change of name under which any licensee does business, as stated in his license, the licensee shall, within 10 days thereafter, deposit the license and a written notification of the removal, or change of name with the Secretary of State and shall pay the removal fee.

The license, if not deposited with the Secretary of State within such time, shall be suspended until it has been so deposited.

The Secretary of State shall note the removal or change of name upon the face of the license, and shall enter in his records, in an appropriate place therefor, a notation of the removal or change of name and shall thereupon return the license to the licensee.

Change of ownership

6913. Whenever there is a change in the ownership of any collection agency, other than a corporation or voluntary association, the license issued to it shall forthwith become void and its right to conduct business thereunder shall terminate.

Whenever there is a change in the ownership of more than 50 per cent of the stock of any corporation, other than the change in ownership caused by the death of the holder of the stock, or a change in the majority of the membership of a voluntary association the license issued to it shall forthwith become void and its right to conduct business thereunder shall terminate.

Death of licensee, representative's license

6914. In case of the death of an individual licensee who leaves an established business as part of or all the assets of his estate or the dissolution of a licensed partnership by death or operation of law, the Secretary of State shall issue a license to a representative designated by the executor or administrator of the estate or by a majority of the surviving partners, respectively, notwithstanding the provisions of Articles 4 and 5, upon the filing by the representative of the bond and upon payment of the representative's fee. The representative's license shall be effective for a period of one year from the date

thereof and shall not be renewed. The authority of the representative licensee is limited to such activities as may be necessary to wind up the business of the former licensee.

Article 8. Statements

Financial statements

6915. The licensee shall, not later than the thirty-first day of January of each calendar year, file with the Secretary of State a financial statement as of the thirty-first day of December of the previous year, duly verified by the licensee, if an individual, or by the managing partner, director or trustee, if a partnership, corporation or voluntary association, showing the exact amount of money which has been collected for the benefit of the licensee's customers, which has not previously either been remitted to any customer or properly accounted for or both, and also showing the exact balance he has on deposit in any bank or in his possession for the purpose of liquidating any and all amounts due his customers. Any wilful false statement made shall be prima facie evidence of a violation of this chapter and shall be sufficient ground for revocation of the license of the licensee after hearing and determination as provided in this chapter.

Revocation of license

Revocation for failure to file

6916. If the financial statement required is not filed as required, the failure to file shall be ground for the immediate revocation of the license, and the Secretary of State shall make an order revoking the license of the licensee and enter the same upon the records of the department and notify the licensee of the action by registered mail except that for good cause shown and upon satisfactory proof furnished by the licensee showing that the failure to file the statement was due to a condition not within his control, the Secretary of State may permit the filing of the statement after the time limited, upon payment of a delinquency fee.

Statement to customer

6917. Each licensee, if demand therefor be made by any customer, shall, at intervals not less frequent than once each 30 days send to the customer a statement showing all claims collected for the benefit of the customer that have not been previously remitted to the customer.

Article 9. Offices

Application and bond for branch office

6920. Application for a license for any branch office or offices may be made by any licensee. The application shall state the location and address of the branch office and the name and address of the person to be in charge. The application shall be accompanied by the bond required by Article 6. The original license fee required by Article 12 shall be paid for filing such application.

Office manager

6921. Every office licensed after May 1, 1941, whether a main or branch office, shall be under the active charge of a person who has passed the examination.

This section does not apply to an office licensed prior to May 2, 1941.

Notice of change of manager

6922. Whenever a person actively in charge of an office to which Section 6921 applies ceases to be in charge, the licensee shall notify the Secretary of State in writing within 10 days from such cessation.

If the notice is given the license shall remain in force for a reasonable period to be determined by the rules and regulations. If the licensee fails to give the notice as required, at the end of the 10-day period the license shall be ipso facto suspended, but the license shall be reinstated upon the filing of an affidavit by the licensee, if an individual, or by a partner, trustee or director of the licensee, if a partnership, voluntary association or corporation to the effect that the person formerly in charge of the office has been replaced by another person who has passed the examination.

Restriction upon branch office manager

6923. No person shall be in charge of any branch office if he was previously a licensee and his license was revoked after a hearing upon a complaint or upon written charges by the superintendent or if he was a partner, trustee or director of a partnership, voluntary association or corporation, which was previously a licensee whose license was revoked after such a hearing.

Article 10. Disciplinary Action

Charges against licensee

6925. A verified complaint may be filed with the Secretary of State against a licensee alleging fraud or misrepresentation or any act or omission inconsistent with the faithful discharge of his duties and obligations or in violation of any of the provisions of this chapter or rules and regulations established under it.

The complaint shall be verified, or if not verified by the complainant, the reasons therefor shall be stated. Facts not within the actual knowledge of the person verifying but believed by him to be true may be stated on information or belief.

The complaint shall be accompanied by an affidavit showing service of a copy of the complaint upon the licensee personally or by registered mail at the address shown in the records of the Secretary of State.

Investigation of charges

6926. Investigations may be made by the superintendent without the filing or presentation of any complaint. He may initiate and conduct investigation of all matters affecting or relating to any collection agency or its affairs. The superintendent, after investigation, may thereupon file written charges against the licensee.

Notice of hearing

6927. Upon the filing of a verified complaint or written charges, the superintendent shall designate a time and place of hearing thereon and give notice to the complainant and the licensee.

Place of hearing

In all cases involving written charges or verified complaints against licensees, the hearing shall be held either in the county where the principal office of the licensee charged or complained against is maintained, or where the licensee resides

or where the alleged offense is committed, as may be determined in the discretion of the superintendent.

Notice by registered mail

6928. Notice of the time and place of the hearing shall be given to the licensee and a true copy of the charge as filed shall be served upon licensee by registered mail at the address shown on the records of the Secretary of State. The licensee shall file with the Secretary of State, at least five days before the date of the hearing, an answer to the charge or verified complaint.

Answer

Upon proper cause shown, time for filing the answer may be extended by the superintendent for a period not exceeding 30 days and the hearing thereof may be continued for not more than 30 days after the filing of the answer.

Defense against charge

6929. Any licensee against whom a written charge is made, or a verified complaint is filed shall be given reasonable notice and have a reasonable opportunity and right to defend against the charge by the introduction of evidence, and shall have the right to be represented by counsel, to examine and cross-examine witnesses, and to have issued subpenas for the attendance of witnesses to appear and testify or to produce books, papers and documents pertaining to the matter under investigation.

Grounds for revocation

6930. If it appears, upon the hearing, that the licensee has wilfully violated any of the provisions of this chapter, or the rules and regulations established under it by the Secretary of State, or that he has been guilty of fraud or misrepresentation, or any act or omission inconsistent with the faithful discharge of his duties or obligations, or that he has been found guilty of a felony, his license shall be revoked.

Findings, recommendations and order

6931. The superintendent shall make written findings and recommendations within 10 days after the hearing. After the written findings and recommendations of the superintendent have been filed with the Secretary of State, the Secretary of State shall file his order either revoking the license or dismissing the charge, and shall mail a copy of the order to the complainant and send a copy thereof by registered mail to the licensee at the address shown in the records of the Secretary of State.

Review by superior court

Appeal

6932. The order of the Secretary of State revoking any license is subject to judicial review by the superior court in accordance with law. The party desiring such review shall file his petition therefor in the superior court within 20 days after service upon him of the order. A judgment or revocation of license by the superior court shall be subject to appeal or review in accordance with the provisions of law as to appeal from or review of judgments of superior courts.

Rights of superintendent

6933. The superintendent may:

(a) Administer oaths.

(b) Take testimony of any witnesses.

(c) Compel the attendance of witnesses and the production of books, papers, documents and other records under their

control pertaining to the matter under investigation or to the trial or hearing and to issue subpenas for these purposes.

Attendance of witness

6934. No witness shall be compelled to attend a hearing outside the county in which he resides unless the distance be less than 100 miles from his place of residence to the place of hearing.

Contempt

6935. Whenever any person subpenaed to appear and give testimony or to produce books, papers, documents or other records as required by a subpena, refuses to appear or testify before the superintendent, or to answer any pertinent or proper questions, he is in contempt of the superintendent.

Attachment Jurisdiction by superior court

The superintendent shall report the fact to the superior court, in and for the county in which the investigation, trial or hearing is being held. Thereupon the court shall issue an attachment in the form usual in the superior court, directed to the sheriff of the county commanding the sheriff to attach such person and forthwith bring him before the court. On the return of the attachment, and the production of the person attached, the superior court shall have jurisdiction of the matter, and the person charged may purge himself of contempt in the same way, and the same proceedings shall be had, and the same penalties may be imposed, and the same punishment inflicted, as in the case of a witness subpenaed to appear and give evidence on the trial of a civil cause before a superior court.

Depositions

6936. In hearings before the superintendent, depositions may be taken and used in the same manner as in civil cases.

Record of hearings

6937. A record of all hearings shall be made and preserved by the superintendent. The Secretary of State shall furnish to any person involved in the proceedings who applies for it a certified copy of any part of the record, certified by him, upon payment of the copy fee.

Unlawful practice

6938. No licensee shall, directly or indirectly, aid or abet any unlicensed person to engage in business as a collection agency or to receive compensation therefrom.

Sale of collection forms

6939. A licensee shall not print, publish or otherwise prepare for distribution, any system of collection letters, demand forms or other printed matter upon his stationery, or upon stationery upon which the licensee's name appears in such manner as to indicate that a demand is being made by the licensee for the payment of any sum or sums due or asserted to be due, where such forms containing such message are to be sold or furnished to any person, other than the licensee, to be used by such person, at any address different from the address of the licensee as shown on the face of the license.

Sale of claim

6940. No licensee shall advertise for sale or threaten to advertise for sale any claim as a means of endeavoring to enforce payment thereon, nor agree to do so for the purpose of solicitation of claims. This section shall not, however, affect any licensee with respect to claims he has acquired as assignee for the benefit of creditors or acting under any order of court.

Publication of "dead beat" lists

6941. No licensee shall publish or post or cause to be published or posted any lists of debtors, commonly known as "dead beat" lists.

Collection contrary to postal regulations

6942. No licensee shall collect or attempt to collect by the use of any methods contrary to the postal regulations of the United States.

Unfair methods of competition

6943. The use of unfair methods of competition as defined in the Unfair Practices Act shall be ground for revocation of the license after a hearing.

Commingling of moneys

6944. A licensee shall not commingle the money of his customers with his own.

Article 11. Continuation of License

Continuation of license

6950. A licensee desiring a continuation of his license shall, on or before the thirtieth day of June of each year, file with the Secretary of State a request for a continuation on such forms as may be designated by the rules and regulations established by the Secretary of State. The request shall be accompanied by the continuation fee.

The Secretary of State shall issue a receipt to the licensee which shall be dated the first day of July next ensuing and shall bear in conspicuous type the words "continuation of license" and the date to and including which the license is continued.

Military licensees

6951. Any person having a license at the time of entering the military service, as defined in the Soldiers and Sailors Civil Relief Act of 1940, who is otherwise eligible to apply therefor may, within 30 days after the termination of such service, upon payment of the continuation fee, file with the Secretary of State a request for a continuation of his license. Thereupon the Secretary of State shall issue a receipt to such person which shall bear upon its face in conspicuous type the words "continuation of license" and the date to and including which the license is continued.

Article 12. Revenue

Collection Agency Fund

6955. All money received under this chapter by the Secretary of State shall be deposited in the State Treasury to the credit of the Collection Agency Fund, which fund is hereby continued in existence and from which fund all expenses of carrying out the provisions of this chapter shall be defrayed.

Fees

6956. The Secretary of State shall charge and collect the following fees:

(a) An original license fee of fifty dollars ($50) for each original license.

(b) A continuation fee of twenty-five dollars ($25) annually payable on or before the thirtieth day of June of each year.

(c) A removal fee of ten dollars ($10).

(d) A representative's fee of ten dollars ($10).

(e) A delinquency fee of ten dollars ($10).

(f) An examination fee of twenty-five dollars ($25).

(g) A copy fee of twenty-five cents ($0.25) per 100 words copied.

New section

SEC. 2. Section 30044 is added to said code, to read:

Repeal

30044. Chapter 485 of the Statutes of 1927, at page 822, together with all acts amendatory thereof and supplementary thereto, is repealed.

CHAPTER 134*

An act to establish a Government Code, thereby consolidating and revising the law relating to the organization, operation, and maintenance of a system of State and local government, and repealing acts and parts of acts specified herein.

In effect August 4, 1943

[Approved by Governor April 13, 1943. Filed with Secretary of State April 13, 1943]

NOTE.—The Government Code, as prepared by the California Code Commission, consists of this chapter as originally enacted. As here set forth, Chapter 134 also contains all of the amendments to the Code made during the Fifty-fifth Session of the Legislature, namely by Chapters 96, 186, 319, 328, 381, 385, 469, 536, 557, 746, 1010, 1012, 1019.

Chapter 134 is in effect August 4, 1943. For approval, filing and effective dates of the amendatory chapters see the respective chapters in their numerical sequence.

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

GENERAL PROVISIONS

Short title

1. This act shall be known as the Government Code.

Code restatement of law

2. The provisions of this code in so far as they are substantially the same as existing statutory provisions relating to the same subject matter shall be construed as restatements and continuations, and not as new enactments.

Existing officers

3. All persons who at the time this code takes effect, hold office under any of the acts repealed by this code, which offices are continued by this code, continue to hold them according to their former tenure.

Existing rights

4. No action or proceeding commenced before this code takes effect, and no right accrued, is affected by this code, but all procedure thereafter taken therein shall conform to the provisions of this code so far as possible.

Construction of code

5. Unless the provision or the context otherwise requires, these general provisions, rules of construction, and definitions shall govern the construction of this code.

Headings

6. Title, division, part, chapter, article, and section headings do not in any manner affect the scope, meaning, or intent of the provisions of this code.

Deputies

7. Whenever a power is granted to, or a duty is imposed upon, a public officer, the power may be exercised or the duty may be performed by a deputy of the officer or by a person

* A cross-reference table showing the origin of each section appears in the appendix to this volume.

authorized, pursuant to law, by the officer, unless this code expressly provides otherwise.

Use of English language

8. Writing includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement, or record is required or authorized by this code, it shall be made in writing in the English language unless it is expressly provided otherwise.

Reference to statutes

9. Whenever reference is made to any portion of this code or of any other law of this State, the reference applies to all amendments and additions now or hereafter made.

Reference to "Section" "Subdivision"

10. "Section" means a section of this code unless some other statute is specifically mentioned. "Subdivision" means a subdivision of the section in which the term occurs unless some other section is expressly mentioned.

Tense

11. The present tense includes the past and future tenses; and the future, the present.

Gender

12. The masculine gender includes the feminine and neuter.

Number

13. The singular number includes the plural, and the plural the singular.

"Shall" and "may"

14. "Shall" is mandatory and "may" is permissive.

"Oath"

15. "Oath" includes affirmation.

"Signature" and "subscription"

16. "Signature" or "subscription" includes mark when the signer or subscriber can not write, such signer's or subscriber's name being written near the mark by a witness who writes his own name near the signer's or subscriber's name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto.

"Person"

17. "Person" includes any person, firm, association, organization, partnership, business trust, corporation, or company.

"State"

18. "State" means the State of California, unless applied to the different parts of the United States. In the latter case, it includes the District of Columbia and the territories.

"County"

19. "County" includes city and county.

"City"

20. "City" includes "city and county" and "incorporated town," but does not include "unincorporated town" or "village."

"Town"

21. "Town" includes "unincorporated town" and "village."

"Process"

22. "Process" includes a writ or summons issued in the course of judicial proceedings of either a civil or criminal nature.

Constitutionality

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

TITLE 1. GENERAL

DIVISION 1. SOVEREIGNTY AND PEOPLE OF THE STATE

CHAPTER 1. SOVEREIGNTY OF THE STATE

Article 1. Residence of Sovereignty

"Sovereignty" "Process"

100. The sovereignty of the State resides in the people thereof, and all writs and processes shall issue in their name.

Article 2. Territorial Jurisdiction

Sovereignty and jurisdiction

110. The sovereignty and jurisdiction of this State extends to all places within its boundaries as established by the constitution. The extent of such jurisdiction over places that have been or may be ceded to, purchased, or condemned by the United States is qualified by the terms of the cession or the laws under which the purchase or condemnation is made.

Acquisition of land by United States for military purposes

111. The Legislature consents to the purchase or condemnation by the United States of any tract of land within the State for the purpose of erecting forts, magazines, arsenals, dockyards, and other needful buildings, reserving the authority to serve and execute process and the State's entire power of taxation as provided in this article.

Acquisition of land by United States for National forests

112. The Legislature consents to the acquisition by the United States by purchase, gift or condemnation of such lands in the State as in the opinion of the United States may be needed for the establishment, consolidation and extension of National forests in this State under the provisions of the act of Congress approved March 1, 1911, and entitled "An act to enable any State to cooperate with any other State or States or with the United States for the protection of the watersheds of navigable streams and to appoint a commission for the acquisition of lands for the purpose of conserving the navigability of navigable rivers," as amended. The State reserves:

Concurrent jurisdiction of State for civil and criminal process

(a) A concurrent jurisdiction with the United States in and over lands so acquired for the execution thereon, in like manner as if consent had not been given, of civil process in all cases, and such criminal process as may issue under the authority of the State against any person charged with the commission of any crime without or within the lands.

(b) The State's entire power of taxation.

Exclusive jurisdiction of United States while owner of land

113. The State cedes to the United States exclusive jurisdiction over such land as has been or may be ceded or conveyed to the United States, during the time the United States is the owner thereof, reserving the administration of the criminal law of the State, the authority to serve and execute process and the State's entire power of taxation.

Exclusive jurisdiction of United States over land ceded for military purposes

114. The State cedes to the United States exclusive jurisdiction over all lands within the State held, occupied, or reserved on March 2, 1897 by the United States for military purposes or defense, and over all land which thereafter has

been or which may be ceded or conveyed to the United States for such purposes reserving the authority to serve and execute process, and the State's entire power of taxation. A sufficient description by metes and bounds and a map or plat of the lands shall first be filed in the proper office of record in the county in which the lands are situated.

Limitation of jurisdiction of United States

115. All jurisdiction ceded to the United States by this article is limited by the terms of any retrocession of jurisdiction heretofore or hereafter granted by the United States and accepted by the State.

Reservation by State of right of process and taxation in lands ceded to United States

116. Any law to the contrary notwithstanding, the State reserves the authority to serve and execute process and the State's entire power of taxation with respect to any land over which any jurisdiction is ceded or granted by the State to the United States under any law of the State now in effect or which may hereafter be adopted.

Service of civil and criminal process

117. All civil process issued from the courts of the State, and such criminal process as may issue under the authority of the State, against any person charged with crime, may be served and executed on any land purchased or condemned by the United States with the State's consent or over which any jurisdiction is ceded or granted by the State to the United States in the same mode and manner and by the same officers as if the purchase or condemnation had not been made or jurisdiction had not been ceded or granted. The State reserves its entire power of taxation with respect to such land and may levy and collect all taxes now or hereafter imposed in the same manner and to the same extent as if consent had not been granted or jurisdiction had not been ceded or granted.

Reservation of tax power by State

Use of adjacent State waters by United States for military purposes

118. The State consents to the use by the United States of the territorial waters of the State adjacent to any land on the coast of the State now or hereafter owned by or under the control of the United States, and occupied for military purposes, in connection with conducting target practice operations of any type on the land. Before any of the waters are used in connection with conducting target practice operations of any type the United States shall take all appropriate measures and shall make and publish necessary regulations for the protection of the person and property of all persons using the waters. The use herein consented to shall not be so exercised as to interfere unreasonably with the public use of the waters

Exemption of State liability

This section shall not be construed to impose any liability whatsoever upon the State in connection with the use of the waters as herein set forth.

Exclusive jurisdiction of United States over "Kings Canyon National Park": reservations by State

119. Exclusive jurisdiction shall be and the same is hereby ceded to the United States over and within all of the territory which is now or may hereafter be included in those several tracts of land in the State of California set aside and dedicated for park purposes by the United States as "Kings Canyon National Park"; saving however to the State of California

the right to serve civil or criminal process within the limits of the aforesaid park in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes committed in said State outside of said park; and saving further to the said State the right to tax persons and corporations, their franchises and property on the lands included in said park, and the right to fix and collect license fees for fishing in said park; and saving also to the persons residing in said park now or hereafter the right to vote at all elections held within the county or counties in which said park is situate. The jurisdiction granted by this section shall not vest until the United States through the proper officer notifies the State of California that it assumes police jurisdiction over said park.

Acceptance of jurisdiction by United States

(Added by Stats. 1943, Ch. 95.)

Recordation by Governor of notification of acceptance

120. Upon receipt of notification of the acceptance by the United States of exclusive jurisdiction over lands situated within the State of California, the Governor shall cause to be filed a true and correct copy of said notification in the office of the recorder of the county in which said lands are located and in the office of the clerk of the board of supervisors of the county in which said lands are located.

(Added by Stats. 1943, Ch. 536.)

Article 3. State Boundaries

State boundaries

160. The line run and marked by the Surveyor General of the State in accordance with Chapter 402 of the Statutes of 1863 from the southern boundary of the State of Oregon to the 39th degree of north latitude and the line established and marked by the United States coast and geodetic survey, as completed in 1900, extending southeastward from the intersection of the 39th degree of north latitude with the 120th degree of longitude west from Greenwich to the Colorado River comprise the legal eastern boundary line of the State from the Oregon boundary to the Colorado River, and shall be so considered by the courts of the State.

Article 4. Rights Over Property

"Property"

180. As used herein, "property" includes real and personal property.

Right to property

181. The original and ultimate right to all property within the limits of the State is in the people thereof.

Escheat

182. All property within the limits of the State, which does not belong to any person, belongs to the people. Whenever the title to any property fails for want of heirs or next of kin, it reverts to the people.

Acquisition of property by State by taxation

183. The State may acquire property by taxation in the modes authorized by law.

Acquisition of property by State or others for public use

184. The State may acquire or authorize others to acquire title to property for public use in the cases and in the mode provided by law.

Article 5. Rights Over Persons

State's right over persons

200. The State has the rights prescribed in this article over persons within its limits, to be exercised in the cases and in the manner provided by law.

Crimes

201. The State may punish for crime.

Right to imprison

202. The State may imprison or confine for:

(a) The protection of the public peace or health or of individual life or safety.

(b) The purpose of enforcing civil remedies.

Custody and restraint

203. The State may establish custody and restraint of:

(a) Mentally ill persons, insane persons, chronic inebriates, and other persons of unsound mind.

(b) Paupers for the purposes of their maintenance.

(c) Minors for the purposes of their education, reformation, and maintenance.

Services of persons

204. The State may require services of persons, with or without compensation: In military duty; in jury duty; as witnesses; as town officers; in highway labor; in maintaining the public peace; in enforcing the service of process; in protecting life and property from fire, pestilence, wreck, and flood; and in other cases provided by statute.

Chapter 2. People of the State

Article 1. General

240. The people, as a political body, consist of:

(a) Citizens who are electors.

(b) Citizens not electors.

Persons born and residing in State; exception

241. The citizens of the State are:

(a) All persons born in the State and residing within it, except the children of transient aliens and of alien public ministers and consuls.

United States citizens resident in State

(b) All persons born out of the State who are citizens of the United States and residing within the State.

Persons not citizens

242. Persons in the State not its citizens are either:

(a) Citizens of other States; or

(b) Aliens.

Residence

243. Every person has, in law, a residence.

Rules of residence

244. In determining the place of residence the following rules are to be observed:

(a) It is the place where one remains when not called elsewhere for labor or other special or temporary purpose, and to which he returns in seasons of repose.

(b) There can only be one residence.

(c) A residence can not be lost until another is gained.

(d) The residence of the father during his life, and after his death the residence of the mother, while she remains unmarried, is the residence of the unmarried minor child.

(e) The residence of the husband is the residence of the wife.

(f) The residence of an unmarried minor who has a parent living can not be changed by his own act.

(g) The residence can be changed only by the union of act and intent.

Article 2. Political Rights and Duties

Jurisdiction and protection of persons

270. Every person while within the State is subject to its jurisdiction and entitled to its protection.

"Allegiance"

271. Allegiance is the obligation of fidelity and obedience which every citizen owes to the State.

Renouncement of allegiance

272. Allegiance may be renounced by a change of residence.

United States citizen

273. A citizen of the United States who is not a citizen of the State, has the same rights and duties as a citizen of the State not an elector.

Elector's rights and duties

274. An elector has no rights or duties beyond those of a citizen not an elector, except the right and duty of holding office and voting.

Eligibility of elector

275. Unless otherwise specifically provided, every elector is eligible to the office for which he is an elector, and no person is eligible who is not such an elector.

DIVISION 2. STATE SEAL, FLAG, AND EMBLEMS

CHAPTER 1. GREAT SEAL OF THE STATE

State Seal

400. The design of the Great Seal of the State shall correspond substantially with the following representation thereof:

401. Any document signed prior to August 27, 1937, by the Governor, the Secretary of State, or both of them and bearing an impression purporting to be an impression of the Great Seal of the State has the same validity as if the impression thereon were an impression of the Great Seal of the State, whether or not it be in fact the impression of the Great Seal of the State. Retroactive effect of Great Seal

402. Every person who maliciously or for commercial purposes uses or allows to be used any reproduction or facsimile of the Great Seal of the State in any manner whatsoever is guilty of a misdemeanor. Improper use of seal

CHAPTER 2. STATE FLAG AND EMBLEMS

420. The Bear flag is the State flag of California. Its length is one and one-half times its width; the upper five-sixths of the width thereof is a white field and the lower sixth a red stripe; there appears in the white field in the upper lefthand corner a single red star, and at the bottom of the white field the words "California Republic," and in the center of the white field a California grizzly bear upon a grass plat, in the position of walking towards the left of the white field. The bear is dark brown in color and its length one-third of the length of the flag. State flag

421. The golden poppy (Eschscholtzia) is the official State flower. State flower

422. The California Redwood is the official State tree. Official State tree

423. The California valley quail (Lophortyx californica) is the official bird and avifaunal emblem of the State. Official bird State emblem

DIVISION 3. SEAT OF GOVERNMENT, POLITICAL DIVISIONS, AND LEGAL DISTANCES

CHAPTER 1. SEAT OF GOVERNMENT

450. The seat of government of the State is at the City of Sacramento. State Capitol

CHAPTER 2. COUNTIES

460. The State is divided into counties. The names, boundaries and territorial subdivisions thereof are declared in Part 4 of the Political Code. Counties

CHAPTER 3. CONGRESSIONAL DISTRICTS

470. The State is divided into 23 Congressional districts which are designated and constituted as follows: Congressional districts

1. The counties of Del Norte, Humboldt, Mendocino, Sonoma, Marin, Lake, Colusa, Glenn, Sutter, Yuba and Butte shall constitute the First Congressional District.

2. The counties of Siskiyou, Shasta, Modoc, Lassen, Amador, Tehama, Sierra, Inyo, Mono, Nevada, Alpine, Mariposa, Calaveras, Tuolumne, Plumas, El Dorado, Placer and Trinity shall constitute the Second Congressional District.

Congressional districts

3. The counties of Sacramento, San Joaquin, Napa, Yolo and Solano shall constitute the Third Congressional District.

4. All that portion of the City and County of San Francisco comprising the Nineteenth, Twentieth, Twenty-first and Twenty-second Assembly districts, shall constitute the Fourth Congressional District.

5. All that portion of the City and County of San Francisco not included in the Fourth Congressional District shall constitute the Fifth Congressional District.

6. All that portion of the County of Alameda comprising the Thirteenth, Fourteenth and Fifteenth Assembly districts, and the County of Contra Costa shall constitute the Sixth Congressional District.

7. All that portion of the County of Alameda not included in the Sixth Congressional District shall constitute the Seventh Congressional District.

8. The counties of San Mateo, Santa Clara, San Benito and Santa Cruz shall constitute the Eighth Congressional District.

9. The counties of Stanislaus, Madera, Merced and Fresno shall constitute the Ninth Congressional District.

10. The counties of Kern, Tulare and Kings shall constitute the Tenth Congressional District.

11. The counties of Monterey, San Luis Obispo, Santa Barbara and Ventura shall constitute the Eleventh Congressional District.

12. All that portion of the County of Los Angeles comprising the Forty-ninth, Fiftieth and Fifty-third Assembly districts, shall constitute the Twelfth Congressional District.

13. All that portion of the County of Los Angeles comprising the Forty-fifth, Fifty-fourth and Fifty-sixth Assembly districts, shall constitute the Thirteenth Congressional District.

14. All that portion of the County of Los Angeles comprising the Forty-fourth, Fifty-fifth, Sixty-second and Sixty-fourth Assembly districts, shall constitute the Fourteenth Congressional District.

15 All that portion of the County of Los Angeles comprising the Fifty-seventh, Fifty-eighth, Sixty-third and Sixty-fifth Assembly districts, shall constitute the Fifteenth Congressional District.

16. All that portion of the County of Los Angeles comprising the Fifty-ninth, Sixtieth and Sixty-first Assembly districts, shall constitute the Sixteenth Congressional District.

17. All that portion of the County of Los Angeles comprising the Forty-sixth, Sixty-sixth, Sixty-seventh and Sixty-eighth Assembly districts, shall constitute the Seventeenth Congressional District.

18. All that portion of the County of Los Angeles comprising the Sixty-ninth, Seventieth and Seventy-first Assembly districts, shall constitute the Eighteenth Congressional District.

19. All that portion of the County of Los Angeles comprising the Fortieth, Fifty-first and Fifty-second Assembly districts, shall constitute the Nineteenth Congressional District.

Congressional districts

20. All that portion of the County of Los Angeles comprising the Forty-second, Forty-third, Forty-seventh and Forty-eighth Assembly districts, shall constitute the Twentieth Congressional District

21. All that portion of the County of Los Angeles comprising the Forty-first Assembly District, and all of the County of San Bernardino, shall constitute the Twenty-first Congressional District.

22. The counties of Orange, Riverside and Imperial shall constitute the Twenty-second Congressional District.

23. The County of San Diego shall constitute the Twenty-third Congressional District.

CHAPTER 4. SENATORIAL DISTRICTS

Senatorial districts

480. The State is divided into 40 Senatorial districts, which shall be designated and constituted as follows:

1. The counties of Modoc, Lassen and Plumas shall constitute the First Senatorial District.

2. The counties of Del Norte and Siskiyou shall constitute the Second Senatorial District.

3. The County of Humboldt shall constitute the Third Senatorial District.

4. The counties of Mendocino and Lake shall constitute the Fourth Senatorial District.

5. The counties of Trinity and Shasta shall constitute the Fifth Senatorial District.

6. The County of Butte shall constitute the Sixth Senatorial District.

7. The counties of Sierra, Nevada and Placer shall constitute the Seventh Senatorial District.

8. The counties of Tehama, Glenn and Colusa shall constitute the Eighth Senatorial District.

9 The counties of El Dorado, Amador and Alpine shall constitute the Ninth Senatorial District.

10. The counties of Yuba and Sutter shall constitute the Tenth Senatorial District.

11. The counties of Napa and Yolo shall constitute the Eleventh Senatorial District.

12 The County of Sonoma shall constitute the Twelfth Senatorial District.

13. The County of Marin shall constitute the Thirteenth Senatorial District

14 The City and County of San Francisco shall constitute the Fourteenth Senatorial District.

15. The County of Solano shall constitute the Fifteenth Senatorial District.

16. The County of Alameda shall constitute the Sixteenth Senatorial District.

17. The County of Contra Costa shall constitute the Seventeenth Senatorial District.

18. The County of Santa Clara shall constitute the Eighteenth Senatorial District.

Senatorial districts

19. The County of Sacramento shall constitute the Nineteenth Senatorial District.

20. The County of San Joaquin shall constitute the Twentieth Senatorial District.

21. The County of San Mateo shall constitute the Twenty-first Senatorial District.

22. The County of Stanislaus shall constitute the Twenty-second Senatorial District.

23. The County of Santa Cruz shall constitute the Twenty-third Senatorial District.

24. The counties of Merced and Madera shall constitute the Twenty-fourth Senatorial District.

25. The counties of Monterey and San Benito shall constitute the Twenty-fifth Senatorial District.

26. The counties of Tuolumne, Mariposa and Calaveras shall constitute the Twenty-sixth Senatorial District.

27. The County of Kings shall constitute the Twenty-seventh Senatorial District.

28. The counties of Mono and Inyo shall constitute the Twenty-eighth Senatorial District.

29. The County of San Luis Obispo shall constitute the Twenty-ninth Senatorial District.

30. The County of Fresno shall constitute the Thirtieth Senatorial District.

31. The County of Santa Barbara shall constitute the Thirty-first Senatorial District.

32. The County of Tulare shall constitute the Thirty-second Senatorial District.

33. The County of Ventura shall constitute the Thirty-third Senatorial District.

34. The County of Kern shall constitute the Thirty-fourth Senatorial District.

35. The County of Orange shall constitute the Thirty-fifth Senatorial District.

36. The County of San Bernardino shall constitute the Thirty-sixth Senatorial District.

37. The County of Riverside shall constitute the Thirty-seventh Senatorial District.

38. The County of Los Angeles shall constitute the Thirty-eighth Senatorial District.

39. The County of Imperial shall constitute the Thirty-ninth Senatorial District.

40. The County of San Diego shall constitute the Fortieth Senatorial District.

CHAPTER 5. ASSEMBLY DISTRICTS

When part of adjacent Assembly district

490. Any precinct, or portion of any precinct, not situate within an Assembly district, as such districts are described in this chapter, constitutes a part of the adjacent Assembly district which is in the same county and has, as shown by the last Federal census, a less population than any other such adjacent district.

491. The State is divided into 80 Assembly districts, which shall be designated and constituted as follows: Assembly districts

1. The counties of Del Norte, Humboldt and Mendocino shall constitute the First Assembly District.

2. The counties of Trinity, Shasta, Siskiyou, Modoc, Lassen, Plumas and Sierra shall constitute the Second Assembly District.

3. The counties of Tehama, Glenn, Colusa and Yolo shall constitute the Third Assembly District.

4. The counties of Butte, Yuba and Sutter shall constitute the Fourth Assembly District.

5. The counties of Lake, Napa and Solano shall constitute the Fifth Assembly District.

6. The counties of Nevada, Placer, El Dorado, Amador, Calaveras, Alpine, Tuolumne, Mariposa, Inyo and Mono shall constitute the Sixth Assembly District.

7. The counties of Sonoma and Marin shall constitute the Seventh Assembly District.

8. All that portion of the County of Sacramento included within the City of Sacramento as of January 1, 1927, lying north of the center of K Street, and east of the center of Thirty-first Street, and south of the center of Y Street and east of the center of Franklin Boulevard, and all that portion of said Sacramento County included within the boundaries of "American Township," "Brighton Township," "Center Township," and "Granite Township," as said townships existed on the first day of January, 1927, shall constitute the Eighth Assembly District.

9. All that portion of the County of Sacramento not included in the Eighth Assembly District, as fixed and defined by this section, shall constitute the Ninth Assembly District.

10. The County of Contra Costa shall constitute the Tenth Assembly District.

11. All that portion of the County of San Joaquin comprising the City of Stockton as of January 1, 1927, shall constitute the Eleventh Assembly District.

12. All that portion of the County of San Joaquin not included in the Eleventh Assembly District, as fixed and defined by this section, shall constitute the Twelfth Assembly District.

13. All that portion of the County of Alameda described as follows:

All that portion of the County of Alameda lying southerly and easterly of a line described as follows:

Commencing at the point of intersection of the westerly boundary line of the County of Alameda with the line separating Eden Township from Alameda Township; thence easterly and northerly along the southerly and easterly boundary lines of Alameda Township to the line separating Eden Township from Brooklyn Township; thence in a general easterly direction along the southerly boundary line of Brooklyn Township to the southwesterly boundary line of the City of San Leandro;

Assembly districts

thence southeasterly, northeasterly, northwesterly and southwesterly along the southwesterly, southeasterly, northeasterly and northwesterly boundary lines of the City of San Leandro to the center line of East Fourteenth Street; thence northwesterly along the center line of East Fourteenth Street to the center line of Ninety-eighth Avenue; thence southwesterly along the center line of Ninety-eighth Avenue to the center line of the right of way of the Central Pacific Railway; thence northwesterly along the center line of the right of way of the Central Pacific Railway to the center line of High Street; thence northeasterly along the center line of High Street to the center line of East Fourteenth Street; thence southeasterly along the center line of East Fourteenth Street to the center line of Sixty-ninth Avenue; thence northeasterly along the center line of Sixty-ninth Avenue to the center line of Flora Street; thence northwesterly along the center line of Flora Street to the center line of Church Street; thence northeasterly and northerly along the center line of Church Street to the center line of Foothill Boulevard; thence easterly and southeasterly along the center line of Foothill Boulevard to the center line of Ninety-eighth Avenue; thence northeasterly along the center line of Ninety-eighth Avenue to the center line of Golf Links Road; thence in a general easterly direction, following along the center line of Golf Links Road to the center line of Grass Valley Road; thence northeasterly along the center line of Grass Valley Road to an intersection with the line separating Brooklyn Township from Eden Township; thence northerly along the westerly boundary line of Eden Township to an intersection with the northerly boundary line of the County of Alameda, shall constitute the Thirteenth Assembly District.

14. All that portion of the County of Alameda, described as follows:

Commencing at the point of intersection of the westerly boundary line of the County of Alameda with the line separating Eden Township from Alameda Township; thence easterly and northerly along the southerly and easterly boundary lines of Alameda Township to the line separating Eden Township from Brooklyn Township; thence in a general easterly direction along the southerly boundary line of Brooklyn Township to the southwesterly boundary line of the City of San Leandro; thence southeasterly, northeasterly, northwesterly and southwesterly along the southwesterly, southeasterly, northeasterly and northwesterly boundary lines of the City of San Leandro to the center line of East Fourteenth Street; thence northwesterly along the center line of East Fourteenth Street to the center line of Ninety-eighth Avenue; thence southwesterly along the center line of Ninety-eighth Avenue to the center line of the right of way of the Central Pacific Railway; thence northwesterly along the center line of the right of way of the Central Pacific Railway to the center line of High Street;

Assembly districts

thence southwesterly along the center line of High Street to the southwesterly boundary line of the City of Oakland; thence northwesterly along the southwesterly boundary line of the City of Oakland to an intersection with the direct extension southwesterly of the center line of Thirteenth Avenue; thence northeasterly along said direct extension and along the center line of Thirteenth Avenue to the center line of Hopkins Street; thence northwesterly along the center line of Hopkins Street to the center line of Excelsior Avenue; thence continuing northwesterly along the center line of Excelsior Avenue to the center line of Lake Shore Avenue; thence southwesterly along the center line of Lake Shore Avenue to an intersection with the line separating Oakland Township from Brooklyn Township; thence northwesterly and southwesterly along the line separating Oakland Township from Brooklyn Township to the northerly boundary line of the City of Alameda; thence westerly along the northerly boundary line of the City of Alameda to an intersection with the westerly boundary line of the County of Alameda; and thence southeasterly along the westerly boundary line of the County of Alameda to the point of commencement, shall constitute the Fourteenth Assembly District.

15. All that portion of the County of Alameda described as follows:

Commencing at the point of intersection of the northeasterly boundary line of the County of Alameda with the direct extension easterly of the center line of Park Boulevard; thence westerly along said direct extension easterly of the center line of Park Boulevard, and continuing in a general southwesterly direction along the center line of Park Boulevard, following along the curvature thereof to the center line of Sausal Creek; thence westerly and southwesterly along the center line of Sausal Creek to the center line of Park Boulevard; thence southwesterly along the center line of Park Boulevard to an intersection with the direct extension southeasterly of the northeasterly boundary line of the City of Piedmont; thence northwesterly along said direct extension to the most easterly corner of the City of Piedmont; thence southwesterly along the southeasterly boundary line of the City of Piedmont to the most southerly corner thereof; thence southeasterly along the direct extension southeasterly of the southwesterly boundary line of the City of Piedmont to the center line of Park Boulevard; thence southwesterly along the center line of Park Boulevard to the center line of Thirteenth Avenue; thence continuing southwesterly along the center line of Thirteenth Avenue and along its direct extension southwesterly to the southwesterly boundary line of the City of Oakland; thence southeasterly along the southwesterly boundary line of the City of Oakland to the center line of High Street; thence northeasterly along the center line of High Street to the center line of East Fourteenth Street; thence southeasterly along the

Assembly districts

center line of East Fourteenth Street to the center line of Sixty-ninth Avenue; thence northeasterly along the center line of Sixty-ninth Avenue to the center line of Flora Street; thence northwesterly along the center line of Flora Street to the center line of Church Street; thence northeasterly and northerly along the center line of Church Street to the center line of Foothill Boulevard; thence easterly and southeasterly along the center line of Foothill Boulevard to the center line of Ninety-eighth Avenue; thence northeasterly along the center line of Ninety-eighth Avenue to the center line of Golf Links Road; thence in a general easterly direction, following along the center line of Golf Links Road to the center line of Grass Valley Road; thence northeasterly along the center line of Grass Valley Road to an intersection with the line separating Brooklyn Township from Eden Township; thence northerly along the westerly boundary line of Eden Township to an intersection with the northerly boundary line of the County of Alameda; and thence northwesterly along the northerly boundary line of the County of Alameda to the point of commencement, shall constitute the Fifteenth Assembly District.

16. All that portion of Alameda County described as follows:

Commencing at the point of intersection of the easterly boundary line of the City of Berkeley with the northerly boundary line of the County of Alameda; thence southeasterly along the northeasterly boundary line of the County of Alameda to the point of intersection with the direct extension easterly of the center line of Park Boulevard; thence westerly along said direct extension easterly of the center line of Park Boulevard, and continuing in a general southwesterly direction along the center line of Park Boulevard, following along the meanders thereof to the center line of Sausal Creek; thence westerly and southwesterly along the center line of Sausal Creek to the center line of Park Boulevard; thence southwesterly along the center line of Park Boulevard to an intersection with the direct extension southeasterly of the northeasterly boundary line of the City of Piedmont, thence northwesterly along said direct extension to the most easterly corner of the City of Piedmont; thence southwesterly along the southeasterly boundary line of the City of Piedmont to the most southerly corner thereof; thence southeasterly along the direct extension southeasterly of the southwesterly boundary line of the City of Piedmont to the center line of Park Boulevard; thence southwesterly along the center line of Park Boulevard to the center line of Thirteenth Avenue; thence continuing southwesterly along the center line of Thirteenth Avenue to the center line of Hopkins Street; thence northwesterly along the center line of Hopkins Street to the center line of Excelsior Avenue; thence continuing northwesterly along the center line of Excelsior Avenue to the center line of Lake Shore Avenue; thence southwesterly along the center line of Lake Shore Avenue to an intersection with the line separating Oakland Township

from Brooklyn Township; thence northwesterly and southwesterly along the line separating Oakland Township from Brooklyn Township to the center line of Twelfth Street; thence northwesterly along the center line of Twelfth Street to the center line of Fallon Street; thence northeasterly along the center line of Fallon Street to the center line of Fourteenth Street; thence northerly and northwesterly along the center line of Fourteenth Street to the center line of Harrison Street; thence northeasterly along the center line of Harrison Street to the center line of Nineteenth Street; thence northwesterly along the center line of Nineteenth Street to the center line of Telegraph Avenue; thence northerly along the center line of Telegraph Avenue to the center line of Shattuck Avenue; thence continuing northerly along the center line of Shattuck Avenue to an intersection with the southerly boundary line of the City of Berkeley; and thence in a general easterly and northerly direction along the southerly and easterly boundary lines of the City of Berkeley to the point of commencement, shall constitute the Sixteenth Assembly District. Assembly districts

17. All that portion of Alameda County described as follows:

Commencing at the point of intersection of the westerly boundary line of the County of Alameda with the direct extension westerly of the center line of Carlton Street; thence easterly along said direct extension, and along the center line of Carlton Street to the center line of San Pablo Avenue; thence southerly along the center line of San Pablo Avenue to the center line of Derby Street; thence easterly along the center line of Derby Street to an intersection with the direct extension northerly of the center line of Shattuck Avenue, as said Shattuck Avenue exists south of Ward Street; thence southerly along said direct extension and along the center line of Shattuck Avenue to the center line of Telegraph Avenue; thence continuing southerly along the center line of Telegraph Avenue to the center line of Nineteenth Street; thence southeasterly along the center line of Nineteenth Street to the center line of Harrison Street; thence southwesterly along the center line of Harrison Street to the center line of Fourteenth Street; thence southeasterly and southerly along the center line of Fourteenth Street to the center line of Fallon Street; thence southwesterly along the center line of Fallon Street to the center line of Twelfth Street; thence southeasterly along the center line of Twelfth Street to an intersection with the line separating Oakland Township from Brooklyn Township; thence southwesterly along the line separating Oakland Township from Brooklyn Township to the southwesterly boundary line of the City of Oakland; thence westerly along the southwesterly boundary line of the City of Oakland to the southwest corner thereof being on the westerly boundary line of the County of Alameda; and thence northwesterly along the westerly boundary line of the County of Alameda to the point of commencement, shall constitute the Seventeenth Assembly District.

Assembly districts

18. All that portion of Alameda County described as follows:

Commencing at the point of intersection of the direct extension westerly of the center line of Carlton Street with the westerly boundary line of the County of Alameda; thence northwesterly along the westerly boundary line of the County of Alameda to the northwest corner thereof; thence easterly and southeasterly along the northerly boundary line of the County of Alameda to the easterly boundary line of the City of Berkeley; thence in a general southerly and westerly direction along the easterly and southerly boundary lines of the City of Berkeley to the center line of Shattuck Avenue; thence northerly along the center line of Shattuck Avenue and along its direct extension northerly to the center line of Derby Street; thence westerly along the center line of Derby Street to the center line of San Pablo Avenue; thence northerly along the center line of San Pablo Avenue to the center line of Carlton Street; and thence westerly along the center line of Carlton Street and along its direct extension westerly to the point of commencement, shall constitute the Eighteenth Assembly District.

19. All that portion of the City and County of San Francisco bounded and described as follows:

Commencing at the intersection of Arguello Boulevard and the southerly boundary line of the Presidio Military Reservation; thence along the center lines of the following streets: Arguello Boulevard to California, California to Presidio Avenue, Presidio Avenue to Geary, Geary to Broderick, Broderick to Fell, Fell to Stanyan, Stanyan to Fulton, Fulton to the shoreline of the Pacific Ocean, northerly and easterly along said shoreline to the center line of Lobos Creek, Lobos Creek to the southerly boundary line of the Presidio Military Reservation, easterly along said boundary line to Arguello Boulevard and the point of commencement, shall constitute the Nineteenth Assembly District.

20. All that portion of the City and County of San Francisco bounded and described as follows:

Commencing at the point of intersection of the center line of Leavenworth Street and the shoreline of the Bay of San Francisco; thence along the center lines of the following streets: Leavenworth to Columbus Avenue, Columbus Avenue to Powell, Powell to Market, Market to Eleventh, Eleventh to Bryant, Bryant to Army, Army to Bay Shore Boulevard, Bay Shore Boulevard to the boundary line separating the City and County of San Francisco from the County of San Mateo; thence easterly along said boundary line to the shoreline of the Bay of San Francisco; thence northerly and westerly along said shoreline to the center line of Leavenworth Street and the point of commencement, and including all the piers and islands in the Bay of San Francisco, and the islands in the Pacific Ocean which are within the territorial boundaries of the City and County of San Francisco, shall constitute the Twentieth Assembly District.

Assembly districts

21. All that portion of the City and County of San Francisco bounded and described as follows:

Commencing at the intersection of the center line of Leavenworth Street and the shoreline of the Bay of San Francisco; thence along the center lines of the following streets: Leavenworth to Columbus Avenue, Columbus Avenue to Taylor, Taylor to Filbert, Filbert to Van Ness Avenue, Van Ness Avenue to Bush, Bush to Presidio Avenue, Presidio Avenue to California, California to Arguello Boulevard, Arguello Boulevard to the southerly boundary line of the Presidio Military Reservation, westerly along said boundary line to Lobos Creek, the center line of Lobos Creek to the shoreline of the Pacific Ocean; thence northerly along said shoreline of the shoreline of the Bay of San Francisco, easterly along said shoreline of the Bay of San Francisco to Leavenworth Street and the point of commencement, shall constitute the Twenty-first Assembly District.

22. All that portion of the City and County of San Francisco bounded and described as follows:

Commencing at the intersection of the center line of Taylor Street with the center line of Columbus Avenue; thence along the center lines of the following streets: Columbus Avenue to Powell, Powell to Market, Market to Van Ness Avenue, Van Ness Avenue to O'Farrell, O'Farrell to Gough, Gough to Geary, Geary to Presidio Avenue, Presidio Avenue to Bush, Bush to Van Ness Avenue, Van Ness Avenue to Filbert, Filbert to Taylor, Taylor to Columbus Avenue and the point of commencement, shall constitute the Twenty-second Assembly District.

23. All that portion of the City and County of San Francisco bounded and described as follows:

Commencing at the intersection of the center line of O'Farrell Street with the center line of Van Ness Avenue; thence along the center lines of the following streets: Van Ness Avenue to Market, Market to Eleventh, Eleventh to Bryant, Bryant to Twenty-fourth, Twenty-fourth to Mission, Mission to Twenty-first, Twenty-first to Dolores, Dolores to Market, Market to Duboce Avenue, Duboce Avenue to Fillmore, Fillmore to Fell, Fell to Broderick, Broderick to Geary, Geary to Gough, Gough to O'Farrell, O'Farrell to Van Ness Avenue and the point of commencement, shall constitute the Twenty-third Assembly District.

24. All that portion of the City and County of San Francisco bounded and described as follows:

Commencing at the intersection of the center line of Twenty-second Street with the center line of Castro Street, thence along the center lines of the following streets: Castro to Twenty-fourth, Twenty-fourth to Dolores, Dolores to Twenty-ninth, Twenty-ninth to Mission, Mission to Brazil, Brazil to La Grande Avenue, La Grande Avenue to the northerly and easterly boundary line of the Amazon Tract Playground and

Assembly districts

Reservoir site along said easterly boundary line to Geneva Avenue, Geneva Avenue to the boundary line separating the City and County of San Francisco from the County of San Mateo, westerly along said boundary line to the shoreline of the Pacific Ocean, northerly along said shoreline to Sloat Boulevard, Sloat Boulevard to Nineteenth Avenue, Nineteenth Avenue to Holloway Avenue, Holloway Avenue to Ashton Avenue, Ashton Avenue to Ocean Avenue, Ocean Avenue to Faxon Avenue, Faxon Avenue to Yerba Buena Avenue, Yerba Buena Avenue to Miraloma Drive, Miraloma Drive to Portola Drive, Portola Drive to Burnett Avenue, Burnett Avenue to Dixie Alley, Dixie Alley to Grand View Avenue, Grand View Avenue to Twenty-second, Twenty-second to Castro and the point of commencement, shall constitute the Twenty-fourth Assembly District.

25. All that portion of the City and County of San Francisco bounded and described as follows:

Commencing at the intersection of the center line of Fulton Street with the center line of Stanyan Street, thence along the center lines of the following streets: Stanyan to Fell, Fell to Masonic Avenue, Masonic Avenue to Piedmont, Piedmont to Ashbury, Ashbury to Clayton, Clayton to Twin Peaks Boulevard, Twin Peaks Boulevard to Burnett Avenue, Burnett Avenue to Portola Drive, Portola Drive to Miraloma Drive, Miraloma Drive to Yerba Buena Avenue, Yerba Buena Avenue to Faxon Avenue, Faxon Avenue to Ocean Avenue, Ocean Avenue to Ashton Avenue, Ashton Avenue to Holloway Avenue, Holloway Avenue to Nineteenth Avenue, Nineteenth Avenue to Sloat Boulevard, Sloat Boulevard to the shoreline of the Pacific Ocean, northerly along said shoreline to Fulton Street, Fulton Street to Stanyan and the point of commencement, shall constitute the Twenty-fifth Assembly District.

26. All that portion of the City and County of San Francisco, bounded and described as follows:

Commencing at the point of intersection of the center line of Fell Street with the center line of Fillmore Street, thence along the center lines of the following streets: Fillmore to Duboce Avenue, Duboce Avenue to Market, Market to Dolores, Dolores to Twenty-first, Twenty-first to Mission, Mission to Twenty-fourth, Twenty-fourth to Bryant, Bryant to Army, Army to Bay Shore Boulevard, Bay Shore Boulevard to the boundary line separating the City and County of San Francisco from the County of San Mateo, westerly along said boundary line to the center line of Geneva Avenue, Geneva Avenue to the easterly boundary line of the Amazon Tract Playground and Reservoir site, northerly along said boundary line to La Grande Avenue, La Grande Avenue to Brazil, Brazil to Mission, Mission to Twenty-ninth, Twenty-ninth to Dolores, Dolores to Twenty-fourth, Twenty-fourth to Castro, Castro to Twenty-second, Twenty-second to Grand View Avenue, Grand View Avenue to Dixie Alley, Dixie Alley to Burnett Avenue, Burnett Avenue to Twin Peaks Boulevard,

Twin Peaks Boulevard to Clayton, Clayton to Ashbury, Ashbury to Piedmont, Piedmont to Masonic Avenue, Masonic Avenue to Fell, Fell to Fillmore and the point of commencement, shall constitute the Twenty-sixth Assembly District. Assembly districts

27. The County of San Mateo shall constitute the Twenty-seventh Assembly District.

28. All that portion of the County of Santa Clara embraced within the following precincts, as constituted at the general election of 1930, to wit: Agnew, Alviso, Barron, Bay View, Berryessa, Burbank, Calderon, Cupertino, Encina, Farwell, Fremont Nos. 1 and 2, Fruitvale, Jefferson Nos. 1 and 2, Linda Vista Nos. 1 and 2, Los Altos Nos. 1 to 3, inclusive, Midway, Milpitas Nos. 1 and 2, Miramonte, Mount Hamilton Nos. 1 and 2, Mountain View Nos. 1 to 5, inclusive, Orchard, Pala, Palo Alto Nos. 1 to 23, inclusive, Purissima, Red Mountain, San Jose Nos. 1 to 33, inclusive, and Nos. 91 to 107, inclusive, Santa Clara Nos. 1 to 9, inclusive, San Tomas, Saratoga Nos. 1 and 2, Seale, Stanford Nos. 1 and 2 and Sunnyvale Nos. 1 to 4, inclusive, shall constitute the Twenty-eighth Assembly District.

29. All that portion of the County of Santa Clara not included in the Twenty-eighth Assembly District, as fixed and defined by this section, shall constitute the Twenty-ninth Assembly District.

30. The County of Stanislaus shall constitute the Thirtieth Assembly District.

31. The counties of Merced and Madera shall constitute the Thirty-first Assembly District.

32. The counties of San Benito and Santa Cruz shall constitute the Thirty-second Assembly District.

33. The counties of Monterey and San Luis Obispo shall constitute the Thirty-third Assembly District.

34. All that portion of the County of Fresno bounded as follows: Commencing at the point of intersection of the center line of Ashlan Avenue and the center of the main line track of the Southern Pacific Railroad running between the cities of San Francisco, Merced and Fresno; thence along the center line of the following named streets, to wit: Easterly on Ashlan Avenue to Winery Avenue; southerly on Winery Avenue to McKinley Avenue; westerly on McKinley Avenue to Chestnut Avenue; southerly on Chestnut Avenue to Church Avenue; westerly on Church Avenue to Hughes Avenue; northerly on Hughes Avenue to the center of the main line track of the Southern Pacific Railroad named above; northwesterly along the center line of said track to the point of beginning, shall constitute the Thirty-fourth Assembly District.

35. All that portion of the County of Fresno not included in the Thirty-fourth Assembly District shall constitute the Thirty-fifth Assembly District.

36. The counties of Kings and Tulare shall constitute the Thirty-sixth Assembly District.

Assembly districts

37. The County of Santa Barbara shall constitute the Thirty-seventh Assembly District.

38. The County of Ventura shall constitute the Thirty-eighth Assembly District.

39. The County of Kern shall constitute the Thirty-ninth Assembly District.

40. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the center line of the official bed of the Los Angeles River and the center line of the Southern Pacific Railroad Company's Right of Way (Main Line to Yuma) in Alhambra Avenue; thence easterly along the center line of said right of way to the center line of Daly Street; thence southerly along the center line of Daly Street and its southerly prolongation and center line to the center line of Mission Road; thence northeasterly along the center line of Mission Road to the center line of Marengo Street; thence southeasterly along the center line of Marengo Street to the center line of Soto Street; thence northeasterly along the center line of Soto Street to the center line of Valley Boulevard; thence easterly along the center line of Valley Boulevard to the northerly prolongation of the center line of Indiana Street; thence southerly along said northerly prolongation and center line of Indiana Street to an angle point in the easterly boundary of the City of Los Angeles as the same existed on March 1, 1941 (at or near the intersection of Medford Street and Indiana Street); thence southerly along said boundary and following the same in all its various courses to the center line of the aforesaid Los Angeles River; thence northerly along the center line of said river and following the same in all its various courses to point of beginning, shall constitute the Fortieth Assembly District.

41. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the northwesterly corner of the County of Los Angeles, said corner lying on the northerly line of Sec. 4, T. 8 N., R. 19 W., S. B. B. & M.; thence easterly along the boundary of said county and following the same in all its various courses to the southerly line of Sec. 31, T. 3 N., R. 7 W., S. B. B. & M.; thence westerly along section lines to the northwest corner of Sec. 6, T. 2 N., R. 11 W., S. B. B. & M.; thence northerly along the range line between R. 11 and 12 W., to the northeast corner of Sec. 1, T. 2 N., R. 12 W., S. B. B. & M.; thence westerly along section lines to the northwest corner of Sec. 6, T. 2 N., R. 13 W., S. B. B. & M.; thence southerly along section lines to the southeast corner of Sec. 36, T. 3 N., R. 14 W., S. B. B. & M.; thence westerly along section lines to the first angle point in the boundary of the City of Los Angeles as the same existed on March 1, 1941, located on the southerly line of Sec. 36, T. 3 N., R. 15 W., S. B. B. & M.; thence westerly along the boundary of the City of Los Angeles and following the same in all its various courses to the center line of Vaughn Street; thence southwesterly along the center

line of Vaughn Street to the center line of Foothill Boulevard; thence northwesterly along the center line of Foothill Boulevard to the center line of Larue Street; thence southwesterly along the center line of Larue Street to the northeasterly boundary of the City of San Fernando, as the same existed on above date; thence southeasterly, southwesterly and northwesterly along the boundary of the City of San Fernando to its intersection with Brand Boulevard; thence westerly along the center line of Brand Boulevard to the intersection of Sepulveda Boulevard; thence southerly along the center line of Sepulveda Boulevard to the center line of Roscoe Boulevard; thence westerly along the center line of Roscoe Boulevard and along the prolongation of the most westerly portion thereof to the westerly boundary of the City of Los Angeles, as the same existed on above date; thence northerly along the boundary of the City of Los Angeles to the northerly line of fractional Sec. 34, T. 2 N., R. 17 W., S. B. B. & M.; thence westerly along section lines to the westerly boundary of the County of Los Angeles; thence northerly along said last mentioned boundary and following the same in all its various courses to the point of beginning, shall constitute the Forty-first Assembly District. Assembly districts

42. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the northerly line of Sec. 8, T. 1 S., R. 19 W., S. B. B. & M., and the northwesterly boundary of the County of Los Angeles; thence northeasterly along the boundary of said county and following the same in all its various courses to the northerly line of fractional Sec. 33, T. 2 N., R. 17 W., S. B. B. & M.; thence easterly along section lines to the westerly boundary of the City of Los Angeles as the same existed on March 1, 1941; thence southerly along the boundary of the City of Los Angeles to the westerly prolongation of the center line of the most westerly portion of Roscoe Boulevard; thence easterly along said prolongation and center line and following the center line of Roscoe Boulevard to the center line of Sepulveda Boulevard; thence northerly along the center line of Sepulveda Boulevard to the center line of Brand Boulevard; thence northeasterly along the center line of Brand Boulevard to the boundary line of the City of San Fernando, thence southeasterly and northwesterly along the boundary of the City of San Fernando to the center line of Larue Street; thence northeasterly along the center line of Larue Street to the center line of Foothill Boulevard; thence southeasterly along the center line of Foothill Boulevard to the center line of Vaughn Street; thence northeasterly along the center line of Vaughn Street to the boundary of the City of Los Angeles, as the same existed on above date; thence northerly along the boundary of the City of Los Angeles to the southerly line of Sec. 36, T. 3 N., R. 15 W., S. B. B. & M.; thence easterly along section lines to the southeast corner of Sec. 36, T. 3 N., R. 14 W., S. B. B. & M.;

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thence northerly along section lines to the southwest corner of Sec. 31, T. 3 N., R. 13 W., S. B. B. & M.; thence easterly along section lines to the northwest corner of Sec. 2, T. 2 N., R. 13 W., S. B. B. & M.; thence southerly along section lines and the southerly prolongation thereof to the first intersection with the northerly boundary of the City of Glendale as the same existed on above date (in Verdugo Boulevard); thence southerly along the boundary of the City of Glendale and following the same in all its various courses to its first intersection with the northerly boundary of the City of Los Angeles, as the same existed on above date; thence southeasterly along said last mentioned boundary and following the same in all its various courses to the center line of Goodwin Avenue; thence westerly along the center line of Goodwin Avenue to the westerly terminus thereof; thence westerly in a direct line to the most southeasterly corner of the Rancho Providencia as shown on map recorded in Book 1, pages 244 and 245 of Patents in the office of the Recorder of the County of Los Angeles; thence westerly along the southerly boundary of the Rancho Providencia to the center line of Barham Boulevard; thence southwesterly along the center line of Barham Boulevard to the center line of the Pacific Electric Railway Company's right of way; thence southeasterly along the center line of said last mentioned right of way to the southeasterly prolongation of that portion of the northeasterly line of Woodrow Wilson Drive lying between Treasure Trail and Cahuenga Boulevard; thence northwesterly along said last mentioned prolongation and northeasterly line of Woodrow Wilson Drive to a point in the southerly boundary of that certain territory annexed to the City of Los Angeles May 22, 1915, known as the San Fernando Addition; thence westerly along the boundary of said last mentioned annexation and following the same in all its various courses to an angle point in the boundary of the City of Los Angeles as the same existed on above mentioned date, said angle point being also the most easterly corner of fractional Sec. 33, T. 1 N., R. 16 W., S. B. B. & M.; thence southwesterly along the boundary of said last mentioned city to the southerly line of fractional Sec. 18, T. 1 S., R. 16 W., S. B. B. & M.; thence westerly along section lines to the southeast corner of Sec. 13, T. 1 S., R. 19 W., S. B. B. & M.; thence northerly and westerly along the easterly and northerly lines of said Sec. 13 to the southeast corner of Sec. 11, said last mentioned township and range; thence northerly along the easterly line of said last mentioned section to the northeast corner thereof; thence westerly along section lines to the point of beginning, shall constitute the Forty-second Assembly District.

43. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the most westerly corner of the boundary of the City of Glendale as the same existed on March 1, 1941;

thence northeasterly along the boundary of said city and following the same in all its various courses to its first intersection with the boundary of the City of Los Angeles as the same existed on the above mentioned date; thence westerly along the boundary of the said last mentioned city and following the same in all its various courses to the point of beginning, shall constitute the Forty-third Assembly District. Assembly districts

44. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the northeasterly prolongation of the center line of Dallas Street, as shown on map of Tract No. 5963, recorded in Book 80, pages 87 and 88, of Maps, in the office of the Recorder of the County of Los Angeles, and the center line of the Official Bed of the Los Angeles River; thence southeasterly along the center line of said river and following the same in all its various courses to the center line of North Spring Street; thence northeasterly along the center line of North Spring Street to the center line of North Broadway; thence northeasterly and easterly along the center line of North Broadway to the center line of Daly Street; thence southerly along the center line of Daly Street to the center line of the Southern Pacific Railroad Company's Right of Way in Alhambra Avenue; thence westerly along the center line of said last mentioned right of way to the center line of the aforesaid Official Bed of the Los Angeles River; thence southerly along the center line of said river and following the same in all its various courses to the southerly boundary of the City of Los Angeles, as the same existed on March 1, 1941; thence westerly along the boundary of said city to the center line of Alameda Street; thence northerly along the center line of Alameda Street to the center line of Olympic Boulevard from the northwest; thence northwesterly along the center line of Olympic Boulevard and northwesterly along the center line of Ninth Street to the center line of Figueroa Street; thence northeasterly along the center line of Figueroa Street to the center line of Eighth Street; thence northwesterly along the center line of Eighth Street to the center line of Francisco Street; thence northeasterly along the center line of Francisco Street to the center line of Seventh Street; thence northwesterly along the center line of Seventh Street to the center line of Kip Street; thence northeasterly along the center line of Kip Street to the center line of Ingraham Street; thence northwesterly and northeasterly along the center line of Ingraham Street to the center line of Kip Street (from the northeast); thence northeasterly along the center line of Kip Street to the center line of Wilshire Boulevard; thence southeasterly along the center line of Wilshire Boulevard to the center line of Wilshire Drive; thence northeasterly along the center line of Wilshire Drive to the center line of Sixth Street (from the northeast); thence northeasterly along the center line of Sixth

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Street to the center line of Sixth Street (from the northwest); thence northwesterly along the center line of Sixth Street to the center line of Boylston Street; thence northeasterly along the center line of Boylston Street and northeasterly along the center line of Huntley Drive to the center line of Huntley Drive (from the west); thence easterly along the easterly prolongation of the center line of Huntley Drive to the southwesterly prolongation of the center line of Boylston Street; thence northeasterly along said prolongation and center line of Boylston Street to the center line of Bellevue Avenue; thence northerly along the center line of Bellevue Avenue to the center line of Boylston Street (from the northeast); thence northeasterly along the center line of Boylston Street to the center line of Sunset Boulevard; thence northwesterly along the center line of Sunset Boulevard to the center line of Quintero Street; thence northeasterly along the center line of Quintero Street to the center line of Macbeth Street; thence northwesterly along the center line of Macbeth Street to the center line of Sutherland Street; thence northeasterly along the center line of Sutherland Street to the center line of that certain alley lying adjacent to and parallel with the northerly line of Block 6 of Golden West Heights, as shown on map recorded in Book 34, page 91, of Miscellaneous Records, in the office of the Recorder of the County of Los Angeles; thence northwesterly along the center line of said alley and the northwesterly prolongation thereof to the center line of Portia Street; thence northeasterly along the center line of Portia Street to the center line of Scott Avenue; thence northeasterly along the center line of Scott Avenue to the southwesterly prolongation of the center line of Elysian Park Drive; thence northeasterly along said prolongation and center line of Elysian Park Drive and following the same in all its various courses to the center line of Chavez Ravine Drive (Elysian Park Drive and Chavez Ravine Drive are park roads lying within Elysian Park as per Ordinance No. 37351 of the City of Los Angeles); thence northeasterly along the center line of Chavez Ravine Drive and following the same in all its various courses to the southwesterly prolongation of the center line of the aforesaid Dallas Street; thence northeasterly along said last mentioned prolongation, the center line and northeasterly prolongation of the center line of said Dallas Street to the point of beginning, shall constitute the Forty-fourth Assembly District.

45. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the southwesterly prolongation of the center line of Division Street with the southwesterly line of the Southern Pacific Railroad Company's Right of Way (Valley Line), said point being near the southwesterly corner of Tract No. 3867, as shown on map recorded in Book 44, pages 20 and 21, of Maps, in the office

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of the Recorder of the County of Los Angeles; thence northeasterly along said prolongation and center line of Division Street to the center line of Avenue 30; thence southeasterly along the center line of Avenue 30 to the center line of Bank Street; thence northeasterly along the center line of Bank Street to the center line of Isabel Street; thence southeasterly along the center line of Isabel Street and following the same in all its various courses to the center line of Amabel Street; thence southeasterly along the center line of Amabel Street to the center line of Figueroa Street; thence northeasterly along the center line of Figueroa Street to the center line of Avenue 37; thence southeasterly along the center line of Avenue 37 to the center line of Arroyo Seco Avenue; thence northeasterly along the center line of Arroyo Seco Avenue to the center line of Marmion Way; thence northerly along the center line of Marmion Way and following the same in all its various courses to the northwesterly prolongation of the center line of that portion of Avenue 44 lying between Figueroa Street and Marmion Way; thence southeasterly along said prolongation and center line of Avenue 44 to the center line of Figueroa Street; thence northeasterly along the center line of Figueroa Street and following the same in all its various courses to the center line of Avenue 60 (from the southeast); thence southeasterly along the center line of Avenue 60 to the center line of Arroyo Seco Parkway; thence northeasterly along the center line of Arroyo Seco Parkway and following the same in all its various courses to the center line of Marmion Way; thence southeasterly along the center line of Marmion Way to the center line of Arroyo Drive; thence easterly along the center line of Arroyo Drive to the northerly prolongation of the most westerly boundary of the City of South Pasadena as the same existed on March 1, 1941; thence southerly along said last mentioned prolongation to the northerly terminus of said most westerly boundary, being also an angle point in the boundary of the City of Los Angeles as the same existed on said date; thence southerly along the boundary of said City of Los Angeles and following the same in all its various courses to an angle point in said boundary, said angle point lying on center line of Indiana Street (formerly Westminster Avenue), as shown on map of Boston Heights, recorded in Book 19, page 38, of Miscellaneous Records, in the office of the Recorder of the County of Los Angeles; thence northerly along the center line of Indiana Street and the northerly prolongation thereof to the center line of Valley Boulevard; thence westerly along the center line of Valley Boulevard to the center line of Soto Street; thence southwesterly along the center line of Soto Street to the center line of Marengo Street; thence northwesterly along the center line of Marengo Street to the center line of Mission Road; thence southwesterly along the center line of Mission Road to the center line of Daly Street; thence northerly along the center line of Daly Street, its northerly prolongation and

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center line to the center line of North Broadway; thence westerly and southwesterly along the center line of North Broadway to the center line of North Spring Street; thence southwesterly along the center line of North Spring Street to the center line of the Official Bed of the Los Angeles River; thence northwesterly along the center line of said river to the southwesterly prolongation of the center line of that portion of Granada Street lying between Cypress Avenue and San Fernando Road; thence northeasterly along said last mentioned prolongation to the southwesterly line of the aforesaid Southern Pacific Railroad Company's Right of Way (Valley Line); thence northwesterly along the southwesterly line of said right of way to the point of beginning, shall constitute the Forty-fifth Assembly District.

46. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the southwesterly prolongation of the center line of that portion of Culver Boulevard lying between Trolley Way and Ocean Front Walk with the southwesterly boundary of the County of Los Angeles; thence northeasterly along said southwesterly prolongation and center line of Culver Boulevard and following the same in all its various courses to the center line of Pershing Drive (from the northwest); thence northwesterly along the center line of Pershing Drive to the northwesterly boundary of the City of Los Angeles, as same existed on March 1, 1941; thence northeasterly along the boundary of said city and following the same in all its various courses to the center line of Victoria Avenue (formerly Fourteenth Avenue), as shown on map of Tract No. 911, recorded in Book 16, page 188, of Maps, in the office of the Recorder of the County of Los Angeles; thence southerly along the center line of Victoria Avenue to the center line of Fifty-second Street; thence easterly along the center line of Fifty-second Street to the center line of the Los Angeles Railway Corporation's Right of Way in Crenshaw Boulevard; thence southerly along the center line of said right of way to the center line of Slauson Avenue; thence easterly along the center line of Slauson Avenue to the center line of Van Ness Avenue (from the south); thence southerly along the center line of Van Ness Avenue to an angle point in the boundary of the City of Inglewood, as the same existed on above mentioned date, said angle point being at or near the intersection of the center line of Van Ness Avenue and the southerly line of Seventy-sixth Street; thence southerly along the boundary of said last mentioned city to an angle point in said last mentioned boundary at or near the center of Sec. 2, T. 3 S., R. 14 W., S. B. B. & M.; being also on the center line of Arlington Avenue; thence southerly along the center line of Arlington Avenue to the center line of El Segundo Boulevard; thence westerly along the center line of El Segundo Boulevard to the easterly boundary of the City of Hawthorne,

as the same existed on the above mentioned date; thence southerly along the boundary of said last mentioned city and following the same in all its various courses to the center line of Prairie Avenue; thence southerly along the center line of Prairie Avenue to the northwesterly boundary of the City of Torrance, as the same existed on the above mentioned date; thence southwesterly along the boundary of said last mentioned city and following the same in all its various courses to an angle point in the boundary of the City of Redondo Beach, as the same existed on the above mentioned date, said angle point being at or near the northeasterly corner of Block 21 of Tract 10019, as shown on map recorded in Book 182, pages 1 to 13, inclusive, of Maps, in the office of the Recorder of the County of Los Angeles; thence southerly along the boundary of said last mentioned city to an angle point in the northwesterly boundary of the City of Torrance, as the same existed on above mentioned date, said point being also the southeasterly corner of Block 70 of the above mentioned Tract No. 10019; thence westerly along the boundary of said City of Torrance and following the same in all its various courses to the westerly boundary of the County of Los Angeles; thence north along the boundary of said county and following the same in all its various courses to the point of beginning, shall constitute the Forty-sixth Assembly District. Assembly districts

47. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the center line of Allen Avenue as shown on map of Tract No. 1209, recorded in Book 20, page 9, of Maps, in the office of the Recorder of the County of Los Angeles, and the northerly boundary of the City of Pasadena, as same existed March 1, 1941; thence southerly along the center line of Allen Avenue to an angle point in the boundary of said city lying between Monte Vista Street and Villa Street; thence southerly along the boundary of said city and following the same in all its various courses to the center line of Allen Avenue as shown on map of Avondale Tract, recorded in Book 8, page 117, of Maps, in the office of the Recorder of the County of Los Angeles; thence southerly along the center line of Allen Avenue to that portion of the southerly boundary of said city lying between Keystone Street and Blanche Street; thence westerly along the boundary of said city and following the same in all its various courses to the northwesterly corner of Lot 35, as shown on Altadena Map No. 3, recorded in Book 52, page 50, of Miscellaneous Records, in the office of the Recorder of the County of Los Angeles; said last mentioned corner being also a point in the westerly line of the Arroyo Addition to the City of Pasadena; thence northeasterly along the boundary of said last mentioned Arroyo Addition and following the same in all its various courses to the southeasterly corner thereof, being also an angle point in the boundary of said city as the same existed on above mentioned date; thence easterly along the boundary of said

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city and following the same in all its various courses to the point of beginning, shall constitute the Forty-seventh Assembly District.

48. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the northwesterly corner of Sec. 2, T. 2 N., R. 13 W., S. B. B. & M.; thence easterly along the township line between T. 2 and 3 N. to the northeasterly corner of Sec. 1, T. 2 N., R. 12 W., S. B. B. & M.; thence southerly along the easterly line of said Sec. 1, to the northwesterly corner of Sec. 6, T. 2 N., R. 11 W., S B. B. & M.; thence easterly along the northerly line of said Sec. 6 to the northeasterly corner thereof; thence southerly along section lines to the southwesterly corner of Sec. 32, T. 2 N., R. 11 W., S. B. B. & M.; thence easterly along the township line between T. 1 and 2 N., to the north and south quarter section line in Sec. 3, T. 1 N., R. 11 W., S. B. B. & M.; thence southerly along quarter section lines to the center of Sec. 10, said last mentioned township and range, said last mentioned point being also the northwesterly corner of the City of Monrovia, as the same existed on March 1, 1941; thence southerly along the westerly boundary of said city to the northeasterly corner of the City of Arcadia, as the same existed on January 19, 1931; thence westerly along the boundary of said City of Arcadia and following the same in all its various courses to the center line of the Pacific Electric Railway Company's Right of Way in Huntington Drive; thence southwesterly along the center line of said right of way to the northeasterly boundary of the City of San Marino, as same existed on March 1, 1941; thence northwesterly along the boundary of said last mentioned city and following the same in all its various courses to an angle point in the boundary of the City of Pasadena, as the same existed on said last mentioned date, said last mentioned angle point lying in Lot 7 of the San Marino Tract, as shown on map recorded in Book 42, page 91, of Miscellaneous Records in the office of the Recorder of the County of Los Angeles; thence northerly along the boundary of said last mentioned city and following the same in all its various courses to the center line of that portion of Allen Avenue lying between Keystone Street and Blanche Street; thence northerly along the center line of Allen Avenue to that portion of the northerly boundary of said last mentioned city lying between Locust Street and Corson Street; thence westerly along the boundary of said last mentioned city and following the same in all its various courses to that portion of the center line of Allen Avenue lying between Villa Street and Monte Vista Street; thence northerly along the center line of Allen Avenue to the northerly boundary of said last mentioned city; thence westerly along the boundary of said last mentioned city and following the same in all its various courses to its first intersection with the Arroyo Addition to said last mentioned city; thence northerly along the boundary of said

Arroyo Addition and following the same in all its various courses to the northwesterly corner of Lot 35, as shown on Altadena Map No. 3 recorded in Book 52, page 50, of Miscellaneous Records, in the office of the Recorder of the County of Los Angeles, said corner being in the westerly boundary of the City of Pasadena, as the same existed on said last mentioned date; thence southeasterly along the boundary of said last mentioned city and following the same in all its various courses to its first intersection with the boundary of the City of Glendale, as the same existed on said last mentioned date; thence southwesterly along the boundary of said last mentioned city and following the same in all its various courses to the southerly prolongation of the westerly line of Sec. 26, T. 2 N., R. 13 W., S. B. B. & M.; thence northerly along said southerly prolongation and northerly along section lines to the point of beginning, shall constitute the Forty-eighth Assembly District. Assembly districts

49. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the northeast corner of Sec. 6, T. 2 N., R. 11 W., S. B. B. & M.; thence easterly along the township line between T. 2 and 3, north to the easterly boundary of the County of Los Angeles; thence southwesterly along the boundary of said county and following the same in all its various courses to the center line of Brea Canyon Road; thence northeasterly along the center line of Brea Canyon Road and following the same in all its various courses to the center line of Brea Canyon Cut-off Road; thence northwesterly along the center line of Brea Canyon Cut-off Road and following the same in all its various courses to the center line of Walnut Drive; thence easterly along the center line of Walnut Drive to the center line of Water Street; thence northerly along the center line of Water Street to the center line of the Los Angeles and Salt Lake Railroad Company's Right of Way (Riverside Branch); thence westerly along the center line of said right of way to the southerly prolongation of the center line of Center Street; thence northerly along said prolongation and center line of Center Street to the center line of La Puente Road; thence northeasterly along the center line of La Puente Road to the range line between R. 9 and 10 W.; thence northerly along said range line to the northwest corner of Sec. 30, T. 1 S., R. 9 W., as same is established by projecting Government section lines; thence easterly in a direct line to the southeast corner of Sec. 20, said last mentioned township and range, as same is established by projecting Government section lines; thence northerly in a direct line to the east and west quarter section line in fractional Sec. 8, T. 1 S., R. 9 W., in the Rancho San Jose as shown on map recorded in Book 2, pages 292 and 293, of Patents, in the office of the Recorder of the County of Los Angeles; thence westerly along quarter section lines to the center line of Azusa Canyon Road; thence southerly along the center line of Azusa Canyon Road to the northerly boundary of the City of West Covina, as same

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existed on March 1, 1941; thence westerly along the boundary of said city and following the same in all its various courses to the center line of Willow Avenue; thence southwesterly along the center line of Willow Avenue to the center line of Francisquito Avenue; thence northwesterly along the center line of Francisquito Avenue to the center line of West Ramona Boulevard; thence southwesterly along the center line of West Ramona Boulevard to the center line of the San Gabriel River; thence northeasterly along the center line of said San Gabriel River to the northeasterly line of the Rancho San Francisquito, as shown on map recorded in Book 1, pages 31 and 32, of Patents, in the office of the Recorder of the County of Los Angeles; thence northwesterly along the northeasterly line of the said rancho to the southeasterly boundary of the City of Arcadia, as the same existed on January 19, 1931; thence southwesterly along the boundary of said last mentioned city and following the same in all its various courses to the northeast corner thereof, being a point in the westerly boundary of the City of Monrovia, as the same existed on March 1, 1941; thence northerly along the westerly boundary of said last mentioned city to the northwesterly corner thereof, being also the center of Sec. 10, T. 1 N., R. 11 W., S. B. B. & M.; thence northerly along quarter section lines to the township line between T. 1 and 2 N.; thence westerly along said last mentioned township line to the southwest corner of Sec. 32, T. 2 N., R. 11 W., S. B. B. & M.; thence northerly along section lines to point of beginning, shall constitute the Forty-ninth Assembly District.

50. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the center line of Oak Avenue with the southerly boundary of the City of Arcadia, as the same existed on March 1, 1941; thence easterly along the boundary of said city and following the same in all its various courses to the northeasterly line of the Rancho San Francisquito, as shown on map recorded in Book 1, pages 31 and 32 of Patents, in the office of the Recorder of the County of Los Angeles; thence southeasterly along the boundary of said rancho to the center line of the San Gabriel River; thence southwesterly along the center line of said river and following the same in all its various courses to the center line of West Ramona Boulevard; thence northeasterly along the center line of West Ramona Boulevard to the center line of Francisquito Avenue; thence southeasterly along the center line of Francisquito Avenue to the center line of Willow Avenue; thence northeasterly along the center line of Willow Avenue to the southwesterly boundary of the City of West Covina, as the same existed on above mentioned date; thence northwesterly along the boundary of said city and following the same in all its various courses to the center line of Azusa Canyon Road, said point being near the northeast corner of Lot 16 of the Eugene Riggins Subdivision of the Hathaway

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Tract, as shown on map recorded in Book 53, page 37, of Miscellaneous Records, in the office of the Recorder of the County of Los Angeles; thence northerly along the center line of Azusa Canyon Road to the east and west quarter section line of Sec. 9, T. 1 S., R. 10 W., S. B. B. & M.; thence easterly along quarter section lines to the easterly line of fractional Sec. 8, T. 1 S., R. 9 W., in the Rancho of San Jose, as shown on map recorded in Book 2, pages 292 and 293, of Patents, in the office of the Recorder of the County of Los Angeles; said point being near the intersection of the center line of Covina Boulevard and Valley Center Avenue; thence southerly in a direct line to the southeast corner of Sec. 20, said last mentioned township and range, as same is established by projecting Government section lines; thence westerly in a direct line to the northwest corner of Sec. 30, T. 1 S., R. 9 W., as same is established by projecting Government section lines, said northwest corner being a point in the range line between R. 9 and 10 W.; thence southerly along said range line to the center line of La Puente Road; thence southwesterly along the center line of La Puente Road to the center line of Center Street; thence southerly along the center line of Center Street and the southerly prolongation thereof to the center line of the Los Angeles and Salt Lake Railroad Company's Right of Way (Riverside Branch); thence easterly along the center line of said right of way to the center line of Water Street; thence southerly along the center line of Water Street to the center line of Walnut Drive; thence southwesterly and westerly along the center line of Walnut Drive to the center line of Brea Canyon Cut-off Road; thence southerly along the center line of Brea Canyon Cut-off Road and following the same in all its various courses to the center line of Brea Canyon Road; thence southwesterly along the center line of Brea Canyon Road to the southerly boundary of the County of Los Angeles; thence westerly along the boundary of said county and following the same in all its various courses to the southeast corner of the southwest quarter of Sec. 13, T. 3 S., R. 11 W., in the Rancho Los Coyotes, as shown on map recorded in Book 1, pages 493 and 494, of Patents, in the office of the Recorder of the County of Los Angeles, said point being in the center line of Rosecrans Avenue; thence westerly along the center line of Rosecrans Avenue to the center line of Luitwieler Avenue; thence northerly along the center line of Luitwieler Avenue to the center line of Imperial Highway; thence westerly along the center line of Imperial Highway to the center line of Carmenita Road; thence northerly along the center line of Carmenita Road to the center line of Lakeland Road; thence westerly along the center line of Lakeland Road to the center line of The Atchison, Topeka & Santa Fe Railway Company's Right of Way (Main Line Los Angeles to San Diego); thence northerly along the center line of said right of way to the center line of Anaheim Telegraph Road; thence westerly

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along the center line of Anaheim Telegraph Road and following the same in all its various courses to a point due south of the most southerly corner of the City of Montebello, as the same existed on above mentioned date; thence due north to said last mentioned most southerly corner; thence northeasterly along the boundary of said city and following the same in all its various courses to the southerly prolongation of the center line of Walnut Grove Avenue; thence northerly along said prolongation and center line and following the center line of Walnut Grove Avenue and the prolongations thereof to the center line of the Southern Pacific Railroad Company's Right of Way (Main Line to Yuma); thence southeasterly along the center line of said right of way to the southerly prolongation of the center line of Encinita Avenue; thence northerly along said prolongation and center line of Encinita Avenue to the center line of Garibaldi Avenue; thence easterly along the center line of Garibaldi Avenue to the center line of Oak Avenue; thence northerly along the center line of Oak Avenue to the point of beginning, shall constitute the Fiftieth Assembly District.

51. All that part of the County of Los Angeles within the following described boundaries:

Beginning at an angle point in the boundary of the City of Los Angeles, as the same existed March 1, 1941, said angle point being in the intersection of Indiana Street and Medford Street; thence easterly along the boundary of said city and following the same in all its various courses to the southwesterly corner of the City of Alhambra, as the same existed on above mentioned date; thence easterly along the boundary of said last mentioned city and following the same in all its various courses to its first intersection with the boundary of the City of Monterey Park, as the same existed on above mentioned date; thence easterly along the boundary of said last mentioned city and following the same in all its various courses to the first intersection with the northerly boundary of the City of Montebello, as the same existed on above mentioned date; thence easterly along the boundary of said last mentioned city and following the same in all its various courses to the southeasterly line of Church Road; thence northeasterly along said southeasterly line of Church Road and the northeasterly prolongation thereof to the center line of The Atchison, Topeka and Santa Fe Railway Company's Right of Way (Main Line Los Angeles to San Diego); thence northwesterly along the center line of said right of way to its first intersection with the southeasterly boundary of the City of Vernon, as the same existed on above mentioned date; thence northeasterly along the boundary of said last mentioned city and following the same in all its various courses to its first intersection with the southerly boundary of the City of Los Angeles, as the same existed on above mentioned date; thence southeasterly along the boundary of said last mentioned city

and following the same in all its various courses to the point of beginning, shall constitute the Fifty-first Assembly District. Assembly districts

52. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the northwesterly corner of the City of Vernon, as the same existed March 1, 1941, at or near the northwesterly corner of Twenty-fifth and Alameda Streets, said point of beginning being also an angle point in the boundary of the City of Los Angeles, as same existed on the above mentioned date; thence easterly along the boundary of said City of Los Angeles and following the same in all its various courses to an angle point in aforesaid City of Vernon at or near the northeasterly corner of Lot 16, of Tract No. 8626, as shown on map recorded in Book 121, pages 96 to 100, of Maps, in the office of the Recorder of the County of Los Angeles; thence southwesterly along the boundary of said City of Vernon and following the same in all its various courses to the center line of The Atchison, Topeka and Santa Fe Railway Company's Right of Way (Main Line Los Angeles to San Diego); thence southeasterly along the center line of said right of way to the northeasterly prolongation of the southeasterly line of Church Road; thence southwesterly along said northeasterly prolongation and southeasterly line of Church Road to its first intersection with the boundary of the City of Montebello, as same existed on above mentioned date; thence southwesterly along the boundary of said last mentioned city and following the same along all its various courses to the most southerly corner thereof; thence due south to the center line of Anaheim Telegraph Road; thence southeasterly along the center line of Anaheim Telegraph Road to the center line of the official channel of the Rio Hondo; thence southwesterly along the center line of said official channel and following the same in all its various courses to its first intersection with the northerly boundary of the City of South Gate, as the same existed on above mentioned date; thence northwesterly along the boundary of said last mentioned city and following the same in all its various courses to an angle point in the boundary of said last mentioned city near the northwesterly corner of Tract No. 3233 as shown on map recorded in Book 36, page 70, of Maps, in the office of the Recorder of the County of Los Angeles; thence northerly along the northerly prolongation of that portion of the boundary of said last mentioned city lying on the westerly line of said last mentioned tract to the center line of Southern Pacific Railroad Company's Right of Way (Santa Ana Branch); thence northwesterly along the center line of said right of way to the southerly prolongation of the center line of that portion of Santa Fe Avenue lying between Florence Avenue and Sale Place; thence northerly along said southerly prolongation and center line of Santa Fe Avenue to the southerly boundary of the City of Huntington Park, as the same existed on above mentioned date; thence westerly along the boundary of said city to the first angle point therein,

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said angle point being near the southwesterly corner of Lot A, Tract No. 4286, as shown on map recorded in Book 45, pages 27 and 28, of Maps, in the office of the Recorder of the County of Los Angeles; said angle point being also in the center line of Florence Avenue, thence westerly along the center line of Florence Avenue to the center line of Compton Avenue; thence northerly along the center line of Compton Avenue to the southerly boundary of the above mentioned City of Los Angeles; thence easterly along the boundary of said city and following the same in all its various courses to the point of beginning, shall constitute the Fifty-second Assembly District.

53. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the northwesterly corner of the City of South Pasadena, as the same existed on March 1, 1941, said corner being at the northeasterly corner of Lot 2, Tract No. 3119, as shown on map recorded in Book 33, page 91 of Maps, in the office of the Recorder of the County of Los Angeles; thence easterly along the boundary of said city and following the same in all its various courses to the most westerly corner of the City of San Marino, as the same existed on above mentioned date; thence southeasterly along the boundary of said last mentioned city and following the same in all its various courses to the center line of the Pacific Electric Railway Company's Right of Way in Huntington Drive; thence northeasterly along the center line of said right of way to the westerly boundary line of the City of Arcadia, as the same existed on the aforementioned date; thence southerly along the boundary of said last mentioned city and following the same in all its various courses to the center line of Oak Avenue; thence southerly along the center line of Oak Avenue to the center line of Garibaldi Avenue; thence westerly along the center line of Garibaldi Avenue to the center line of Encinita Avenue; thence southerly along the center line of Encinita Avenue and the southerly prolongation thereof to the center line of the Southern Pacific Railroad Company's Right of Way (Main Line to Yuma); thence northwesterly along the center line of said right of way to the northerly prolongation of the center line of Walnut Grove Avenue; thence southerly along said northerly prolongation and center line and following the center line of Walnut Grove Avenue and the prolongations thereof to the northerly boundary of the City of Montebello, as the same existed on above mentioned date; thence westerly along the boundary of said last mentioned city and following the same in all its various courses to its first intersection with the southerly boundary of the City of Monterey Park, as the same existed on above mentioned date; thence westerly along the boundary of said last mentioned city and following the same in all its various courses to its first intersection with the boundary of the City of Alhambra, as the same existed on above mentioned date; thence westerly along the boundary of said last mentioned

city and following the same in all its various courses to its first intersection with the southerly boundary of the aforesaid City of South Pasadena; thence westerly along the boundary of said last mentioned city and following the same in all its various courses to the point of beginning, shall constitute the Fifty-third Assembly District. Assembly districts

54. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the most southerly corner of the City of Glendale, as the same existed on March 1, 1941, said southerly corner lying on the southwesterly line of the Southern Pacific Railroad Company's Right of Way (Valley Line), being also an angle point in the boundary of the City of Los Angeles, as the same existed on above mentioned date; thence northeasterly along the boundary of said last mentioned city and following the same in all its various courses to an angle point therein, said angle point being the northerly terminus of the most westerly boundary of the City of South Pasadena, as the same existed on above mentioned date; thence northerly along the prolongation of said most westerly boundary to the center line of Arroyo Drive; thence westerly along the center line of Arroyo Drive to the center line of Marmion Way; thence northwesterly along the center line of Marmion Way to the center line of Arroyo Seco Park Way; thence southwesterly along the center line of Arroyo Seco Park Way and following the same in all its various courses to the center line of Avenue 60; thence northwesterly along the center line of Avenue 60 to the center line of Figueroa Street; thence southwesterly along the center line of Figueroa Street and following the same in all its various courses to the center line of Avenue 44, from the northwest; thence northwesterly along the center line of Avenue 44 and the northwesterly prolongation thereof to the center line of Marmion Way; thence southwesterly along the center line of Marmion Way and following the same in all its various courses to the center line of Arroyo Seco Avenue; thence southwesterly along the center line of Arroyo Seco Avenue to the center line of Avenue 37; thence northwesterly along the center line of Avenue 37 to the center line of Figueroa Street; thence southwesterly along the center line of Figueroa Street to the center line of Amabel Street; thence northwesterly along the center line of Amabel Street to the center line of Isabel Street; thence westerly along the center line of Isabel Street and following the same in all its various courses to the center line of Bank Street; thence southwesterly along the center line of Bank Street to the center line of Avenue 30; thence northwesterly along the center line of Avenue 30 to the center line of Division Street; thence southwesterly along the center line of Division Street and its southwesterly prolongation to the southwesterly line of the Southern Pacific Railroad Company's Right of Way (Valley Line); thence southeasterly

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along the southwesterly line of said right of way to the southwesterly prolongation of the center line of that portion of Granada Street lying between Cypress Avenue and San Fernando Road; thence southwesterly along said last mentioned prolongation to the center line of the Official Bed of the Los Angeles River; thence northwesterly along the center line of said river to the northeasterly prolongation of the center line of Dallas Street; thence southwesterly along said prolongation and center line of Dallas Street to the center line of Riverside Drive; thence northwesterly along the center line of Riverside Drive to the southwesterly prolongation of the center line of Tyburn Street; thence northeasterly along said prolongation and center line of Tyburn Street to the point of beginning, shall constitute the Fifty-fourth Assembly District.

55. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the center lines of Seventh Street and Westmoreland Avenue, as shown on map of Tract No. 452, recorded in Book 14, page 157, of Maps, in the office of the Recorder of the County of Los Angeles; thence easterly along the center line of Seventh Street to the center line of Hoover Street; thence southerly along the center line of Hoover Street to the center line of Eighth Street; thence southeasterly along the center line of Eighth Street and following the same in all its various courses to the center line of Figueroa Street; thence southwesterly along the center line of Figueroa Street to the center line of Ninth Street (from the southeast); thence southeasterly along the center line of Ninth Street to the center line of Maple Avenue; thence southwesterly along the center line of Maple Avenue to the center line of Jefferson Boulevard; thence northwesterly along the center line of Jefferson Boulevard to the center line of Hoover Street, said Hoover Street lying southeasterly of and adjacent to the southeasterly line of Block Q, of West Los Angeles, as shown on map recorded in Book 32, pages 71 and 72, of Miscellaneous Records, in the office of the Recorder of the County of Los Angeles; thence northeasterly and northerly along the center line of Hoover Street to the center line of Washington Boulevard; thence westerly along the center line of Washington Boulevard to the center line of Western Avenue; thence northerly along the center line of Western Avenue to the center line of Ninth Street; thence easterly along the center line of Ninth Street to the center line of Vermont Avenue; thence southerly along the center line of Vermont Avenue to the center line of Ninth Street (from the east); thence easterly along the center line of Ninth Street to the center line of Westmoreland Avenue; thence northerly along the center line of Westmoreland Avenue to the point of beginning, shall constitute the Fifty-fifth Assembly District.

56. All that part of the County of Los Angeles within the following described boundaries: Assembly districts

Beginning at the intersection of the center lines of Western Avenue and Los Feliz Boulevard, as shown on map of Tract No. 3823, recorded in Book 41, page 78, of Maps in the office of the Recorder of the County of Los Angeles; thence northeasterly along the center line of Los Feliz Boulevard to the southwesterly prolongation of the center line of a private street known as Western Avenue Canyon Road; thence northeasterly along said prolongation and center line of Western Canyon Road and following the same in all its various courses to the southerly boundary of Griffith Park, as shown on County Surveyor's Map No. 2325, on file in the office of the Surveyor of the County of Los Angeles; thence westerly and northerly along the boundary of Griffith Park to its intersection with a direct line connecting the most southeasterly corner of the Rancho Providencia, as shown on map recorded in Book 1, pages 244 and 245 of Patents in the office of the Recorder of the County of Los Angeles, with the westerly terminus of the center line of Goodwin Avenue; thence easterly in a direct line to said most westerly terminus; thence easterly along the center line of Goodwin Avenue to the easterly boundary of the City of Los Angeles as the same existed on March 1, 1941; thence southeasterly along the boundary of said city to an angle point therein at the center line of Tyburn Street; thence southwesterly along the center line of Tyburn Street and its prolongation to the center line of Riverside Drive; thence southeasterly along the center line of Riverside Drive to the southwesterly prolongation of the center line of Dallas Street; thence southwesterly along said last mentioned prolongation to the center line of Chavez Ravine Drive; thence southeasterly along the center line of Chavez Ravine Drive and following the same in all its various courses to the center line of Elysian Park Drive; thence southwesterly along the center line of Elysian Park Drive and the southwesterly prolongation thereof to the center line of Scott Avenue (Elysian Park Drive and Chavez Ravine Drive are park roads lying within Elysian Park as per Ordinance No. 37351 of the City of Los Angeles); thence southwesterly along the center line of Scott Avenue to the center line of Portia Street; thence southwesterly along the center line of Portia Street to the northwesterly prolongation of the center line of that certain alley lying adjacent to and parallel with the northerly line of Block 6, of Golden West Heights, as shown on map recorded in Book 34, page 91, of Miscellaneous Records, in the office of the Recorder of the County of Los Angeles; thence southeasterly along said last mentioned prolongation and center line of said alley to the center line of Sutherland Street; thence southwesterly along the center line of Sutherland Street to the center line of Macbeth Street; thence southeasterly along the center line of Macbeth Street to the center line of Quintero Street; thence southwesterly along the center line of Quintero Street

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to the center line of Sunset Boulevard; thence northwesterly along the center line of Sunset Boulevard and following the same in all its various courses to the center line of Fountain Avenue; thence westerly along the center line of Fountain Avenue to the center line of Hoover Street (from the south); thence southerly along the center line of Hoover Street to the center line of Temple Street; thence southeasterly along the center line of Temple Street to the center line of Hoover Street (from the southwest); thence southwesterly and southerly along the center line of Hoover Street to the center line of Sixth Street; thence southeasterly along the center line of Sixth Street to the center line of Lafayette Park Place (from the southwest); thence southwesterly along the center line of Lafayette Park Place to the center line of Seventh Street; thence westerly along the center line of Seventh Street to the center line of Vermont Avenue; thence northerly along the center line of Vermont Avenue to the center line of Beverly Boulevard; thence westerly along the center line of Beverly Boulevard to the center line of Western Avenue; thence northerly along the center line of Western Avenue to the point of beginning, shall constitute the Fifty-sixth Assembly District.

57. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the southerly boundary of the Rancho Providencia, as shown on map recorded in Book 1, pages 244 and 245, of Patents, in the office of the Recorder of the County of Los Angeles, with the center line of Barham Boulevard; thence easterly along said southerly boundary to the most southeasterly corner of said Rancho Providencia; thence easterly along a direct line connecting said last mentioned corner with the westerly terminus of the center line of Goodwin Avenue to the intersection of said direct line with the westerly boundary of Griffith Park as shown on County Surveyor's Map No. 2325 on file in the office of the Surveyor of the County of Los Angeles; thence southerly and easterly along the boundary of said Griffith Park to the center line of a private street known as Western Avenue Canyon Road; thence southerly along the center line of said Western Avenue Canyon Road and the southwesterly prolongation thereof to the center line of Los Feliz Bouvelard; thence southwesterly along the center line of Los Feliz Boulevard to the center line of Western Avenue; thence southerly along the center line of Western Avenue to the center line of Beverly Boulevard; thence westerly along the center line of Beverly Boulevard to the boundary of the Rosewood Addition to the City of Los Angeles, said boundary lying between Gardner and Vista Streets; thence southerly along the boundary of said Rosewood Addition and following the same in all its various courses to the center line of Beverly Boulevard; thence westerly along the center line of Beverly Boulevard to the center line of Fairfax Avenue; thence northerly along the center line of Fairfax Avenue to the southerly boundary of the City

of Los Angeles, as the same existed on above mentioned date (on the northerly line of Fountain Avenue); thence westerly along the boundary line of said last mentioned city and following the same in all its various courses to the center line of Hayworth Avenue; thence northerly along the center line of Hayworth Avenue to the center line of Selma Avenue; thence westerly along the center line of Selma Avenue to the westerly boundary of the Hollywood Consolidation to the City of Los Angeles; thence northerly along the boundary of said consolidation and following the same in all its various courses to the center line of El Cerrito Place; thence northerly along the center line of El Cerrito Place to the center line of Outpost Drive; thence northerly along the center line of Outpost Drive and following the same in all its various courses to the center line of Mulholland Highway; thence northerly along the center line of Mulholland Highway to the center line of Base Line Trail; thence northerly along the center line of Base Line Trail to the center line of Pacific View Drive; thence easterly along the center line of Pacific View Drive and following the same in all its various courses to the center line of Woodrow Wilson Drive extending northwesterly from Cahuenga Boulevard; thence northwesterly and northeasterly along the center line of Woodrow Wilson Drive to a point due south of the intersection of the northwesterly line of said portion of Woodrow Wilson Drive with the southerly boundary of the San Fernando Addition to the City of Los Angeles; thence due north to said last mentioned intersection; thence southeasterly along the northeasterly line of said Woodrow Wilson Drive and the southeasterly prolongation thereof to the center line of the Pacific Electric Railway Company's Right of Way; thence northwesterly along the center line of said right of way to the center line of Barham Boulevard; thence northeasterly along the center line of Barham Boulevard to the point of beginning, shall constitute the Fifty-seventh Assembly District. Assembly districts

58. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the center line of Beverly Boulevard and Highland Avenue, as shown on map of Tract No. 8498 recorded in Book 95, pages 53 to 55, of Maps, in the office of the Recorder of the County of Los Angeles; thence easterly along the center line of Beverly Boulevard to the center line of Vermont Avenue; thence southerly along the center line of Vermont Avenue to the center line of Seventh Street; thence easterly along the center line of Seventh Street to the center line of Westmoreland Avenue; thence southerly along the center line of Westmoreland Avenue to the center line of Ninth Street; thence westerly along the center line of Ninth Street to the center line of Vermont Avenue; thence northerly along the center line of Vermont Avenue to the center line of Ninth Street (from the west); thence westerly along the center line of Ninth Street to the center line of

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Western Avenue; thence southerly along the center line of Western Avenue to the center line of Washington Boulevard; thence westerly along the center line of Washington Boulevard to the center line of Victoria Avenue; thence northeasterly along the center line of Victoria Avenue to the center line of Pico Boulevard; thence westerly along the center line of Pico Boulevard to the center line of Highland Avenue; thence northerly along the center line of Highland Avenue to the center line of Wilshire Boulevard; thence westerly along the center line of Wilshire Boulevard to the center line of Highland Avenue (from the north); thence northerly along the center line of Highland Avenue to the point of beginning, *shall constitute the Fifty-eighth Assembly District.*

59. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the most northeasterly corner of the Rancho San Vicente y Santa Monica, as shown on map recorded in Book 3, pages 30 and 31, of Patents, in the office of the Recorder of the County of Los Angeles, said corner being on the southerly boundary of the San Fernando Addition to the City of Los Angeles; thence easterly along the boundary of said last mentioned addition to the northeasterly line of Woodrow Wilson Drive extending northwesterly from Cahuenga Boulevard; thence due south to the center line of Woodrow Wilson Drive; thence southwesterly and southeasterly along the center line of Woodrow Wilson Drive to the center line of Pacific View Drive; thence southeasterly along the center line of Pacific View Drive and following the same in all its various courses to the center line of Base Line Trail; thence southerly along the center line of Base Line Trail to the center line of Mulholland Highway; thence southerly along the center line of Mulholland Highway to the center line of Outpost Drive; thence southwesterly along the center line of Outpost Drive and following the same in all its various courses to the center line of El Cerrito Place; thence southerly along the center line of El Cerrito Place to the northwesterly boundary of the Hollywood Consolidation to the City of Los Angeles; thence southwesterly along the boundary of said last mentioned consolidation and following the same in all its various courses to the center line of Selma Avenue; thence easterly along the center line of Selma Avenue to the center line of Hayworth Avenue; thence southerly along the center line of Hayworth Avenue to the center line of Sunset Boulevard; thence westerly along the center line of Sunset Boulevard to the center line of Hayworth Avenue (from the south); thence southerly along the center line of Hayworth Avenue to its first intersection with the southerly boundary of the City of Los Angeles, as the same existed on March 1, 1941, said boundary lying between Sunset Boulevard and Fountain Avenue; thence easterly along the boundary of said city and following the same in all its various courses to the center line of Fairfax Avenue; thence southerly along the center

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line of Fairfax Avenue to the center line of Beverly Boulevard; thence easterly along the center line of Beverly Boulevard to the westerly boundary of the Rosewood Addition to the City of Los Angeles; thence southerly along the boundary of said last mentioned addition and following the same in all its various courses to the center line of Beverly Boulevard; thence easterly along the center line of Beverly Boulevard to the center line of Highland Avenue; thence southerly along the center line of Highland Avenue to the center line of Wilshire Boulevard; thence easterly along the center line of Wilshire Boulevard to the center line of Highland Avenue (from the southwest); thence southwesterly along the center line of Highland Avenue to the center line of Pico Boulevard; thence westerly along the center line of Pico Boulevard and following the same in all its various courses to the center line of Heath Avenue; thence northwesterly along the center line of Heath Avenue to a point due west of an angle point in the boundary of the City of Beverly Hills, as the same existed on above mentioned date, lying at or near the northwesterly corner of Lot 8, Tract No. 11179, as shown on map recorded in Book 204, pages 4 to 6 of Maps, in the office of the Recorder of the County of Los Angeles; thence due east to said angle point; thence northwesterly along the boundary of said last mentioned city and following the same in all its various courses to the southerly line of Sec. 11, T. 1 S., R. 15 W., S. B. B. & M.; thence westerly along section lines to the southwesterly corner of fractional Sec. 10, of said last mentioned township and range, said corner being on the northeasterly boundary of the Rancho San Vicente y Santa Monica; thence northwesterly along the boundary of said rancho to the point of beginning, shall constitute the Fifty-ninth Assembly District.

60. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the northwesterly boundary of the County of Los Angeles and the north line of Sec. 8, T. 1 S., R. 19 W., S. B. B. & M.; thence easterly along section lines to the northeast corner of Sec. 11, said last mentioned township and range; thence southerly along the easterly line of said last mentioned section to the northwesterly corner of Sec. 13, said last mentioned township and range; thence easterly and southerly along the northerly and easterly lines of said last mentioned section to the northwesterly corner of Sec. 19, T. 1 S., R. 18 W., S. B. B. & M.; thence easterly along section lines to the first intersection with the boundary of the City of Los Angeles, as the same existed March 1, 1941; thence northeasterly along the boundary of said city to the southerly boundary of the San Fernando Addition to the City of Los Angeles; thence easterly along the southerly boundary of said addition to the northeasterly boundary of the Rancho San Vicente y Santa Monica, as shown on map recorded in Book 3, pages 30 and 31, of Patents, in the office of

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the Recorder of the County of Los Angeles; thence southeasterly along the northeasterly boundary of said rancho to the southwesterly corner of fractional Sec. 10, T. 1 S., R. 15 W., S. B. B. & M.; thence easterly along section lines to the first intersection with the boundary of the City of Beverly Hills, as the same existed on above mentioned date; thence southerly along the boundary of said city and following the same in all its various courses to an angle point in said boundary lying at or near the northwesterly corner of Lot 8, Tract No. 11179, as shown on map recorded in Book 204, pages 4 to 6, of Maps, in the office of the Recorder of the County of Los Angeles; thence due west to the center line of Heath Avenue; thence southeasterly along the center line of Heath Avenue to the center line of Pico Boulevard; thence southwesterly along the center line of Pico Boulevard to the northeasterly boundary of the City of Santa Monica, as the same existed on the above mentioned date; thence southeasterly along the boundary of said last mentioned city and following the same in all its various courses to the most southerly corner thereof, said corner being a point in the boundary of the County of Los Angeles; thence northwesterly along the boundary of said county and following the same in all its various courses to the point of beginning, shall constitute the Sixtieth Assembly District.

61. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the most southerly corner of the City of Santa Monica, as same existed March 1, 1941, being also a point in the southwesterly boundary of the County of Los Angeles; thence northeasterly along the boundary of said City of Santa Monica and following the same in all its various courses to the center line of Pico Boulevard; thence northeasterly along the center line of Pico Boulevard and following the same in all its various courses to the center line of Victoria Avenue; thence southwesterly along the center line of Victoria Avenue to the center line of Washington Boulevard; thence easterly along the center line of Washington Boulevard to the center line of Bronson Avenue; thence southwesterly along the center line of Bronson Avenue to the center line of Adams Boulevard; thence westerly along the center line of Adams Boulevard to the center line of Crenshaw Boulevard; thence southerly along the center line of Crenshaw Boulevard to the southerly boundary of the Palms Addition to the City of Los Angeles; thence westerly along said last mentioned boundary to the westerly boundary of the Rancho Cienega O'Paso de La Tijera, as shown on map recorded in Book 1, page 259, of Patents, in the office of the Recorder of the County of Los Angeles; thence southerly along the boundary of said last mentioned rancho and following the same in all its various courses to the north and south quarter section line in Sec. 17, T. 2 S., R. 14 W., S. B. B. & M.; thence southerly along said quarter section line to the east and west quarter section line in said Sec. 17; thence

easterly along said last mentioned quarter section line and the easterly prolongation thereof to the westerly line of Tract No. 6177, as shown on map recorded in Book 144, pages 77 to 81, inclusive, of Maps, in the office of the Recorder of the County of Los Angeles; thence northerly along the westerly line of said last mentioned tract to the center line of Chanson Drive; thence easterly and southeasterly along the center line of Chanson Drive to the center line of Lorado Way; thence northeasterly along the center line of Lorado Way to the center line of Mullen Avenue; thence southeasterly along the center line of Mullen Avenue to the center line of Angeles Vista Boulevard; thence southwesterly along the center line of Angeles Vista Boulevard to the center line of Mullen Avenue (from the south); thence southerly along the center line of Mullen Avenue to the center line of Fifty-second Street; thence easterly along the center line of Fifty-second Street to the westerly boundary of the City of Los Angeles, as same existed on the above mentioned date; thence southerly along the boundary of said last mentioned city and following the same in all its various courses to the center line of Pershing Drive; thence southeasterly along the center line of Pershing Drive to the center line of Culver Boulevard; thence southwesterly along the center line of Culver Boulevard and following the same in all its various courses, and the southwesterly prolongation thereof to the southwesterly boundary of the aforesaid county; thence northwesterly along the boundary of said county and following the same in all its various courses to the point of beginning, shall constitute the Sixty-first Assembly District. Assembly districts

62. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the center line of Maple Avenue with the center line of Ninth Street, said point being at or near the most northerly corner of Lot 1, Block B, Moran Tract, as shown on map recorded in Book 16, page 27, of Miscellaneous Records, in the office of the Recorder of the County of Los Angeles; thence southeasterly along the center line of Ninth Street to the center line of Olympic Boulevard; thence southeasterly along the center line of Olympic Boulevard to the center line of Alameda Street; thence southerly along the center line of Alameda Street to the southerly boundary of the City of Los Angeles, as same existed on March 1, 1941; thence westerly along the boundary of said city and following the same in all its various courses to the center line of Slauson Avenue (from the west); thence westerly along the center line of Slauson Avenue to the center line of Main Street; thence northerly along the center line of Main Street to the center line of Santa Barbara Avenue; thence easterly along the center line of Santa Barbara Avenue to the center line of Woodlawn Avenue; thence northerly along the center line of Woodlawn Avenue to the center line of Maple Avenue; thence northeasterly along the center line of Maple Avenue to the center line of Washington Boulevard; thence southeasterly along the center line of Washington Boulevard to the

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center line of Maple Avenue (from the north); thence northeasterly along the center line of Maple Avenue and following the same in all its various courses to the point of beginning, shall constitute the Sixty-second Assembly District.

63. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the center lines of Washington Boulevard (formerly Washington Street) and Bronson Avenue (formerly Cheswick Drive), as shown on map of the Cheswick Tract recorded in Book 22, pages 98 and 99, of Maps, in the office of the Recorder of the County of Los Angeles; thence easterly along the center line of Washington Boulevard to the center line of Hoover Street (from the south); thence southerly along the center line of Hoover Street and southwesterly along the center line of that portion of Hoover Street lying southeasterly of and adjacent to the southeasterly line of Block Q, West Los Angeles, as shown on map recorded in Book 32, pages 71 and 72, of Miscellaneous Records, in the office of the Recorder of the County of Los Angeles, to the center line of Jefferson Boulevard; thence southeasterly along the center line of Jefferson Boulevard to the center line of Figueroa Street; thence southwesterly along the center line of Figueroa Street to the center line of the Pacific Electric Railway Company's Right of Way (Santa Monica Air Line); thence westerly along the center line of said right of way to the center line of Vermont Avenue; thence southerly along the center line of Vermont Avenue to the center line of the Los Angeles Railway Corporation's Right of Way (in Santa Barbara Avenue); thence westerly along the center line of said last mentioned right of way and following the same in all its various courses to the center line of Vernon Avenue; thence westerly along the center line of Vernon Avenue and following the same in all its various courses to the southeasterly boundary of the City of Los Angeles, as the same existed March 1, 1941; thence southeasterly along the boundary of said city and following the same in all its various courses to the center line of Fifty-second Street, as shown on map of Tract No. 5535, recorded in Book 76, pages 74 and 75, of Maps, in the office of the Recorder of the County of Los Angeles; thence westerly along the center line of Fifty-second Street to the center line of Mullen Avenue; thence northerly along the center line of Mullen Avenue to the center line of Angeles Vista Boulevard; thence northeasterly along the center line of Angeles Vista Boulevard to the center line of Mullen Avenue (from the northwest); thence northwesterly and northerly along the center line of Mullen Avenue to the center line of Larado Way; thence southwesterly along the center line of Larado Way to the center line of Chanson Drive; thence westerly along the center line of Chanson Drive to the westerly line of Tract No. 6177, as shown on map recorded in Book 144, pages 77 to 81, both inclusive, of Maps, in the office of the Recorder of the County of Los Angeles; thence southerly along said tract line

to the easterly prolongation of the east and west quarter section line of fractional Sec. 17, T. 2 S., R. 14 W., S. B. B. & M.; thence easterly along said prolongation and east and west quarter section line of said section to the north and south quarter section line in said Sec. 17; thence northerly along said last mentioned quarter section line to the southwesterly boundary of the Rancho Cienega O'Paso de la Tijera, as shown on map recorded in Book 1, page 259, of Patents, in the office of the Recorder of the County of Los Angeles; thence northwesterly along the boundary of said rancho and following the same in all its various courses to the southerly boundary of the City of Los Angeles, as the same existed on above mentioned date, being also the southerly boundary of the Palms Addition to the City of Los Angeles; thence easterly along the boundary of said Palms Addition to the center line of Crenshaw Boulevard; thence northerly along the center line of Crenshaw Boulevard to the center line of Adams Boulevard; thence easterly along the center line of Adams Boulevard to the center line of Bronson Avenue; thence northeasterly along the center line of Bronson Avenue to the point of beginning, shall constitute the Sixty-third Assembly District. Assembly districts

64. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the center lines of Fountain Avenue and Hoover Street; thence easterly along the center line of Fountain Avenue to the center line of Sunset Boulevard; thence southeasterly along the center line of Sunset Boulevard and following the same in all its various courses to the center line of Boylston Street; thence southwesterly along the center line of Boylston Street to the center line of Bellevue Avenue; thence southeasterly along the center line of Bellevue Avenue to the center line of Boylston Street (from the southwest); thence southwesterly along the center line of Boylston Street and the southwesterly prolongation thereof to the easterly prolongation of the center line of Huntley Drive; thence westerly along said prolongation of Huntley Drive to the center line of Huntley Drive (from the south); thence southerly along the center line of Huntley Drive to the center line of Boylston Street; thence southwesterly along the center line of Boylston Street to the center line of Sixth Street; thence southeasterly along the center line of Sixth Street to the center line of Sixth Street (from the southwest); thence southwesterly along the center line of Sixth Street to the center line of Wilshire Drive; thence southwesterly along the center line of Wilshire Drive to the center line of Wilshire Boulevard; thence northwesterly along the center line of Wilshire Boulevard to the center line of Kip Street; thence southwesterly along the center line of Kip Street to the center line of Ingraham Street (from the southeast); thence southeasterly along the center line of Ingraham Street to the center line of Kip Street (from the southwest); thence southwesterly

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along the center line of Kip Street to the center line of Seventh Street; thence southeasterly along the center line of Seventh Street to the center line of Francisco Street; thence southwesterly along the center line of Francisco Street to the center line of Eighth Street; thence northwesterly along the center line of Eighth Street and following the same in all its various courses to the center line of Hoover Street; thence northerly along the center line of Hoover Street to the center line of Lafayette Park Place; thence northeasterly along the center line of Lafayette Park Place to the center line of Sixth Street; thence northwesterly along the center line of Sixth Street to the center line of Hoover Street; thence northerly and northeasterly along the center line of Hoover Street to the center line of Temple Street; thence northwesterly along the center line of Temple Street to the center line of Hoover Street; thence northerly along the center line of Hoover Street to the point of beginning, shall constitute the Sixty-fourth Assembly District.

65. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the center line of that portion of Vernon Avenue extending southwesterly from Crenshaw Boulevard with the southwesterly boundary of the City of Los Angeles, as the same existed on March 1, 1941; thence northeasterly and easterly along the center line of Vernon Avenue to the center line of the Los Angeles Railway Corporation's Right of Way (in Leimert Boulevard); thence northerly, northeasterly, and easterly along the center line of said right of way to the center line of Vermont Avenue; thence northerly along the center line of Vermont Avenue to the center line of the Pacific Electric Railway Company's Right of Way (Santa Monica Air Line) in Exposition Boulevard; thence easterly along the center line of said last mentioned right of way to the center line of Figueroa Street; thence northeasterly along the center line of Figueroa Street to the center line of Jefferson Boulevard; thence southeasterly along the center line of Jefferson Boulevard to the center line of Maple Avenue; thence southwesterly along the center line of Maple Avenue to the center line of Woodlawn Avenue; thence southerly along the center line of Woodlawn Avenue to the center line of Santa Barbara Avenue; thence westerly along the center line of Santa Barbara Avenue to the center line of Main Street; thence southerly along the center line of Main Street to the center line of Slauson Avenue; thence westerly along the center line of Slauson Avenue to the center line of the Los Angeles Railway Corporation's Right of Way in Crenshaw Boulevard; thence northerly along the center line of said last mentioned right of way to the center line of Fifty-second Street; thence westerly along the center line of Fifty-second Street to the center line of Victoria Avenue; thence northerly along the center line of Victoria Avenue to the southerly boundary of the aforesaid

City of Los Angeles; thence easterly along the boundary of said city and following the same in all its various courses to the point of beginning, shall constitute the Sixty-fifth Assembly District. Assembly districts

66. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the center line of Slauson Avenue with the center line of Van Ness Avenue (from the south) at or near the northeasterly corner of Block A, Tract No. 4893, as shown on map recorded in Book 53, pages 33 and 34 of Maps, in the office of the Recorder of the County of Los Angeles; thence easterly along the center line of Slauson Avenue to the easterly boundary of the City of Los Angeles, as the same existed on March 1, 1941; thence northerly along the boundary of said city and following the same in all its various courses to the center line of Compton Avenue; thence southerly along the center line of Compton Avenue to the center line of Firestone Boulevard; thence westerly along the center line of Firestone Boulevard to the center line of Manchester Avenue; thence westerly along the center line of Manchester Avenue to the center line of that portion of Vermont Avenue lying easterly of the Los Angeles Railway Company's right of way; thence northerly along the center line of Vermont Avenue to the easterly prolongation of the center line of Seventy-ninth Street (from the west); thence westerly along said prolongation and center line of Seventy-ninth Street to the center line of Budlong Avenue; thence southerly along the center line of Budlong Avenue to the center line of Manchester Avenue; thence westerly along the center line of Manchester Avenue to the easterly boundary of the City of Inglewood, as the same existed on the above mentioned date, said easterly boundary lying on the center line of Van Ness Avenue; thence northerly along the boundary of said last mentioned city to an angle point in said last mentioned boundary at or near the intersection of the center line of Van Ness Avenue and the southerly line of Seventy-sixth Street; thence northerly along the center line of Van Ness Avenue to the point of beginning, shall constitute the Sixty-sixth Assembly District.

67. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the center line of Manchester Avenue with the easterly boundary of the City of Inglewood as the same existed on March 1, 1941; thence easterly along the center line of Manchester Avenue to the center line of Budlong Avenue; thence northerly along the center line of Budlong Avenue to the center line of Seventy-ninth Street; thence easterly along the center line of Seventy-ninth Street and the easterly prolongation thereof to the center line of that portion of Vermont Avenue lying easterly of the Los Angeles Railway Company's right of way; thence southerly along the center line of Vermont Avenue to

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the center line of Manchester Avenue; thence easterly along the center line of Manchester Avenue to the center line of Firestone Boulevard; thence easterly along the center line of Firestone Boulevard to the center line of Compton Avenue from the north; thence northerly along the center line of Compton Avenue to the center line of Florence Avenue; thence easterly along the center line of Florence Avenue to the southwesterly corner of the City of Huntington Park as the same existed on the above mentioned date, said corner being at or near the southwest corner of Tract No. 4286 as shown on map recorded in Book 45, pages 27 and 28, of Maps, in the office of the Recorder of the County of Los Angeles; thence easterly along the boundary of said last mentioned city to the center line of Santa Fe Avenue; thence southerly along the center line of Santa Fe Avenue and the southerly prolongation of that portion of Santa Fe Avenue lying between Florence Avenue and Sale Place to the center line of the Southern Pacific Railroad Company's Right of Way (Santa Ana Branch); thence southeasterly along the center line of said right of way to the northerly prolongation of that portion of the westerly boundary of the City of South Gate, as same existed on the above mentioned date, lying on the westerly line of Tract No. 3233, as shown on map recorded in Book 36, page 70 of Maps, in the office of the Recorder of the County of Los Angeles; thence southerly along said last mentioned prolongation to the boundary of said last mentioned city; thence southerly along the boundary of said last mentioned city and following the same in all its various courses to the northerly boundary of the City of Lynwood as the same existed on the above mentioned date; thence westerly along the boundary of said last mentioned city and following the same in all its various courses to the center line of 107th Place; thence westerly along the center line of 107th Place to the easterly boundary of the aforesaid City of Los Angeles; thence southerly along the boundary of said last mentioned city and following the same in all its various courses to the center line of Avalon Boulevard; thence southerly along the center line of Avalon Boulevard to the center line of Rosecrans Avenue; thence westerly along the center line of Rosecrans Avenue to the center line of San Pedro Street; thence southerly along the center lines of San Pedro Street, Avalon Boulevard and Wilmington and Los Angeles Road to the southerly line of the Bassett Tract, as shown on map recorded in Book 2, page 44, of Maps, in the office of the Recorder of the County of Los Angeles; thence westerly along the southerly line of said last mentioned tract and the westerly prolongation thereof to the center line of Main Street; thence southerly along the center line of Main Street to the center line of Victoria Street; thence southwesterly along the center line of Victoria Street to the westerly boundary of the aforesaid City of Los Angeles; thence southerly along the boundary of said last mentioned

city and following the same in all its various courses to an angle point in said boundary at or near the northwest corner of Lot 1, Tract No. 4671, as shown on map recorded in Book 56, pages 30 and 31, of Maps, in the office of the Recorder of the County of Los Angeles; thence due north to the center line of 190th Street; thence westerly along the center line of 190th Street to the easterly boundary of the City of Torrance, as the same existed on aforementioned date; thence northerly along the boundary of said last mentioned city and following the same in all its various courses to the southerly prolongation of the center line of Prairie Avenue; thence northerly along said prolongation and center line of Prairie Avenue to the southerly boundary of the City of Hawthorne, as the same existed on above mentioned date; thence easterly along the boundary of said last mentioned city and following the same in all its various courses to the center line of El Segundo Boulevard; thence easterly along the center line of El Segundo Boulevard to the center line of Arlington Avenue; thence northerly along the center line of Arlington Avenue to the center of Sec. 2, T. 3 S., R. 14 W., S. B. B. & M., said point being also an angle point in the boundary of the City of Inglewood, as the same existed on the above mentioned date; thence northerly along the boundary of said last mentioned city to the point of beginning, shall constitute the Sixty-seventh Assembly District. Assembly districts

68. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the most westerly corner of the City of Torrance, as the same existed on March 1, 1941, being also a point in the southwesterly boundary of the County of Los Angeles; thence easterly along the boundary of said City of Torrance and following the same in all its various courses to an angle point in the boundary of the City of Redondo Beach, as the same existed on the above mentioned date, said point being also the southeasterly corner of Block 70, Tract No. 10019, as recorded in Book 182, pages 1 to 13, inclusive, of Maps, in the office of the Recorder of the County of Los Angeles; thence northwesterly along the boundary of said City of Redondo Beach to a point in the northwesterly boundary of the City of Torrance, as same existed on above mentioned date, said point being at or near the northeasterly corner of Block 21, of said last mentioned tract; thence northeasterly along the boundary of said last mentioned city and following the same in all its various courses to the center line of 190th Street; thence easterly along the center line of 190th Street to a point due north of an angle point in the boundary of the City of Los Angeles, as same existed on above mentioned date, said angle point being at or near the northwesterly corner of Lot 1, Tract No. 4671, as shown on map recorded in Book 56, pages 30 and 31 of Maps, in the office of the Recorder of the County of Los Angeles; thence due south to said last mentioned angle

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point; thence easterly along the boundary of said last mentioned city and following the same in all its various courses to the center line of Victoria Street; thence northeasterly along the center line of Victoria Street to the center line of Main Street; thence southerly along the center line of Main Street and following the same in all its various courses to the center line of Dominguez Street; thence easterly along the center line of Dominguez Street to the northerly line of Tract No. 3848, as shown on map recorded in Book 42, pages 68 and 69, of Maps, in the office of the Recorder of the County of Los Angeles; thence easterly along said northerly line and the northerly line of Tract No. 4054, as shown on map recorded in Book 44, pages 39, 40 and 41, of Maps, in the office of the Recorder of the County of Los Angeles, and the easterly prolongation of said last mentioned line to the center line of Wilmington Avenue; thence southwesterly along the center line of Wilmington Avenue and the southwesterly prolongation thereof to the northerly boundary of above mentioned City of Los Angeles; thence easterly along the boundary of said last mentioned city and following the same in all its various courses to a point in the southeasterly boundary of the County of Los Angeles; thence southwesterly along the southeasterly boundary of said county and following the same in all its various courses to the point of beginning.

Also including the Islands of Santa Catalina and San Clemente, shall constitute the Sixty-eighth Assembly District.

69. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the northwesterly corner of the City of South Gate, as the same existed on March 1, 1941, said point being near the northwesterly corner of Santa Ana Street and Long Beach Boulevard; thence easterly along the boundary of said city and following the same in all its various courses to the center line of the Official Channel of the Rio Hondo; thence northeasterly along the center line of said official channel and following the same in all its various courses to the center line of Anaheim Telegraph Road; thence southeasterly along the center line of Anaheim Telegraph Road and following the same in all its various courses to the center line of The Atchison, Topeka & Santa Fe Railway Company's Right of Way (Main Line Los Angeles to San Diego); thence southerly along the center line of said right of way to the center line of Lakeland Road; thence easterly along the center line of Lakeland Road to the center line of Carmenita Road; thence southerly along the center line of Carmenita Road to the center line of Imperial Highway; thence easterly along the center line of Imperial Highway to the center line of Luitwieler Avenue; thence southerly along the center line of Luitwieler Avenue to the center line of Rosecrans Avenue; thence easterly along the center line of Rosecrans Avenue to the easterly boundary of the County of Los Angeles; thence southerly along the boundary of said county and following

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the same in all its various courses to its first intersection with the northerly boundary of the City of Long Beach, as the same existed on March 1, 1941, said point of intersection being the most easterly corner of Lot 52, of Tract No. 10548, as shown on map recorded in Book 174, pages 15 to 23, both inclusive, of Maps, in the office of the Recorder of the County of Los Angeles; thence westerly along the boundary of said City of Long Beach and following the same with all its various courses to its first intersection with the easterly boundary of the City of Los Angeles, as the same existed on above mentioned date; thence northerly along the boundary of said City of Los Angeles and following the same in all its various courses to the southerly prolongation of the center line of Wilmington Avenue; thence northerly along said prolongation and the center line of Wilmington Avenue to the easterly prolongation of the northerly line of Tract No. 4054, as shown on map recorded in Book 44, pages 39 to 41, both inclusive, of Maps, in the office of the Recorder of the County of Los Angeles; thence westerly along said easterly prolongation and northerly line of said last mentioned tract and westerly along the northerly line of Tract No. 3848, as shown on map recorded in Book 42, pages 68 and 69, of Maps, in the office of the Recorder of the County of Los Angeles to the center line of Dominguez Street from the west; thence westerly along the center line of said Dominguez Street to the center line of Main Street; thence northerly along the center line of Main Street to the westerly prolongation of the southerly line of the Bassett Tract, as shown on map recorded in Book 2, page 44, of Maps, in the office of the Recorder of the County of Los Angeles; thence easterly along said prolongation and southerly line of said last mentioned tract to the center line of Wilmington and Los Angeles Road; thence northwesterly along the center line of Wilmington and Los Angeles Road, center line of Avalon Boulevard, and the center line of San Pedro Street to the center line of Rosecrans Avenue; thence easterly along the center line of Rosecrans Avenue to the center line of Avalon Boulevard; thence northerly along the center line of Avalon Boulevard to the southerly boundary of the aforesaid City of Los Angeles; thence easterly along the boundary of said last mentioned city and following the same in all its various courses to the center line of 107th Place; thence easterly along the center line of 107th Place to the westerly boundary of the City of Lynwood, as same existed on the above mentioned date; thence northerly along the boundary of said last mentioned city and following the same in all its various courses to its first intersection with the southerly boundary of the City of South Gate, as same existed on the above mentioned date; thence northerly along the boundary of said last mentioned city and following the same in all its various courses to the point of beginning, shall constitute the Sixty-ninth Assembly District.

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70. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the northwest corner of the City of Long Beach, as the same existed on March 1, 1947, said corner being also the northwesterly corner of the Gateway Annex to said City of Long Beach; thence easterly along the boundary of said city and following the same in all its various courses to the southeasterly boundary of the County of Los Angeles; thence southwesterly along the boundary of said county and following the same in all its various courses to the southwesterly prolongation of the center line of Sixteenth Place, as shown on map of Alamitos Beach Townsite recorded in Book 59, page 11, of Miscellaneous Records, in the office of the Recorder of the County of Los Angeles; thence northerly along said southwesterly prolongation and center line of Sixteenth Place to the center line of Ocean Boulevard; thence northwesterly along the center line of Ocean Boulevard to the center line of Cherry Avenue; thence northerly along the center line of Cherry Avenue to the center line of Fourth Street; thence westerly along the center line of Fourth Street to the center line of Alamitos Avenue; thence northeasterly along the center line of Alamitos Avenue to the center line of California Avenue; thence northerly along the center line of California Avenue to the northeasterly boundary of aforesaid City of Long Beach; thence northwesterly along the boundary of said city and following the same in all its various courses to the center line of California Avenue; thence northerly along said center line of California Avenue and its northwesterly prolongation thereof to its intersection with the northwesterly line of the Bixby Knolls Country Club Manor District Annexation to the City of Long Beach; thence southwesterly along said last mentioned annexation line to an angle point in the boundary of the City of Long Beach, as the same existed on above mentioned date; said angle point lying at or near the northwesterly corner of San Antonio Drive and Atlantic Avenue; thence southwesterly along the boundary of said city and following the same in all its various courses to an angle point in said boundary, said angle point being in the southeasterly line of Lot 40, Tract No. 3554, as shown on map recorded in Book 38, pages 44 and 45, of Maps, in the office of the Recorder of the County of Los Angeles; thence southwesterly along said southeasterly line of Lot 40 and its southwesterly prolongation to center line of Long Beach Boulevard; thence northwesterly along the center line of Long Beach Boulevard to the southeasterly boundary of the Long Beach Boulevard District Annexation to the City of Long Beach; thence northeasterly along said southeasterly boundary to the center line of Atlantic Avenue; thence northerly along the center line of Atlantic Avenue to the southerly boundary of the Gateway Park Annexation to the City of Long Beach; thence westerly along the boundary of said last mentioned annexation and following the same in all

its various courses to the point of beginning, shall constitute the Seventieth Assembly District. Assembly districts

71. All that part of the County of Los Angeles within the following described boundaries:

Beginning at a point in the northwest corner of the City of Long Beach, as same existed on March 1, 1941, said point being at or near the intersection of the northerly prolongation of the westerly line of Hesperian Avenue with the northerly line of 223d Street, said point being also in the easterly boundary of the City of Los Angeles as same existed on above mentioned date; thence easterly along the boundary of the City of Long Beach and following the same in all its various courses to the southwesterly corner of the Gateway Annexation to said City of Long Beach; thence easterly along the southerly boundary of said annexation to the center line of Atlantic Avenue; thence southerly along the center line of Atlantic Avenue to the southeasterly boundary of the Long Beach Boulevard District Annexation to the City of Long Beach; thence southwesterly along the boundary of said last mentioned annexation and following the same in all its various courses to the center line of Long Beach Boulevard; thence southeasterly along the center line of Long Beach Boulevard to the southwesterly prolongation of the southeasterly line of Lot 40, Tract No. 3554, as shown on map recorded in Book 38, pages 44 and 45, of Maps, in the office of the Recorder of the County of Los Angeles; thence northeasterly along said southwesterly prolongation to the first angle point in the boundary of the City of Long Beach, as same existed on above mentioned date; thence southeasterly along the boundary of said last mentioned city and following the same in all its various courses to the northwesterly line of the Bixby Knolls Country Club Manor District Annexation to the City of Long Beach; thence northeasterly along said last mentioned annexation line to the northwesterly prolongation of the center line of California Avenue; thence southeasterly along said last mentioned prolongation and southeasterly and southerly along the center line of California Avenue to its first intersection with the southerly boundary of the City of Long Beach as the same existed on the above mentioned date; thence westerly along the boundary of said City of Long Beach and following the same in all its various courses to the center line of California Avenue; thence southerly along the center line of California Avenue to the center line of Alamitos Avenue; thence southwesterly along the center line of Alamitos Avenue to the center line of Fourth Street; thence easterly along the center line of Fourth Street to the center line of Cherry Avenue; thence southerly and southwesterly along the center line of Cherry Avenue to the center line of Ocean Boulevard; thence southeasterly along the center line of Ocean Boulevard to the center line of Sixteenth Place; thence southerly along the center line of Sixteenth Place and the southerly prolongation thereof to the southerly boundary of the County

Assembly districts

of Los Angeles; thence westerly along the boundary of the said County of Los Angeles and following the same in all its various courses to the first intersection with the northeasterly boundary of the City of Los Angeles as the same existed on the above mentioned date (Ostend Addition); thence northwesterly along the boundary of said last mentioned city and following the same in all its various courses to the point of beginning, shall constitute the Seventy-first Assembly District.

72. All that portion of the County of San Bernardino which was, on January 1, 1941, included within the boundaries of the following judicial townships: Chino, Ontario, Upland, Cucamonga, San Bernardino, and Etiwanda, saving and excepting the following described territory from Etiwanda Judicial Township:

Beginning at the intersection of the center line of San Bernardino Avenue with the center line of Mulberry Avenue, as said avenues are shown on map of Tract No. 2102, recorded in Map Book 31, pages 11 to 15, inclusive, Records of San Bernardino County, State of California; thence southerly along the center line of said Mulberry Avenue to its intersection with the northerly line of the right of way of The Atchison, Topeka & Santa Fe Railway; thence westerly along said northerly right of way line of said railway to its intersection with the center line of Etiwanda Avenue; thence northerly along the center line of said Etiwanda Avenue to its intersection with the center line of Arrow Highway, sometimes known as Perris Avenue, as shown on said map; thence easterly along the center line of said Arrow Highway to its intersection with the center line of Hickory Avenue, as shown on said map; thence northerly along the center line of said Hickory Avenue to its intersection with the center line of San Bernardino Avenue, as shown on said map; thence easterly along the center line of said San Bernardino Avenue to its intersection with the center line of Mulberry Avenue, the place of beginning, shall constitute the Seventy-second Assembly District.

73. All that portion of the County of San Bernardino not included within the Seventy-second Assembly District, as fixed and defined by this section, shall constitute the Seventy-third Assembly District.

74. All that portion of the County of Orange included in and comprising the first, fourth and fifth supervisorial districts of said county as the same existed on January 1, 1931, shall constitute the Seventy-fourth Assembly District.

75. All that portion of the County of Orange not included in the Seventy-fourth Assembly District, as fixed and defined by this section, shall constitute the Seventy-fifth Assembly District.

76. The County of Riverside shall constitute the Seventy-sixth Assembly District.

77. The County of Imperial shall constitute the Seventy-seventh Assembly District.

78. All that portion of the County of San Diego included and being in the City of San Diego, as the same existed on January 1, 1931, and included within the following described boundary lines, to wit: Lying northerly and westerly of the center line of Commercial Street, at its westerly end, to wit: At the Bayshore Line and thence running easterly along the center line of Commercial Street to its intersection with Twenty-eighth Street; and thence running northerly along the center line of Twenty-eighth Street to the intersection with the center line of University Avenue; thence westerly along the center line of University Avenue to the center line of Park Boulevard; thence northerly along the center line of Park Boulevard to the intersection with the center line of Adams Street; thence northerly along an extension of the center line of Park Boulevard to its intersection with the center line of El Camino del Rio; thence easterly along the center line of El Camino del Rio to its intersection with the city boundary, shall constitute the Seventy-eighth Assembly District. Assembly districts

79. All that portion of the County of San Diego included within the incorporated limits of the City of San Diego as the same existed on January 1, 1941, which is not included within the Seventy-eighth Assembly District as fixed and defined by this section, except that portion of the City of San Diego which was included in Precincts 142 to 150, inclusive, as such precincts were fixed and defined on November 5, 1940, shall constitute the Seventy-ninth Assembly District.

80. All that portion of the County of San Diego, including all that portion of the City of San Diego, not included within the Seventy-eighth and Seventy-ninth Assembly districts, as fixed and defined by this section, shall constitute the Eightieth Assembly District.

CHAPTER 6. LEGAL DISTANCES

500. The legal distances in the State are fixed in this chapter. Legal distances

501. When mileage is allowed by law to any person, the distance shall be computed as fixed in this chapter. Mileage

502. From the county seat of Alameda County to Sacramento it is eighty-four (84) miles.

503. From the county seat of Alpine County to Sacramento it is two hundred and twenty-five (225) miles.

504. From the county seat of Amador County to Sacramento it is fifty-nine (59) miles.

505. From the county seat of Butte County to Sacramento it is eighty-six (86) miles.

506. From the county seat of Calaveras County to Sacramento it is seventy-three (73) miles.

507. From the county seat of Colusa County to Sacramento it is seventy-seven (77) miles.

508. From the county seat of Contra Costa County to Sacramento it is sixty-two (62) miles.

Mileage

509. From the county seat of Del Norte County to Sacramento it is three hundred and sixty-four (364) miles.

510. From the county seat of El Dorado County to Sacramento it is sixty (60) miles.

511. From the county seat of Fresno County to Sacramento it is one hundred and sixty-nine (169) miles.

512. From the county seat of Glenn County to Sacramento it is eighty-eight (88) miles.

513. From the county seat of Humboldt County to Sacramento it is three hundred and twelve (312) miles.

514. From the county seat of Imperial County to Sacramento it is six hundred sixty-one (661) miles.

515. From the county seat of Inyo County to Sacramento it is four hundred and sixty-six (466) miles.

516. From the county seat of Kern County to Sacramento it is two hundred and seventy-eight (278) miles.

517. From the county seat of Kings County to Sacramento it is two hundred and fourteen (214) miles.

518. From the county seat of Lake County to Sacramento it is one hundred and sixty (160) miles.

519. From the county seat of Lassen County to Sacramento it is two hundred and sixty (260) miles.

520. From the county seat of Los Angeles County to Sacramento it is four hundred and forty-seven (447) miles.

521. From the county seat of Madera County to Sacramento it is one hundred and forty-seven (147) miles.

522. From the county seat of Marin County to Sacramento it is one hundred and five (105) miles.

523. From the county seat of Mariposa County to Sacramento it is one hundred and eighty (180) miles.

524. From the county seat of Mendocino County to Sacramento it is one hundred and fifty (150) miles.

525. From the county seat of Merced County to Sacramento it is one hundred and fourteen (114) miles.

526. From the county seat of Modoc County to Sacramento it is three hundred and twenty-four (324) miles.

527. From the county seat of Mono County to Sacramento it is two hundred and ninety-six (296) miles.

528. From the county seat of Monterey County to Sacramento it is two hundred and eight (208) miles.

529. From the county seat of Napa County to Sacramento it is sixty-one (61) miles.

530. From the county seat of Nevada County to Sacramento it is seventy-seven (77) miles.

531. From the county seat of Orange County to Sacramento it is four hundred and eighty-one (481) miles.

532. From the county seat of Placer County to Sacramento it is thirty-seven (37) miles.

533. From the county seat of Plumas County to Sacramento it is one hundred and thirty-six (136) miles.

534. From the county seat of Riverside County to Sacramento it is five hundred and twelve (512) miles.

535. From the county seat of Sacramento to the State Capitol it is one (1) mile. Mileage

536. From the county seat of San Benito County to Sacramento it is one hundred and seventy-three (173) miles.

537. From the county seat of San Bernardino County to Sacramento it is five hundred and eight (508) miles.

538. From the county seat of San Diego County to Sacramento it is five hundred and seventy-three (573) miles.

539. From the City of San Francisco to Sacramento it is ninety (90) miles.

540. From the county seat of San Joaquin County to Sacramento it is forty-eight (48) miles.

541. From the county seat of San Luis Obispo County to Sacramento it is three hundred and forty-three (343) miles.

542. From the county seat of San Mateo County to Sacramento it is one hundred and nineteen (119) miles.

543. From the county seat of Santa Barbara County to Sacramento it is four hundred and sixty (460) miles.

544. From the county seat of Santa Clara County to Sacramento it is one hundred and twenty-eight (128) miles.

545. From the county seat of Santa Cruz County to Sacramento it is one hundred and ninety-eight (198) miles.

546. From the county seat of Shasta County to Sacramento it is one hundred and seventy-one (171) miles.

547. From the county seat of Sierra County to Sacramento it is one hundred and nineteen (119) miles.

548. From the county seat of Siskiyou County to Sacramento it is two hundred and ninety-five (295) miles.

549. From the county seat of Solano County to Sacramento it is forty (40) miles.

550. From the county seat of Sonoma County to Sacramento it is ninety (90) miles.

551. From the county seat of Stanislaus County to Sacramento it is seventy-seven (77) miles.

552. From the county seat of Sutter County to Sacramento it is fifty-eight (58) miles.

553. From the county seat of Tehama County to Sacramento it is one hundred and thirty-five (135) miles.

554. From the county seat of Trinity County to Sacramento it is two hundred and seventeen (217) miles.

555. From the county seat of Tulare County to Sacramento it is two hundred and six (206) miles.

556. From the county seat of Tuolumne County to Sacramento it is one hundred and twenty-five (125) miles.

557. From the county seat of Ventura County to Sacramento it is four hundred and ninety (490) miles.

558. From the county seat of Yolo County to Sacramento it is twenty-three (23) miles.

559. From the county seat of Yuba County to Sacramento it is fifty-two (52) miles.

DIVISION 4. PUBLIC OFFICERS AND EMPLOYEES

CHAPTER 1. GENERAL

Article 1. Classification of Officers

Executive officers

1000. Executive officers are either:

(a) Civil.

(b) Military.

Civil executive officers

1001. The civil executive officers are: A Governor; a private secretary and an executive secretary for the Governor; a Lieutenant Governor; a Secretary of State; a Deputy Secretary of State; a keeper of archives of State for Secretary of State; a bookkeeper for the Secretary of State; three recording clerks for the Secretary of State; a Controller; a Deputy Controller; a bookkeeper for the Controller; five clerks for the Controller; a Treasurer; a Deputy Treasurer; a bookkeeper for the Treasurer; a clerk for six months in each year for the Treasurer; an Attorney General and all Assistant and Deputy Attorneys General; a Superintendent of Public Instruction; one clerk for the Superintendent of Public Instruction; an Insurance Commissioner; a deputy for the Insurance Commissioner; four Port Wardens for the Port of San Francisco; a Port Warden for each port of entry except San Francisco; three State Harbor Commissioners for San Francisco Harbor; six pilots for each harbor where there is no Board of Pilot Commissioners; three members of the Board of Pilot Commissioners for Humboldt Bay and Bar; nine members of the State Board of Agriculture; four members of the State Board of Equalization; a clerk of the Board of Equalization; three members of the State Board of Education; a librarian for the Supreme Court Library and the chief deputy clerk and the deputy clerks of the Supreme Court; five directors for the State prisons; two wardens for the State prisons; two clerks of the State prisons; five directors for the insane asylum at Stockton; five directors for the insane asylum at Napa; the head of each department and all chiefs of divisions, deputies and secretaries of a department; such other officers as fill offices created by or under the authority of charters or laws for the government of counties and cities or of the health, school, election, road, or revenue laws.

Article 2. Disqualifications for Office or Employment

Disqualification for civil office

1020. A person is incapable of holding a civil office if at the time of his election or appointment he is not 21 years of age and a citizen of the State.

Conviction for designated crimes

1021. A person is disqualified from holding any office upon conviction of designated crimes as specified in the Constitution and laws of the State.

Other disqualifications

1022. Other provisions respecting disqualification for particular offices are contained in the Constitution and in the laws concerning the various offices.

Foreign allegiance

1023. A person is ineligible to hold office or employment of any kind under the State, any county, city, district or other political or governmental unit of the State if he, while

either a citizen or resident of the United States, has by oath bound himself to support, maintain or further the military or political activities or policies of any foreign government or of any official thereof or society or association therein or to obey the orders or directions of any foreign government or of any official thereof.

Renunciation of foreign allegiance

1024. Any person who on July 19, 1941, held any office or employment under the State, any county, city, district or other political or governmental unit of the State and who has taken any oath described in Section 1023 is relieved of ineligibility to office or employment if he petitioned any superior court of the State within thirty (30) days after July 19, 1941, for leave to renounce all promises or obligations assumed by him under any such oath, and renounced the same before a judge of such court.

Any other person who has taken or hereafter takes any such oath may at any time be relieved of ineligibility by petitioning any superior court and renouncing all such promises or obligations in like manner.

Foreign allegiance to United States ally

1025. Nothing in this article disqualifies any person from holding any office or employment by reason of any oath taken by him during the war between the Allied Powers and Germany-Austria, 1914-1918, inclusive, in connection with service in the military forces of any sovereignty allied with the United States in that war.

Violation a felony

1026. Every person who exercises the duties of any office in violation of the provisions of this article relative to oaths, and every person who knowingly appoints to office a person ineligible by reason of the provisions of this article relative to oaths, is guilty of a felony.

Violation a misdemeanor

1027. Every person who exercises the duties of any employment in violation of the provisions of this article relative to oaths, and every person who knowingly employs a person ineligible by reason of the provisions of this article relative to oaths, is guilty of a misdemeanor.

Article 3. Residence Restrictions and Absence from State

Residences and offices

1060. The following officers shall reside at and keep their offices in the City of Sacramento:

(a) The Governor.
(b) Secretary of State.
(c) Controller.
(d) Treasurer.
(e) Attorney General.
(f) Superintendent of Public Instruction.
(g) Justices of the Supreme Court.
(h) Clerk and reporters of the Supreme Court.
(i) Adjutant General.

Member of Governor's council

1061. The director of each department who is a member of the Governor's council shall reside at Sacramento.

Absence from State by officer

1062. No State or municipal officer shall absent himself from the State for more than 60 days, unless either:

(a) Upon business of the State,

(b) With the consent of the Legislature.

Time extended

In the case of illness or other urgent necessity, and upon a proper showing thereof the time limited for absence from the State shall be extended by:

(a) The Governor in the case of State officers.

(b) The city council or other governing body of the municipality in the case of municipal officers.

Absence from State by county or township officer

1063. No county or township officer shall absent himself from the State for more than five days unless either:

(a) Upon business for the State, county or township,

(b) With the consent of the board of supervisors of the county.

Consent for further absence, limitation of time

In no case shall such officer absent himself from the State for more than two months without the consent of the board of supervisors, with the written approval of the Governor, nor shall such absence continue for a period exceeding six months in any one year.

Article 4. Prohibitions Applicable to Specified Officers

Interest in contract made in official capacity

1090. Members of the Legislature, State, county, township and city officers shall not be interested in any contract made by them in their official capacity, or by any body or board of which they are members.

Purchasers or vendors at sales made in official capacity

1091. State, county, township and city officers shall not be purchasers at any sale nor vendors at any purchase made by them in their official capacity.

Avoidance of contract

1092. Every contract made in violation of any of the provisions of Sections 1090 and 1091 may be avoided at the instance of any party except the officer interested therein.

Purchase or sale of State, county or city evidences of indebtedness

1093. The State Treasurer and Controller, county and city officers, and their deputies and clerks shall not purchase or sell, or in any manner receive for their own or any other person's use or benefit any State, county or city warrants, scrip, orders, demands, claims, or other evidences of indebtedness against the State, or any county or city thereof. This section does not apply to evidences of indebtedness issued to or held by such an officer, deputy or clerk for services rendered by them, nor to evidences of the funded indebtedness of the State, county, or city.

Exceptions

Affidavit of compliance

1094. Every officer whose duty it is to audit and allow the accounts of other State, county, or city officers shall, before allowing such accounts, require each of such officers to make and file with him an affidavit that he has not violated any of the provisions of this article.

Nonpayment of evidence of indebtedness

1095. Officers charged with the disbursement of public moneys shall not pay any warrant or other evidence of indebtedness against the State, county, or city when it has been purchased, sold, received, or transferred contrary to any of the provisions of this article.

1096. Upon the officer charged with the disbursement of public moneys being informed by affidavit that any officer, whose account is about to be settled, audited, or paid by him, has violated any of the provisions of this article, the disbursing officer shall suspend such settlement or payment, and cause the district attorney to prosecute the officer for such violation. If judgment is rendered for the defendant upon such prosecution, the disbursing officer may proceed to settle, audit, or pay the account as if no affidavit had been filed. Suspension of payment and prosecution for violation

1097. Every officer or person prohibited by the laws of this State from making or being interested in contracts, or from becoming a vendor or purchaser at sales, or from purchasing scrip, or other evidences of indebtedness, who violates any of the provisions of such laws, is punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment in the State prison for not more than five years, and is forever disqualified from holding any office in this State. Punishment: Fine or imprisonment; barred from office

Article 5. Withholding Salary on Contest of Title

1130. When the title of the incumbent of any office in this State is contested by proceedings instituted in any court for that purpose, no warrant shall thereafter be drawn or paid for any part of his salary until such proceedings have been finally determined. Withholding of salary until title finally determined

1131. As soon as the proceedings are instituted, the clerk of the court in which they are pending shall certify the facts to the officers whose duty it would otherwise be to draw the warrant or pay the salary. Certification of facts to disbursing officer

1132. This article does not apply to any party to a contest or proceeding who holds the certificate of election or commission of office and discharges the duties of the office. No certification by the clerk need be made. Such party shall receive the salary of the office the same as if no contest or proceeding was pending. Salary not withheld, no certification

Article 6. Salary and Wage Deductions

1150. As used in this article, "United States savings bonds" includes similar United States obligations. "United States savings bonds"

1151. As used in this article, "public agency" includes counties, cities, municipal corporations, political subdivisions, public districts, and other public agencies of the State. "Public agency"

1152. Officers and employees of public agencies may authorize deductions to be made from their salaries or wages for the purchase of United States savings bonds in accordance with provision made by the governing body of the public agency. Deductions from salary for purchase of United States savings bonds by officers and employees of public agencies

All auditors, treasurers, and other disbursing officers of public agencies are authorized to recognize and act upon such requests for salary or wage deductions and to establish special accounts for each officer or employee so that sufficient funds may be accumulated to the credit of such officer or employee for the purchase of United States savings bonds. All funds so accumulated are trust funds.

Deductions for purchase of United States savings bonds by State officers and employees

1153. State officers and employees may authorize deductions to be made from their salaries or wages for the purchase of United States savings bonds in accordance with the rules and regulations of the State Board of Control.

The State Controller and all other officers, departments, boards, commissions, and other agencies of the State shall recognize and act upon such requests for salary or wage deductions. All amounts so deducted shall be paid by the Controller to the Board of Administration of the State Employees' Retirement System for deposit in the State Treasury to the credit of the employees' defense savings account, which account is continued in the Special Deposit Fund in the State Treasury.

Signature of married person or minor sufficient for making deduction

1154. If a request for a salary or wage deduction for the purpose of purchasing United States savings bonds is made by an officer or employee who is a married person or a minor, his signature is a sufficient authorization for the making of a deduction.

Wage and salary deductions for credit union shares

1155. Public officers and employees may authorize wage and salary deductions for the purchase of shares in or the payment of money to any regularly chartered credit union. Auditors, treasurers and other disbursing officers of any public agency or the State are authorized to recognize and act upon such wage or salary assignments.

Wage and salary deductions of State officers and employees for insurance premiums

1156. State officers and employees may authorize deductions to be made from their salaries or wages, in accordance with the rules and regulations of the State Controller, for the payment of:

(a) Premiums on any policy or certificate of group insurance issued to the officer or employee insured under any plan of group insurance approved by the Director of Finance.

(b) Dues or charges of a nonprofit membership corporation for the purpose of defraying the cost of medical service (including service rendered by doctors of medicine, doctors of osteopathy, or doctors of chiropractic) or hospital care, or both, under any plan approved by the Director of Finance.

Wage and salary deductions of officers and employees of public agency for insurance premiums

1157. Officers and employees of a public agency may authorize the governing body of the public agency to make deductions from their salaries or wages for the payment of premiums on group life, accident or health insurance, or on all three, under a system of group insurance adopted and carried into effect by the governing body. Employees of a public agency may authorize the governing body of the public agency to make deductions from their salaries or wages for the payment of dues of nonprofit membership corporations for defraying the cost of medical service (including services rendered by doctors of medicine, doctors of osteopathy, or doctors of chiropractic), or hospital care, or both, under a system of medical service, or hospital care, or both, adopted and carried into effect by the governing body.

Precedence over conflicting law

1158. No provision of law prohibiting, restricting or limiting the assignment or order for wages or salaries in any way

prohibits, restricts or limits the powers conferred in this article.

Article 7. Deputies and Subordinates

Appointment by superior officer

1190. All assistants, deputies, and other subordinate officers, whose appointments are not otherwise provided for, shall be appointed by the officer or body to whom they are respectively subordinate.

When appointment need be in writing and filed

1191. When not otherwise provided for, the appointment of deputies and other subordinate officers shall be made in writing and filed in the office of the appointing power or the office of its clerk.

Taking and filing oath

1192. When not otherwise provided for, within 10 days after receiving notice of their appointment, deputies and other subordinate officers shall take and file an oath in the manner required of their principals.

Number of deputies

1193. When the number of deputies or other subordinate officers is not fixed by law, it is limited only by the discretion of the appointing power.

Powers and duties of deputy

1194. When not otherwise provided for, each deputy possesses the powers and may perform the duties attached by law to the office of his principal.

Withholding by superior of salary or fee of deputy a felony

1195. Every officer of the State, or of any county, city, or township who accepts, keeps, retains or diverts for his own use or the use of any other person any part of the salary or fees allowed by law to his deputy, or other subordinate officer, is guilty of a felony.

Article 8. Miscellaneous

Ex officio duties

1220. When an officer discharges ex officio the duties of another office than that to which he is elected or appointed, his official signature and attestation shall be in the name of the office the duties of which he discharges.

Seals of office

1221. Where not otherwise provided, the seals of office of the various executive officers are those in use by such officers on January 1, 1873.

When omission to perform public duty is a misdemeanor

1222. Every willful omission to perform any duty enjoined by law upon any public officer, or person holding any public trust or employment, where no special provision is made for the punishment of such delinquency, is punishable as a misdemeanor.

Traveling expenses

1223. When traveling expenses are allowed by law to any State, county, township, or city officer, he may contract with the appropriate authorities for an allowance or mileage rate for the use of vehicles owned or rented and used by him in the performance of duty, in lieu of the usual transportation charges.

Refund for postage

1224. Any money paid by a State, county, township, or city officer for United States postage for use in conducting the official business of his office may be refunded to him by claim allowed in accordance with law.

CHAPTER 2. APPOINTMENTS, NOMINATIONS, COMMISSIONS, AND OATHS

Article 1. General

Appointment by Governor

1300. Every officer, the mode of whose appointment is not prescribed by law, shall be appointed by the Governor.

Term of office

1301. Every office, the term of which is not fixed by law, is held at the pleasure of the appointing power.

Expired term

1302. Every officer whose term has expired shall continue to discharge the duties of his office until his successor has qualified.

Failure to take oath or give bond a misdemeanor

1303. Every person who exercises any function of a public office without taking the oath of office, or without giving the required bond, is guilty of a misdemeanor.

Validity of acts

This section does not affect the validity of acts done by a person exercising the functions of a public office in fact, where other persons than himself are interested in maintaining the validity of such acts.

Article 2. Nominations by Governor

Nominations by Governor

1320. Nominations made by the Governor to the Senate shall be in writing, designating the residence of the nominee and the office for which he is nominated.

Concurrence by Senate

1321. Whenever the Senate concurs in a nomination, its secretary shall immediately deliver a copy of the resolution of concurrence, certified by the president and secretary, to the Secretary of State, and another copy, certified by the secretary, to the Governor.

Article 3. Commissions

Commissions by Governor

1340. The Governor shall commission:

(a) All officers elected by the people whose commissions are not otherwise provided for.

(b) All officers elected by the Legislature.

(c) All officers of the Militia.

(d) All officers appointed by the Governor, or by the Governor with the advice and consent of the Senate.

How issued

1341. The commissions of all officers commissioned by the Governor shall be issued in the name of the people of the State. They shall be signed by the Governor and attested by the Secretary of State, under the Great Seal.

How signed

1342. The commissions of all other officers, where no special provision is made by law, shall be signed by the presiding officer of the body or by the person making the appointment.

Article 4. Oath of Office

Oath or affirmation

1360. Unless otherwise provided, before any officer enters on the duties of his office, he shall take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm, as the case may be,) that I will support the Constitution of the United States and the

Constitution of the State of California, and that I will faithfully discharge the duties of the office of _____ according to the best of my ability."

When oath taken, subscribed and filed

1361. Whenever a different time is not prescribed by law, the oath of office shall be taken, subscribed, and filed:

(a) Within 30 days after the officer has received the certificate or commission of his election or appointment, or

(b) Before the expiration of 15 days from the commencement of his term of office, when no certificate or commission has been received.

Before whom oath taken

1362. Unless otherwise provided, the oath may be taken before any officer authorized to administer oaths.

How oath filed

1363. Unless otherwise provided, every oath of office certified by the officer before whom it was taken shall be filed within the time required as follows:

(a) The oath of all officers whose authority is not limited to any particular county, in the office of the Secretary of State.

(b) The oath of all officers elected or appointed for any county, and of all officers whose duties are local, or whose residence in any particular county is prescribed by law, in the office of the clerk of their respective counties, and a copy in the office of the county auditor of their respective counties.

(c) Each judge of a superior court and county clerk shall file a copy of his official oath, signed with his own proper signature, in the office of the Secretary of State as soon as he has taken and subscribed his oath.

Additional test or qualification, removal from office or position of public trust

1364. It is unlawful to remove a person from an office or position of public trust because such person has not complied with any law, charter, or regulation prescribing an additional test or qualification for such office or position of public trust, other than tests and qualifications provided for under civil service and retirement laws, whenever such person:

(a) Holds the office or position of public trust, and

(b) Upon entering upon the office or position of public trust, has taken, or after his election or appointment, has offered to take the oath of office prescribed by this article.

Removal of appointing officer

1365. It is unlawful for any person having the power of removal from office of any officer to remove or threaten to remove the officer from his office because the officer, in the appointment of any person to a position of public trust under himself, refuses to require any additional test or qualification, other than the oath prescribed by this article and tests and qualifications provided for under civil service and retirement laws, as a condition of permitting the appointee to enter upon or remain in the position of public trust.

Remedies for removal or threat of removal

1366. Any officer or person who is removed or threatened with removal from any office or position of public trust may bring an action to restrain such unlawful removal or to enforce restoration by process of injunction, both prohibitory and mandatory, if the real reason for the removal or threat thereof is noncompliance with provisions requiring such additional test or qualification or the refusal to require any additional

test or qualification in the appointment to a position of public trust.

CHAPTER 3. OFFICIAL BONDS

Article 1. General

Filing of official bond

1450. Unless otherwise provided, every official bond shall be filed in the proper office within the time prescribed for filing the oath.

Approval of official bond

1451. The approval of every official bond shall be indorsed thereon and signed by the officer approving the bond.

Approval before filing

1452. No officer with whom any official bond is required to be filed shall file such bond until approved.

Recordation

1453. Official bonds shall be recorded in a book kept for that purpose entitled "Record of Official Bonds."

Official bonds of State officers

1454. Unless otherwise provided, the official bonds of State officers prescribed by law shall be approved by the Governor and filed and recorded in the office of the Secretary of State.

Official bonds not expressly prescribed by law

1455. Unless otherwise provided, all official bonds of State officers and employees not expressly prescribed by law shall be forwarded to the Department of Finance for recordation. Upon such recordation the Department of Finance shall forward the bonds to the Secretary of State where they shall be filed.

Bond of Secretary of State

1456. The official bond of the Secretary of State shall be filed in the office of the Treasurer after it is recorded.

Bonds of county and township officers

1457. Unless otherwise provided, the official bonds of county and township officers shall be approved by the judge of the superior court, recorded in the office of the county recorder, and then filed in the county clerk's office.

Approval of other bonds

1458. The bonds of supervisors, treasurers, county clerks, auditors, sheriffs, tax collectors, district attorneys, recorders, assessors, surveyors, superintendents of schools, public administrators, coroners, justices of the peace, and constables shall be approved by the judge or majority of judges, if there be more than one, of the superior court before the bonds can be recorded and filed. In counties having five or more judges, the approval of three judges is sufficient.

Bond of county clerk

1459. After being recorded, the official bond of the county clerk shall be filed in the office of the county treasurer.

Certified copies of bonds for fee

1460. Every officer with whom official bonds are filed shall carefully keep and preserve the bonds. He shall give certified copies thereof to any person demanding copies, upon being paid the same fees as are allowed by law for certified copies of papers in other cases.

Bond of vacancy appointee

1461. Any person appointed to fill a vacancy shall give a bond, corresponding in substance and form with the bond required of the officer originally elected or appointed, before entering upon the duties of the office.

Article 2. Bonds Not Required by Statute

Individual official bond

1480. Every officer, agent or employee not required by statute to give an official bond may be required to give an

individual official bond in an amount to be fixed by the appointing power.

Master official bond

1481. When deemed expedient by the appointing power, a master official bond may be used with a schedule attached containing the name of the officer, agent or employee required to give an official bond and the amount for which each such person is bonded.

Conformity with official bond

1482. The contents of a bond given pursuant to this article shall conform to the required condition of an official bond.

Term of individual and master official bond

1483. The term of any individual official bond, and the term of coverage of any officer, agent, or employee on the schedule of any master official bond shall not exceed one year.

Cancellation

1484. Each official bond may contain a provision authorizing the appointing power to cancel it, if it is an individual official bond, or the contract of coverage of any officer, agent or employee on the schedule, if it is a master official bond.

Article 3. Form and Conditions

Bonds payable to State

1500. All official bonds shall be made payable to the State of California in such penalty and with such conditions as required by this article, or the law creating or regulating the duties of the office.

Condition of official bond

1501. The condition of an official bond shall be that the principal will well, truly, and faithfully perform all official duties then required of him by law, and also all such additional duties as may be imposed on him by any existing law of the State or law enacted subsequently to the execution of the bond.

Signature of official bond, corporation as surety

1502. An official bond shall be signed by the principal and at least two sureties. A corporation, such as is mentioned in Section 1056 of the Code of Civil Procedure, may be one of the sureties on a bond the penal sum of which amounts to more than one thousand dollars ($1,000), or be accepted as sole and sufficient surety upon any bond, subject to the provisions of Sections 1056 and 1057 of the Code of Civil Procedure.

Form of official bond

1503. All official bonds shall be in form joint and several. When the penal sum of any bond required to be given amounts to more than one thousand dollars ($1,000), the sureties may become severally liable for portions of not less than five hundred dollars ($500) thereof.

Obligations of principal and sureties

1504. Every official bond executed by any officer pursuant to law is in force and obligatory upon the principal and sureties therein for:

(a) Any and all breaches of the conditions thereof committed during the time such officer continues to discharge any of the duties of or hold the office, and whether such breaches are committed or suffered by the principal officer, his deputy, or clerk.

(b) The faithful discharge of all duties which may be required of such officer by any law enacted subsequently to the execution of the bond.

Special liability on bond

1505. Whenever, except in criminal prosecutions, any special penalty, forfeiture, or liability is imposed on any county or township officer for nonperformance or malperformance of official duties, the liability therefor attaches to the official bond of the officer, and to the principal and sureties thereon.

Article 4. Justification of Sureties

Several justification of sureties

1530. The officer whose duty it is to approve official bonds required of State officers and of county or township officers not named in Section 1458 shall not accept or approve any such bond unless each of the sureties severally justify before an officer authorized to administer oaths, as follows:

(a) On a bond given by a State officer, that such surety is a resident and freeholder, or householder, within the State.

(b) On a bond given by a county or township officer not named in Section 1458, that such surety is a resident and freeholder, or householder, within such county or within an adjoining county.

(c) That such surety is worth the amount for which he becomes surety, over and above all his debts and liabilities, in unincumbered property situated within the State, exclusive of property exempt from execution and forced sale.

Approval of sureties on bonds of officers named in Section 1458

1531. The sureties on the bonds of all county and township officers named in Section 1458 shall first be approved by the judge or judges of the superior court as is provided for the approval of the bond of their principals, before their principals' bonds may be recorded and filed. All persons offered as sureties may be examined on oath touching their qualifications.

Qualifications of surety on above bonds

No person can be admitted as surety on any such bond unless he is:

(a) A resident and freeholder, or householder, within the State.

(b) Worth in real or personal property, or both, situate in the State, the amount of his undertaking, over and above all sums for which he is already liable, exclusive of property exempt from execution and forced sale.

Disqualification as surety

1532. A member of the board of supervisors shall not be accepted as surety upon the official bond of any county or township officer of his county. The sheriff, county clerk, tax collector, treasurer, recorder, auditor, assessor, or district attorney of the same county shall not become sureties upon official bonds for each other.

Article 5. Suits on Bonds

Beneficiaries of official bonds

1550. Every official bond, given pursuant to law and executed by any officer of the State, of any county or any subdivision thereof, or of any city is in force and obligatory upon the principal and sureties therein to and for:

(a) The State of California, or such municipal corporation;

(b) The use and benefit of all persons who may be injured or aggrieved by the wrongful act or default of such officer in his official capacity.

Suit on bond

Any person so injured or aggrieved may bring suit on the bond in his own name, without an assignment thereof.

Suit on bond over $1,000

1551. If any bond, the penal sum of which is more than one thousand dollars ($1,000), becomes forfeited, an action may be brought thereon against all or any number of the obligors. Judgment shall be entered against them, either jointly or severally, as they may be liable. Judgment shall not be entered against a surety severally bound for a greater sum than that for which he is specially liable by the terms of the bond.

Judgment

Contribution of sureties to each other

1552. Each surety is liable to contribution to his cosureties in proportion to the amount for which he is liable.

Judgment no bar to further suits on bond

1553. No official bond is void on the first recovery of a judgment thereon. Until the whole penalty of the bond is exhausted, suit may be brought, from time to time, and judgment recovered thereon by the State or by any person to whom a right of action has accrued against the officer and his sureties.

Equitable liability on bond

1554. Whenever an official bond does not contain the substantial matter or conditions required by law, or there are any defects in the approval or filing thereof, it is not void so as to discharge the officer and his sureties. They are equitably bound to the State or party interested.

Suit on defective bond

The State or the party interested may, by action in any court of competent jurisdiction, suggest the defect in the bond, approval, or filing, and recover the proper and equitable demand or damages from the officer and the persons who intended to become and were included as sureties in such bond.

Affidavit re real estate interest of defendant in suit on bond

1555. When an action is commenced in any court in the State for the benefit of the State, to enforce the penalty of or to recover money upon an official bond or obligation, or any bond or obligation executed in favor of the State or of the people of the State, the person prosecuting the action may file with the court in which the action is commenced an affidavit stating, either positively or on information and belief, that:

(a) The bond or obligation was executed by the defendant or one or more of the defendants (designating whom), and made payable to the people or to the State of California,

(b) The defendant or defendants have real estate or interest in lands (designating the county or counties in which the same is situated),

(c) The action is prosecuted for the benefit of the State.

Certificate to recorder of county in which real estate situated

1556. The clerk receiving the affidavit shall certify to the recorder of the county in which the real estate is situated:

(a) The names of the parties to the action,

(b) The name of the court in which the action is pending,

(c) The amount claimed in the complaint,

(d) The date of the commencement of the suit.

Certificate acts as lis pendens

1557. Upon receiving the certificate the county recorder shall indorse upon it the time of its reception, and it shall be

filed and recorded in the same manner as notices of the pendency of an action affecting real estate.

Judgment a lien on real property

1558. Any judgment recovered is a lien upon all real estate belonging to the defendant, or to one or more defendants, situated in any county in which the certificate is filed for the amount that the owner thereof is or may be liable upon the judgment, from the filing of the certificate.

Specific performance of real property affected by the lien

1559. In any action to compel the specific performance of an agreement to sell real estate affected by the lien created by the filing of a certificate the agreement having been made prior to the filing of the certificate and the purchase price under the agreement not having become due until after the filing of the certificate, the judge of the superior court in which the action for specific performance is tried shall order the purchaser to pay the purchase price, or so much thereof as may be due, to the State Treasurer, and to take his receipt therefor, if the purchaser is otherwise entitled to specific performance of the agreement.

Proceeds of sale of real property subject to lien

1560. Upon payment, the purchaser is entitled to enforcement of specific performance of the agreement, and shall take the real estate free from the liens created by the filing of the certificate. The state treasurer shall hold the money pending the litigation mentioned in the certificate, and subject to the lien created by the filing of the certificate.

Article 6. Additional Bond and Suits Thereon

Issuance of citation on subsequent disqualification of sureties

1580. The person or body whose duty it is to approve the official bond of any officer may issue a citation to the officer whenever it is shown by the affidavit of a credible witness, or it otherwise comes to the attention of such person or body, that since the bond was approved, one or more of the sureties have died, removed from the State, become insolvent, or from any other cause have become incompetent or insufficient sureties.

Officer to show cause for not vacating office

1581. The citation shall require the officer to appear and show cause on a day named why the office should not be vacated. The day named shall not be less than three nor more than 10 days after the date on the citation. The citation shall be served and return thereof made as in other cases.

Failure to appear and show good cause or give additional security

1582. If the officer fails to appear and show good cause on the day named why the office should not be vacated, or fails to give ample additional security, the person or body shall make an order vacating the office.

Provisions of additional bond

1583. The additional bond shall be:

(a) In such penalty as directed by the person or body whose duty it is to approve the bond,

(b) In all other respects similar to the original bond,

(c) Approved by and filed with the same officer as required in case of the approval and filing of the original bond.

Legal effect of additional bond filed and approved

1584. Every additional bond so filed and approved is of like force and obligation from the time of its execution upon the principal and sureties therein, and subjects the officer and

his sureties to the same liabilities, suits, and actions as are prescribed respecting the original bonds of officers.

Original bond not affected

1585. In no case is the original bond discharged or affected when an additional bond has been given. The original bond remains of like force and obligation as if the additional bond had not been given.

Liability on either or both bonds

1586. After the execution of the additional bond, the officer and his sureties are liable upon either or both bonds to any party injured by the breach of any condition of an official bond. The party may bring his action upon either bond, or he may bring separate actions on both bonds, allege the same cause of action, and recover judgment therefor in each suit.

Separate judgments on bonds

1587. If separate judgments are recovered on the bonds for the same cause of action, the injured party may have execution issued on both judgments. He may only collect, by execution or otherwise, the costs of both suits and the amount actually adjudged to him on the same causes of action in one of the suits.

Contribution by sureties on either bond to the others

1588. Whenever the sureties on either bond have been compelled to pay any sum of money on account of the principal obligor therein, they are entitled to recover of the sureties on the remaining bond a distributive part of the sum thus paid, in the proportion which the penalties of such bonds bear one to the other and to the sums thus paid, respectively.

Article 7. Release of Sureties and Supplemental Bonds

When additional bond not required

1600. If the original bond is given for an amount in excess of the sum required by law and the withdrawal or removal of a surety does not reduce the bond below the amount required by law to be secured by sureties, no supplemental or additional bond is required or necessary.

Condition for discharge of surety on official bond

1601. Whenever any sureties on the official bond of any officer wish to be discharged from their liability, they and the officer may procure the discharge if the officer will execute a new bond with sufficient sureties in like form, penalty, and conditions as the original bond.

Exoneration of first sureties

Liability of new sureties on new bond

1602. Upon the filing and approval of the new bond in the same manner as the original bond, the first sureties are exonerated from all further liability. Their bond remains in full force as to all liabilities incurred previous to the approval of the new bond. The liability of the sureties in the new bond is in all respects the same and may be enforced in like manner as the liability of the sureties in the original bond.

Relief of surety from subsequent liabilities

1603. Any surety on the official bond of a State, county or city officer may be relieved from liabilities thereon afterwards accruing by complying with the following provisions.

Surety to file written statement

1604. The surety shall file with the person or body authorized by law to approve the official bond a statement in writing setting forth the desire of the surety to be relieved from all liabilities afterwards arising thereon, and the reasons therefor.

Verification of statement

1605. The statement shall be subscribed and verified by the affidavit of the party filing it.

Service of copy of statement, and affidavit of service or due return

1606. A copy of the statement shall be served on the officer named in the official bond and due return or affidavit of service made thereon. If the officer has removed himself from the State, has absconded, conceals himself within the State to avoid service or can not after due diligence and inquiry be found therein, and the facts so appear to the satisfaction of the person or body authorized to hear the statement, such person or body may make an order that service be had by mailing a copy of the statement to the last known address of the officer. Service is complete upon compliance with the order and has the same validity and effect as if personal service had been made upon the officer.

Service by publication

Order affecting subsequent liability of surety

1607. In 10 days after the service of the statement the person or body with whom it is filed shall make an order:

(a) Releasing the surety from all liability thereafter to arise on the official bond,

(b) Declaring the office vacant, unless the officer has before that time executed and filed a supplemental bond.

Supplemental bond by principal

1608. Whenever a surety on any official bond serves a statement of intention to withdraw therefrom, is removed, becomes insolvent, or becomes otherwise incompetent, within 10 days after the service of the statement or disqualification the principal on the bond shall execute and file a supplemental bond. In the supplemental bond there shall be recited the names of the remaining original sureties, the name or names of the new surety or sureties who are substituted in lieu of the released or disqualified surety, and the amounts for which the new sureties have each become bound.

Conditions and amount of supplemental bond

1609. The supplemental bond shall be subject to the same conditions as the original bond. It shall be executed and approved in the same manner as the original bond and for the amount for which the withdrawing or incompetent surety was bound by the original bond.

Publication of notice of filing supplemental bond

1610. When any supplemental bond is filed and approved, the officer with whom the bond is filed or in whose office it is recorded shall give 10 days notice of the filing of the bond and the name of the party withdrawing from the former and the substitute on the new bond. The notice shall be given by publication in a paper published in the county, or if there is no paper in the county, then in the county nearest to it in which a newspaper is published. If the bond is that of a State officer, publication shall be made in a paper published in the City of Sacramento.

Liability of sureties on former bond

1611. Until the filing and approval of the supplemental bond the sureties on the former bond are liable for all the acts of their principal.

Remaining liability of released surety

1612. No surety is released from damages or liabilities for acts, omissions, or causes existing or which arose before the making of the order releasing the surety. Legal proceedings may be had therefor in all respects as though no order had been made.

1613. The release, discharge, voluntary withdrawal, or incompetency of a surety on any official bond does not affect the bond as to the remaining sureties thereon, or alter or change their liability in any respect. Liability of remaining sureties

Article 8. Payment of Premiums

1650. This article does not apply to notaries public. Notaries public

1651. The premium or charge for bonds given by surety companies for the officers, herein named, and for their deputies, clerks, assistants or subordinate officers shall be paid as follows: Payment of premium or charge for bonds

(a) State officers, by the State.

(b) County officers, by the county.

(c) Township officers, by the county in which the township is situated.

(d) School districts or other special district officers, by the school district or other special district, respectively.

(e) City officers, by the city.

1652. No premium or charge paid by the State, a county, city, or district shall exceed one-half of 1 per cent per annum on the amount of the bond. Amount to be paid

1653. The payment of premiums for the official bonds of deputies, clerks, assistants or subordinate officers of county officers shall not be a county charge unless the amount fixed for such bond has been approved by the board of supervisors. Approval for payment of premiums

Chapter 4. Resignations and Vacancies

Article 1. Resignations

1750. Resignations shall be in writing, and made as follows: To whom resignations made

(a) By the Governor and Lieutenant Governor, to the Legislature, if it is in session; and if not, then to the Secretary of State.

(b) By all officers commissioned by the Governor, to the Governor.

(c) By Senators and Members of the Assembly, to the presiding officers of their respective houses, who shall immediately transmit the resignation to the Governor.

(d) By all county and township officers not commissioned by the Governor, to the clerk of the board of supervisors of their respective counties.

(e) By officers of a municipal corporation, to the clerk of the legislative body of their corporation.

(f) By all other appointed officers, to the body or officer that appointed them.

1751. In all cases not otherwise provided for in this article or elsewhere, a resignation is made by filing the resignation in the office of the Secretary of State. Other resignations

Article 2. Vacancies

1770. An office becomes vacant on the happening of any of the following events before the expiration of the term: Vacancies

(a) The death of the incumbent.

(b) His insanity, when determined by a final judgment or final order of a court of competent jurisdiction.

(c) His resignation.

(d) His removal from office.

(e) His ceasing to be an inhabitant of the State, or if the office be local, of the district, county, city, or township for which he was chosen or appointed, or within which the duties of his office are required to be discharged.

(f) His absence from the State without the permission required by law beyond the period allowed by law.

(g) His ceasing to discharge the duties of his office for the period of three consecutive months, except when prevented by sickness, or when absent from the State with the permission required by law.

(h) His conviction of a felony or of any offense involving a violation of his official duties.

(i) His refusal or neglect to file his official oath or bond within the time prescribed.

(j) The decision of a competent tribunal declaring void his election or appointment.

(k) The making of an order vacating his office or declaring his office vacant when he fails to furnish an additional or supplemental bond.

(*l*) His commitment to a hospital or sanitarium by a court of competent jurisdiction as a drug addict, dipsomaniac, inebriate or stimulant addict; but in that event the office shall not be deemed vacant until the order of commitment has become final.

(Amended by Stats. 1943, Ch. 166.)

[ORIGINAL SECTION]

1770. An office becomes vacant on the happening of any of the following events before the expiration of the term:

(a) The death of the incumbent.

(b) His insanity, found upon a commission of lunacy issued to determine the fact.

(c) His resignation.

(d) His removal from office.

(e) His ceasing to be an inhabitant of the State, or if the office be local, of the district, county, city, or township for which he was chosen or appointed, or within which the duties of his office are required to be discharged.

(f) His absence from the State without the permission required by law beyond the period allowed by law.

(g) His ceasing to discharge the duties of his office for the period of three consecutive months, except when prevented by sickness, or when absent from the State with the permission required by law.

(h) His conviction of a felony or of any offense involving a violation of his official duties.

(i) His refusal or neglect to file his official oath or bond within the time prescribed.

(j) The decision of a competent tribunal declaring void his election or appointment.

(k) The making of an order vacating his office or declaring his office vacant when he fails to furnish an additional or supplemental bond.

Notice to fill vacancy

1771. When an officer is removed, declared insane, or convicted of a felony or offense involving a violation of his official duty, or when his election or appointment is declared void, the body or person before whom the proceedings are had shall give notice thereof to the officer empowered to fill the vacancy.

Commission by Governor to fill vacancy

1772. When any office becomes vacant and no mode is provided by law for filling the vacancy, the Governor shall fill the vacancy by granting a commission, to expire at the end of the next session of the Legislature or at the next election by the people.

Writ of election to fill vacancy

1773. When a vacancy occurs in either house of the Legislature, the Governor shall at once issue a writ of election to fill the vacancy.

Appointment by Governor subject to action thereon at next session of Legislature

1774. When an office, the appointment to which is vested in the Governor and Senate, or in the Legislature, either becomes vacant or the term of the incumbent of which expires during the recess of the Legislature, the Governor may appoint a person to the office. The appointee can only hold the office until the adjournment of the next session of the Legislature.

Within 10 days after the meeting of the Legislature, the Governor shall transmit to it a list of all such appointments.

Appointment by Governor for unexpired term

1775. A vacancy in the office of either the Secretary of State, Controller, Treasurer, or Attorney General shall be filled by a person appointed by the Governor, who shall hold his office for the balance of the unexpired term.

Appointment by Governor with or without advice of the Senate, for unexpired term

1776. Except as otherwise provided in the Constitution, when a person is appointed by the Governor, or by the Governor by and with the advice and consent of the Senate, either to fill a vacancy in any office or to fill an office when the appointment is not made until after the expiration of the preceding term, the appointee holds office only for the balance of the unexpired term as provided by the law creating the office.

Rights and duties of vacancy appointee

1777. After filing his official oath and bond, any person elected or appointed to fill a vacancy possesses all the rights and powers and is subject to all the liabilities, duties, and obligations of the officer whose vacancy he fills.

Chapter 5. Obtaining Possession of Office

Possession of records pertaining to office

1850. Every officer is entitled to the possession of all books and papers pertaining to his office, or in the custody of a former incumbent by virtue of his office.

Right of incumbent to petition for delivery of office records

1851. If any person, including a former incumbent, refuses or neglects to deliver to the actual incumbent any such books or papers, the actual incumbent may petition any court of record sitting in the county where the person so refusing or neglecting resides, or any judge of the superior court residing therein.

Proceeding to determine petition

1852. After notice to the adverse party, the court or judge shall proceed in a summary way to hear the allegations and proof of the parties, and to order any such books or papers to be delivered to the petitioner.

Enforcement of order for delivery of records

1853. The execution of the order and the delivery of the books and papers may be enforced by:

(a) Attachment as for a witness,

(b) At the request of the petitioner, by a warrant directed to the sheriff or a constable of the county commanding him to search for such books and papers, and to take and deliver them to the petitioner.

Wrongful occupation of office a misdemeanor

1854. Every person who wilfully and knowingly intrudes himself into any public office to which he has not been elected or appointed, and every person who, having been an executive, administrative or ministerial officer, wilfully exercises any of the functions of his office after his term has expired, and a successor has been elected or appointed and has qualified, is guilty of a misdemeanor.

Punishment for withholding or destroying records

1855. Every officer whose office is abolished by law, or who, after the expiration of the time for which he may be appointed or elected, or after he has resigned or been legally removed from office, wilfully and unlawfully

(a) mutilates, destroys, or takes away the records, papers, documents, or other writings appertaining or belonging to his office, or

(b) withholds or detains from his successor, or other person entitled thereto, the records, papers, documents, or other writings appertaining or belonging to his office, or any money or property in his custody as such officer,

is punishable by imprisonment in the State prison not less than one nor more than 10 years.

CHAPTER 6. LIABILITY OF OFFICERS AND EMPLOYEES

Article 1. General

Definition

1950. As used in this chapter, "board" means board of supervisors, board of city trustees, city council, board of education, board of school trustees or the legislative body of a county, city or school district, whatever the name by which it is known.

Definition

1951. As used in this chapter, "public property" means public street, highway, bridge, building, park, grounds, works or property.

Construction

1952. This article shall not be construed as enlarging the duty or liability of any public officer.

Liability of officer of State, district, county or city for damage to person or property

1953. No officer of the State or of any district, county, or city is liable for any damage or injury to any person or property resulting from the defective or dangerous condition of any public property, unless all of the following first appear:

(a) The injury sustained was the direct and proximate result of such defective or dangerous condition.

(b) The officer had notice of such defective or dangerous condition or such defective or dangerous condition was directly attributable to work done by him, or under his direction, in a negligent, careless or unworkmanlike manner.

(c) He had authority and it was his duty to remedy such condition at the expense of the State or of a political subdivision thereof and that funds for that purpose were immediately available to him.

(d) Within a reasonable time after receiving such notice and being able to remedy such condition, he failed so to do, or failed to take reasonable steps to give adequate warning of such condition.

(e) The damage or injury was sustained while such public property was being carefully used, and due care was being exercised to avoid the danger due to such condition.

Liability of board members for negligence of subordinates

1954. No member of any board is liable for the negligent act or omission of any appointee or employee appointed or employed by him in his official capacity, whether the appointment or employment was made singly or in conjunction with other members of the board, unless the member or members of the board making the appointment or employment either:

(a) Knew or had notice that the person appointed or employed was inefficient and incompetent to perform or render the service or services for which he was appointed or employed.

(b) Retained such inefficient or incompetent person after knowledge or notice of such inefficiency or incompetency.

Liability when law declared unconstitutional

1955. If any officer, agent, or employee of the State, a district, county, political subdivision, or city acts in good faith and without malice under the apparent authority of any law of the State, whether an initiative measure or an act enacted by the Legislature and the law subsequently is judicially declared to be unconstitutional as in conflict with the Constitution of the State or of the United States, he is not civilly liable in any action in which he would not have been liable if the law had not been declared unconstitutional, nor is he liable to any greater extent than he would have been if the law had not been declared unconstitutional.

Insurance and premium charge

1956. The State, school districts, counties, and municipalities may insure their officers, including officers as defined in Article 2, against any liability, other than a liability which may be insured against under the provisions of Division 4 of the Labor Code, for injuries or damages resulting from their negligence or carelessness during the course of their service or employment and for the injuries or damages resulting from the dangerous or defective condition of public property, including public property as defined in Article 2, and due to their alleged negligence or carelessness, either by self-insurance or in any insurer authorized to transact such insurance in the State. The premium for the insurance is a proper charge against the Treasury of the State, school district, county or municipality.

(Amended by Stats. 1943, Ch. 557.)

[ORIGINAL SECTION]

1956. The State, school districts, counties, and municipalities may insure their officers, including officers as defined in Article 2, against any liability, other than a liability which may be insured against under the provisions of Division 4 of the Labor Code, for injuries or damages resulting from the

dangerous or defective condition of public property, including public property as defined in Article 2, and due to their alleged negligence or carelessness, either by self-insurance or in any insurer authorized to transact such insurance in the State. The premium for the insurance is a proper charge against the treasury of the State, school district, county or municipality.

Article 2. Presentment of Claims

Definitions

1980. As used in this article:

(a) "Person" includes any pupil attending the public schools of any school or high school district.

(b) In addition to the definition of public property as contained in Section 1951, "public property" includes any vehicle, implement or machinery whether owned by the State, a school district, county, or municipality, or operated by or under the direction, authority or at the request of any public officer.

(c) "Officer" or "officers" includes any deputy, assistant, agent or employee of the State, a school district, county or municipality acting within the scope of his office, agency or employment.

Verified claim for damages

1981. Whenever it is claimed that any person has been injured or any property damaged as a result of the negligence or carelessness of any public officer or employee occurring during the course of his service or employment or as a result of the dangerous or defective condition of any public property, alleged to be due to the negligence or carelessness of any officer or employee, within 90 days after the accident has occurred a verified claim for damages shall be presented in writing and filed with the officer or employee and the clerk or secretary of the legislative body of the school district, county, or municipality, as the case may be. In the case of a State officer the claim shall be filed with the officer and the Governor.

(Amended by Stats. 1943, Ch. 557.)

[ORIGINAL SECTION]

1981. Whenever it is claimed that any person has been injured or any property damaged as a result of the dangerous or defective condition of any public property, and alleged to be due to the negligence or carelessness of any officer, within 90 days after the accident has occurred a verified claim for damages shall be presented in writing and filed with the officer and the clerk or secretary of the legislative body of the school district, county, or municipality, as the case may be. In the case of a State officer the claim shall be filed with the officer and the Governor.

Contents of claim

1982. The claim shall specify the name and address of the claimant, the date and place of the accident and the extent of the injuries or damages received.

Article 3. Suits for Damages

Cost of defending suit against member of a board; to whom chargeable

2000. Whenever suit for damages resulting from

(a) injuries caused by or due to the inefficiency or incompetency of any appointee or employee of any board or any member thereof, or

(b) negligence in failing or neglecting to remedy the dangerous or defective condition of any public property or to take such action as is reasonably necessary to protect the public against the condition

is brought against any member of a board, the cost of defending the suit, including attorney fees actually expended in defending the suit, is a charge against the county, city or school district of which the member was an officer if the member had neither knowledge nor notice of

(1) the inefficiency or incompetency of the appointee or employee at the time of the injury, or

(2) the dangerous or defective condition.

Attorney for State, district, county, municipality, or other public or quasi public corporations to defend suits

2001. (a) Whenever suit for damages is brought against any officer of the State or of any district, county, or city both

(1) on account of injuries to persons or property resulting from the dangerous or defective condition of any public property and

(2) on account of any action or work done by him in his official capacity, when done under and according to the provisions of the law respecting his office, or

(b) Whenever suit for damages is brought against any officer, including officers as defined in Article 2, of the State or of any school district, county or municipality on account of injuries to persons or property, alleged to have been received as a result of

(1) the negligence or carelessness of such officer occurring during the course of his service or employment, or

(2) the dangerous or defective condition of any public property, alleged to be due to the negligence or carelessness of such officer,

it is the duty of the attorney for the State, district, county, municipality, or other public or quasi-public corporation, as the case may be, to act as counsel in defense of such suit, unless lawful provision has been made for the employment of other counsel in connection therewith.

The fees and expenses involved in a suit referred to in subdivision (b) are a lawful charge against the State, school district, county or municipality, as the case may be.

Suits for damages for official acts, Attorney General or district attorney to defend

2002. Whenever suit for damages is brought against any State or county officer or employee on account of his official actions the officer or employee may

(a) If he is a State officer or employee, with the consent of the head of the department in which he is employed, have the action referred to the Attorney General,

(b) If he is a county officer or employee, with the consent of the board of supervisors, have the action referred to the district attorney.

Upon the determination of such attorney that the officer or employee performed his official duty in good faith and without malice, it is the duty of the attorney to appear and defend the officer or employee or, in the case of a State officer or

employee, to authorize any attorney in the department to appear and defend the State officer or employee.

The costs and expenses involved in such an action against a State or county officer or employee are a lawful charge against the funds of the department by which the State officer or employee was employed or of the county by which the county officer or employee was employed, and for which he was acting officially. The department or the county may recover from the officer or employee any costs or expenses paid out by it under the provisions of this section if it develops that the officer or employee acted in bad faith or with malice.

County counsel

In any county having a county counsel the board of supervisors may direct him to perform the duties imposed by this section upon district attorneys.

CHAPTER 7. REMOVAL FROM OFFICE

Article 1. General

Forfeiture of office

3000. An officer forfeits his office upon conviction of designated crimes as specified in the Constitution and laws of the State.

Intoxication a misdemeanor—forfeiture of office, filling of vacancy

3001. Any State, county, or city officer who is intoxicated while in discharge of the duties of his office, or by reason of intoxication is disqualified for the discharge of, or neglects his duties, is guilty of a misdemeanor. On conviction of such misdemeanor he forfeits his office, and the vacancy occasioned thereby shall be filled in the same manner as if the officer had filed his resignation in the proper office.

Article 2. Impeachment

Subject to impeachment

3020. The Governor, Lieutenant Governor, Secretary of State, Controller, Treasurer, Attorney General, Chief Justice, Associate Justices of the Supreme Court, the Presiding Justice and Associate Justices of the District Courts of Appeal, and the judges of the superior court are liable to impeachment for any misdemeanor in office.

By resolution

3021. All impeachments shall be by resolution adopted, originated in, and conducted by managers elected by the Assembly.

Articles of impeachment, trial before Senate

3022. The managers shall prepare articles of impeachment, present them at the bar of the Senate, and prosecute them. The trial shall be before the Senate, sitting as a court of impeachment.

Impeachment for misdemeanor

3023. When an officer is impeached by the Assembly for a misdemeanor in office, the articles of impeachment shall be delivered to the President of the Senate.

Day for hearing impeachment

3024. The Senate shall assign a day for the hearing of the impeachment and inform the Assembly thereof.

Service on defendant of articles of impeachment

3025. Not less than 10 days before the day fixed for the hearing, the President of the Senate shall have served on the defendant a copy of the articles of impeachment, with a notice to appear and answer the same at the time and place appointed.

Personal service or by publication

3026. The service shall be made upon the defendant personally. If upon diligent inquiry he can not be found within the State, upon proof of that fact the Senate may order publication to be made, in such manner as it deems proper, of a notice requiring him to appear at a specified time and place and answer the articles of impeachment.

Procedure optional with Senate where defendant absent

3027. If the defendant does not appear, upon proof of service or publication the Senate may, of its own motion or for cause shown, assign another day for hearing the impeachment, or may proceed to trial and judgment in the absence of the defendant.

Defendant's pleadings

3028. When the defendant appears, he may object in writing to the sufficiency of the articles of impeachment, or he may answer the articles by an oral plea of not guilty.

Senate proceedings on refusal to plead or plea of guilty

3029. If the objection to the sufficiency of the articles of impeachment is not sustained by a majority of the members of the Senate who heard the argument, the defendant shall be ordered forthwith to answer the articles of impeachment. If he then pleads guilty, or refuses to plead, the Senate shall render judgment of conviction against him.

Plea of not guilty

3030. If the defendant pleads not guilty, the Senate shall try the impeachment at the time it appoints. The plea shall be entered upon the Senate Journal, and puts in issue every material allegation of the articles of impeachment.

Oath by Senate members present

3031. At the time and place appointed, and before the Senate acts on the impeachment, the secretary shall administer to the President of the Senate, and the President of the Senate to each of the members of the Senate present, an oath truly and impartially to hear, try, and determine the impeachment. No member of the Senate can act or vote upon the impeachment, or upon any question arising thereon, without having taken such oath.

Number of votes for impeachment

3032. The defendant can not be convicted on impeachment without the concurrence of two-thirds of the members elected, voting by ayes and noes. If two-thirds of the members elected do not concur in a conviction, he shall be acquitted.

Judgment by resolution

3033. After conviction and at the time appointed by the Senate, it shall pronounce judgment, in the form of a resolution entered upon the Senate Journal.

Adoption of resolution

3034. On the adoption of the resolution by a majority of the members present who voted on the question of acquittal or conviction, it becomes the judgment of the Senate.

Form of judgment

3035. The judgment may be that the defendant be suspended, or that he be removed from office and disqualified to hold any office of honor, trust, or profit under the State.

Judgment of suspension

3036. If judgment of suspension is given, during the continuance of the judgment the defendant is disqualified from receiving the salary, fees, or emoluments of the office.

Temporary suspension

3037. Whenever articles of impeachment against any officer subject to impeachment are presented to the Senate, the officer is temporarily suspended from his office and can not act in his official capacity until he is acquitted.

Temporary appointee for suspended office

3038. Upon temporary suspension of any officer other than the Governor, his office shall at once be temporarily filled by an appointment made by the Governor, with the advice and consent of the Senate. The office shall be filled by the appointee until the acquittal of the party impeached or, in case of his removal, until the vacancy is filled at the next election.

Impeachment of Lieutenant Governor

3039. If the Lieutenant Governor is impeached, notice of the impeachment shall be immediately given to the Senate by the Assembly in order that another president may be chosen.

Impeachment no bar to criminal prosecution

3040. If the offense for which the defendant is convicted on impeachment is also the subject of an indictment or information, the indictment or information is not barred thereby.

Article 3. Removal Other Than by Impeachment

Accusation of misconduct

3060. An accusation in writing against any district, county, township, or municipal officer, for willful or corrupt misconduct in office, may be presented by the grand jury of the county for or in which the officer accused is elected or appointed. An accusation may not be presented without the concurrence of at least 12 grand jurors.

Offense charged

3061. The accusation shall state the offense charged in ordinary and concise language, and without repetition.

Delivery of accusation

3062. The accusation shall be delivered by the foreman of the grand jury to the district attorney of the county, unless he is the officer accused.

Service on defendant; notice of appearance

3063. The district attorney shall have a copy of the accusation served upon the defendant, and by notice in writing shall require the accused to appear before the superior court of the county, at a time stated in the notice, and answer the accusation. Appearance shall not be required in less than 10 days from the service of the notice. After service, the original accusation shall be filed with the clerk of the court.

Appearance, default

3064. The defendant shall appear at the time stated in the notice and answer the accusation, unless for some sufficient cause the court assigns another day for that purpose. If he does not appear, the court may proceed to hear and determine the accusation in his absence.

Answer

3065. The defendant may answer the accusation either by objecting to its sufficiency or any article therein, or by denying the truth of the accusation.

Objection

3066. If he objects to the legal sufficiency of the accusation, the objection shall be in writing. The objection need not be in any specific form. It is sufficient if it presents intelligibly the grounds of the objection.

Denial

3067. If he denies the truth of the accusation, the denial may be oral and without oath. The denial shall be entered upon the minutes.

Answer after objection

3068. If an objection to the sufficiency of the accusation is not sustained, the defendant shall answer thereto forthwith.

Plea of guilty or refusal to answer

Trial on denial

3069. If the defendant pleads guilty, or refuses to answer the accusation, the court shall render judgment of conviction against him. If he denies the matters charged, the court shall

immediately, or at such time as it appoints, try the accusation.

Jury trial

3070. The trial shall be by a jury, and conducted in all respects in the same manner as the trial of an indictment.

Process

3071. The district attorney and the defendant are each entitled to such process as is necessary to enforce the attendance of witnesses as upon a trial of an indictment.

Conviction and removal

3072. Upon a conviction and at the time appointed by the court it shall pronounce judgment that the defendant be removed from office. To warrant a removal, the judgment shall be entered upon the minutes, and the causes of removal shall be assigned therein.

Removal of district attorney

3073. The same proceedings may be had on like grounds for the removal of a district attorney, except that the accusation shall be delivered by the foreman of the grand jury to the clerk, and by him to a judge of the superior court of the county. The judge shall appoint a person to act as prosecuting officer in the matter, or place the accusation in the hands of the district attorney of an adjoining county, and require him to conduct the proceedings.

DIVISION 5. PUBLIC WORK AND PUBLIC PURCHASES

CHAPTER 1. COST RECORDS TO BE KEPT

Work exempted

4000. This chapter does not apply to maintenance work, work occasioned by emergency, and work costing less than five thousand dollars ($5,000).

Definition

4001. As used in this chapter, "engineer" means the State Highway Engineer, the State Engineer, the State Architect and every county engineer, county surveyor, county highway engineer, road commissioner, city engineer, commissioner of public works, superintendent of streets, harbor engineer, flood control engineer, the engineer of any board or commission of the State, the engineer of any board or commission of any city, and the engineer of any reclamation, irrigation or other district, political subdivision or agency of the State.

Definition

4002. As used in this chapter, "public work" means the construction of any bridge, road, street, highway, ditch, canal, dam, tunnel, excavation, building or structure within the State by day's labor or force account.

Accounts

4003. The engineer directing, supervising or superintending the construction, or in charge of the engineering work for or in connection with public work shall keep an accurate account of the cost of the public work.

Plans and specifications

4004. Prior to the commencement of the public work, the engineer shall prepare and file in his office full, complete and accurate plans and specifications, and an estimate of the cost thereof, except where other and adequate provision is made by law requiring the preparation and filing of such plans, specifications and estimates of cost by some other officer or in some other office.

Certificate of completion

4005. Within 60 days from the completion of any public work, the engineer shall prepare and file in the office of the county clerk of the county in which the public work is performed, or if any reclamation, irrigation or other such district maintains an office, then in the office of his own district instead of the office of the county clerk, a certificate in writing verified by him in the same manner as complaints in civil actions, setting forth:

(a) The estimate of cost.

(b) Names of bidders with prices bid, if bids there be.

(c) Changes in adopted or approved plans and specifications.

(d) That the work performed has or has not been done in accordance with such plans and specifications.

(e) The total cost of the work, segregated so as to show the actual cost of all labor, materials, equipment, engineering or architectural services, including the services of public employees in connection with such work, and other expense. The cost shown for equipment shall include rentals paid or, if the equipment is publicly owned, a reasonable amount for depreciation and the cost of repairs thereon while so used.

(Amended by Stats. 1943, Ch. 469.)

[ORIGINAL SECTION]

4005. Within 60 days from the completion of any public work, the engineer shall prepare and file in the office of the county clerk of the county in which the public work is performed, or if any reclamation, irrigation or other such district maintains an office, then in the office of his own district instead of the office of the county clerk, a certificate in writing verified by him in the same manner as complaints in civil actions, setting forth:

(a) The estimate of cost.

(b) Names of bidders with prices bid, if bids there be.

(c) Changes in adopted or approved plans and specifications.

(d) That the work performed has or has not been done in accordance with such plans and specifications.

(e) A list of any publicly-owned equipment used in the work.

(f) An itemized statement of the actual cost of all labor, materials, rentals, repairs, compensation and other insurance, transportation of labor, equipment and materials, engineering or architectural services, including the services of public employees in connection with the work, and any and all cost entering into the work performed, including a reasonable amount for depreciation of publicly-owned equipment used in the work and the cost of repairs thereon while so used.

Inspection as public records

4006. Plans, specifications and certificates referred to in this chapter are open to inspection and examination as a public record.

Violation a misdemeanor

4007. Every engineer who wilfully violates any of the provisions of this chapter is guilty of a misdemeanor.

CHAPTER 2. SUBLETTING AND SUBCONTRACTING

Exceptions

4100. This chapter does not apply to contracts for the construction, improvement or repair of State highways, including bridges, nor to city or county projects financed in whole or in part with motor vehicle fuel funds.

Legal and equitable rights and remedies

4101. Nothing in this chapter limits or diminishes any rights or remedies, either legal or equitable, which:

(a) An original or substituted subcontractor may have against the contractor, his successors or assigns.

(b) The State or any county, city, body politic, or public corporation, or public agency may have against the contractor, his successors or assigns, including the right to take over and complete the contract.

Details for bids

4102. Any officer, department, board or commission taking bids for the construction of any public work or improvement shall provide in the specifications prepared for the work or improvement or in the general conditions under which bids will be received for the doing of the work incident to the public work or improvement that any person making a bid or offer to perform the work, shall, in his bid or offer, set forth:

(a) The name and the location of the mill, shop or office of each subcontractor who will perform work or labor or render service to the contractor in or about the construction of the work or improvement.

(b) The portion of the work which will be done by each subcontractor.

Failure to specify subcontractor

4103. If a contractor fails to specify a subcontractor for any portion of the work to be performed under the contract, he agrees to perform that portion himself.

Change in terms of accepted bid

4104. No contractor whose bid is accepted shall, without the consent of the awarding authority, either:

(a) Substitute any person as subcontractor in place of the subcontractor designated in the original bid.

(b) Permit any subcontract to be assigned or transferred or allow it to be performed by anyone other than the original subcontractor.

(c) Sublet or subcontract any portion of the work as to which his original bid did not designate a subcontractor.

Public emergency ground for change

4105. Subletting or subcontracting of any portion of the work as to which no subcontractor was designated in the original bid shall only be permitted in cases of public emergency or necessity, and then only after a finding reduced to writing as a public record of the awarding authority setting forth the facts constituting the emergency or necessity.

Cancellation of contract recovery barred

4106. A contractor violating any of the provisions of this chapter violates his contract and the awarding authority may cancel the contract. After any such violation, the contractor can not recover thereon for any of the work done or materials furnished on the public work or improvement.

Right of subcontractor

4107. The failure on the part of a contractor to comply with any provision of this chapter does not constitute a defense to the contractor in any action brought against him by a subcontractor.

Chapter 3. Contractor's Bond

Bond

4200. Every person to whom is awarded a contract involving an expenditure in excess of one hundred dollars

($100) for the improvement, erection or construction of any building, road, bridge or other structure, excavating, or other mechanical work for the State, or for any political subdivision or agency of the State shall, before entering upon the performance of the work, file a good and sufficient bond with the officer or body by whom the contract was awarded.

Approval of bond

4201. The contractor's bond shall be approved by the officer or body by whom the contract was awarded.

Terms of bond

4202. To be approved, the contractor's bond shall be in a sum not less than:

(a) One-half of the total amount payable by the terms of the contract when the total amount payable does not equal or exceed five million dollars ($5,000,000).

(b) One-fourth of the total amount payable by the terms of the contract when the total amount payable is not less than five million dollars ($5,000,000) and does not exceed ten million dollars ($10,000,000).

If the total amount payable by the terms of the contract exceeds ten million dollars ($10,000,000), a bond in the sum of two million five hundred thousand dollars ($2,500,000) is sufficient.

Sureties

4203. To be approved, the contractor's bond shall be executed by either two or more good and sufficient sureties or by a corporate surety, as provided by law, in an amount not less than the sum specified in the bond.

Sureties liability

4204. To be approved, the contractor's bond shall provide that if the person or his subcontractors, fail to pay for any materials, provisions, provender or other supplies, or teams, used in, upon, for or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, that the surety or sureties will pay for the same, in an amount not exceeding the sum specified in the bond, and also, in case suit is brought upon the bond, a reasonable attorney's fee, to be fixed by the court.

Beneficiaries of bond

4205. To be approved, the contractor's bond shall by its terms inure to the benefit of any and all persons entitled to file claims under Section 1184e of the Code of Civil Procedure so as to give a right of action to them or their assigns in any suit brought upon the bond.

Suit against sureties

4206. Suit against the surety or sureties on the contractor's bond may be brought by any claimant, or his assign, at any time after the claimant has ceased to perform labor or furnish material, or both, and until the expiration of six months after the period in which verified claims may be filed as provided in Section 1184e of the Code of Civil Procedure.

Verified claim not condition precedent

4207. The filing of a verified claim is not a condition precedent to the maintenance of an action against the surety or sureties on the contractor's bond. An action on the bond may be maintained separately from and without the filing of an action against the officer or body by whom the contract was awarded.

Upon the trial of the action, the court shall award to the prevailing party a reasonable attorney's fee, to be taxed as costs, and to be included in the judgment therein rendered. Attorney's fee

4208. Unless a contractor's bond is filed and approved as provided in this chapter, no claim in favor of the contractor arising under the contract shall be audited, allowed, or paid by any officer of the State, or of any political subdivision or State agency. Persons who have in good faith performed work upon the contract, or supplied materials for the execution thereof, shall receive payment of their respective claims in the manner provided by Sections 1184, 1184a, 1184b, and 1184c of the Code of Civil Procedure upon giving notice by filing statements as provided in Section 1184e of the Code of Civil Procedure. Payment under contract; Payment when bond not filed and approved

CHAPTER 4. PREFERENCE FOR MATERIALS

Article 1. American-made Materials

4300. As used in this article:

(a) "United States" means the United States of America, and includes any Territory or insular possession of the United States. Definitions

(b) "Produced" includes mined and manufactured.

(c) "Materials" includes articles and supplies.

4301. This article does not apply to materials which are of a class or kind which are not, or which are manufactured from materials which are not produced in the United States. Materials exempted

4302 This article does not apply to medical and surgical instruments, scientific equipment, microscopes, lenses, or instruments used for scientific or medical purposes, including research. Medical and scientific exemptions

4303. The governing body of any political subdivision, municipal corporation, or district, and any public officer or person charged with the letting of contracts for (1) the construction, alteration, or repair of public works or (2) for the purchasing of materials for public use, shall let such contracts only to persons who agree to use or supply only such unmanufactured materials as have been produced in the United States, and only such manufactured materials as have been manufactured in the United States, substantially all from materials produced in the United States. Use or supply of American-made materials

4304. Every contract for the construction, alteration or repair of public works or for the purchase of materials for public use shall contain a provision that only unmanufactured materials produced in the United States, and only manufactured materials manufactured in the United States, substantially all from materials produced in the United States shall be used in the performance of the contract. Provision in contract regarding American-made materials

Any person who fails to comply with such provision shall not be awarded any contract to which this article applies for a period of three years from the date of the violation. Violation of provision

Posting of violation

4305. The name of the person failing to comply, together with a report of the facts constituting the violation, shall be posted by the governing board or person who let the contract in at least three public places in the county in which the contract was made.

Article 2. California-made Materials

Definition

4330. As used in this article, "supplies" includes goods, wares, merchandise, manufactures, and produce.

Preferences for local products

4331. Price, fitness and quality being equal, any body, officer, or other person charged with the purchase, or permitted or authorized to purchase supplies for the use of the State, or of any of its institutions or offices, or for the use of any county or city shall always prefer supplies grown, manufactured, or produced in the State, and shall next prefer supplies partially manufactured, grown, or produced in the State.

Advertisements to contain preferences

4332. All State, county, or city officers, all bodies, and other persons charged with advertising for supplies shall state in their advertisement that such preferences for California-made supplies will be made.

Prevention of proper competition

4333. In any advertisement for supplies no bid shall be asked for any article of a specific brand or mark nor any patent apparatus or appliances, when such requirement would prevent proper competition on the part of dealers in other articles of equal value, utility, or merit.

Restrictions on letting of contracts

4334. Public officers and bodies charged with the letting of contracts for public work, with the construction of public bridges, buildings and other structures, or with the purchase of supplies for any public use may give such contracts and purchase such supplies from persons manufacturing in the State the supplies to be used pursuant to contract or the supplies to be purchased if:

(a) The bids of such persons, or the prices quoted by them, do not exceed by more than 5 per cent the lowest bids or prices quoted by persons manufacturing the supplies outside the State.

(b) The major portion of the work of manufacturing the supplies is not done outside the State.

(c) In the opinion of the public officers or bodies, the public good will be served thereby.

DIVISION 6. PUBLIC BONDS AND OBLIGATIONS

CHAPTER 1. REGISTRATION OF BONDS

Conversion of coupon or bearer bond

5000. The owner of any coupon bond, or of any bond payable to bearer, issued by the State, or any county, municipal corporation, or other public corporation in the State may present the bond to the treasurer or other officer who by law performs the duties of treasurer and request the conversion of the bond into a registered bond.

Conversion to registered bond

5001. The treasurer, or officer performing the duties of treasurer, shall cut off and cancel the coupons of a coupon

bond so presented, and shall stamp, print, or write upon the back or the face of a coupon or bearer bond so presented a statement to the effect that the bond is registered in the name of the owner, and that thereafter the interest and principal of the bond are payable to the registered owner.

Statement of conversion

5002. The statement may be in substantially the following form:

(Date, giving month, year, and day.)

This bond is registered pursuant to the statute in such cases made and provided in the name of (Here insert name of owner) and the interest and principal thereof are hereafter payable to such owner.

Treasurer (or such other officer).

Registered owner

5003. After any bond is registered, the principal and interest of the bond are payable to the registered owner.

Record of registered bonds and owners

5004. The treasurer, or other officer performing the duties of treasurer, shall keep in his office a book which shall at all times show what bonds are registered and in whose names respectively.

Transfer of registered bond

5005. After a bond is registered it may be transferred from time to time by the registered owner, in person or by attorney, on presentation of the bond to the treasurer, or such other officer, and the bond be again registered as before.

Issuance of bonds

5006. Notwithstanding any provision to the contrary in any law or municipal charter authorizing the issuance of bonds, whenever under any statute of the State or any charter of any municipal corporation in the State, any bonds are issued, they may be issued either in the form of coupon bonds, in the form of registered bonds, or some in the form of coupon bonds and some in the form of registered bonds, as may be provided in the proceedings for the issuance of the bonds. The provisions of this chapter apply to coupon bonds so issued.

5007. (Repealed by Stats. 1943, Ch. 746.)

[ORIGINAL SECTION]

5007. With the consent of the State Treasurer or of the legislative body of the county, municipal corporation, or other public corporation which issued the bonds, bonds registered under this chapter may be reconverted into coupon bonds at the expense of the holder thereof. The fee to be charged the holder of any bond for such reconversion shall be fixed by the State Treasurer or legislative body.

Fee for registering bond

5008. The treasurer, or officer performing the duties of treasurer, shall be entitled for registering a bond to charge and collect a fee of fifty cents ($0.50) for every one thousand dollars ($1,000) of the par value thereof for the purposes of providing the additional supplies and clerical help necessary in complying with this chapter.

Disposition of moneys

5009. All moneys received by the State Treasurer under this chapter shall be paid monthly into the State Treasury for credit to the General Fund.

CHAPTER 2. PROTECTION OF BOND GUARANTORS

Construction

5100. This chapter shall be liberally construed to the end that the purpose hereof may be made effective.

"Bonds"

5101. As used in this chapter, "bonds" means State, county, municipal, or other public corporation or district bonds.

"Guarantor"

5102. As used in this chapter, "guarantor" means the person or persons guaranteeing the payment of bonds, the repurchase thereof, or the payment or repurchase of any interest therein.

"Issuing body"

5103. As used in this chapter, "issuing body" means the State, any subdivision thereof, municipality, public corporation, or district.

"Order"

5104. As used in this chapter, "order" means declaration, proclamation, or order of any officer or court having jurisdiction to make the declaration, proclamation, or order.

Modification of guarantors' obligations

5105. Whenever by operation of law or by order the bonded indebtedness of any issuing body is reduced in amount, the interest thereon reduced, the time for the payment thereof or of any tax or assessment levied to pay the indebtedness, the interest thereon, or any portion of both or either of them, extended, or any other term or condition for the payment thereof altered, the obligations of all guarantors are reduced as to principal and interest, or either of them, extended as to the time of payment and altered as to any and all terms thereof in the same manner and to the same extent as the obligation or obligations of the issuing body and the tax or assessment payers, or either of them, are reduced, extended or altered.

Effect of default on guarantors' obligations

5106. Whenever by operation of law or by order any issuing body defaults in the payment of its bonded indebtedness, the obligations of guarantors shall be extended for the period of the default but not to exceed three years after the commencement thereof.

Limitation on relief of guarantors

5107. The relief of guarantors is limited to the extent of defaults in principal, interest, or both principal and interest of the bonds guaranteed.

Duties of trustees

5108. If the guarantors function in the capacity of trustee or if the custody of the bonds is in the possession of a trustee, and administered by the trustee, he shall be required to distribute interest and principal, in the proportion that each is received by him, to the beneficiaries under the trust.

CHAPTER 3. PAYMENT OF TAXES AND ASSESSMENTS WITH BONDS

"Bond"

5200. As used in this chapter, "bond" means bond, coupon, check, warrant, or other written evidence of indebtedness.

"Public body"

5201. As used in this chapter, "public body" means the State, any county, city, or any subdivision of the State or of a county or city, any body politic and any public district of any kind organized under any law of the State or ordinance of any county, city or subdivision of the State, or any of them.

"Tax or assessment"

5202. As used in this chapter, "tax or assessment" means any tax or assessment levied to pay for the acquisition of any property in connection with, or for the opening, widening, construction and improvement, or any of them, of any public street or highway, or to pay the interest, principal or sinking fund of any bonds issued to pay therefor.

Bond as payment of tax or assessment

5203. Any tax or assessment levied by any public body under any law of the State or any ordinance or order of any subdivision thereof or of any municipality therein which is due and payable, together with any penalty or interest due thereon, may be paid and shall be extinguished, together with any lien created as security for the payment thereof, to the extent of the face value of any valid, outstanding, and unpaid bond of the public body presented in payment. To be used in payment, the bond shall either be due at the time presented or become due within 60 days thereafter.

Bond as part payment of tax or assessment

5204. If the tax or assessment sought to be extinguished is in excess of the face value of the bond presented, the indebtedness shall be satisfied to the extent of the bond presented, satisfaction to be applied first to penalty, then to interest or coupons due, and then on account of principal.

Credit for excess of amount of bond

5205. If the face value of the bond presented is in excess of the total indebtedness, then credit may be given without interest thereon for any such excess on account of any subsequent, but then not due, liability of the tax or assessment payer presenting the bond. No money or other consideration except such credit shall be given for any excess, and any excess which is over and above the total present and future liability of the tax or assessment payer shall be canceled.

Undue bond as payment of tax or assessment

5206. Valid, outstanding, and unpaid bonds not yet due may also be used in payment of any tax or assessment. The public body to which payment is made shall not accept nor be required to accept any bond not yet due if the acceptance thereof impairs the rights or obligations of the public body issuing the bond, of any holder of any such bond, or of any person owning any property subject to the lien, if any, of such bond.

Cancellation of bonds

5207. All bonds surrendered or paid in shall be canceled, and the treasurer or person exercising the duties of treasurer of the public body shall make the appropriate entries upon the books of the public body.

DIVISION 7. MISCELLANEOUS

CHAPTER 1. PUBLICATIONS AND OFFICIAL ADVERTISING

Article 1. General

"Newspaper of general circulation"

6000. A "newspaper of general circulation" is a newspaper published for the dissemination of local or telegraphic news and intelligence of a general character, which has a bona fide subscription list of paying subscribers, and has been established, printed and published at regular intervals in the State, county,

or city where publication, notice by publication, or official advertising is to be given or made for at least one year preceding the date of the publication, notice or advertisement.

Special newspapers

6001. A newspaper devoted to the interests, or published for the entertainment or instruction of a particular class, profession, trade, calling, race, or denomination, or for any number thereof, when the avowed purpose is to entertain or instruct such classes, is not a newspaper of general circulation.

"Established" newspaper

6002. For a newspaper to be "established," it shall have been in existence under a specified name during the whole of the one year period.

"Printed" newspaper

6003. For a newspaper to be "printed," the mechanical work of producing it, that is the work of typesetting and impressing type on paper, shall have been performed during the whole of the one year period.

If a monthly average of at least 50 per cent of the work of typesetting and a monthly average of at least 50 per cent of the work of impressing type on paper is done in accordance with the other provisions of this article, the requirements embodied in "printed" are met.

"Published" newspaper

6004. For a newspaper to be "published," it shall have been issued from the place where it is printed and sold to or circulated among the people and its subscribers during the whole of the one year period.

"Printed" and "published" distinguished

6005. "Printed" and "published" are not synonymous. Each relates to separate acts or functions necessary to constitute a newspaper of general circulation

Standing of certain newspapers not altered

6006. Nothing in this chapter alters the standing of any newspaper which, prior to the passage of Chapter 258 of the Statutes of 1923, was an established newspaper of general circulation, irrespective of whether it was printed in the place where it was published for a period of one year as required.

Article 2. Establishing Standing as Newspaper of General Circulation

Establishment as newspaper of general circulation

6020. Whenever a newspaper desires to have its standing as a newspaper of general circulation ascertained and established, it may, by its publisher, manager, editor or attorney, file a verified petition in the superior court of the county in which it is established, printed and published, setting forth the facts which justify such action.

Petition

6021. The petition or the substance thereof, together with a notice that the petitioner intends on a named day to apply for an order declaring it to be a newspaper of general circulation, shall be published for 10 days:

(a) In the petitioning newspaper, and

(b) In some other newspaper if the court so directs.

Publication, notice of hearing, appearance

6022. Upon proof of the publication of the petition and notice, the court shall set the petition for hearing. Any person may appear and contest the petition either prior to or on the day set for the hearing or the day to which it is continued.

Hearing, decision, and judgment

6023. The court shall hear the proofs of the petitioner and contestant, if there be any. Within 10 days thereafter it shall render its decision and judgment and the clerk shall enter it in the records of the court.

Vacating, modifying or setting aside of decision and judgment

6024. The decision and judgment may be vacated, modified or set aside by the court on its own motion, or on the motion of any person, whether a party to the original proceeding or not, upon:

(a) A verified statement of facts being made to the court.

(b) Ten days' notice to the petitioner.

(c) A satisfactory showing made to the court that the newspaper has ceased to be a newspaper of general circulation.

Validity of publications

6025. All publications made in a newspaper during the period it was adjudged to be a newspaper of general circulation are valid and sufficient.

Appeal

6026. An appeal may be taken to the supreme court from any final decision or judgment, or from any final order vacating, modifying or setting aside a decision or judgment previously entered.

Permissive

6027. This article is not obligatory upon nor does it require any newspaper to comply with its provisions in order to be in fact, or in law, a newspaper of general circulation. Any newspaper may at its option avail itself of the provisions of this article.

Article 3. Publications

Publication

6040. Whenever any official advertising, notice, resolution, order, or other matter of any nature whatsoever is required by law to be published in a newspaper, such publication shall be made only in a newspaper of general circulation.

Publication within limited jurisdiction

6041. Whenever any publication, or notice by publication, or official advertising is required by any law of the State to be given or made by any State, county or city officer, by the officer of any political subdivision of the State, or by any officer of any court, the publication, notice by publication, or official advertising shall be given or made only in a newspaper of general circulation published within the jurisdiction of the officer.

Publication at place nearest to required jurisdiction

6042. Where no newspaper of general circulation is published within the jurisdiction of the officer, then the publication, notice by publication, or official advertising shall be given or made in a newspaper of general circulation published nearest thereto.

Set-up and contents

6043. All such publications, notices by publication, or official advertisements shall be set in type not smaller than nonpareil, and shall be preceded with words printed in blackface type, not smaller than nonpareil, describing or expressing in general terms the purport or character of the notice intended to be given.

Responsibility of officers

6044. State, county or city officers, officers of political subdivisions, and officers of courts who violate or disregard the provisions of this article, or of Article 1, are responsible

personally and on their official bonds for all damages occasioned thereby, together with one hundred dollars ($100) liquidated damages in each case, to be recovered in any court of competent jurisdiction by the person aggrieved or interested.

CHAPTER 2. FEES

Performance for fees only

6100. State, county and township officers shall not perform any official services unless upon the payment of the fees prescribed by law for the performance of the services, except as provided in this chapter.

Habeas corpus exception

6101. No fee shall be charged in proceedings upon habeas corpus.

Appointment of guardian under relief laws exception

6102. No fee shall be charged in proceedings for the appointment of a guardian for any persons receiving charity or relief under the laws of the State.

No fees for official filing or service

6103. Neither the State nor any county, city, district, or other political subdivision, nor any public officer or body, acting in his official capacity on behalf of the State, or any county, city, district or other political subdivision, shall pay or deposit any fee for the filing of any document or paper, for the performance of any official service, or for the filing of any stipulation or agreement which may constitute an appearance in any court by any other party to the stipulation or agreement. This section does not apply where a public officer is acting with reference to private assets or obligations which have come under his jurisdiction by virtue of his office, or where it is specifically provided otherwise.

(Amended by Stats. 1943, Ch. 319.)

[ORIGINAL SECTION]

6103. Neither the State nor any county, city, district, or other political subdivision, nor any public officer or body, acting in his official capacity on behalf of the State, or any county, city, district or other political subdivision, shall pay or deposit any fee for the filing of any document or paper, or for the performance of any official service. This section does not apply where a public officer is acting with reference to private assets or obligations which have come under his jurisdiction by virtue of his office, or where it is specifically provided otherwise.

6104. Whenever an oath or affidavit is necessary in order that the State or any political subdivision thereof may recover funds or property due the State or political subdivision, no fee shall be charged for the taking of the oath.

No fee to those applying for charity

6105. Whenever an oath or affidavit is necessary in order that a person may obtain charity or relief from any agency or department of the United States, the State or any political subdivision thereof, no fee shall be charged for the taking of the oath.

No fee for official services relating to pensions

6106 Neither the State, nor any county or city, nor any public officer or body acting in his official capacity on behalf of the State, any county, or city, including notaries public, shall receive any fee or compensation for services rendered in an affidavit, or application relating to the securing of a pension, or the payment of a pension voucher, or any matter relating thereto.

Free official services to veterans or men in armed forces

6107. Neither the State nor any county, or city, nor any public officer or body acting in his official capacity on behalf of the State, any county, or city, including notaries public, shall demand or receive any fee or compensation for:

(a) Recording or indexing any discharge of a soldier, sailor, or marine of the United States Army, Navy, or Marine Corps, or of a nurse who served in the American Red Cross or in the Army or Navy Nursing Corps.

(b) Issuing certified copies of such discharges.

(c) Any service whatever rendered in the matter of a pension claim, application, affidavit, voucher, or any claim to be presented to the Administrator of Veterans' Affairs under the World War Veterans' Act, 1924.

(d) Furnishing a certified copy of the public record of marriage, death, birth or divorce, deed of trust, mortgage, or property assessment, or making the search for them, when they are to be used in a claim for pension, or a claim for allotment, allowance, compensation, insurance, automatic insurance, or otherwise under the World War Veterans' Act, 1924 or under any other act of Congress for service in the Army, Navy, or Marine Corps.

Liability for non-performance

The services specified in this section shall be rendered on the request of a United States official, a claimant, or his guardian or attorney. An officer is liable on his official bond for every failure or refusal to render the services.

(Amended by Stats. 1943, Ch. 319.)

[ORIGINAL SECTION]

6107. Neither the State nor any county, or city, nor any public officer or body acting in his official capacity on behalf of the State, any county, or city, including notaries public, shall demand or receive any fee or compensation for:

(a) Recording or indexing any discharge of a soldier, sailor, or marine of the United States Army, Navy, or Marine Corps, or of a nurse who served in the American Red Cross or in the Army or Navy Nursing Corps.

(b) Issuing certified copies of such discharges.

(c) Any service whatever rendered in the matter of a pension claim, application, affidavit, voucher, or any claim to be presented to the Administrator of Veterans' Affairs under the World War Veterans' Act, 1924.

(d) Furnishing a verified copy of the public record of marriage, death, birth or divorce, deed of trust, mortgage, or property assessment, or making the search for them, when they are to be used in a claim for pension, or a claim for allotment, allowance, compensation, insurance, automatic insurance, or otherwise under the World War Veterans' Act, 1924

The services specified in this section shall be rendered on the request of a United States official, a claimant, or his guardian or attorney. An officer is liable on his official bond for every failure or refusal to render the services.

No fee relating to oath of office or claim against county

6108. No county or township officer shall charge or receive any fee or compensation for administering or certifying the oath of office or for filing or swearing to any claim or demand against any county in the State.

Receipt for fees

6109. Every county and township officer, upon receiving any fees for official duty or service, may be required by the person paying the fees to make out in writing and to deliver to the person a particular account of the fees. The account

Penalty

shall specify for what the fees, respectively, accrued, and the officer shall receipt it. If the officer refuses or neglects to do so when required, he is liable to the person paying the fees in treble the amount so paid.

Performance upon payment of fees Liability on bond

6110. Upon payment of the fees required by law, the officer shall perform the services required. For every failure or refusal to do so, the officer is liable upon his official bond.

CHAPTER 3. CRIMES RELATING TO PUBLIC RECORDS, DOCUMENTS, AND CERTIFICATES

Punishment for misuse of public records by officer

6200. Every officer having the custody of any record, map, or book, or of any paper or proceeding of any court, filed or deposited in any public office, or placed in his hands for any purpose, who is guilty of stealing, wilfully destroying, mutilating, defacing, altering or falsifying, removing or secreting the whole or any part of such record, map, book, paper, or proceeding, or who permits any other person to do so, is punishable by imprisonment in the State prison not less than one nor more than 14 years.

Punishment for misuse of public records by others

6201. Every person not an officer referred to in Section 6200, who is guilty of any of the acts specified in that section, is punishable by imprisonment in the State prison not exceeding five years, or in a county jail not exceeding one year, or by a fine not exceeding one hundred dollars ($100), or by both such fine and imprisonment.

False certificates or writings

6203. Every officer authorized by law to make or give any certificate or other writing is guilty of a misdemeanor if he makes and delivers as true any certificate or writing containing statements which he knows to be false.

CHAPTER 4. FOREIGN TRADE ZONES

"Public corporation"

6300. As used in this chapter, "public corporation" means the State, any political subdivision thereof, any incorporated municipality therein, any public agency of the State, of any political subdivision thereof, or of any municipality therein, or any corporate municipal instrumentality of this State or of this State and one or more other States.

19 U.S.C. 81, et seq

6301. As used in this chapter, "act of Congress" means the act of Congress approved June 18, 1934, entitled "An act to provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes" (48 U. S. Stats. at L. Ch. 590.).

Application by public corporation for foreign-trade zone

6302. Any public corporation may make application for the privilege of establishing, operating and maintaining a foreign-trade zone in accordance with the act of Congress.

Application by private corporation for foreign-trade zone

6303. Any private corporation organized under the laws of the State subsequent to September 15, 1935, for the purpose of establishing, operating and maintaining a foreign-trade zone in accordance with the act of Congress may make application for the privilege of establishing, operating and maintaining a foreign-trade zone in accordance with the act of Congress.

Establishment of foreign-trade zone

6304. Any public or private corporation authorized by this chapter to make such application and whose application is granted pursuant to the terms of the act of Congress may establish, operate, and maintain the foreign-trade zone:

(a) Subject to the conditions and restrictions of the act of Congress, and any amendments thereto.

(b) Under such rules and regulations and for the period of time that may be prescribed by the board established by the act of Congress to carry out the provisions of the act.

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA

DIVISION 1. GENERAL

CHAPTER 1. INTERSTATE COOPERATION

Senate Committee on Interstate Cooperation

8000. There is in the State Government a Senate Committee on Interstate Cooperation, consisting of five members of the Senate. The members and chairman of this committee shall be designated in the same manner as are the members and chairmen of standing committees of the Senate. The President of the Senate may serve as one of the five members of this committee.

Assembly Committee on Interstate Cooperation

8001. There is in the State Government an Assembly Committee on Interstate Cooperation consisting of five members of the Assembly. The members and the chairman of this committee shall be designated in the same manner as are the members and chairmen of standing committees of the Assembly. The Speaker of the Assembly may serve as one of the five members of this committee.

Period of functioning

8002. The Committee of the Senate and the Committee of the Assembly shall function during the regular sessions of the Legislature and also during the interim between such sessions. Their members shall serve until their successors are designated and they shall respectively constitute for the State the Senate and the Assembly Executive Committees of the American Legislators' Association.

California Commission on Interstate Cooperation

8003. There is in the State Government the California Commission on Interstate Cooperation.

Composition of commission

8004. The California Commission on Interstate Cooperation consists of 15 members, namely:

(a) The five members of the Senate Committee on Interstate Cooperation.

(b) The five members of the Assembly Committee on Interstate Cooperation.

(c) Five officers of the State appointed by the Governor who hold office during the pleasure of the Governor and one of whom shall be designated by him as chairman of the commission.

The Governor is ex officio an honorary nonvoting member of the commission.

Function of commission

8005. It is the function of the California Commission on Interstate Cooperation:

(a) To carry forward the participation of this State as a member of the Council of State Governments both regionally and nationally.

(b) To confer with officers of other States and of the Federal Government.

(c) To formulate proposals for cooperation between this State and the other States, and with the Federal Government.

(d) To organize and maintain governmental machinery for such purposes.

Establishment of committees and boards by commission

8006. The commission may establish such committees and advisory boards as it deems advisable to conduct conferences and to formulate proposals concerning subjects of intergovernmental cooperation. Subject to the approval of the commission, the members of every committee and advisory board shall be appointed by the chairman of the commission.

Members of committees and boards

8007. State officials who are not members of the commission may be appointed as members of any committee or advisory board which it establishes, and private citizens may serve on any board. At least one member of the commission shall be a member of every committee and board.

Rules for committees and boards

8008. The commission may establish rules concerning the membership and the functioning of any committee and board which it establishes.

Report by commission

8009. The commission shall report to the Governor and to the Legislature within 15 days after the convening of each regular legislative session and at such other times as it deems appropriate.

No compensation for services, paid necessary expenses

8010. The members of the commission and the members of all committees which it establishes shall serve without compensation. They may be paid their necessary expenses incurred in carrying out the obligations imposed upon them by this chapter.

Necessary help and expenses

8011. The commission may employ such persons and incur other expenses as may be necessary for the proper performance of its duties. It may, by contributions to the Council of State Governments and other similar governmental organizations affiliated with it, participate with other States in maintaining the council's regional and central secretariats and other similar governmental services.

CHAPTER 2. NEVADA COMPACT

Agreement with State of Nevada

8100. The Governor shall execute for, in behalf of, and in the name of the State of California, a compact or agreement with the State of Nevada for the purpose of:

(a) Promoting, fostering, and encouraging a spirit of comity and good will between the people of the State of California and of the State of Nevada with reference to the Boulder Canyon Project.

(b) Adjusting matters pertaining to the proposed taxation by the State of Nevada, or by political subdivisions thereof,

of property which is or will be located in Nevada, and which is or will be used in connection with the impounding, storage, generation, transmission, distribution, or other handling or disposal of water or electric energy produced in connection with Boulder Canyon Project, and which is or will be the property of the State of California or any political subdivision thereof.

Approval by Legislature

8101. No compact or agreement is binding on the State of California until it has been approved by the Legislature of this State.

CHAPTER 3. NOTARIES PUBLIC

Number of notaries

8200. The Governor may appoint and commission notaries public for the several counties of the State in such number as he deems necessary for the public convenience, except that in the counties of the second class the number shall not exceed 222.

(Amended by Stats. 1943, Ch. 328.)

[ORIGINAL SECTION]

8200 The Governor may appoint and commission notaries public for the several counties of the State in such number as he deems necessary for the public convenience, except that in counties of the second class the number shall not exceed 191.

Requirements for notaries public

8201. Every person appointed as notary public shall:

(a) Be, at the time of appointment, a citizen of the United States and of this State, and at least 21 years of age.

(b) Have resided in the county for which the appointment is made for six months.

Eligibility

8202. No county officer, or his deputy, is eligible to or may perform the duties of the office of notary public. This section does not apply to district attorneys, treasurers, deputy county clerks who do not receive regular annual salaries, and public administrators and public defenders.

(Amended by Stats. 1943, Ch. 1019.)

[ORIGINAL SECTION]

8202. No county officer, or his deputy, is eligible to or may perform the duties of the office of notary public. This section does not apply to district attorneys, treasurers, deputy county clerks who do not receive regular annual salaries, and public administrators.

Notary public at Presidio

8203. At least one notary public appointed and commissioned for the City and County of San Francisco shall keep an office for the transaction of business in the portion of the city and county known as the Presidio.

Term for notary public

8204. The term of office of a notary public is four years from and after the date of his commission.

Duty of notary public

8205. It is the duty of a notary public:

(a) When requested, to demand acceptance and payment of foreign and inland bills of exchange, or promissory notes, to protest them for nonacceptance and nonpayment, and to exercise such other powers and duties as by the law of nations and according to commercial usages, or by the laws of any other State, government, or country, may be performed by notaries.

(b) To take the acknowledgment or proof of powers of attorney, mortgages, deeds, grants, transfers, and other instruments of writing executed by any person, and to give a certificate of such proof or acknowledgment, indorsed on or attached to the instrument.

(c) To take depositions and affidavits, and administer oaths and affirmations, in all matters incident to the duties of the office, or to be used before any court, judge, officer, or board in this State.

Records to be kept

8206. A notary public shall keep a record of all official acts done by him and a record of the parties to, date, and character of every instrument acknowledged or proved before him.

Certified copy of notary's record

When requested, and upon payment of the fee therefor, a notary public shall make and give a certified copy of any record in his office.

Notary seal

8207. A notary public shall provide and keep an official seal, upon which shall be engraved the State seal, the words "Notary Public," and the name of the county for which he is commissioned. He shall authenticate with his official seal all official acts.

Protest by notary public

8208. The protest of a notary public, under his hand and official seal, of a bill of exchange or promissory note for nonacceptance or nonpayment, specifying:

(a) The time and place of presentment.

(b) The fact that presentment was made and the manner thereof.

(c) The cause or reason for protesting the bill.

(d) The demand made and the answer given, if any, or the fact that the drawee or acceptor could not be found,

is prima facie evidence of the facts recited therein.

Disposition of records of nonacting notary

8209. If any notary public dies, resigns, is disqualified, removed from office, or removes from the county for which he is appointed, his records and all his public papers shall be delivered to the clerk of the county within 30 days. The clerk shall deliver them to the notary's successor, when qualified.

Certified copies by successor

8210. Every notary public having in his possession the records and papers of his predecessor in office may grant certificates or give certified copies of such records and papers, in like manner and with the same effect as the predecessor could have done.

Fees of notary public

8211. The fees of a notary public are:

(a) For drawing and copying every protest for the nonpayment of a promissory note or for the nonpayment or nonacceptance of a bill of exchange, draft, or check, two dollars ($2).

(b) For drawing and serving every notice of nonpayment of a promissory note or of nonpayment or nonacceptance of a bill of exchange, order, draft, or check, one dollar ($1).

(c) For recording every protest, one dollar ($1).

(d) For drawing an affidavit, or other paper for which provision is not made herein, ten cents ($0.10) for each folio.

(e) For all services rendered in connection with the taking of any deposition, the sum of five dollars ($5). In the event the notary public is required to be present during the taking of the deposition, or the deposition is read and corrected by the witness and certified to by the notary public, he is entitled, in lieu of the fee of five dollars ($5), to a fee equal to ten cents ($0.10) per each folio contained in the deposition, and in addition thereto, the sum of fifty cents ($0.50) for administering the oath to the witness and the sum of one dollar ($1) for the certificate to such deposition.

Fees for reporting and transcribing depositions

The fees herein provided for are exclusive of any fees for services rendered either by a notary public or another in connection with the reporting or transcription of depositions. All fees for services rendered in reporting or transcribing depositions are the same as those provided in Section 274 of the Code of Civil Procedure for official reporters.

(f) For taking an acknowledgment or proof of a deed, or other instrument, to include the seal and the writing of the certificate, for the first two signatures, one dollar ($1) each, and for each additional signature, fifty cents ($0.50).

(g) For administering an oath or affirmation, fifty cents ($0.50).

(h) For every certificate, to include writing the same, and the seal, one dollar ($1).

Official bond

8212. Every person appointed a notary public shall execute an official bond in the sum of five thousand dollars ($5,000). Unless the bond is executed by an admitted surety insurer, it shall be approved by a judge of the superior court of the county in which the person is commissioned to act as notary public.

(Amended by Stats. 1943, Ch. 1010.)

[ORIGINAL SECTION]

8212. Each notary public shall execute an official bond in the sum of five thousand dollars ($5,000). The bond shall be approved by a judge of the superior court of the county in which the notary is commissioned to act. After approval the bond shall be recorded in the office of the county recorder and then filed and kept in the office of the county clerk.

Filing of bond and taking oath of office

8213. Within 20 days from the date of his commission, every person appointed a notary public shall deposit with the county recorder of the county in which he was commissioned to act, the fee payable for recording his official bond and shall file his official bond, and take, subscribe, and file his oath of office in the office of the county clerk of the county. Upon filing the oath and bond, the county clerk shall forthwith transmit to the Secretary of State his certificate setting forth the fact of such filing and containing a copy of the official oath, signed by the notary with his own proper signature, and shall forthwith deliver the bond to the county recorder. Upon receipt of the bond, the recorder shall record it and then return it to the county clerk.

(Amended by Stats. 1943, Ch. 1010.)

[ORIGINAL SECTION]

8213. Each notary public shall file his official bond, and take, subscribe, and file his oath of office in the office of the county clerk within 20 days from

the date of his commission. He shall transmit a certificate of the facts, under the hand and seal of the county clerk, together with a copy of his official oath, signed by him with his own proper signature, to the office of the Secretary of State, to be filed therein within 30 days from the date of his commission.

Liability of notary public and sureties

8214. For the official misconduct or neglect of a notary public, he and the sureties on his official bond are liable to the persons injured thereby for all the damages sustained.

CHAPTER 4. COMMISSIONERS OF DEEDS

Commissioners of deeds

8300. The Governor may appoint in each State of the United States, or in any foreign country, one or more commissioners of deeds. They shall hold office for the term of four years from and after the date of their commission.

Publication of names

8301. The names of all persons appointed commissioners shall be published three times in a weekly newspaper published at the City of Sacramento.

Documents sent to appointee

8302. The Secretary of State shall transmit to the appointee together both a commission and a certified copy of this chapter and of Section 8211.

Official oaths of commissioners

8303. The official oaths of commissioners of deeds shall be filed in the office of the Secretary of State within six months after they are taken.

Duties of commissioners

8304. Every commissioner of deeds within the State or country for which he is appointed may:

(a) Administer and certify oaths.

(b) Take and certify depositions and affidavits.

(c) Take and certify the acknowledgment or proof of powers of attorney, mortgages, transfers, grants, deeds, or other instruments for record.

Seal

8305. Every commissioner of deeds shall provide and keep an official seal, upon which shall be engraved the State seal, the words "Commissioner of Deeds for the State of California," and the name of the State for which he is commissioned. He shall authenticate with his official seal all his official acts.

Force and effect of commissioner's acts

8306. All oaths administered, depositions and affidavits taken, and all acknowledgments and proofs certified by commissioners of deeds have the same force and effect as if done and certified in this State by any officer authorized by law to perform such acts.

Fees for services

8307. The fees of commissioners of deeds are the same as those prescribed for notaries public.

DIVISION 2. LEGISLATIVE DEPARTMENT

PART 1. LEGISLATURE

CHAPTER 1. GENERAL

Article 1. Numbering and Election of Legislators

Number of legislators

9000. The Legislature consists of:

(a) Forty Senators.

(b) Eighty members of the Assembly.

9001. The term of office of a Senator is four years. The term of office of a Member of the Assembly is two years. Terms of office

9002. At the general election in every fourth year after 1908 a Senator shall be elected in each odd-numbered senatorial district. At the general election in every fourth year after 1910 a Senator shall be elected in each even-numbered district. Election of Senators

9003. At the general election in every even-numbered year a Member of the Assembly shall be elected in each of the Assembly districts. Election of Assemblymen

Article 2. Meeting and Organization of the Legislature

9020. The Legislature shall assemble at the City of Sacramento at 12 o'clock m., on the first Monday after the first day of January in every odd-numbered year. Assembling of Legislature

9021. The certificate of election is prima facie evidence of the right to membership. Evidence of membership

9022. At the day and hour appointed for the assembling of any regular session of the Legislature, the President of the Senate, or in case of his absence or inability, the senior member present, shall take the chair, call the members and members elect to order, and have the secretary call over the senatorial districts, in their order, from which members have been elected at the preceding election. As the districts are called the members elect shall present their certificates, take the constitutional oath of office, and assume their seats. If a quorum is present, the Senate may then elect its officers. Assembling of Senate

9023. At the day and hour appointed for the assembling of any regular session of the Legislature, the Chief Clerk of the Assembly, or in case of his absence or inability, the senior member elect present, shall take the chair, call the members elect to order, and call over the roll of counties in alphabetical order. As the counties are called the members elect shall present their certificates, take the constitutional oath of office, and assume their seats. If there is more than one senior member elect present and the senior members are unable to agree as to who shall call the session to order, the attorney general or one of his deputies shall call the session to order. Convening of Assembly

If a quorum is present, the Assembly shall then elect its officers, and there shall be no other business, motion or resolution considered before the election of the Speaker, save and except a motion to adjourn or a motion for a call of the house.

9024. Members of the Legislature who did not take the oath of office at the assembling of the Legislature may take the oath at any time during the term for which they were elected. Oath subsequent to assembling

9025. An entry of the oath taken by members of the Legislature shall be made on the journals of the proper house. Entry of oaths on journals

9026. All standing committees of either the Senate or Assembly shall be appointed by the presiding officer of their respective house if the house by resolution or its rules does not direct otherwise. Standing committees

Article 3. Crimes Against the Legislative Power

Interference with organization of Legislature a felony

9050. Every person who wilfully, and by force or fraud, prevents the Legislature, either of the houses composing it, or any of the members thereof from meeting or organizing is guilty of a felony.

Interference with Legislature while in session a misdemeanor

9051. Every person who wilfully disturbs the Legislature, or either of the houses composing it, while in session, or who commits any disorderly conduct in the immediate view and presence of either house tending to interrupt its proceedings or impair the respect due to its authority is guilty of a misdemeanor.

Alteration of bill or resolution a felony

9052. Every person who fraudulently alters the draft of any bill or resolution which has been presented to either of the houses composing the Legislature for passage or adoption, with intent to procure it to be passed or adopted by either house, or certified by the presiding officer of either house, in language different from that intended by such house, is guilty of a felony.

Alteration of enrolled bills or resolutions a felony

9053. Every person who fraudulently alters the enrolled copy of any bill or resolution which has been passed or adopted by the Legislature, with intent to procure it to be approved by the Governor, certified by the Secretary of State, or printed or published by the State in language different from that in which it was passed or adopted by the Legislature is guilty of a felony.

Obtaining money to improperly influence vote of Legislature a felony

9054. Every person who obtains, or seeks to obtain, money or other thing of value from another person upon a pretense, claim, or representation that he can or will improperly influence in any manner the action of any member of a legislative body in regard to any vote or legislative matter, is guilty of a felony. Upon the trial no person otherwise competent as a witness may be excused from testifying concerning the offense charged on the grounds that the testimony may criminate himself, or subject him to public infamy. The testimony shall not afterwards be used against him in any judicial proceeding except for perjury in giving the testimony.

Testimony

Additional punishment

9055. Every member of the Legislature convicted of any crime defined in this article, in addition to the punishment prescribed, forfeits his office and is forever disqualified from holding any office in the State.

Article 4. Legislative Offices

(Article 4 added by Stats. 1943, Ch. 1012.)

Offices authorized

9100. Legislative offices for the use of the Members of the Legislature in the performance of their legislative duties, shall be maintained at all times, and without regard to whether the Legislature is or is not in session, in the State Building in Los Angeles, in the State Building in San Francisco and in a State building in Alameda County.

(Added by Stats. 1943, Ch. 1012.)

Control of office

9101. The legislative office in Los Angeles shall be under the management and control of the Senator elected from the County of Los Angeles, the legislative office in San Francisco shall be under the management and control of the Senator elected from the City and County of San Francisco and the legislative office in Alameda County shall be under the management and control of the Senator elected from the County of Alameda.

(Added by Stats. 1943, Ch. 1012.)

Employee

9102. The Senator having the management and control of a legislative office shall have the authority to employ in such office one person holding a confidential position to such Senator, at a compensation of one hundred fifty dollars ($150) per month and there shall be no other employees.

The salary of the employee shall be paid in the same way as the expenses incurred by other State officers are paid.

(Added by Stats. 1943, Ch. 1012.)

Department of Finance

9103. The Department of Finance shall provide suitable office space in the State Building in Los Angeles and in the State Building in San Francisco and in a State building in Alameda County for the offices provided for in this article, and shall provide for the maintenance and upkeep of the same.

(Added by Stats. 1943, Ch. 1012.)

Support

9104. Appropriations for the support of the offices provided for in this article shall be included in the Budget Bill.

(Added by Stats. 1943, Ch. 1012.)

CHAPTER 2. OFFICERS AND EMPLOYEES OF THE LEGISLATURE

Article 1. Temporary Officers and Employees

Duties performed until successors qualify

9150. The Secretary of the Senate, the Chief Clerk of the Assembly, and the minute clerks and Sergeant-at-Arms of each house for any session shall perform the duties of their offices at the next succeeding session, until their successors are elected and qualify.

Temporary employees

9151. The Secretary of the Senate may appoint such temporary employees as are in his opinion necessary for the proper organization of the Senate. The Chief Clerk of the Assembly may appoint such temporary employees as are in his opinion necessary for the proper organization of the Assembly. They shall serve only until the permanent organization is completed.

Article 2. Permanent Officers and Employees

Senate officers and employees

9170. The officers and employees of the Senate are:

(a) A President.

(b) A President pro tempore, one secretary, one Sergeant-at-Arms, one minute clerk and one chaplain.

(c) Other officers and employees deemed necessary by the Senate and provided for by resolution of the Senate.

Officers and employees in subdivision (b) shall be elected by a majority vote of the duly elected and qualified members of the Senate.

Assembly officers and employees

9171. The officers and employees of the Assembly are:

(a) A Speaker, a Speaker pro tempore, one Chief Clerk, one Sergeant-at-Arms, one minute clerk and one chaplain.

(b) Other officers and employees deemed necessary by the Assembly and provided for by resolution of the Assembly.

Officers and employees in subdivision (a) shall be elected by a majority vote of the duly elected and qualified members of the Assembly.

Permanent officers and employees of Senate

9172. All permanent officers and employees of the Senate or Assembly, except the President of the Senate, shall be elected by the house to which they are attached.

Removal of officer or employee

9173. Any officer or employee appointed or elected by the Senate or Assembly may at any time be removed in the same manner as is provided for his election or appointment.

Article 3. Powers and Duties

Administer oaths of office to legislators and officers

9190. The President or President pro tempore of the Senate may administer the oath of office to any Senator and to the officers of the Senate and the Speaker or Speaker pro tempore of the Assembly may administer the oath of office to any Assemblyman and to the officers of the Assembly.

Duties of Secretary of Senate and Chief Clerk of Assembly

9191. The Secretary of the Senate and Chief Clerk of the Assembly shall:

(a) Administer the constitutional oath of office to the employees of their respective houses.

(b) Attend the session each day.

(c) Perform the duties as prescribed for them by law or by the rules of their respective houses.

Duties of assistant secretaries and clerks

9192. The assistant secretaries of the Senate and the assistant clerks of the Assembly shall take charge of all bills, petitions, and other papers presented to their respective houses, file and enter them in the books provided for that purpose, and perform such other duties as may be directed by the Secretary of the Senate and Chief Clerk of the Assembly.

Duties of Minute Clerks

9193. The Minute Clerk of the Senate and the Minute Clerk of the Assembly shall keep a correct record of the proceedings of their respective houses.

Duties of Sergeants-at-Arms

9194. The Sergeant-at-Arms of the Senate and of the Assembly shall:

(a) Under the direction of their presiding officers, have general supervision of the Senate and Assembly chambers, and the rooms attached.

(b) Attend during the sittings of their respective bodies, and execute their commands and all process issued by their authority.

(c) Keep an account for pay and mileage of members.

Assistant Sergeants-at-Arms

9195. The Assistant Sergeant-at-Arms of each house shall perform the duties of doorkeeper and keep order in the halls and lobbies. They shall prohibit all persons, other than members, officers, employees, other persons who have the privilege of the floor assigned them by the rules of each house, and

persons invited to enter within the bar, from entering within the bar of the House.

Duties of other employees of Senate and Assembly

9196. The secretary and assistant secretaries, the chief clerk and assistant clerks, and the engrossing and enrolling clerks and the minute clerks of the Senate and Assembly shall mark, label, and arrange all bills and papers belonging to the archives of their respective houses at the close of each session of the Legislature. They shall then deliver the bills and papers and all the books of both houses to the Secretary of State, who shall certify to their reception.

CHAPTER 3. COMPENSATION OF LEGISLATORS, OFFICERS, AND EMPLOYEES

Article 1. Legislators

Compensation of members of Legislature

9300. The members of the Legislature shall receive as compensation for their services two thousand four hundred dollars ($2,400) biennially, during the term for which they are elected, payable as follows:

(a) One thousand two hundred dollars ($1,200) during each odd numbered year at the rate of twelve dollars ($12) per day payable weekly during the regular session, until one thousand two hundred dollars ($1,200) is paid. In the event of final adjournment before the one thousand two hundred dollars ($1,200) is paid, the balance shall be paid immediately.

(b) One hundred dollars ($100) per month in each even numbered year, payable in the same manner and at the same time as salaries of other State officers.

Mileage allowed

9301. Upon the convening of each regular, special, or extraordinary session, members shall receive five cents ($0.05) per mile for each mile of travel to and from their residences and the place of holding the session.

Unpaid salary of member who dies

9302. The unpaid portion of the salary of a member who dies during his term shall be paid to his legal heirs. In the event that the vacancy in the office of the member is filled for the unexpired portion of the term, the salary of the deceased member shall be paid to his legal heirs only up to the time of the filling of the vacancy.

Article 2. Officers and Employees

Compensation of officers and employees

9320. The compensation of each officer and employee of the Senate or Assembly shall be fixed, in so far as such compensation is fixed, by the Senate or Assembly, respectively, by resolution.

Mileage allowed

9321. The Secretary of the Senate, the Chief Clerk of the Assembly, and the minute clerks and Sergeant-at-Arms of each house, and no others, shall be allowed mileage.

CHAPTER 4. WITNESSES

"Committee"

9400. As used in this chapter, "committee" means a committee of either the Senate or Assembly, a joint committee

of both houses, or, when any of the foregoing committees is authorized to create subcommittees, a subcommittee.

Issuance of subpena

9401. A subpena requiring the attendance of any witness before the Senate, Assembly, or a committee may be issued by the President of the Senate, Speaker of the House, or the chairman of any committee before whom the attendance of the witness is desired.

Sufficiency of subpena

9402. A subpena is sufficient if it:

(a) States whether the proceeding is before the Senate, Assembly, or a committee.

(b) Is addressed to the witness.

(c) Requires the attendance of the witness at a time and place certain.

(d) Is signed by the President of the Senate, Speaker of the Assembly, or chairman of the committee before whom attendance of the witness is desired.

Service of subpena

9403. The service of a subpena may be made by any person over 18 years of age.

Oaths of witnesses

9404. The members of any committee may administer oaths to witnesses in any matter under examination.

Contempt

9405. If any witness neglects or refuses to obey a subpena, or appearing, neglects or refuses to testify, or to produce upon reasonable notice any material and proper books, papers or documents in his possession or under his control, he has committed a contempt.

Contempt before Senate or Assembly

9406. If the contempt is committed before the Senate or Assembly, the Senate or Assembly may commit him for contempt by resolution entered on the Senate or Assembly Journal, as the case may be.

Contempt before committee during session of Legislature

9407. If the contempt is committed before a committee during the session of the Legislature, the committee shall report the contempt to the Senate or Assembly, as the case may be, for such action as may be deemed necessary by the Senate or Assembly.

Contempt before committee when Legislature not in session

9408. If the contempt is committed before a committee when the Legislature is not in session, the superior court in and for the county in which any inquiry, investigation, hearing or proceeding may be held by the committee may compel the attendance of the witness, the giving of testimony, and the production of books, papers, documents and accounts, as required by the subpena issued by the committee, on the filing by the committee of a petition to the court asking that the witness be so compelled.

Arrest of witness for disregard of subpena

9409. Any witness neglecting or refusing to attend in obedience to subpena may be arrested by the Sergeant-at-Arms and brought before the Senate, Assembly or committee, as the case may be. The only warrant or authority necessary authorizing the arrest is a copy of a resolution of the Senate, the Assembly or committee signed by the President of the Senate, Speaker of the Assembly or chairman of the committee, as the case may be, and countersigned by the Secretary of

the Senate, the Chief Clerk of the Assembly or a majority of the members of the committee, as the case may be.

Immunity of witness from criminal prosecution, except for perjury

9410. A person sworn and examined before the Senate or Assembly, or any committee, can not be held to answer criminally or be subject to any penalty or forfeiture for any fact or act touching which he is required to testify. Any statement made or paper produced by such witness is not competent evidence in any criminal proceeding against the witness. The witness can not refuse to testify to any fact or to produce any paper touching which he is examined for the reason that his testimony or the production of the paper may tend to disgrace him or render him infamous. Nothing in this section exempts any witness from prosecution and punishment for perjury committed by him on examination.

Discharge for contempt

9411. Every State department, office, board, commission or bureau, including The Regents of the University of California, shall discharge any person who commits a contempt before any committee. Such person shall receive no compensation from the State or any agency thereof for services rendered after the date of such refusal.

Barred from future employment

No State department, office, board, commission or bureau, including The Regents of the University of California, shall ever employ or compensate for services any person who has at any time prior to the proposed employment or compensation committed a contempt before any committee.

Section to be read to person in contempt

The committee shall read this section to the person so refusing, and shall certify the refusal to the State Personnel Board and to the State Controller. Upon receipt of such certificate, the State Personnel Board shall immediately notify every State department, office, board, commission or bureau, including The Regents of the University of California, by whom such person is or has at any time been employed.

Contempt a misdemeanor

9412. Every person who, being summoned to attend as witness before the Senate, Assembly, or any committee, refuses or neglects, without lawful excuse, to attend pursuant to such summons, and every person who, being present before the Senate, Assembly, or any committee, wilfully refuses to be sworn, to answer any material and proper question, or to produce, upon reasonable notice, any material and proper books, papers, or documents in his possession or under his control is guilty of a misdemeanor.

Additional punishment for member of Legislature

Every member of the Legislature convicted of a misdemeanor under this section, in addition to the punishment prescribed, forfeits his office and is forever disqualified from holding any office in the State.

CHAPTER 5. ENACTMENT OF STATUTES AND ADOPTION OF RESOLUTIONS

"Clerk"

9500. As used in this chapter, "clerk" means the engrossing and enrolling clerk or the employee who performs the duties of engrossing and enrolling clerk when no employee is so designated by name.

"Committee"

9501. As used in this chapter, "committee" means the engrossing and enrolling committee of the house ordering the engrossing or enrolling of a bill or other document or the committee of such house which performs the duties of engrossing and enrolling committee when no committee is so designated by name.

Bills and documents ordered engrossed or enrolled

9502. All bills and other documents ordered engrossed or enrolled by the Senate or Assembly shall be delivered by the Secretary of the Senate or Chief Clerk of the Assembly, as the case may be, to the clerk of the house ordering the engrossment or enrollment.

Delivery to State Printer

9503. The clerk shall deliver the bills and documents without delay, in the order of their receipt, to the State Printer.

Printing of engrossed or enrolled bills

9504. The State Printer shall receipt for the bills or documents, and without delay engross or enroll (print) them in the order of their receipt by him. So soon as printed, at least one enrolled copy, with proper blanks for the signatures of the officers whose duty it is to sign enrolled bills and documents, shall be printed on bond paper.

Delivery by State Printer

9505. The State Printer shall deliver the engrossed or enrolled copy of the bill or document, with the original thereof, to the clerk from whom he received the original. The clerk shall carefully compare the engrossed or enrolled copy with the original. If correctly engrossed or enrolled, he shall report it back with the original to the committee.

When bills and documents presumed engrossed

9506. All bills and documents that have been printed shall be considered engrossed if no amendments have been made after being printed. The original bill or document shall be delivered to the clerk of the house where it originated. He shall compare the original with the printed bill or document, and forthwith deliver it to the committee for return to the house in the same manner as engrossed bills.

Signature of enrolled copy of bill

9507. If the enrolled copy of a bill or other document is found to be correct, the committee shall present it to the proper officers for their signatures. When the officers sign their names thereon, as required by law, it is enrolled.

Approval of enrolled bills

9508. Enrolled bills shall be transmitted to the Governor for his approval. Until otherwise provided by the joint rules of the Legislature, enrolled constitutional amendments and enrolled joint and concurrent resolutions shall be transmitted to the Governor and then filed in the office of the Secretary of State.

Endorsement of enrolled bill

9509. As soon as an enrolled bill is delivered to the Governor, it shall be indorsed as follows: "This bill was received by the Governor this _____ day of _____, nineteen _____." The indorsement shall be signed by the private secretary of the Governor.

Approval of bill by Governor

9510. When the Governor approves a bill, he shall affix his name thereto, with the date of his approval, and deposit it in the office of the Secretary of State, where it becomes the official record.

Objection by Governor to item of appropriation

9511. If a bill presented to the Governor contains an item or several items of appropriation, he may object to one or more items while approving other portions of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and the reasons therefor. If the Legislature is in session, the Governor shall transmit to the house in which the bill originated a copy of the statement. The items so objected to shall be separately reconsidered in the same manner as bills which have been disapproved by the Governor.

Authentication as law of bill, item or items objected to by Governor

9512. When a bill has passed both houses of the Legislature and is returned by the Governor without his signature, and with objections thereto, or if it be a bill containing an item or several items of appropriation which is returned with objections to one or more items, and upon reconsideration the bill, item, or items pass both houses by the constitutional majority, the bill, item, or items shall be authenticated as having become a law by a certificate.

Certificate of authentication

9513 The certificate shall be indorsed on or attached to the bill, or indorsed on or attached to the copy of the statement of objections. It shall be in the following form: "This bill having been returned by the Governor with his objections thereto, and, after reconsideration, having passed both houses by the constitutional majority, has become a law this _____ day of _____, _____"; or, "The following items in the within statement (naming them) having, after reconsideration, passed both houses by the constitutional majority, have become a law this _____ day of _____, _____." A certificate signed by the President of the Senate and the Speaker of the Assembly is a sufficient authentication thereof.

Delivery to Governor

9514. The bill or statement so authenticated shall then be delivered to the Governor, and by him deposited with the laws in the office of the Secretary of State.

Return of unapproved bill by Governor during daily adjournment of house of origin

9515. If on the day the Governor desires to return a bill without his approval and with his objections thereto the house in which it originated has adjourned for the day (but not for the session), he may deliver the bill with his message to the presiding officer, secretary, chief clerk, or any member of the house. If the Governor, on the first day the house is again in session, by message notifies it of such delivery and of the time when and the person to whom delivery was made, the delivery is as effectual as though returned when the house was meeting.

Bills not returned by Governor within 10 days

9516. Every bill which has passed both houses of the Legislature, and has not been returned by the Governor within 10 days, thereby becoming a law, is authenticated by the Governor causing the fact to be certified thereon by the Secretary of State in the following form: "This bill having remained with the Governor 10 days (Sundays excepted), and the Legislature being in session, it has become a law this _____ day of _____, _____." The certificate shall be signed by the Secretary of State and deposited with the laws in his office.

CHAPTER 6. OPERATION OF STATUTES AND RESOLUTIONS

Effective date of enacted statute

9600. Every statute, unless a different time is prescribed therein, takes effect on the ninety-first day after the final adjournment of the session of the Legislature which passed such statute.

Effective date of joint resolution

9601. Every joint resolution, unless a different time is prescribed therein, takes effect from its passage.

Effective date of concurrent resolution

9602. Every concurrent resolution takes effect upon the filing of it with the Secretary of State.

Construction of statutes

9603. The general rules for the construction of statutes are contained in the preliminary provisions of the different codes.

Construction of statute carried into another

9604. When the provisions of one statute are carried into another statute under circumstances in which they are required to be construed as restatements and continuations and not as new enactments, any reference made by any statute, charter or ordinance to such provisions shall, unless a contrary intent appears, be deemed a reference to the restatements and continuations.

Construction where section or part of statute amended

9605. Where a section or part of a statute is amended, it is not to be considered as having been repealed and reenacted in the amended form. The portions which are not altered are to be considered as having been the law from the time when they were enacted, and the new provisions are to be considered as having been enacted at the time of the amendment.

Repeal of statute

9606. Any statute may be repealed at any time, except when vested rights would be impaired. Persons acting under any statute act in contemplation of this power of repeal.

Revival of repealed statute or part of statute

9607. No statute or part of a statute, repealed by another statute, is revived by the repeal of the repealing statute without express words reviving such repealed statute or part of a statute.

Punishment for crime committed not barred by repeal of law creating the crime

9608. The termination or suspension (by whatsoever means effected) of any law creating a criminal offense does not constitute a bar to the indictment or information and punishment of an act already committed in violation of the law so terminated or suspended, unless the intention to bar such indictment or information and punishment is expressly declared by an applicable provision of law.

(Amended by Stats. 1943, Ch. 381.)

[ORIGINAL SECTION]

9608. The repeal of any law creating a criminal offense does not constitute a bar to the indictment or information and punishment of an act already committed in violation of the law so repealed, unless the intention to bar the indictment or information and punishment is expressly declared in the repealing statute.

No amendment of repealed statute

9609. A statute amending a section of a repealed statute is void.

Fixing of salary not an appropriation

9610. The fixing or authorizing the fixing of the salary of a State officer or employee by statute is not intended to and does not constitute an appropriation of money for the payment of the salary. The salary shall be paid only in the event

that moneys are made available therefor by another provision of law.

Effect of temporary suspension, or temporary modification or repeal

9611. Notwithstanding any other provision of this chapter, whenever a provision of law is temporarily suspended, or is expressly or impliedly modified or repealed by a provision which is declared to be effective for only a limited period, the original provisions are not to be deemed repealed, but upon the expiration of the time of the temporary suspension or the effectiveness of the inconsistent provision, the original provision shall have the same force and effect as if the temporary provision had not been enacted.

(Added by Stats. 1943, Ch. 385.)

TITLE 50. REPEALS

Acts repealed

500000. The following acts and sections are repealed:

GENERAL LAWS

Year	Ch.	Pg.
1852	76	149
1859	36	26
1861	94	73
1861	520	587
1863	402	617
1863–4	455	506
1889	31	38
1891	181	262
1897	56	51
1901	73	89
1921	623	1059
1941	241	1307

POLITICAL CODE

Sections	Sections	Sections	Sections
30	41	52	58
33	43	54	59
34	44	55	60
37	50	56	
40	51	57	

Same

500001. The following acts and sections are repealed:

GENERAL LAWS

Year	Ch.	Pg.
1903	69	78
1931	777	1617
1937	29	104
1937	380	1196
	Section 2	

MILITARY AND VETERANS CODE

Section 610

PENAL CODE

Section 472b

POLITICAL CODE

Section 1027

Acts repealed

500002. The following acts and sections are repealed:

GENERAL LAWS

Year	Ch.	Pg.
1850	59	154
1850	136	412
1851	100	409
1851	115	430
1853	156	214
1857	67	62
1857	155	180
1857	188	208
1858	290	256
1859	288	310
1861	489	535
1863–4	16	15
1863–4	274	287
1871–2	483	714
1871–2	623	910
1873–4	20	21
1873–4	270	366
1883	34	58
1883	47	85
1883	72	296
1891	84	84
1901	165	548
1941	696	2162
	Sections 3, 4, 5	

Acts repealed

POLITICAL CODE

Sections	Sections	Sections	Sections
75	161	176	192
80	162	177	193
90	162a	178	194
110	163	179	195
145	164	180	196
150	165	181	197
151	166	182	198
152	167	183	199
153	168	184	200
154	169	185	201
155	170	186	202
156	171	187	203
157	172	188	204
158	173	189	205
159	174	190	206
160	175	191	207
			208

Same

500003. The following acts and sections are repealed:

GENERAL LAWS

Year	Ch.	Pg.
1850	21	74
1851	111	425
1852	202	271
1853	161	223
1857	145	167
1861	142	139
1863	292	386
1863–4	44	42
1863–4	316	323
1863–4	350	395
1865–6	331	377
1865–6	486	627
1867–8	231	222
1869–70	405	571
1873–4	660	911
1880	75	77
1897	59	53
1901	167	552
1903	359	476
Section 1		
1919	360	756
1923	328	675
Sections 1 and 3		
1931	1168	2476

CIVIL CODE

Section 3342

Same

PENAL CODE

Sections	Sections	Sections	Sections
65	740	750	764
66	741	751	765
71	742	752	766
74a	743	753	767
75	744	758	768
76	745	759	769
176	746	760	770
737	747	761	771
738	748	762	
739	749	763	

POLITICAL CODE

Sections	Sections	Sections	Sections
220	853	891	909
341	865	892	910
343	875	893	920
381	876	894	921
472a	877	904	922
841	878	905	923
842	879	906	924
844	889	907	925
852	890	908	926

POLITICAL CODE—Continued

Acts repealed

Sections	Sections	Sections	Sections
936	960	975	1000
937	961	976	1001
947	962	977	1003a
948	963	978	1004
949	964	979	1014
950	965	980	1015
951	966	984	1016
952	967	985	1026
953	968	986	1031
954	969	987	4154a
955	970	995	4313
956	971	996	4317
957	972	997	
958	973	998	
959	974	999	

500004. The following acts and sections are repealed: Same

GENERAL LAWS

Year	Ch.	Pg.
1941	:1102:	2809
1941–42:	2:	
2d Ex. Sess., Section 3		

500005. The following acts and sections are repealed: Same

GENERAL LAWS

Year	Ch.	Pg.	Year	Ch.	Pg.	Year	Ch.	Pg.
1913	: 19:	23	1923	: 448:	1053	1933	: 614:	1572
1919	: 303:	487	1933	: 226:	732	1933	: 760:	2004
						1941	:1283:	3230

POLITICAL CODE

Sections
3236
3247

500006. The following acts and sections are repealed: Same

GENERAL LAWS

Year	Ch.	Pg.
1854	: 7:	20
1856	: 71:	84

POLITICAL CODE

Sections	Sections	Sections	Sections
4458	4460	4462	4464
4459	4461	4463	4465
			4465.5

500007. The following sections are repealed: Same

POLITICAL CODE

Sections	Sections	Sections
4295	4296	4297

Acts repealed

500008. The following sections are repealed:

PENAL CODE

Sections	Sections	Sections
113	114	167

Same

500009. The following act is repealed:

GENERAL LAWS

Year	Ch.	Pg.
1935	505	1576

Same

500010. The following acts and sections are repealed:

GENERAL LAWS

Year	Ch.	Pg.	Year	Ch.	Pg.
1935	696	1895	1939	376	1710
			Sections 3, 4, 5		

POLITICAL CODE

Sections	Sections	Sections	Sections
332	332.2	332.4	332.6
332.1	332.3	332.5	

Same

500011. The following acts and sections are repealed:

GENERAL LAWS

Year	Ch.	Pg.	Year	Ch.	Pg.	Year	Ch.	Pg.
1850	36	100	1869–70	359	481	1871–2	228	304
1862	326	443	1869–70	474	697	1871–2	542	792
1863–4	73	74	1869–70	521	779	1873–4	18	20
1863–4	440	486	1869–70	537	802	1873–4	33	30
1865–6	237	234	1871–2	20	24	1873–4	102	108
1865–6	645	865	1871–2	28	33	1873–4	115	139
1867–8	374	461	1871–2	35	36	1873–4	224	327
1869–70	26	28	1871–2	46	46	1873–4	402	574
1869–70	51	55	1871–2	100	95	1880	99	106
1869–70	66	68	1871–2	144	159	1903	23	26
1869–70	193	296	1871–2	164	184	1931	125	171
1869–70	298	402	1871–2	198	238			

POLITICAL CODE

Seetions	Sections	Sections	Sections
791	796	801	815
792	797	811	816
793	798	812	817
794	799	813	
795	800	814	

Same

500012. The following acts and sections are repealed:

GENERAL LAWS

Year	Ch.	Pg.	Year	Ch.	Pg.	Year	Ch.	Pg.
1850	7	51	1856	152	235	1860	289	270
1852	49	112	1857	95	97	1861	12	9
1853	4	20	1857	186	206	1861	525	592
1853	7	22	1858	320	306	1863	2	5
1853	35	51	1859	153	154	1863	231	306
1853	60	82	1859	304	333	1865–6	334	379
1853	79	123	1860	5	3	1867–8	365	435
1853	95	144	1860	28	16	1869–70	77	77

GENERAL LAWS—Continued

Acts repealed

Year	Ch.	Pg.
1869–70:	516:	774
1871– 2:	12:	18
1871– 2:	182:	217
1873– 4:	1:	1
1873– 4:	574:	806
1875– 6:	238:	311
1891 :	48:	46
1893 :	136:	150
1895 :	222:	345
1907 :	301:	572
1925 :	208:	361
1931 :	773:	1611
1935 :	347:	1207
Section 2		
1940 :	55.	161
1st Ex. Sess.		

PENAL CODE

Sections	Sections	Sections
81	83	87
82	84	89

POLITICAL CODE

Same

Sections	Sections	Sections	Sections
225	247	301	324
226	248	302	325
227	252	303	326
228	253	304	326.5
235	254	305	327
236	255	309	328
237	259	310	329
238	260	311	330
239	261	312	331
240	266	313	539
245	300	323	906
246			

500013. The following acts are repealed:

GENERAL LAWS

Year	Ch.	Pg.
1856 :	117:	138
1857 :	137:	161
1859 :	221:	226
1860 :	343:	335
1861 :	516:	585
1862 :	317:	434
1869–70:	258:	367
1873– 4:	503:	732
1873– 4:	670:	939
1875– 6:	516:	791
1877– 8:	490:	759
1880 :	22:	17
1887 :	105:	122
1899 :	24:	24
1940 :	51:	153
1st Ex. Sess.		

500014. The following acts and sections are repealed:

Same

Year	Ch.	Pg.
1851 :	46:	312
1851 :	47:	312
1851 :	53:	315
1851 :	61:	318
1851 :	77:	328
1852 :	18:	54
1852 :	52:	117
1852 :	158:	249
1852 :	159:	249
1852 :	160:	250
1852 :	164:	252
1852 :	166:	253
1852 :	169:	254
1852 :	170:	255
1852 :	171:	255
1852 :	172:	255
1852 :	173:	256
1852 :	175:	257
1852 :	176:	257
1852 :	177:	258
1852 :	178:	258
1852 :	179:	259
1852 :	180:	259
1852 :	181:	260
1852 :	182:	260
1852 :	184:	261
1852 :	185:	262
1852 :	188:	264
1852 :	192:	266
1852 :	193:	267
1852 :	194:	267
1852 :	195:	268
1852 :	196:	268
1852 :	197:	269
1852 :	198:	269
1852 :	199:	270
1853 :	15:	30
1853 :	23:	36
1853 :	40:	56
1853 :	47:	67
1853 :	54:	79
1853 :	55:	79
1853 :	57:	81
1853 :	58:	81
1853 :	61:	83
1853 :	70:	97
1853 :	77:	118
1853 :	81:	127
1853 :	94:	144
1853 :	98:	146
1853 :	100:	148
1853 :	109:	154
1853 :	124:	178
1853 :	143:	199
1853 :	144:	200
1853 :	145:	200
1853 :	154:	211
1853 :	177:	275
1854 :	4:	132
(Spec.)		
1854 :	27:	150
(Spec.)		
1854 :	32:	152
(Spec.)		
1854 :	35:	154
(Spec.)		

Acts repealed

Year	Ch.	Pg.
1854 (Spec.)	39:	156
1854 (Spec.)	40:	157
1854 (Spec.)	49:	170
1854 (Spec.)	50:	171
1854 (Spec.)	51:	171
1854 (Spec.)	74:	188
1854 (Spec.)	82:	194
1854 (Spec.)	91:	203
1854 (Spec.)	101:	211
1855	5:	3
1855	13:	7
1855	19:	14
1855	21:	15
1855	24:	17
1855	62:	73
1855	63:	74
1855	64:	74
1855	65:	75
1855	69:	78
1855	83:	107
1855	84:	107
1855	85:	108
1855	111:	133
1855	123:	149
1855	135:	163
1855	201:	270
1855	206:	273
1855	216:	283
1856	76:	93
1856	78:	94
1857	25:	18
1857	267:	354
1857	268:	355
1857	274:	362
1858	30:	25
1858	31:	25
1858	63:	47
1858	89:	71
1858	130:	100
1858	157:	118
1858	191:	151
1858	216:	178
1858	236:	202
1858	241:	204
1858	246:	206
1858	289:	256
1858	292:	261
1858	302:	290
1858	306:	291
1858	318:	304
1858	339:	325
1858	347:	330
1859	31:	22
1859	106:	97
1859	164:	163
1859	165:	164
1859	167:	164
1859	207:	216
1859	213:	221
1859	232:	237
1859	233:	237
1859	257:	262
1859	265:	275
1859	285:	308
1859	306:	334
1859	319:	357
1859	320:	358
1859	329:	373
1860	66:	39
1860	77:	49
1860	79:	51
1860	129:	101
1860	155:	125
1860	170:	138
1860	174:	143
1860	195:	159
1860	219:	181
1860	221:	183
1860	277:	258
1860	294:	275
1860	300:	280
1860	301:	281
1860	323:	314
1860	327:	317
1860	330:	327
1860	338:	333
1860	347:	338
1860	353:	342
1860	364:	356
1860	371:	406
1861	15:	11
1861	135:	124
1861	137:	125
1861	167:	167
1861	242:	248
1861	245:	249
1861	252:	253
1861	284:	279
1861	427:	489
1861	436:	499
1861	445:	505
1861	474:	526
1861	509:	578
1862	3:	2
1862	87:	77
1862	99:	92
1862	166:	165
1862	213:	233
1862	247:	269
1862	323:	439
1862	327:	445
1862	352:	476
1862	406:	531
1862	422:	545
1862	440:	563
1863	191:	250
1863	226:	303
1863	240:	318
1863	283:	362
1863	336:	496
1863	370:	571
1863	373:	572
1863	378:	574
1863	390:	580
1863	391:	581
1863	462:	737
1863	483:	747
1863	490:	751
1863	495:	753
1863	501:	757
1863	502:	757
1863	503:	757
1863	511:	762
1863	515:	764
1863	531:	773
1863	533:	774
1863–4:	26:	27
1863–4:	29:	29
1863–4:	96:	94
1863–4:	105:	99
1863–4:	106:	100
1863–4:	110:	102
1863–4:	112:	103
1863–4:	119:	109
1863–4:	138:	123
1863–4:	151:	148
1863–4:	161:	153
1863–4:	171:	164
1863–4:	229:	228
1863–4:	253:	259
1863–4:	331:	362
1863–4:	352:	395
1863–4:	356:	397
1863–4:	361:	401
1863–4:	421:	473
1863–4:	432:	479
1863–4:	474:	532
1865–6:	58:	39
1865–6:	59:	40
1865–6:	114:	98
1865–6:	218:	218
1865–6:	232:	231
1865–6:	233:	231
1865–6:	329:	376

Year	Ch.	Pg.
1865– 6:	330:	376
1865– 6:	378:	464
1865– 6:	481:	625
1865– 6:	482:	625
1865– 6:	484:	626
1865– 6:	558:	781
1865– 6:	561:	782
1865– 6:	579:	808
1865– 6:	590:	815
1865– 6:	610:	837
1867– 8:	8:	6
1867– 8:	42:	40
1867– 8:	81:	70
1867– 8:	131:	110
1867– 8:	155:	133
1867– 8:	236:	239
1867– 8:	245:	259
1867– 8:	399:	486
1867– 8:	446:	583
1867– 8:	450:	599
1867– 8:	461:	616
1867– 8:	478:	644
1867– 8:	489:	661
1867– 8:	494:	664
1867– 8:	544:	722
1869–70:	45:	51
1869–70:	47:	53
1869–70:	48:	53
1869–70:	79:	78
1869–70:	83:	82
1869–70:	101:	99
1869–70:	103:	100
1869–70:	159:	224
1869–70:	164:	228
1869–70:	169:	232
1869–70:	207:	308
1869–70:	208:	308
1869–70:	377:	518
1869–70:	394:	550
1869–70:	406:	572
1869–70:	421:	582
1869–70:	511:	762
1869–70:	539:	804
1869–70:	555:	823
1869–70:	574:	878
1871– 2:	29:	33
1871– 2:	54:	52
1871– 2:	57:	54
1871– 2:	65:	61
1871– 2:	79:	79
1871– 2:	91:	88
1871– 2:	92:	88
1871– 2:	154:	173
1871– 2:	156:	174
1871– 2:	241:	317
1871– 2:	281:	384
1871– 2:	301:	410
1871– 2:	327:	438
1871– 2:	439:	655
1871– 2:	447:	665
1871– 2:	467:	698
1871– 2:	486:	716
1871– 2:	508:	743
1873– 4:	36:	32
1873– 4:	101:	108
1873– 4:	352:	516
1873– 4:	353:	516
1873– 4:	354:	517
1873– 4:	359:	520
1873– 4:	360:	521
1873– 4:	361:	521
1873– 4:	384:	548
1873– 4:	391:	566
1873– 4:	399:	570
1873– 4:	450:	663
1873– 4:	584:	824
1873– 4:	607:	852
1873– 4:	616:	862
1873– 4:	648:	898
1875– 6:	6:	4
1875– 6:	77:	53
1875– 6:	106:	76
1875– 6:	173:	177
1875– 6:	253:	332
1875– 6:	463:	681
1875– 6:	492:	747
1875– 6:	501:	761
1875– 6:	521:	796
1875– 6:	539:	806
1875– 6:	564:	854
1877– 8:	32:	47
1877– 8:	64:	80
1877– 8:	75:	86
1877– 8:	80:	102
1877– 8:	84:	105
1877– 8:	114:	137
1877– 8:	124:	157
1877– 8:	217:	260
1877– 8:	274:	335
1877– 8:	346:	530
1877– 8:	360:	543
1877– 8:	373:	558
1877– 8:	377:	560
1877– 8:	420:	626
1877– 8:	453:	696
1877– 8:	454:	696
1877– 8:	460:	702
1877– 8:	468:	731
1877– 8:	485:	748
1877– 8:	492:	766
1877– 8:	493:	766
1877– 8:	557:	879
1877– 8:	630:	965
1877– 8:	637:	968
1877– 8:	642:	987
1877– 8:	653:	1004
1877– 8:	669:	1037
1880 :	3:	2
1880 :	8:	5
1880 :	9:	6
1880 :	10:	6
1880 :	11:	6
1880 :	46:	37
1880 :	48:	38
1880 :	54:	42
1880 :	64:	60
1880 :	67:	62
1880 :	68:	62
1880 :	74:	76
1880 :	76:	77
1880 :	78:	78
1880 :	80:	78
1880 :	89:	100
1880 :	91:	101
1880 :	102:	107
1880 :	104:	115
1880 :	112:	120
1880 :	113:	121
1880 :	115:	123
1881 :	1:	1
1881 :	10:	7
1881 :	11:	8
1881 :	26:	21
1881 :	28:	21
1881 :	32:	24
1881 :	44:	37
1881 :	48:	49
1881 :	58:	67
1881 :	78:	107
(Ex. Sess.)		
1881 :	79:	107
(Ex. Sess.)		
1881 :	80:	108
(Ex. Sess.)		
1881 :	81:	108
(Ex. Sess.)		
1881 :	82:	108
(Ex. Sess.)		
1881 :	84:	109
(Ex. Sess.)		
1881 :	85:	109
(Ex. Sess.)		
1881 :	86:	110
(Ex. Sess.)		
1881 :	88:	110
(Ex. Sess.)		
1881 :	89:	111
(Ex. Sess.)		
1881 :	91:	111
(Ex. Sess.)		
1881 :	92:	112
(Ex. Sess.)		
1881 :	93:	112
(Ex. Sess.)		
1881 :	94:	112
(Ex. Sess.)		

Same

Year	Ch.	Pg.
1881	95	113
(Ex. Sess.)		
1881	96	113
(Ex. Sess.)		
1881	97	113
(Ex. Sess.)		
1881	100	114
(Ex. Sess.)		
1881	101	115
(Ex. Sess.)		
1881	102	122
(Ex. Sess.)		
1883	1	1
1883	8	5
1883	9	5
1883	12	21
1883	13	22
1883	14	22
1883	15	22
1883	26	47
1883	27	48
1883	33	58
1883	41	72
1883	45	84
1883	64	292
1883	65	293
1883	66	293
1883	67	294
1883	68	294
1883	69	295
1883	78	367
1883	83	373
1883	84	373
1883	85	374
1883	87	374
1883	88	375
1883	92	378
1883	93	378
1883	94	379
1883	95	379
1884	4	6
(Ex. Sess.)		
1884	7	8
(Ex. Sess.)		
1885	5	4
1885	6	4
1885	12	11
1885	13	12
1885	18	18
1885	20	25
1885	22	26
1885	25	30
1885	26	30
1885	40	46
1885	41	46
1885	43	47
1885	44	48
1885	45	48
1885	53	56
1885	58	59
1885	59	59
1885	60	59
1885	61	60
1885	62	60
1885	63	61
1885	64	61
1885	65	61
1885	66	62
1885	67	62
1885	68	63
1885	69	63
1885	70	63
1885	71	64
1885	72	64
1885	73	65
1885	74	65
1885	75	65
1885	76	66
1885	77	66
1885	78	67
1885	79	67
1885	80	67
1885	81	68
1885	82	68
1885	83	69
1885	84	69
1885	85	69
1885	86	70
1885	87	70
1885	88	71
1885	89	71
1885	90	71
1885	91	72
1885	92	72
1885	93	73
1885	94	73
1885	95	73
1885	96	74
1885	97	74
1885	98	75
1885	99	75
1885	103	78
1885	105	79
1885	106	80
1885	107	89
1885	133	124
1885	151	142
1885	161	211
1886	1	5
(Ex. Sess.)		
1886	2	6
(Ex. Sess.)		
1887	1	1
1887	4	3
1887	5	3
1887	6	4
1887	7	4
1887	11	6
1887	15	14
1887	17	15
1887	19	16
1887	20	16
1887	28	24
1887	29	24
1887	30	25
1887	31	25
1887	33	29
1887	40	52
1887	45	55
1887	46	56
1887	52	60
1887	58	73
1887	59	73
1887	61	74
1887	63	75
1887	64	76
1887	65	76
1887	66	77
1887	69	79
1887	75	83
1887	78	88
1887	90	108
1887	96	113
1887	97	113
1887	98	114
1887	106	123
1887	108	131
1887	110	132
1887	111	132
1887	112	133
1887	113	133
1887	114	134
1887	115	134
1887	116	134
1887	117	135
1887	118	135
1887	119	135
1887	120	136
1887	126	144
1887	138	155
1887	139	156
1887	140	156
1887	142	157
1887	143	158
1887	144	158
1887	145	158
1887	146	159
1887	147	159
1887	149	167
1887	154	171
1887	155	172
1887	156	172
1887	157	172
1887	158	173

Year	Ch.	Pg.
1887	159	173
1887	160	174
1887	161	174
1887	162	174
1887	163	175
1887	168	177
1887	170	209
1887	171	219
1887	172	219
1887	173	219
1887	174	220
1887	175	220
1887	176	221
1887	178	222
1887	182	235
1887	184	236
1889	2	1
1889	3	2
1889	4	2
1889	6	4
1889	12	11
1889	13	11
1889	14	12
1889	22	25
1889	32	40
1889	33	40
1889	34	41
1889	35	41
1889	36	42
1889	37	42
1889	39	44
1889	46	48
1889	47	48
1889	48	49
1889	49	49
1889	50	50
1889	51	50
1889	53	51
1889	54	52
1889	55	52
1889	56	53
1889	57	53
1889	58	54
1889	59	54
1889	63	60
1889	67	64
1889	68	65
1889	69	65
1889	71	66
1889	73	67
1889	78	80
1889	80	85
1889	84	88
1889	85	89
1889	88	93
1889	90	94
1889	91	95
1889	92	95
1889	93	96
1889	94	96
1889	95	97
1889	96	97
1889	97	98
1889	98	98
1889	99	99
1889	100	99
1889	101	99
1889	102	100
1889	113	131
1889	116	133
1889	117	134
1889	118	134
1889	119	135
1889	120	135
1889	121	136
1889	122	136
1889	123	137
1889	124	137
1889	125	138
1889	126	138
1889	129	140
1889	130	140
1889	131	140
1889	132	141
1889	133	142
1889	136	146
1889	139	149
1889	140	149
1889	141	150
1889	142	150
1889	144	152
1889	145	152
1889	146	153
1889	147	154
1889	148	154
1889	150	157
1889	152	173
1889	153	174
1889	155	175
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Year	Ch.	Pg.
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Year	Ch.	Pg.
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Year	Ch.	Pg
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1906	30 (Ex. Sess.)	31
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Year	Ch.	Pg.
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Year	Ch.	Pg.
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1919	451	846
1919	452	846
1919	453	847
1919	454	847
1919	455	847
1919	456	848
1919	457	848
1919	458	849
1919	459	849
1919	460	849
1919	461	850
1919	465	855
1919	466	855
1919	467	856
1919	468	856
1919	472	926
1919	474	927
1919	475	927
1919	476	928
1919	491	1008
1919	557	1211
1919	558	1211
1919	559	1212
1919	561	1213
1919	562	1214
1919	564	1218
1919	565	1218
1919	566	1218
1919	567	1219
1919	568	1219
1919	569	1219
1919	572	1221
1919	574	1228
1919	575	1228
1919	576	1229
1919	581	1233
1919	582	1233
1919	584	1235
1919	585	1235
1919	586	1235
1919	587	1236
1919	588	1236
1919	589	1236
1919	590	1237
1919	591	1237
1919	592	1237
1919	593	1238
1919	601	1243
1919	602	1243
1919	603	1243
1919	613	1281
1919	618	1287
1919	619	1288
1919	620	1288
1919	624	1290
1919	629	1296
1919	637	1301
1919	645	1311
1919	646	1332
1919	647	1332
1919	653	1337
1919	658	1353
1919	659	1353
1919	661	1354
1919	662	1354
1919	663	1355
1919	664	1355
1919	665	1355
1921	1	1
1921	2	1
1921	4	7
1921	5	7
1921	6	8
1921	7	8
1921	8	9
1921	9	9
1921	11	10
1921	12	11
1921	13	11
1921	14	12
1921	15	12
1921	20	19
1921	21	20
1921	23	25
1921	41	53
1921	42	53
1921	155	153
1921	252	359
1921	253	359
1921	254	360
1921	255	360
1921	256	360
1921	257	361
1921	258	361
1921	260	366
1921	261	367
1921	262	367
1921	263	367
1921	264	368
1921	265	368
1921	266	368
1921	270	371
1921	274	373
1921	275	373
1921	284	387
1921	285	388
1921	287	389
1921	288	389
1921	289	390
1921	290	390
1921	291	391
1921	293	392
1921	294	393
1921	295	393
1921	296	393
1921	302	403
1921	305	414
1921	306	414
1921	308	417
1921	311	419
1921	313	420
1921	317	424
1921	318	425
1921	319	425
1921	323	438
1921	325	439
1921	387	577
1921	388	577
1921	389	577
1921	390	578
1921	391	578
1921	392	578
1921	393	579
1921	394	579
1921	397	587
1921	399	588
1921	400	589
1921	403	593
1921	404	594
1921	406	596
1921	409	603
1921	410	604
1921	413	605
1921	415	607
1921	416	607
1921	417	608
1921	418	608
1921	420	609
1921	422	611
1921	423	612
1921	425	624
1921	426	625
1921	427	625
1921	429	626
1921	430	627
1921	437	634
1921	439	636
1921	440	637
1921	441	637
1921	442	637
1921	445	642
1921	446	642
1921	447	642
1921	448	643
1921	449	643
1921	450	643
1921	496	766
1921	563	936
1921	564	937
1921	565	937
1921	566	937
1921	567	938

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1921	568	938
1921	625	1061
1921	653	1105
1921	679	1153
1921	680	1154
1921	681	1154
1921	682	1154
1921	687	1165
1921	695	1185
1921	699	1189
1921	703	1196
1921	713	1225
1921	717	1230
1921	734	1279
1921	738	1282
1921	739	1282
1921	742	1285
1921	743	1285
1921	859	1641
1921	860	1641
1921	863	1649
1921	867	1651
1921	881	1668
1921	884	1673
1921	893	1692
1921	894	1692
1921	905	1700
1921	907	1722
1923	2	2
1923	5	5
1923	6	6
1923	7	6
1923	9	12
1923	121	242
1923	189	430
1923	193	435
1923	202	441
1923	203	442
1923	204	442
1923	205	442
1923	207	443
1923	208	443
1923	209	443
1923	210	444
1923	211	444
1923	212	444
1923	213	445
1923	214	445
1923	215	445
1923	216	446
1923	217	446
1923	218	446
1923	219	446
1923	220	447
1923	221	447
1923	272	581
1923	273	581
1923	274	581
1923	275	582
1923	276	582
1923	279	583
1923	296	626
1923	311	645
1923	317	670
1923	318	670
1923	320	671
1923	322	672
1923	323	672
1923	324	673
1923	325	673
1923	326	673
1923	344	715
1923	383	775
1923	397	886
1923	410	930
1923	415	939
1923	417	940
1923	454	1117
1923	455	1117
1923	464	1143
1923	465	1143
1923	468	1149
1923	473	1168
1923	478	1214
1925	2	1
1925	3	2
1925	4	2
1925	5	3
1925	6	3
1925	7	3
1925	30	46
1925	88	221
1925	128	280
1925	131	287
1925	133	288
1925	134	288
1925	135	289
1925	136	289
1925	137	289
1925	138	290
1925	157	306
1925	165	320
1925	166	320
1925	167	321
1925	178	326
1925	179	327
1925	180	327
1925	191	339
1925	197	354
1925	198	354
1925	199	355
1925	200	355
1925	201	355
1925	204	357
1925	209	361
1925	210	362
1925	237	393
1925	246	427
1925	247	427
1925	288	482
1925	289	483
1925	293	485
1925	317	536
1925	318	537
1925	319	537
1925	320	537
1925	334	572
1925	349	624
1925	366	669
1925	368	670
1925	380	699
1925	386	714
1925	390	726
1925	391	727
1925	405	817
1925	411	832
1925	454	982
1925	460	992
1925	464	1001
1925	472	1010
1925	473	1010
1925	478	1015
1925	480	1016
1927	2	3
1927	3	3
1927	4	4
1927	5	4
1927	6	5
1927	7	5
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1927	10	8
1927	13	14
1927	14	14
1927	15	15
1927	16	15
1927	17	16
1927	18	16
1927	20	21
1927	21	22
1927	22	22
1927	23	23
1927	142	262
1927	170	318
1927	171	319
1927	287	510
1927	288	510
1927	289	510
1927	290	511
1927	291	511
1927	292	511
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1927	300	513
1927	301	514
1927	302	514
1927	303	514
1927	304	515
1927	305	515
1927	306	515
1927	307	516
1927	308	516
1927	309	516
1927	310	517
1927	311	517
1927	312	517
1927	390	648
1927	391	648
1927	392	649

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1927	393	649
1927	396	651
1927	424	691
1927	426	694
1927	427	694
1927	428	694
1927	449	771
1927	501	840
1927	502	840
1927	503	841
1927	520	867
1927	769	1493
1927	771	1502
1927	772	1502
1927	777	1512
1927	782	1529
1927	787	1543
1927	837	1686
1929	2	7
1929	3	8
1929	5	9
1929	8	15
1929	9	16
1929	11	18
1929	12	19
1929	21	42
1929	29	57
1929	178	330
1929	296	600
1929	297	601
1929	338	659
1929	339	660
1929	353	680
1929	357	682
1929	362	685
1929	377	697
1929	379	699
1929	403	724
1929	408	728
1929	414	737
1929	423	746
1929	425	747
1929	427	748
1929	438	803
1929	439	803
1929	440	803
1929	444	810
1929	445	810
1929	446	810
1929	452	816
1929	463	827
1929	499	882
1929	500	882
1929	501	882
1929	502	883
1929	503	883
1929	504	883
1929	505	884
1929	506	884
1929	507	884
1929	508	885
1929	509	885
1929	510	885
1929	521	899

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1929	522	899
1929	534	923
1929	543	949
1929	571	972
1929	594	1003
1929	603	1015
1929	626	1041
1929	628	1042
1929	631	1044
1929	632	1044
1929	637	1055
1929	638	1055
1929	640	1057
1929	641	1057
1929	695	1206
1929	698	1210
1929	831	1761
1931	1	1
1931	2	1
1931	3	2
1931	32	19
1931	33	19
1931	34	20
1931	35	20
1931	41	23
1931	44	25
1931	46	26
1931	57	51
1931	68	73
1931	98	133
1931	99	134
1931	251	432
1931	327	852
1931	428	983
1931	431	985
1931	432	986
1931	435	991
1931	436	991
1931	439	993
1931	442	995
1931	443	995
1931	444	996
1931	445	996
1931	446	996
1931	456	1007
1931	461	1020
1931	465	1029
1931	466	1029
1931	467	1029
1931	468	1030
1931	471	1033
1931	473	1034
1931	475	1039
1931	500	1090
1931	504	1096
1931	505	1096
1931	506	1096
1931	507	1097
1931	508	1097
1931	509	1097
1931	510	1098
1931	511	1098
1931	512	1098
1931	513	1099
1931	514	1099

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1931	522	1110
1931	523	1110
1931	529	1130
1931	531	1138
1931	532	1138
1931	537	1143
1931	539	1145
1931	583	1266
1931	598	1289
1931	599	1290
1931	610	1321
1931	635	1359
1931	649	1390
1931	652	1391
1931	692	1432
1931	754	1589
1931	772	1611
1931	779	1617
1931	781	1619
1931	873	1859
1931	890	1901
1931	900	1913
1931	902	1914
1931	903	1915
1931	904	1915
1931	905	1915
1931	906	1916
1931	907	1916
1931	908	1916
1931	909	1917
1931	910	1917
1931	911	1917
1931	912	1918
1931	913	1918
1931	914	1918
1931	917	1920
1931	948	1954
1931	957	1975
1931	958	1976
1931	964	1979
1931	967	1980
1931	989	1997
1931	990	1997
1931	1207	2521
1933	3	2
1933	13	38
1933	16	41
1933	141	593
1933	142	594
1933	143	594
1933	151	603
1933	396	1023
1933	617	1576
1933	922	2399
1933	955	2483
1933	957	2484
1933	958	2484
1933	959	2484
1933	961	2486
1933	964	2488
1933	966	2489
1933	967	2490
1933	968	2490

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1933	978	2545
1933	979	2545
1933	980	2545
1933	981	2546
1933	982	2546
1933	983	2546
1933	985	2547
1933	989	2550
1933	991	2554
1933	993	2556
1933	995	2557
1933	998	2560
1933	1000	2575
1933	1001	2575
1933	1009	2584
1933	1014	2590
1933	1024	2617
1933	1026	2618
1933	1035	2631
1933	1036	2632
1933	1046	2692
1934	2 (Ex. Sess.)	4
1935	2	49
1935	3	49
1935	19	78
1935	28	247
1935	32	355
1935	42	365
1935	159	795
1935	309	1044
1935	359	1293
1935	385	1334
1935	388	1338
1935	409	1460
1935	424	1478
1935	430	1481
1935	520	1592
1935	681	1869
1935	684	1874
1935 (Sec. 2)	688	1878
1935	706	1911
1935	840	2261
1935	846	2264
1937	7	67
1937	23	91
1937	35	108
1937	55	143
1937	391	1208
1937	395	1215
1937	759	2178
1937	761	2179
1937	764	2183
1937	767	2203
1937	768	2203
1937	769	2204
1937	772	2207
1937	781	2231
1937	782	2231
1937	791	2268
1937	792	2269
1937	795	2271
1937	797	2273
1937	798	2273
1937	808	2291
1937	809	2291
1937	811 (Sec. 2)	2294
1937	812	2295
1937	815	2297
1937	816	2297
1937	817	2298
1937	818	2298
1937	819	2298
1937	820	2299
1937	824	2301
1937	825	2302
1937	826	2302
1938	8 (Ex. Sess.)	63
1938	10 (Ex. Sess.)	65
1939	1	1
1939	10	14
1939	11	15
1939	19	30
1939	46	473
1939	47	473
1939	51	476
1939	52	476
1939	53	476
1939	160	1386
1939	536	1941
1939	669	2143
1939	672	2144

Acts repealed

500015. The following acts are repealed:

GENERAL LAWS

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1857	276	364
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1858	34	26
1858	45	33
1858	70	58
1858	80	65
1858	90	72
1858	102	81
1858	131	101
1858	150	113
1858	156	118
1858	158	119
1858	164	122
1858	167	123
1858	170	124
1858	189	151
1858	202	163
1858	221	181
1858	222	182
1858	223	182
1858	230	192
1858	254	211
1858	255	211
1858	259	217
1858	260	217
1858	265	222
1858	267	223
1858	268	223
1858	269	223
1858	271	227
1858	279	242
1858	286	253
1858	295	262
1858	303	290
1858	305	291
1858	307	292
1858	321	306
1858	325	311
1858	332	316
1858	338	325
1858	340	326
1858	343	329
1858	344	329
1859	139	134
1859	160	158
1859	161	158
1859	206	215
1859	208	216
1859	273	299
1859	286	308
1859	316	351
1860	94	59
1860	241	208
1860	256	227
1860	268	251
1860	271	253
1860	309	290
1860	322	314
1861	179	175
1861	288	283
1861	358	364
1861	435	498
1861	438	500
1861	459	513
1862	325	442
1863	486	749
1873–4	640	887
1877–8	59	77
1877–8	656	1018
1881	6	4
1885	1	1
1889	158	176
1917	739	1514

CHAPTER 135

An act to amend Section 528 of the Political Code, relating to the printing and distribution of laws.

[Approved by Governor April 13, 1943. Filed with Secretary of State April 13, 1943]

In effect August 4, 1943

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

Stats. 1933, p. 2549

SECTION 1. Section 528 of the Political Code is amended to read:

See also Stats 1943, Ch. 289

528. 1. There must be printed of the laws of each session of the Legislature, 2,250 copies, in English, to be deposited with the Secretary of State, who, after retaining a sufficient number of said volumes for distribution, in accordance with the provisions of Section 410 of the Political Code, shall sell the remaining copies at a price to be approved by the State Board of Control, who may authorize the Superintendent of Printing to compile and print any number of additional copies; the moneys thus received to be paid into the State treasury at the end of each month.

Distribution of laws

Fixing price

2. Whenever a law is signed by the Governor, official notice shall be forwarded, in writing, to the Superintendent of State Printing of the fact. Upon the receipt of said official notice, the Superintendent of State Printing shall cause to be printed, for the use of the Legislature, 240 copies of said law, joint or concurrent resolution, to be distributed, one-third to the Senate and two-thirds to the Assembly, the sergeant-at-arms of the respective houses to receipt to the Superintendent of State Printing for the same, whose receipt shall be a proper voucher for the work. He shall also cause to be printed the requisite number of sheets to make the number of copies of the Statutes required by law to be printed, the one composition of type to answer the purpose of printing the three editions.

Printing of chapters

Statutes

The Superintendent of State Printing shall have the Laws, Journals of Senate and Assembly, and the appendices thereto, properly indexed and bound, the Laws in law buckram binding, and deliver the same to the Secretary of State for distribution as soon as practical after the final adjournment of the Legislature, and the receipt of the Secretary of State shall be his voucher therefor.

Journals and appendices

CHAPTER 136

An act to amend Section 4316 of the Political Code, relating to the privileges of public officers.

[Approved by Governor April 13, 1943. Filed with Secretary of State April 13, 1943]

In effect August 4, 1943

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

SECTION 1. Section 4316 of the Political Code is amended to read:

Stats 1937, p 117

4316. Sheriffs, clerks and constables, and their deputies, are prohibited from practicing law, or acting as attorneys or

Practice of law by sheriffs, etc.

counselors at law, or as collectors or for any collection agency, in the counties where they reside and hold office, or from having as a partner a lawyer, or anyone who acts as such.

CHAPTER 137

An act to amend Section 4022 of the Political Code, relating to official bonds of county and township officers.

In effect August 4, 1943

[Approved by Governor April 13, 1943. Filed with Secretary of State April 13, 1943]

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

Stats 1923, p 134

SECTION 1. Section 4022 of the Political Code is amended to read:

Official bonds of county officers

4022. The board of supervisors of each county shall, on or before the first Monday in September, preceding the election of the following officers, prescribe the amount in which said officers must execute official bonds: Treasurer, county clerk, auditor, sheriff, tax collector, district attorney, recorder, assessor, surveyor, superintendent of schools, public administrator, coroner, justice of the peace, and constable. The judge or judges of the superior court shall, on or before the said first Monday of September prescribe the amount in which each member of the board of supervisors must execute an official bond before entering upon the discharge of the duties of his office. The tax collector shall also before qualifying give a bond as license collector in such sum as may be fixed by the board of supervisors, to be approved as provided in this section. The board of supervisors of each county shall require of the sheriff thereof a bond in such amount as may be prescribed by said board in reference to civil matters and shall require an additional bond from the sheriff in such amount as may be prescribed by said board in reference to criminal matters.

CHAPTER 138

An act to amend Section 665.5 of the Political Code, relating to deductions from the salaries and wages of officers and employees of the State for the purpose of buying United States bonds or similar United States obligations.

In effect August 4, 1943

[Approved by Governor April 13, 1943. Filed with Secretary of State April 13, 1943]

Stats 2d Ex Sess, 1942, Ch 2

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

SECTION 1. Section 665.5 of the Political Code is amended to read:

Salary deductions for savings bond purchases by State officers and employees

665.5. The State Board of Control is hereby authorized and directed to make rules and regulations governing the deductions of such sums of money from the salary or wages of any

officer or employee of the State of California as may be requested in writing by any such officer or employee for the purpose of purchasing United States savings bonds or similar United States obligations.

Special accounts

The Board of Administration of the State Employees' Retirement System, in addition to the accounts maintained for employees' retirement contributions, is also authorized to establish special accounts for such officer or employee requesting such salary or wage deductions in order that sufficient funds may be accumulated to the credit of such officer or employee for the purchase of United States savings bonds or similar United States obligations. All funds so accumulated are trust funds and may be withdrawn from the Treasury upon claims filed by said Board of Administration for the purchase of United States savings bonds or similar United States obligations, or for refunds.

Trust funds

CHAPTER 139

An act to add Section 1184e to the Code of Civil Procedure, relating to claims against public agencies, including claims against those persons rendering services or supplying personal property to public agencies.

[Approved by Governor April 13, 1943. Filed with Secretary of State April 13, 1943]

In effect August 4, 1943

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

SECTION 1. Section 1184e is added to the Code of Civil Procedure, to read:

New section

1184e. Any materialman or person furnishing materials, provisions, provender or other supplies used in, upon, for or about the performance of work contracted to be executed or performed, to which Chapter 3 of Division 5, Title 1 of the Government Code applies, or any person renting or hiring teams or implements or machinery for or contributing to the work to be done, or any person who performed work or labor upon the same, or any person who supplies both work and materials, and whose claim has not been paid by the contractor or person to whom the contract has been awarded, or by the subcontractors of the contractor or person, may at any time prior to the expiration of the period within which claims of lien must be filed for record as prescribed by Section 1187 file with the commissioners, managers, trustees, officers, board of supervisors, board of trustees, common council, or other body, by whom the contract was awarded, or with the controller, auditor, or other public disbursing officer whose duty it is to make payments under the provisions of such contract a verified statement of such claims, together with a statement that the same have not been paid.

Claims

Stats 1943, Ch 134

Within 10 days after the completion of any contract, structure, or work of improvement to which Chapter 3 of Division

Filing of notice

5, Title 1 of the Government Code applies, or within 10 days after there has been a cessation from labor thereon for a period of 30 days, the State, or any public board, commission, or officer thereof, or any political subdivision thereof, may file for record in the office of the county recorder of the county or counties where the property is situated, a notice setting forth the date when the same was completed or on which cessation from labor occurred, together with the name of the State or such public board, commission or officer thereof, or such political subdivision thereof and a description of the property or public work or structure sufficient for identification and the name of the contractor or contractors, the names of the sureties, if any. The notice shall be verified by some officer of the State or some member of such board, commission or officer thereof, or of such political subdivision thereof. If the notice is not so filed, the failure to do so has the same effect as is provided in Section 1187 with reference to the "owner."

Actions

Actions against the State, public board, commission, or officer thereof, or the political subdivision of the State, or the disbursing officer whose duty it is to make payments under the provisions of the contract for the public improvement in question, brought by any claimant who has filed claim under this section, or his assign, shall be governed by the provisions of Sections 1184, 1184a, 1184b, and 1184c and the verified notice provided for in those sections is equivalent for all purposes to the verified claim provided for herein.

Assignment

No assignment by the contractor of the whole or any part of the money due him or to be due him under the contract, or for "extras" in connection therewith, whether made before a verified claim is filed as provided for herein or after the claim is filed, takes priority over claims filed under this section and such assignment has no binding force in so far as the rights of the claimants who file claims hereunder, or their assigns, are concerned.

Payment

This section does not prohibit the payment of any money to the contractor or his assigns, so long as no verified claim is on file before the disbursing officer has actually surrendered possession of the warrant, checks, bonds, or money or the payment to the contractor or his assigns of any money due him or his assigns over and above the total amount of the claims filed at that time plus such interest and court costs as might be reasonably anticipated in connection with the claims.

Dispute

If the contractor, subcontractor or other person against whom any claim is filed as provided in this section disputes the correctness or validity of any claim so filed, the controller, auditor or other public disbursing officer whose duty it is to make payments under the provisions of such contract or the commissioner, managers, trustees, officers, board of supervisors, board of trustees, common council or other body by whom the contract for the improvement was

awarded, in its or his discretion, may permit the contractor to whom the contract was awarded to deliver to such board, commission or officer a bond executed by some corporation authorized to issue surety bonds in the State of California, in a penal sum equal to one and one-fourth times the amount of the claim, which bond shall guarantee the payment of any sum which the claimant may recover on the claim together with his costs of suit in the action, if he recovers therein. Upon the filing of the bond by and with the consent of such board, commission or officer, then such board, commission or officer shall not withhold any moneys from the contractor on account of the claim. The sureties upon the bond are jointly and severally liable to the claimant with the sureties upon the contractor's bond given in accordance with Chapter 3 of Division 5, Title 1 of the Government Code. Bond

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CHAPTER 140

An act to amend Section 2 of an act entitled "An act to provide for wage and salary deductions for public officers and employees for the purpose of purchasing United States savings bonds or similar United States obligations, including the adding of Section 665.5 to the Political Code, declaring the urgency thereof, and providing that this act shall take effect immediately," approved January 26, 1942, relating to wage and salary deductions for public officers and employees for the purpose of purchasing United States bonds or similar United States obligations. Stats 2d Ex Sess, 1942, Ch 2, amended

[Approved by Governor April 13, 1943. Filed with Secretary of State April 13, 1943] In effect August 4, 1943

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

SECTION 1. Section 2 of an act entitled "An act to provide for wage and salary deductions for public officers and employees for the purpose of purchasing United States savings bonds or similar United States obligations, including the adding of Section 665.5 to the Political Code, declaring the urgency thereof, and providing that this act shall take effect immediately," approved January 26, 1942, is amended to read: Stats 2d Ex Sess, 1942, Ch 2

Sec. 2. The governing bodies of counties, cities and counties, cities, municipal corporations, political subdivisions, public districts, and other public agencies of the State of California are hereby authorized to provide for the purchase of United States savings bonds or similar United States obligations by salary or wage deductions for those officers and employees who make written requests for such deductions and such purchases. Salary deductions for savings bond purchases by local officers and employees

CHAPTER 141

An act to amend Section 4141 of the Political Code, relating to recording fee.

In effect August 4, 1943

[Approved by Governor April 13, 1943. Filed with Secretary of State April 13, 1943]

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

Stats 1907, p 354

SECTION 1. Section 4141 of the Political Code is amended to read:

Prepayment of fees

4141. He shall not record any instrument, or file any paper or notice, or furnish any copy, or render any service connected with his office, until the fees for the same, as prescribed by law, are, if demanded, paid or tendered.

Exception

Upon the request of any officer of the United States, the county recorder shall record instruments to which the United States is a party without payment of the recording fee in advance and shall execute the proper government voucher for payment thereof. Upon payment of the fee he shall transmit it to the treasurer with his first settlement after the collection.

CHAPTER 142

An act to repeal Section 3235 of the Political Code, relating to the products of Mongolian labor.

In effect August 4, 1943

[Approved by Governor April 13, 1943. Filed with Secretary of State April 13, 1943]

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

Stats 1887, p 171

SECTION 1. Section 3235 of the Political Code is repealed.

CHAPTER 143

Stats 1937, p 1229, amended

An act to add Section 30022.2 to the Business and Professions Code, relating to money collected under the California Terminal Weighing Act.

In effect August 4, 1943

[Approved by Governor April 13, 1943. Filed with Secretary of State April 13, 1943]

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

New section

SECTION 1. Section 30022.2 is added to the Business and Professions Code, to read:

Repeals

30022.2. Section 14 of Chapter 802 of the Statutes of 1927, at page 1581, as amended, and Section 2 of Chapter 478 of the Statutes of 1933, at page 1248, are repealed.

CHAPTER 144

An act to add Section 30031.5 to the Business and Professions Code, repealing an act entitled "An act to prohibit prize-fighting," approved March 9, 1893.

Stats 1937, p 1229, amended

[Approved by Governor April 13, 1943. Filed with Secretary of State April 13, 1943]

In effect August 4, 1943

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

SECTION 1. Section 30031.5 is added to the Business and Professions Code, to read:

New section

30031.5. An act entitled "An act to prohibit prizefighting," approved March 9, 1893, together with all acts amendatory thereof and supplementary thereto, is hereby repealed.

Repeal

CHAPTER 145

An act to add Section 30034.5 to the Business and Professions Code, repealing Chapter 436 of the Statutes of 1933, relating to horse racing.

Stats 1937, p 1229 amended

[Approved by Governor April 13, 1943. Filed with Secretary of State April 13, 1943]

In effect August 4, 1943

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

SECTION 1. Section 30034.5 is added to the Business and Professions Code, to read:

New section

30034.5. Chapter 436 of the Statutes of 1933, at page 1127, together with all acts amendatory thereof and supplementary thereto, is repealed.

Repeal

CHAPTER 146

An act to add Section 30045 to the Business and Professions Code, repealing certain acts and parts of acts therein specified, relating to auctioneers.

[Approved by Governor April 13, 1943. Filed with Secretary of State April 13, 1943]

Stats 1937, p. 1229, amended

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

SECTION 1. Section 30045 is added to the Business and Professions Code, to read:

In effect August 4, 1943

30045. The following acts and parts of acts, together with all acts amendatory thereof and supplementary thereto, are repealed:

New section

Repeals

General Laws

Year	Chapter	Page
1850	143	456
1859	317	352

Political Code

Chapter 13, comprising Sections 3284 to 3324, of Title 7, Part 3.

CHAPTER 147

Stats 1935, p 1090, amended
Stats 1943, Ch 659, amended

An act to add Sections 8.2 and 13.1 to the Personal Income Tax Act and Sections 17356 and 18434 to the Revenue and Taxation Code, relating to the personal income tax, deductions therefrom and returns made therefor, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor April 14, 1943. Filed with Secretary of State April 14, 1943]

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

New section
See also Stats 1943, Ch. 659
Deduction of compensation

SECTION 1. Section 8.2 is added to the Personal Income Tax Act, to read:

Sec. 8.2. In computing net income there shall be allowed as a deduction all of the salary, wages, bonuses, allowances, and other compensation received by a person for services as a member of the armed forces of the United States, including any auxiliary branch thereof, or the State Guard, in active service.

New section
See also Stats 1943, Ch 659
Extension of time

SEC. 2. Section 13.1 is added to the Personal Income Tax Act, to read:

Sec. 13.1. (a) In the case of a taxpayer who is serving as a member of the armed forces of the United States or any auxiliary branch thereof, or the Merchant Marine, beyond the boundaries of the continental United States, the commissioner shall automatically grant, without application being made therefor, an extension of time, free from interest and penalties, for filing the return, for payment of the tax, and for taking any of the steps required by Sections 19 and 20 of this act, until 180 days after his discharge or release from active service therein or until 180 days after the termination of hostilities in which the United States is now engaged, whichever first occurs.

(b) "Continental United States," as used in subsection (a), means the 48 States of the United States.

New section
See also Stats 1943, Ch 659
Deduction of compensation

SEC. 3. Section 17356 is added to the Revenue and Taxation Code, to read:

17356. In computing net income there shall be allowed as a deduction all of the salary, wages, bonuses, allowances, and other compensation received by an individual for his services as a member of the armed forces of the United States, including any auxiliary branch thereof, or the State Guard.

SEC. 4. Section 18434 is added to the Revenue and Taxation Code, to read: New section See also Stats 1943, Ch. 659

18434. (a) In the case of a taxpayer who is serving as a member of the armed forces of the United States or any auxiliary branch thereof, or the Merchant Marine, beyond the boundaries of the continental United States, the commissioner shall automatically grant, without application being made therefor, an extension of time, free from interest and penalties, for filing the return, for payment of the tax, for taking any of the steps required by Sections 18590, 18593, 19053, 19057 and 19058 of the Revenue and Taxation Code, until 180 days after his discharge or release from active service therein or until 180 days after the termination of hostilities in which the United States is now engaged, whichever first occurs. Extension of time

(b) "Continental United States," as used in subsection (a), means the 48 States of the United States.

SEC. 5. The provisions of this act adding Section 8.2 to the Personal Income Tax Act and Section 17356 to the Revenue and Taxation Code shall apply to income received or accrued in the taxable year of 1942, and in all taxable years thereafter; the provisions of this act adding Section 13.1 to the Personal Income Tax Act and Section 18434 to the Revenue and Taxation Code shall apply to returns to be made for income received or accrued in any taxable years ending prior to the effective date of this act, and for all taxable years on or thereafter. Application

SEC. 6. If any provision of this act, or the application thereof to any person or circumstance, is held invalid, the remainder of the act, or the application of such provision to other persons or circumstances, shall not be affected thereby. Constitutionality

SEC. 7. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows: Urgency

The United States is at war, and members of the armed forces, auxiliary branches thereof, and Merchant Marine are often serving in foreign lands where it is impossible to make income tax returns on the date specified or at all. Therefore it is necessary to the public health, peace, and safety to allow the persons serving in the armed forces to delay making their income tax returns until after their discharge from the army. For the members of the armed forces who are serving their country, it is a particular hardship for them to be compelled to pay an income tax on the compensation they receive for such service, and they should be relieved of this hardship immediately and before the date for making income tax returns in April, 1943.

Effect Stats 1943, Ch 659

SEC. 8. Sections 3 and 4 of this act shall be operative only if Part 10, Division 2 of the Revenue and Taxation Code is enacted by the Legislature at its Fifty-fifth Session, and in such case, at the same time as the said Part 10 takes effect; at which time Sections 8.1 and 13.1 of the Personal Income Tax Act, as added by this act are hereby repealed.

Repeal

CHAPTER 148

Stats 1933, p 394, amended

An act to amend Section 691 of the Fish and Game Code, relating to striped bass.

In effect August 4, 1943

[Approved by Governor April 14, 1943. Filed with Secretary of State April 14, 1943]

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

Stats 1939, p 1054

SECTION 1. Section 691 of the Fish and Game Code is amended to read:

Striped bass

691. Striped bass may be taken only by angling with one rod per angler, with not more than three single hooks or two artificial lures with not more than three triple hooks on each lure and at any time subject to the restrictions contained in this code.

CHAPTER 149

An act to amend Section 204a of the Code of Civil Procedure, relating to the appointment of a jury commissioner in certain counties.

In effect August 4, 1943

[Approved by Governor April 14, 1943. Filed with Secretary of State April 14, 1943]

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

Stats 1917, p 1169

SECTION 1. Section 204a of the Code of Civil Procedure is amended to read:

Jury commissioner

204a. In any county or city and county having a population of 160,000, or over, a majority of the judges of the superior court of the State of California in and for such county, to assist the judges thereof in making selections of trial jurors, and grand jurors, and whenever in their opinion the business of the court requires it, may, in their discretion, appoint a jury commissioner for such county or city and county, who shall receive a salary of three hundred dollars ($300) per month, not exceeding, however, one thousand five

Salary

hundred dollars ($1,500) in any one fiscal year, and who shall hold office at the pleasure of a majority of the judges of such court, said salary to be audited, allowed and paid out of the general fund of such county or city and county.

CHAPTER 150

An act to amend Section 581b of the Code of Civil Procedure, relating to dismissal of actions or proceedings for failure to pay transfer fee.

[Approved by Governor April 14, 1943. Filed with Secretary of State April 14, 1943] In effect August 4, 1943

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

SECTION 1. Section 581b of the Code of Civil Procedure is amended to read: Stats. 1933, p. 1836

581b. No action heretofore or hereafter commenced, where the same was not originally commenced in the proper court, and which has been ordered transferred to the proper court, shall be further prosecuted, and no further proceedings shall be had therein, until the fees and costs of the transfer thereof and of filing the papers in the court to which transferred have been paid, as provided in Section 399 of this code; and all such actions heretofore or hereafter commenced must be dismissed by the court in which the action or proceeding was originally commenced, on its own motion, or on the motion of any party interested therein, whether named in the complaint as a party or not, where the costs and fees of making up the transcript or papers or for transmission of the same to the clerk or justice of the court to which it is ordered transferred, or of filing the papers anew, have not been so paid for one year after the entry of the order for transfer. Transferred actions. Failure to pay fees.

CHAPTER 151

An act to amend Section 354 of the Code of Civil Procedure, relating to the suspension of statutes of limitation during war.

[Approved by Governor April 14, 1943. Filed with Secretary of State April 14, 1943] In effect August 4, 1943

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

SECTION 1. Section 354 of the Code of Civil Procedure is hereby amended to read as follows: 1872 Code

354. When a person is, by reason of the existence of a state of war, under a disability to commence an action, the time of Limitation period. Disability during war.

the continuance of such disability is not part of the period limited for the commencement of the action whether such cause of action shall have accrued prior to or during the period of such disability.

CHAPTER 152

An act to amend Sections 2681, 2682, 2684 and 2685 and to repeal Section 2683 of the Penal Code, relating to the disposition of insane prisoners.

In effect August 4, 1943

[Approved by Governor April 14, 1943. Filed with Secretary of State April 14, 1943]

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

Stats. 1941, p 1080

SECTION 1. Section 2681 of the Penal Code is hereby amended to read as follows:

Insane prisoners: Examination and certificate

2681. When the warden of any prison at which such a psychopathic hospital is located, and such other officers as may be designated by the board to act with him in such cases, shall be of opinion that any prisoner confined therein is insane, they shall make proper examination, and if they remain of the opinion that the person is insane, the warden shall forthwith send the prisoner to the psychopathic hospital for care and treatment and shall make and file in the records of the prison a certificate that the prisoner has, on a date specified, been found insane and has been placed in the psychopathic hospital.

Stats. 1941, p. 1080

SEC. 2. Section 2682 of the Penal Code is hereby amended to read as follows:

Transmittal to psychopathic hospital

2682. When the warden of a State prison other than one at which a psychopathic hospital is located, and such other officers as may be designated by the board to act with him in such cases, shall be of opinion that any prisoner confined therein is insane, they shall make proper examination, and if they remain of the opinion that the person is insane, the warden shall certify the fact to the warden of any prison in which such a psychopathic hospital is located, and shall forthwith send the prisoner to such psychopathic hospital for care and treatment. The warden of the prison at which the psychopathic hospital is located shall receive the insane prisoner, confine him in the psychopathic hospital, and there keep him until cured or transferred to a State hospital for the insane as hereinafter provided.

Stats 1941, p 1080

SEC. 3. Section 2683 of the Penal Code is hereby repealed.

CHAPTER 153

An act to amend Section 17818 of the Health and Safety Code, relating to apartment houses and hotels. Stats. 1939, p 482, amended

[Approved by Governor April 14, 1943. Filed with Secretary of State April 14, 1943] In effect August 4, 1943

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

SECTION 1. Section 17818 of the Health and Safety Code is amended to read: Stats 1939, p 482

17818. A janitor, housekeeper, or other responsible person shall reside upon the premises and shall have charge of every apartment house in which there are 16 or more apartments, and of every hotel in which there are 12 or more guest rooms, in the event that the owner of any such apartment house or hotel does not reside upon said premises. If the owner does not reside upon the premises of any apartment house in which there are more than four but less than 16 apartments, a notice stating his name and address, or the name and address of his agent in charge of the apartment house, shall be posted in a conspicuous place on the premises. Caretakers Apartments and hotels Notice

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CHAPTER 154

An act to amend Sections 25 and 78 of the Civil Code and Sections 1433 and 1590 of the Probate Code, relating to minors, and effect of marriage upon minority and guardianship of minors. Stats 1931, p 537, amended

[Approved by Governor April 14, 1943. Filed with Secretary of State April 14, 1943] In effect August 4, 1943

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

SECTION 1. Section 25 of the Civil Code is amended to read: Stats 1931, p 1941

25. Minors are all persons under 21 years of age; provided, that this section shall be subject to the provisions of the titles of this code on marriage and shall not be construed as repealing or limiting the provisions of Section 204 of this code; provided, further, that any female who has reached the age of 18 years and thereafter contracts a lawful marriage, or who has contracted a lawful marriage and thereafter reaches the age of 18 years, shall in the first instance upon contracting such marriage, and in the second instance upon reaching the age of 18 years, be of the age of majority and be deemed an adult person for the purpose of entering into any engagement or transaction respecting property or her estate, or for the purpose of entering into any contract, the same as Minors defined

if she was 21 years of age. Subsequent judgment of annulment of such marriage shall not deprive such female person of her adult status once attained under the foregoing provision, unless such judgment is obtained in an action commenced prior to her reaching the age of 18 years, in which latter event she shall be deemed to have remained a minor at all times notwithstanding such marriage.

Stats 1883, p 3

SEC. 2. Section 78 of the Civil Code is amended to read:

Proceeding to determine validity of marriage

78. If either party to any marriage denies the same, or refuses to join in a declaration thereof, the other may proceed, by action in the superior court, to have the validity of the marriage determined and declared.

If the female party to any marriage, who has reached the age of 18 years, desires to have the validity of said marriage established in order to establish the fact or time, or both, of her attaining majority, she may proceed, by action in the superior court, brought against the husband, to have the validity of the marriage determined and declared and the fact or time, or both, of her attaining majority established and declared; and even though she be under the age of 21 years, such action may be commenced and prosecuted by her in her own name and right, and need not be brought or prosecuted in her behalf by general guardian or by a guardian ad litem; but if she has a general guardian of her estate he shall, unless he prosecutes the action on her behalf, be joined as a defendant together with the husband, in which latter event no judgment shall be made in such action until such general guardian of the estate has either appeared in the action, or defaulted after due service of summons on him; and provided further, that if the plaintiff in such action has no general guardian of her estate the court may, in its discretion require the appointment of a guardian ad litem to prosecute the action on her behalf and to safeguard her interests in the action.

Stats 1931, p 587

SEC. 3. Section 1433 of the Probate Code is amended to read:

Married minor

1433. No guardian shall be appointed of the person of a married minor solely by reason of such minority; and no guardian shall be appointed of the estate of a married female who has reached the age of 18 years solely by reason of her age.

Stats 1931, p 587

SEC. 4. Section 1590 of the Probate Code is amended to read:

Events which terminate guardianship

1590. (1) Where the appointment of a guardian was made solely because of the ward's minority, the marriage of a minor ward terminates the guardianship of the person; and the guardianship of the estate of a minor female ward is terminated upon her attaining majority as provided in Section 25 of the Civil Code.

(2) If the appointment of a guardian is made solely because of the ward's minority, the guardianship is terminated by his attaining majority.

(3) In all other cases the guardianship is terminated only by order of the court upon application of the guardian or the ward, after such notice to the other as the court or judge may require.

CHAPTER 155

An act to amend Sections 749, 750 and 751 of the Code of Civil Procedure, relating to the determination of conflicting claims to real property.

[Approved by Governor April 14, 1943. Filed with Secretary of State April 14, 1943]

In effect August 4, 1943

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

SECTION 1. Section 749 of the Code of Civil Procedure is amended to read:

Stats 1939, p. 1736

749. An action may be brought, either as a separate action, or joined with an action under Section 738 of this code, to determine the adverse claims to and clouds upon title to real property by a person who, by himself or by himself and his predecessors in interest, has been in the actual, exclusive and adverse possession of such property continuously for 20 years prior to the filing of the complaint, claiming to own the same in fee against the whole world, and who, by himself or by himself and his predecessors in interest, has paid all taxes of every kind levied or assessed against the property and which were payable during the period of five years continuously next preceding the filing of the complaint. Said action shall be commenced by the filing of a verified complaint averring the matters above set forth.

Determination of adverse claims to real property

The said complaint may include as defendants in such action, in addition to such persons as appear of record to have, all other persons who are known to the plaintiff to have, some claim or cloud on the real property described in the complaint adverse to plaintiff's ownership, and other persons unknown claiming any right, title, estate, interest or lien in such real property, or cloud upon the title of plaintiff thereto, and the plaintiff may describe such unknown defendants in the complaint as follows: "also all other persons unknown, claiming any right, title, estate, lien or interest in the real property described in the complaint adverse to plaintiff's ownership, or any cloud upon plaintiff's title thereto."

Defendants

Unknown defendants

If the person or all persons having a claim or cloud on the title to said real property are unknown to plaintiff, the latter may describe them in the complaint as "all persons unknown, claiming any right, title, estate, lien or interest in the real property described in the complaint adverse to plaintiff's ownership, or any cloud upon plaintiff's title thereto."

Defendant claiming through plaintiff

If any known defendant named in the complaint is a person claiming any right, title, estate, lien or interest in and to the real property under the plaintiff or any predecessor in interest of the plaintiff, which claim has arisen, or has been created by the plaintiff or any predecessor in interest of the plaintiff, within 20 years prior to the filing of the complaint, then as to any such defendant the complaint shall contain allegations appropriate to an action under Section 738 of this code, and as to any such defendant the action shall be deemed and considered brought under the provisions of Section 738 and sections pertinent thereto of this code, and as to any such defendant the proceedings in the action shall be governed by the provisions of said Section 738 and said sections pertinent thereto; and the provisions of Section 750 of this code shall not apply to the proceedings as to any such defendant.

Lis pendens

Within 10 days after the filing of the complaint, plaintiff shall file, or cause to be filed, in the office of the county recorder of the county where the property is situated, a notice of the pendency of the action, containing the matters required by Section 409 of this code.

Stats. 1939, p. 1736

SEC. 2. Section 750 of said code is amended to read:

Summons

750. Within one year after the filing of the complaint, as required by the preceding section, a summons must be issued, which shall contain the matters required by Section 407 of this code, and in addition, a description of the property and a statement of the object of the action. In said summons the said unknown defendants shall be designated as in the complaint, whether they are the sole defendants or not. If as to any defendant the action is one brought under the provisions of Section 738 and sections pertinent thereto of this code, such defendant may be named in the same summons and no separate or additional summons need be issued directed to such defendant.

Posting

Within 30 days after the issuance of the summons, the plaintiff shall post or cause to be posted a copy thereof in a conspicuous place on the property described in the complaint.

Affidavit

At any time after the issuance of the summons, the plaintiff, or his agent or attorney, shall make and file an affidavit wherein there shall be stated the following matters:

(a) The names of the defendants, if any, as to whom the action is brought under the provisions of Section 738 and sections pertinent thereto of this code. If there is no such defendant that fact shall be stated,

(b) The names of all the defendants who have been served personally, if any. If there is none that fact shall be stated,

(c) The names of the defendants who reside out of the State and their places of residence, if known to the plaintiff, and

(d) The names of the defendants residing in or out of the State whose place of residence is unknown to the plaintiff.

All defendants as to whom the action is one brought under the provisions of Section 738 and sections pertinent thereto of this code, shall be served with said summons in the manner provided in Title 5 of Part 2 of this code. Service

All other defendants residing in the State of California, whose place of residence is known to the plaintiff shall be served personally with said summons; provided, that any such defendant who conceals himself to avoid service of summons may be served as provided in Sections 412 and 413 of this code. Publication of summons

Except as otherwise provided, upon the making and filing of the aforesaid affidavit, the court or a judge thereof shall make an order directing the said summons to be served upon the defendants residing out of the State, whose place of residence is known to the plaintiff and upon the defendants residing in or out of the State, whose place of residence is unknown to the plaintiff, and upon all the unknown defendants as stated in the complaint and summons, by publication in some daily or weekly newspaper of general circulation printed and published in the county where the property is situated, and if there be no such paper in such county, then in some adjoining county, to be designated by the court or a judge thereof, which publication shall be once a week during four successive weeks, that is to say, there shall be at least four weekly insertions and publications of said summons in said newspaper. Order

Within 10 days after the making of the said order directing publication of summons, a copy of the summons and complaint, properly addressed and with the postage thereon fully prepaid, shall be mailed to each of the defendants whose names are known who reside out of the State, at their place of residence, if known, and also to the defendants whose names are known residing in or out of the State, whose place of residence is unknown to plaintiff, addressed to them at the county seat of the county where the action is commenced. Mailing

All such unknown persons so served shall have the same rights as are provided by law in cases of all other defendants named, upon whom service is made by publication, or personally, and the action shall proceed against such unknown persons in the same manner as against the defendants who are named upon whom service is made by publication or personally, and with like effect; and any such unknown person who has or claims to have any right, title, estate, lien or interest in the said property, or cloud on the title thereto, adverse to plaintiff, at the time of the commencement of the action, who has been duly served as aforesaid, and any one claiming under him, shall be concluded by the judgment in such action as effectually as if the action was brought against the said person by his or her name and personal service of process was obtained, notwithstanding any such unknown person may be Rights and liabilities of unknown defendants

under legal disability. Service shall be deemed complete upon the completion of the mailing and publication.

Actions under Sec. 738

In the event that service of any summons shall be required to be by publication as to any defendant as to whom the action is brought under the provisions of Section 738 of this code, the order for such publication, made pursuant to the provisions of Sections 412 and 413 of this code may be made either as a part of the order for publication of summons made as to other defendants, or as a separate order, as the court or a judge thereof may consider proper in the particular case.

Stats 1903, p 104

SEC. 3. Section 751 of said code is hereby amended to read:

Hearing

751. When the summons has been served as provided in the preceding section and the time for answering has expired, the court shall proceed to hear the case as in other cases and shall have jurisdiction to examine into and determine the legality of plaintiff's title and of the title and claim of all the defendants and of all unknown persons, and to that end must not enter any judgment by default, but must in all cases require evidence of plaintiff's title and possession, and hear such evidence as may be offered respecting the claims and title of any of the defendants and must thereafter direct judgment to be entered in accordance with the evidence and the law.

Proof

The court before proceeding to hear the case must require proof to be made that the summons has been served and posted as hereinbefore directed and that the required notice of pendency of action has been filed.

Judgment

The judgment after it has become final is conclusive against all the persons named in the summons and complaint who have been served and against all unknown persons as stated in the complaint and summons who have been served by publication, but shall not be conclusive against the State of California or the United States. Said judgment shall have the effect of a judgment in rem except as against the State of California and the United States; and provided further, that the said judgment shall not bind or be conclusive against any person claiming any estate, title, right, possession, or lien to the property under the plaintiff or his predecessors in interest, which claim, lien, estate or right of possession has arisen or has been created by the plaintiff or his predecessors in interest within 20 years prior to the filing of the complaint, unless proceedings shall have been taken against such defendant and summons served upon him as provided with respect to actions brought under the provisions of Section 738 of this code, or unless such defendant shall have appeared voluntarily in the action.

Actions under Sec 738

Remedies cumulative

The remedy provided in this and the two preceding sections shall be construed as cumulative and not exclusive of any other remedy, form or right of action or proceeding allowed by law.

CHAPTER 156

An act to amend Section 401 of the Vehicle Code, relating to the operation of authorized emergency vehicles.

Stats 1935, p 93, amended

[Approved by Governor April 14, 1943. Filed with Secretary of State April 14, 1943]

In effect August 4, 1943

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

SECTION 1. Section 401 of the Vehicle Code is amended to read:

Stats 1937, p 1993

401. Nonliability for Operation of Authorized Emergency Vehicles in the Line of Duty. No members of any police or fire department maintained by a county, incorporated or unincorporated city, town or district, and no member of the California Highway Patrol or employee of Division of Forestry, is liable for civil damages on account of personal injury to or death of any person or damage to property resulting from the operation in the line of duty, of an authorized emergency vehicle while responding to an emergency call or when in the immediate pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm or emergency call.

Emergency vehicles Nonliability

CHAPTER 157

An act to amend Section 4244 of the Political Code, relating to the compensation of public personnel in counties of the fifteenth class.

[Approved by Governor April 15, 1943. Filed with Secretary of State April 15, 1943]

In effect August 4, 1943

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

SECTION 1. Section 4244 of the Political Code is amended to read:

Stats 1941, p 2118

4244. In counties of the fifteenth class, the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums:

Contra Costa County Salaries

1. The auditor, five thousand dollars ($5,000) per annum.

Auditor

2. The district attorney, five thousand dollars ($5,000) per annum.

District attorney

3. Each supervisor, three thousand three hundred dollars ($3,300) per annum for personal services performed by him as supervisor, member of the board of equalization and road commissioner. There is hereby allowed to each supervisor a sum not to exceed 25 per cent of his monthly salary for expenses necessarily incurred in the conduct of his office. Each supervisor shall file an itemized statement, supported by receipts and vouchers, on the first day of each and every

Supervisors

month, designating the actual expenditure on his part of expenses necessarily incurred in the conduct of his office for the preceding month, and no allowance shall be made to any supervisor for expenses necessarily incurred in the conduct of his said office unless the same shall be itemized and designated in said claim filed by him as herein provided.

Jurors

4. Grand jurors and trial jurors, three dollars ($3) per day and mileage for each attendance at the rate of seven cents ($0.07) for each mile actually traveled. Grand jurors shall also receive as compensation three dollars ($3) per day for each day's attendance as a member of any committee of the grand jury called by the secretary or committee chairman and mileage at seven cents ($0.07) for each mile actually traveled in attending any such committee meeting.

Other compensation and fees

No official of the county, whose compensation is fixed by this section, shall receive any other compensation in any form in any other capacity from the county. The salaries and expenses provided in this section shall be in full compensation for the services required of them by law, or by virtue of their offices, and all other fees, mileage, or other remuneration or compensation of any kind or character received by such officers for or by reason of any duty imposed by law on such officers, or by virtue of their offices shall be by such officers paid into the county treasury at such times and in such manner as required by law, except that until such time as the county provides for such officers and makes available to their use such numbers of automobiles as are reasonably necessary to carry out the duties of their respective offices, such officers shall be allowed to retain for their own use and benefit such mileage as may be allowed by law. In lieu of the mileage allowed members of the board of supervisors each member shall be supplied by the county with an automobile for use in performance of official duties. All expenses for fuel, oil, supplies, upkeep and maintenance of automobiles for members of the board of supervisors shall be paid from county funds

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CHAPTER 158

Stats. 1939, p. 482, amended

An act to repeal Section 14407 of the Health and Safety Code, relating to repayment of the cost of furnishing fire-fighting equipment and services.

In effect August 4, 1943

[Approved by Governor April 15, 1943. Filed with Secretary of State April 15, 1943]

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

Stats. 1939, p. 482

SECTION 1. Section 14407 of the Health and Safety Code is repealed.

CHAPTER 159

An act to amend Section 373 of the Civil Code and Section 411 of the Code of Civil Procedure, relating to service of summons.

[Approved by Governor April 15, 1943. Filed with Secretary of State April 15, 1943] In effect August 4, 1943

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

SECTION 1. Section 373 of the Civil Code is amended to read: Stats 1941, p. 3088

373. Every domestic corporation may file with the Secretary of State a designation of a natural person, stating his residence or business address in this State, as its agent for the purpose of service of process, and the delivery to such agent of a copy of any process against such corporation shall constitute valid service on such corporation. Such corporation shall file with the Secretary of State notice of any change in the address of the person thus designated, and may revoke any such designation by filing notice of the revocation thereof with the Secretary of State. Domestic corporations

If such designation has not been filed with the Secretary of State, and if personal service of process against such domestic corporation can not be made with the exercise of due diligence in any other manner provided by law and the fact appears by affidavit to the satisfaction of the court or a judge thereof, such court or judge may make an order that the service be made upon such corporation by delivering to the Secretary of State, or to any person employed in his office in the capacity of assistant or deputy, one copy of such process for each defendant to be served. Service in such manner shall be and constitute personal service upon such corporation. Service on Secretary of State

Upon the receipt of such copy of process, the Secretary of State shall give notice of the service of such process to the corporation at its principal office in this State, by forwarding to such office, by registered mail with request for return receipt, such copy of such process. The defendant shall appear and answer within 30 days after delivery of such process to the Secretary of State. Notice to corporation

The Secretary of State shall keep a record of all process served upon him under this title, and shall record therein the time of such service and his action with reference thereto. Record of service

This section shall not apply to banks, trust companies, insurance companies or any corporation subject to the jurisdiction of the Railroad Commission. Exceptions

SEC. 2. Section 411 of the Code of Civil Procedure is amended to read: Stats 1941, p 3088

411. The summons must be served by delivering a copy thereof as follows: Service of summons

1. If the suit is against a domestic corporation: To the president or other head of the corporation, a vice president, Domestic corporations

a secretary, an assistant secretary, general manager, or a person designated for service of process or authorized to receive service of process. If such corporation is a bank, to any of the foregoing officers or agents thereof, or to a cashier or an assistant cashier thereof. If no such officer or agent of the corporation can be found within the State after diligent search, then to the Secretary of State as provided in Section 373 of the Civil Code, unless the corporation be of a class expressly excepted from the operation of that section.

Foreign corporations

2. If the suit is against a foreign corporation, or a nonresident joint stock company or association, doing business in this State; in the manner provided by Section 406a of the Civil Code.

Minors

3. If against a minor, under the age of 14 years, residing within this State: To such minor, personally, and also to his father, mother, or guardian; or if there be none within this State, then to any person having the care or control of such minor, or with whom he resides, or in whose service he is employed.

Incompetent persons

4. If against a person residing within this State who has been judicially declared to be of unsound mind, or incapable of conducting his own affairs, and for whom a guardian has been appointed: To such person, and also to his guardian.

City or county

5. If against a county, city or town: To the president of the board of supervisors, president of the council or trustees, or other head of the legislative department thereof.

Corporation whose charter is forfeited

6. In all cases where a corporation has forfeited its charter or right to do business in this State, or has dissolved, by delivering a copy thereof to one of the persons who have become the trustees of the corporation and of its stockholders or members; or, in a proper case, as provided in Section 402a of the Civil Code.

All other cases

7. In all other cases to the defendant personally.

CHAPTER 160

Stats 1933, p 60, amended

An act to amend Sections 271, 273, 274, 275, 276, 277, 281, and 283, and to repeal Section 279, of the Agricultural Code, relating to bee diseases and inspection.

In effect August 4, 1943

[Approved by Governor April 15, 1943. Filed with Secretary of State April 15, 1943]

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

Stats 1937, p. 1968

SECTION 1. Section 271 of the Agricultural Code is amended to read:

Definitions

271. As used in this article:

(a) "Bees" mean honey-producing insects of the species Apis mellifica and include the adults, eggs, larvae, pupae, or other immature stages thereof, together with such materials as

are deposited into hives by their adults, except honey and rendered beeswax.

(b) "Apiary" includes bees, hives, and appliances wherever the same are kept, located or found.

(c) "Hive" means any receptacle or container made or prepared for the use of bees, or box or similar container of which bees have taken possession.

(d) "Appliance" means any implement or other device used in manipulating bees or their brood, or containers thereof.

(e) "Disease" means American foulbrood or anything affecting bees or their brood which may cause an epidemic.

(f) "Inspector" means any person authorized to enforce the provisions of this article.

(g) "Location" means any premises upon which an apiary is located.

SEC. 2. Section 273 of said code is amended to read: Stats. 1933, p 60

273. The director, with the approval of the Governor, may establish, maintain, and enforce quarantine at the boundaries of or within the State, to protect the bee industry against contagion or infection by any bee disease. He may make and enforce such rules or regulations as may be necessary to prevent any bees, or their brood, used hives or appliances from passing over any quarantine line established and proclaimed pursuant to this article. All approvals by the Governor shall be signed by the Governor in duplicate and one copy thereof shall be filed in the office of the Secretary of State and the other in the office of the director before such quarantine regulations shall take effect. Quarantine

The director may establish quarantine regulations, without the approval of the Governor, for a period of 30 days when in his opinion it is necessary to meet emergencies.

SEC. 3. Section 274 of said code is amended to read: Stats. 1933, p 1524

274. It is unlawful to import or transport into the State any bees or used hives or appliances, except used package bee cages returning empty, unless accompanied by an official certificate from a duly authorized inspector of apiaries or bee inspector, certifying that such bees or used hives or appliances originated in an apiary which had been inspected within sixty (60) days prior to importation or transportation into this State and found free from American foulbrood at time of inspection, except that the certificate accompanying bees arriving prior to April 1st of any year from those States having severe winters will satisfy the time requirement if it certifies that inspection was made on or after October 15th of the previous year, and said certificate shall be delivered by the person importing or transporting the bees or the used hives or appliances to the commissioner in the county of destination within forty-eight (48) hours of the arrival of the bees or the used hives or appliances. Said certificate shall give the name and address of the owner or person in charge or possession, the county and State of origin, and the county of destination, method of transportation, the number of hives or nuclei containing bees, and the Importation of bees or hives Restrictions

Certificate

number of used hives either empty or containing frames and combs, and a complete list of any other used beekeeping equipment to be transported into the State. Any bees, used hives or appliances which have been used in or as an apiary, infected with American foulbrood at time of inspection, are hereby prohibited entry into California for any purpose whatsoever and any such articles arriving in California from an infected apiary, or without aforementioned official certificate, shall be immediately sent out of the State or destroyed at option and expense of owner or bailee.

Foulbrood

Food containing honey

It is unlawful to place in any combless package of bees or queens, offered for sale or shipment, any food containing honey.

Stats 1937, p. 1968

SEC. 4. Section 275 of said code is amended to read:

Movement of bees: Statement of movement

275. It is unlawful for any person to move bees within the State unless he files with the commissioner or county inspector of apiaries in the county of origin, within five days from the date of moving, a statement of the number of colonies of bees moved, and the definite point of destination to which said bees have been moved. The commissioner or inspector with whom such statement is filed shall immediately mail a copy thereof to the commissioner at destination, if the same be other than the county of origin.

Notice of holding

Whenever the director or the commissioner finds in any apiary more than one colony containing disease in each 100 colonies or fraction thereof, he shall hold such apiary, giving notice thereof to the owner or bailee and posting a copy of said notice in a conspicuous place in said apiary. When any such notice has been given as herein provided, it is unlawful to move such apiary, or any part thereof, or any other bee equipment from the location until all diseased bees have been destroyed as provided in Section 276. When in the opinion of the director or the commissioner the disease has been eradicated, he shall issue a permit to move such apiary. Any permit issued under the conditions specified in this paragraph shall state thereon that the apiary had been under a hold order at the point of origin, and had been released therefrom, giving the date of release.

Permit

Certificate of inspection

All package bees and queens shipped within the State shall be accompanied by a certificate of inspection showing that the bees from which such package bees and queens have been taken have been inspected and found free from disease.

Stats 1933, p 60

SEC. 5. Section 276 of said code is amended to read:

Marking and permissive destruction of diseased hives

276. The commissioner shall, whenever he deems it necessary, make or cause to be made an inspection of any apiary within his jurisdiction. If any disease exists therein the inspector making the inspection shall plainly mark the hives containing diseased bees, and shall report his inspection and findings to the commissioner. The inspector shall destroy the diseased bees and the contents of the hives so marked on

written consent signed by the owner or bailee in the manner hereinafter specified; or the commissioner shall in writing notify the owner or person in charge or in possession of such apiary, stating in the notice the nature of the disease found in each colony respectively, identifying such colony by reference to the mark placed upon the hive thereof, and ordering the eradication of such disease within a specified time. The notice may be served upon the person having possession or owning such diseased apiaries, personally or by registered mail to his last-known address. When the owner or person in charge or possession of any apiary is not known, the notice shall be served by posting in a conspicuous place in the apiary. Such person must eradicate such disease within a certain time specified in the notice. If the disease be American foulbrood the time specified in the notice shall not be less than 24 hours nor more than 48 hours from the time of serving the notice, and the eradication of said American foulbrood shall be by killing the bees in the hives and burning the diseased colonies, including the bees, combs, frames, honey, and wax, in a pit, burying the ashes no less than two feet below the surface of the ground and disinfecting by scorching the hives, bodies, bottom boards, cover, and supers associated therewith.

Notice to owner

American foulbrood

SEC. 6. Section 277 of said code is amended to read:

Stats. 1933, p. 60

277. Every diseased apiary is a public nuisance; and whenever any such nuisance exists within his jurisdiction the inspector shall abate the same by eradicating the disease, if authorized by the owner, as provided in Section 276, or if the owner or person in charge or possession can not be found after diligent search within the county by the inspector, or if notice has been served as hereinbefore provided, and the owner or person in charge or possession refuses or neglects to abate the same within the time specified in such notice. If such disease is American foulbrood it shall be eradicated as prescribed in Section 276 within 24 hours after expiration of time specified in the notice.

Diseased apiary a public nuisance

SEC. 7. Section 279 of said code is repealed.

Stats. 1933, p. 60

SEC. 8. Section 281 of said code is amended to read:

Stats 1933, p 60

281. It is unlawful for any person owning or controlling bees, hives or appliances within the State, which are infected with disease to move or transport the same except for the purpose of eradication as prescribed in Section 276, and then no farther than necessary to avoid the danger of fire or other natural hazards. The inspector may in a summary manner destroy any and all infected bees unlawfully moved within the State wherever they may be found. It is unlawful to sell diseased bees, hives or appliances.

Movement of diseased bees

SEC. 9. Section 283 of said code is amended to read:

Stats 1937, p 1968

283. Every person who is the owner or in possession of an apiary located within the State shall, on or before the first day of March, 1944, register with the commissioner the number of colonies therein and the location thereof. Any person

Registry of apiaries

coming into possession of bees after said date shall register them as described heretofore within 30 days.

Identification numbers

The director shall issue an apiary identification number on request. It is unlawful for any person who is the owner or in possession of an apiary to move such apiary or apiaries for any purpose whatsoever, unless he first secures an apiary identification number or an apiary equipment brand as provided in Article 5. Such brand or number must be displayed in a conspicuous place in each apiary either on the hives or on a placard used for that purpose.

CHAPTER 161

Stats 1933, p 60, amended

An act to amend Section 369 of the Agricultural Code, relating to estrays.

In effect August 1, 1943

[Approved by Governor April 15, 1943. Filed with Secretary of State April 15, 1943]

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

Stats 1933, p 60

SECTION 1. Section 369 of the Agricultural Code is amended to read:

Estrays defined

369. Any bovine animal found in the possession of any person who can not prove ownership by a brand certificate or a registered brand, which is registered to the persons in possession of such animal, or a bill of sale from the owner of the brand on said animal or a description of an unbranded animal giving breed, color and sex; or any bovine animal presented for inspection, either before shipment or slaughter, which is not claimed by consignor or consignee, for the purposes of this section, is hereby defined as an estray.

Seizure

Any such estray shall be seized by the director who will search the brand record for brands and marks on branded animals to ascertain the owner of the animal. If the owner is found said animal shall, on reasonable proof, be turned over to the owner upon payment to the director of all reasonable

Sale

expenses incurred in the handling of said animal. If the owner is not found, the director shall advertise for three successive weeks in a local paper in the vicinity where the animal was found, or in the locality in which the animal is known to have originated if such origin is known, giving brands and marks on branded animals, and for unbranded animals giving breed, weight, color and sex. If after 30 days from date of seizure no claim is made for the animal the director shall sell said animal at public sale, previously advertised as herein provided, or at private sale at a price not less than the appraised value as determined by a board of three cattlemen in the area, one to be named by the director, one by the person in possession of the animal and the third by the first two so

Disposition of proceeds

named. The proceeds of the sale, less reasonable expenses for holding, advertising and sale, shall be held by the director in

a special fund to be paid to any claimant who may appear within one year from date of sale and prove his ownership of the animal so sold, if, after the expiration of one year from date of such sale no claim is made and ownership established, said money shall be paid to the State Treasurer and by him credited to the Department of Agriculture Fund to be expended in carrying out the provisions of this article.

CHAPTER 162

An act to amend Section 9144 of the Education Code, relating to vocational rehabilitation.

Stats 1943 Ch. 71, amended

[Approved by Governor April 15, 1943 Filed with Secretary of State April 15, 1943]

In effect August 4 1943

Note.—See Stats. 1943, Ch. 71.

CHAPTER 163

An act to amend Section 4312 of the Political Code, relating to the location and office hours of county offices.

[Approved by Governor April 16, 1943 Filed with Secretary of State April 16, 1943]

In effect August 4 1943

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

SECTION 1. Section 4312 of the Political Code is hereby amended to read as follows:

Stats 1937 p 371 See also Stats 1943, Ch 561 Location and hours of county offices

4312. Sheriffs, clerks, recorders, treasurers and auditors, must have their offices at the county seat, in the courthouse, hall of records, jail or other buildings, provided by the county through the board of supervisors, and keep them open for the transaction of business continuously from 9 o'clock a.m. until 5 o'clock p.m. every day in the year except Sundays and holidays; provided, that in each city containing a population of not less than 35,000 as ascertained by the last preceding census taken under the authority of the Congress of the United States or the Legislature of the State of California, wherein the city hall of said city is not less than eight miles distant from the site of the county courthouse, sheriffs and clerks must also have offices in each such city at a place provided by the county through the board of supervisors and keep them open for the transaction of business continuously from 9 o'clock a.m. until 5 o'clock p.m. every day in the year except Sundays and holidays. In any city or town containing a population of not less than 20,000 as ascertained by the last preceding census taken under the authority of the Congress of the United States, or the Legislature of the State of California, wherein the city hall is not less than 30 miles distant

from the county courthouse, sheriffs and clerks must open offices provided by the county through the board of supervisors and keep them open for the transaction of business continuously from 9 o'clock a.m. until 5 o'clock p m. every day in the year except Sundays and holidays. In any city or town containing a population of not less than 50,000 as ascertained by the last preceding census taken under the authority of the Congress of the United States, or the Legislature of the State of California, wherein the city hall is not less than six miles distant from the county courthouse, sheriffs and clerks must open offices provided by the county through the board of supervisors and keep them open for the transaction of business continuously from 9 o'clock a.m. until 5 o'clock p.m. every day in the year except Sundays and holidays.

In any city or town containing a population of not less than 7,000, as ascertained by the last preceding census taken under the authority of the Congress of the United States, or the Legislature of the State of California, wherein the city hall of said city is not less than 55 miles distant from the site of the county courthouse, sheriffs and clerks must open offices provided by the county through the board of supervisors and keep them open for the transaction of business continuously from 9 o'clock a.m. until 5 o'clock p.m. every day, except Sundays and holidays, during the period for which the superior court is in session in such city or town. And the words "transaction of business" as used herein shall be construed to mean that during the said hours named there shall be present in each of said offices at least one person qualified and prepared to transact the business that may properly come into said office.

"Transaction of business" defined

Affidavit of compliance

The auditor shall not draw his warrant for the salary of any such officer for any month until the latter shall first have presented him with an affidavit setting forth that he has complied with the provisions of this section, and the making of a false affidavit by any of said officers shall subject the party making the same to prosecution for the crime of perjury and to be punished for the same.

Filing affidavit business

The affidavit required herein of the auditor shall be filed with the county clerk, and be and remain a record of the office of said clerk; and the affidavits of the other officers required herein, shall be filed with the county auditor and be and remain a record of his office; provided, that if any of the officers named herein are absent from their office on official business they shall be excused from attendance at their said respective offices during the time they are absent on such business; and provided further, that

Absence on official

Closing office during noon hour

In all cases where any officer named herein has no regularly appointed deputy provided by this title and paid by the county at the same time and in the same manner that his principal is paid, he shall be permitted to close his office during the hour from 12 o'clock noon to and until 1 o'clock p.m.

The judges of the superior court must have chambers at the county seat and must establish such rules and hours for official business as may be necessary for the dispatch thereof. Judges of superior court

CHAPTER 164

An act to add Section 557.1 to the Military and Veterans Code, relating to the organization of licensed military companies. Stats 1935, p. 1338, amended

[Approved by Governor April 19, 1943. Filed with Secretary of State April 19, 1943.] In effect August 4, 1943

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

SECTION 1. Section 557.1 is added to the Military and Veterans Code, to read: New section See also Stats 1943, Ch 295

557.1. Except as prohibited by the Federal laws permitting the organization of the militia in the several States and the regulations of the Secretary of War prescribed pursuant thereto, the Governor is authorized to provide for the enlistment, organization, training and equipment of special licensed military companies to be composed of men ranging in height from four feet six inches to four feet eleven inches. Military companies of short men

The cost of the organization, equipment and maintenance of such companies shall be paid from any appropriation made for the support of the State Guard, or in the event the State Guard is abolished, from any appropriation made for the support of such other military organization as may be established in its place. Support

CHAPTER 165

An act to amend Section 1028 of the Code of Civil Procedure, relating to award of costs against the State.

[Approved by Governor April 20, 1943. Filed with Secretary of State April 20, 1943.] In effect August 4, 1943

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

SECTION 1. Section 1028 of the Code of Civil Procedure is amended to read: Stats. 1933, p. 1836

1028. Notwithstanding any other provisions of law, when the State is a party, costs shall be awarded against it on the same basis as against any other party and, when awarded, must be paid out of the appropriation for the support of the agency on whose behalf the State appeared. Costs when State is a party

CHAPTER 166

Stats 1943, Ch 134

An act to amend Section 996 of the Political Code and Section 1770 of the Government Code, relating to an office becoming vacant.

In effect August 4, 1943

[Approved by Governor April 20, 1943. Filed with Secretary of State April 20, 1943.]

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

1872 Code See also Stats 1943, Ch 134

SECTION 1. Section 996 of the Political Code is hereby amended to read as follows:

Vacancies in office

996. An office becomes vacant on the happening of either of the following events before the expiration of the term:

1. The death of the incumbent;

2. His insanity, when determined by a final judgment or final order of a court of competent jurisdiction;

3. His resignation;

4. His removal from office;

5. His ceasing to be an inhabitant of the State, or if the office be local, of the district, county, city or township for which he was chosen or appointed, or within which the duties of his office are required to be discharged;

6. His absence from the State without permission of the Legislature beyond the period allowed by law;

7. His ceasing to discharge the duties of his office for the period of three consecutive months, except when prevented by sickness, or when absent from the State by permission of the Legislature;

8. His conviction of a felony, or of any offense involving a violation of his official duties;

9. His refusal or neglect to file official oath or bond within the time prescribed;

10. The decision of a competent tribunal declaring void his election or appointment.

11. His commitment to a hospital or sanitarium by a court of competent jurisdiction as a drug addict, dipsomaniac, inebriate or stimulant addict; provided, that the office shall not be deemed vacant until the order of commitment has become final.

Note.—See Stats. 1943, Ch. 134.

Effect Stats 1943, Ch 134

SEC. 3. Section 2 of this act becomes operative only if the Government Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as the Government Code takes effect, at which time Section 996 of the Political Code amended by this act is repealed.

Repeal

CHAPTER 167

An act to add Section 651.3 to the Fish and Game Code, relating to salmon.

Stats 1933, p 394, amended

[Approved by Governor April 20, 1943. Filed with Secretary of State April 20, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 651.3 is added to the Fish and Game Code, to read:

New section

651.3. In District 1, in that part of the Mokelumne River from its mouth to the Woodbridge Dam, salmon may be taken by angling between May 29th and December 31st. The bag limit is two per day.

Salmon fishing Mokelumne River

CHAPTER 168

An act to add Sections 89.5, 89.6, 89.7 and 89.8 to the Agricultural Code, relating to the powers and duties of district agricultural associations, and the use of county fair property and declaring the urgency thereof and providing that this act shall take effect immediately.

Stats 1933, p 60, amended

[Approved by Governor April 20, 1943. Filed with Secretary of State April 20, 1943.]

In effect immediately

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

SECTION 1. Section 89.5 is added to the Agricultural Code, to read:

New section

89.5. In addition to the purposes and powers of district agricultural associations including associations described in Section 94 of this article as set forth in this article, each association, may use or permit the use of any property, real or personal, owned, managed, or controlled by it, for the purpose of agricultural labor camps or for military purposes during the calendar years 1943, 1944, and 1945. Each association may, with the approval of the Department of Finance, expend any moneys apportioned or otherwise available to it under this article in making necessary alterations, arrangements, or use of such property to accomplish this purpose and in maintaining these agricultural labor camps when established. Any income received by an association from the operation of agricultural labor camps or for use of such property for military purposes shall be retained by the association for its use for any of the purposes of the association. The Department of Finance may advance moneys in accordance with Section 92 to any association and any advancements may be expended for the purposes set forth in this section.

District agricultural associations may use property for labor camps

New section

SEC. 2. Section 89.6 is added to the Agricultural Code, to read:

County fair property may be used for labor camps

89.6. The board of supervisors of any county may use or permit the use of any property, real or personal, owned, managed, or controlled by the county for fair purposes, for the purpose of agricultural labor camps during the calendar years 1943, 1944 and 1945. Each county may, with the approval of the State Department of Finance, expend any moneys apportioned or otherwise available to it under this article in making necessary alterations, arrangements, or use of such property to accommodate this purpose and in maintaining these agricultural labor camps when established. Any income received by a county from the operation of agricultural labor camps may be used only to accommodate this purpose or for fair purposes. The Department of Finance may advance moneys in accordance with Section 92 to any county and any advancements may be expended for the purposes set forth in this section.

New section

SEC. 3. Section 89.7 is added to the Agricultural Code, to read:

Approval of California Farm Production Director

89.7. No funds or property may be used or be permitted to be used for agricultural labor camps pursuant to Sections 89.5 or 89.6 after the California Food and Fiber Production Act takes effect except with the approval of the California Farm Production Director appointed pursuant to said act, nor prior to the time said act takes effect except with the approval of the Director of Agriculture.

New section

SEC. 4. Section 89.8 is added to the Agricultural Code, to read:

Definition of "agricultural labor camps"

89.8. As used in Section 89.5 and 89.6, the term "agricultural labor camps" includes student harvest camps and any and all camps for persons engaged in agricultural labor.

Urgency

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

Due to the disruption of the normal agricultural labor supply caused by the entrance into the armed services of large numbers of persons formerly engaged in agricultural pursuits and to the removal from the agricultural areas of the State of those of Japanese descent, additional facilities to care for migratory agricultural labor are imperative. It is essential that such facilities be provided at the earliest possible date to permit maximum production of agricultural products during the year 1943, and it is therefore declared that this act shall take immediate effect.

CHAPTER 169

An act making an appropriation for administrative expenses of the Department of Social Welfare, to take effect immediately.

[Approved by Governor April 20, 1943. Filed with Secretary of State April 20, 1943.] In effect immediately

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

SECTION 1. Out of any money in the State Treasury not otherwise appropriated, the sum of fifty thousand dollars ($50,000) is hereby appropriated for the administrative expenses of the Department of Social Welfare in addition to, and in augmentation of, the appropriation contained in Chapter 878, Statutes of 1941, to be expended during the Ninety-fourth Fiscal Year. Appropriation Department of Social Welfare

SEC. 2. This act, inasmuch as it makes an appropriation for the usual current State expenses, shall under provision of Section 1 of Article IV of the Constitution take effect immediately. Current expenses

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CHAPTER 170

An act to amend Section 307 of the Agricultural Code, relating to meat. Stats 1933, p. 60, amended

[Approved by Governor April 21, 1943. Filed with Secretary of State April 21, 1943.] In effect August 4, 1943

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

SECTION 1. Section 307 of the Agricultural Code is amended to read: Stats 1941, p. 2213

307. Nothing in this article restricts or prohibits: Exemptions from inspection

(a) A live stock producer from slaughtering animals on his own premises that are a part of his own herd for his own consumption or from disposing of the carcasses and products of those animals thus slaughtered; provided, they can be identified as such, and are sound, healthful, wholesome, and fit for human food, and are disposed of in his locality; when cattle, sheep, swine or goats are sold by said producer in the vicinity where produced and slaughtered there shall be attached to said meat or meat products a statement giving substantially the following:

I hereby certify that the uninspected meat (or meat products as the case may be) to which this certificate is attached is from animals slaughtered by the undersigned, a farmer, on his farm and that at this date it is sound, healthful, wholesome, and fit for human food. Certificate

(b) A live stock producer or dairyman from slaughtering upon his own premises calves under the age of eight months

which are the actual increase of his own herd, if the calves are accompanied by a certificate of ownership, offered for inspection at any point where inspection is maintained in accordance with regulations issued by the director, and are marketed by whole carcass with hide on.

(c) The slaughter of animals of the bovine species under the age of eight months in establishments located in counties where meat inspection is not mandatory and which meet the sanitary requirements of the department and shipment thereof to counties where State inspection or approved municipal or county inspection is maintained, and said animals so slaughtered shall there be inspected and the carcasses stamped.

(d) Any butcher located in a remote section of a county in which the inspection provisions of this article are mandatory, when in the opinion of the director it is impractical or impossible to assign an inspector, may, upon written application, be granted an exemption certificate to be used in accordance with the regulations of the director; provided, that the meat of animals slaughtered in accordance with such exemption shall be offered for sale only in the immediate locality where the animals were slaughtered. The certificate must be renewed the first day of January of each year. Should facilities for inspection become available at any time, the director is empowered to withdraw such exemption certificate. The director is also empowered to withdraw such exemption certificate when, in his opinion, the person to whom the same is issued has not complied with the rules and regulations pertaining to the use thereof.

(e) The producer or owner of meats from curing or smoking or grinding or having cured or smoked or ground in his behalf such meats or portions thereof when same are for use for purposes other than sale; provided, however, that any meats or portions thereof referred to in this paragraph which have originated from any carcass which has not been officially inspected shall not be cured or smoked or ground in an establishment wherein Federal, State or municipal meat inspection is maintained. The operator of an establishment who cures, smokes, or grinds meat for a producer or owner of such meat shall report quarterly to the director the amount and kind of meat cured, smoked or ground during the quarter for each producer or owner. Such report shall give the name and address of each person for whom such meat is cured, smoked or ground.

CHAPTER 171

An act to amend Section 1401 of the Elections Code, relating to initiative measures, the submission of a draft thereof to the Attorney General for the preparation of a summary thereof, and the payment of a fee therefor.

Stats 1939, p 49, amended

[Approved by Governor April 21, 1943. Filed with Secretary of State April 21, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 1401 of the Elections Code is amended to read:

Stats 1939, p 49

1401. The proponents of any proposed initiative measure, prior to circulating any petition for signatures thereon, shall submit a draft of the petition to the Attorney General with a request that he prepare a summary of the chief purposes and points of the proposed measure. The Attorney General shall prepare the summary in the manner provided for the preparation of ballot titles in Article 2 of this chapter, the provisions of which in regard to the preparation, filing, and settlement of titles and summaries are hereby made applicable thereto. The title and summary shall not exceed 100 words in all.

Preparation of summary by Attorney General

The proponents of any such initiative measure shall, at the time of submitting the draft thereof to the Attorney General, accompany the same with a fee of two hundred dollars ($200), such fee to be placed in a trust fund in the Office of the State Treasurer to be refunded to the proponents if, within two years from the date such summary is furnished to the proponents, such measure qualifies for the ballot. Otherwise such fee shall be forthwith paid into the General Fund of the State.

Fee

CHAPTER 172

An act to add Chapter 7 to Division 4 of the Public Resources Code, relating to the cutting of immature trees for lumber.

Stats 1939, p 1067, amended

[Approved by Governor April 21, 1943 Filed with Secretary of State April 21, 1943.]

In effect August 4, 1943

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

SECTION 1. Chapter 7, consisting of Sections 4850 to 4853, inclusive, is added to Division 4 of the Public Resources Code, to read:

New chapter

CHAPTER 7. LOGGING PERMITS

4850. It is unlawful to cut for conversion into lumber any sound live coniferous tree that is less than 18 inches in average diameter measured outside of the bark at a point on

Unlawful to cut certain trees without permit

the trunk six inches above the general level of the ground surrounding the tree, in that part of California lying north of the 6th Parallel, South, unless a permit so to do is first obtained from the State Forester as provided in this chapter.

This chapter shall not apply to the cutting of trees less than 18 inches in diameter to complete contracts entered into prior to the time this chapter becomes effective.

"Lumber" defined

4851. "Lumber," as used in this chapter, means products of the forest that are processed into boards, planks or timbers by sawing three or more sides lengthwise of the piece.

Permits

4852. The State Forester shall issue a permit to cut trees of lesser diameter than that specified in the next preceding section if, on the basis of facts presented to him or from data, information, and records available to him, he finds either of the following to be true:

(a) That the cutting of such trees would improve forest growth conditions on the land where the trees are proposed to be cut.

(b) The land on which such trees are to be cut is thereafter to be devoted to purposes other than forest growth.

Applications

4853. Applications for permits under this chapter shall be in such form and shall contain such information and data as the State Forester may prescribe.

Penalty

4854. The violation of any provision of this chapter is a misdemeanor.

CHAPTER 173

An act to amend the title of Chapter 1 of Title 5 of Part 3 of the Penal Code and to add Section 4502 to the Penal Code, relating to possession of deadly weapons by prisoners.

In effect August 4, 1943

[Approved by Governor April 21, 1943. Filed with Secretary of State April 21, 1943.]

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

Stats. 1941, p. 1080

SECTION 1. The title of Chapter 1 of Title 5 of Part 3 of the Penal Code is hereby amended to read as follows:

CHAPTER 1. OFFENSES BY PRISONERS

New section

SEC. 2. Section 4502 is hereby added to the Penal Code, to read as follows:

Felony for prisoner to possess weapon

4502. Every prisoner committed to a State prison who, while at such State prison or any other State prison or while being conveyed to or from any State prison or while at any prison road camp, prison forestry camp, or other prison camps

or prison farms or while being conveyed to or from any such place or while under the custody of prison officials, officers or employees, possesses or carries upon his person or has under his custody or control any instrument or weapon of the kind commonly known as a black-jack, slung-shot, billy, sandclub, sandbag, or metal knuckles or any explosive substance or any dirk or dagger or sharp instrument, or any pistol, revolver or other firearm, is guilty of a felony and shall be punishable by imprisonment in a State prison for a term not less than five (5) years.

CHAPTER 174

An act to amend Section 801 of the Probate Code, relating to bond on sale of contract to purchase.

Stats. 1931, p. 587, amended

[Approved by Governor April 21, 1943. Filed with Secretary of State April 21, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 801 of the Probate Code is amended to read:

Stats 1931, p. 587

801. The sale must be made subject to all payments which are due at the time of sale or which may thereafter become due on such contract, and if there are any such, the sale must not be confirmed by the court until the purchaser executes a bond to the executor or administrator for the benefit and indemnity of himself and of the persons entitled to the interest of the decedent in the lands so contracted for, in double the whole amount of payments then due and thereafter to become due on such contract, with such sureties as the court or judge shall approve. The bond must be conditioned that the purchaser will make all payments for such property which are then due or which become due after the date of the sale, and will fully indemnify the executor or administrator and the persons so entitled against all demands, costs, charges and expenses, by reason of any covenant or agreement contained in such contract. Such bond need not be given when no claim has been made against the estate upon the contract and the time for filing or presenting claims has expired, nor need such bond be given if the person entitled to payment under such contract waives all recourse to the assets of the estate for such payment and releases the estate and the executor, or administrator from liability therefor.

Sale subject to claims, etc.

Bond

CHAPTER 175

Stats 1943, Ch 71, amended

An act to amend Section 2102 of the Education Code, relating to city boards of education.

In effect August 4, 1943

[Approved by Governor April 21, 1943. Filed with Secretary of State April 21, 1943.]

Note.—See Stats. 1943, Ch. 71.

CHAPTER 176

An act to amend Section 4076a of the Political Code, relating to procedure for audit allowance and payment or rejection of claims in counties.

In effect August 4, 1943

[Approved by Governor April 21, 1943. Filed with Secretary of State April 21, 1943.]

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

Stats 1941, p 2101

SECTION 1. Section 4076a of the Political Code is amended to read:

Audit and allowance of claims

4076a. In any county the board of supervisors may, by resolution, adopt the procedure prescribed in this section.

When the purchase or furnishing of articles and services or articles or services and the cost thereof have been authorized by purchase orders issued by the purchasing agent or other officer authorized by the board of supervisors to issue purchase orders, or when such purchase or furnishing of articles and services or articles or services have been authorized by contract, lease, ordinance, resolution or order of the board of supervisors, or when expenditures under the Welfare and Institutions Code have been ordered by the board of supervisors, claims therefor shall be audited and allowed by the county auditor and the allowance of such claims by the board of supervisors or the members thereof shall be dispensed with, except as hereinafter provided, and the allowance of such claims by the auditor shall be in lieu of and shall have the same force and effect as the allowance thereof by the board of supervisors or the members thereof. The auditor shall issue his warrant on the county treasury for such an amount for each of such claims as he shall find to be a correct and legal county charge; he shall not so issue his warrant for any claim that has not been on file in his office for at least three days.

When the auditor finds that any claim presented is a proper county charge, but is greater in amount than is justly due, he may allow the claim in part and issue his warrant for the portion allowed. If the claimant is unwilling to receive such amount in full payment, he shall return the warrant to the county auditor within 30 days after the tender thereof, together with his written refusal to accept such amount in

full payment of the claim. The auditor shall immediately transmit the claim to the board of supervisors, together with a statement of his action thereon, his reasons therefor, and claimant's said refusal. The board shall consider such claim within 10 days thereafter and may allow such an amount in payment thereof as is a proper county charge, not in excess of the amount originally claimed, and the auditor shall issue his warrant therefor.

When the auditor finds that any claim presented is not payable by the county, or is not a proper county charge, he must reject such claim and must endorse his rejection thereon. He shall transmit to the board of supervisors, at least once each week, reports of all claims rejected by him and not previously so reported, showing, as to each such claim: Date, fund, name of claimant, amount, and reason for rejection.

The auditor shall prepare duplicate lists of all claims allowed in accordance with this section, showing, as to each claim: Date allowed, fund, warrant number, name of claimant and amount allowed; he shall certify that such lists are correct, shall file one copy thereof in the office of the board of supervisors and shall preserve the other in his own office; such lists shall, as to such claims, constitute, respectively, the allowance book and the warrant book, within the meaning of Section 4039 of this code.

The board of supervisors shall prescribe, by resolution, the procedure for the filing, audit and disposition of claims to which this section relates and shall provide that the auditor shall require the certificates of the authorized requisitioning, inspecting or receiving officers that the articles and services or articles or services have been received or furnished.

CHAPTER 177

An act to amend Section 345 of the Code of Civil Procedure, relating to limitation of actions.

[Approved by Governor April 21, 1943. Filed with Secretary of State April 21, 1943.] In effect August 4, 1943

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

SECTION 1. Section 345 of the Code of Civil Procedure is amended to read: Stats. 1921, p. 722

345. The limitations prescribed in this chapter apply to actions brought in the name of the State or county or for the benefit of the State or county, in the same manner as to actions by private parties, except that actions for the recovery of money due on account of the support of patients at State or county hospitals may be commenced at any time within four years after the accrual of the same. Action by State or county

CHAPTER 178

Stats 1943, Ch 71, amended

An act to amend Sections 3.30 and 3.33 of the School Code and to amend Sections 8121 and 8122 of the Education Code, relating to the closing of schools and postponement of openings, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor April 21, 1943. Filed with Secretary of State April 21, 1943.]

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

Sch C, 1929, p 108 See also Stats 1943, Ch 71 Closing schools for wartime harvest

SECTION 1. Section 3.30 of the School Code is amended to read:

3.30. During the continuance of a state of war between the United States of America and any foreign power, the Superintendent of Public Instruction, with the approval of the Governor, shall have power, whenever in his opinion such step is necessary for the planting or harvesting of crops or for other agricultural or horticultural purposes and is for the welfare of the State, to make an order closing for such time as may be specified therein, any or all educational institutions supported wholly or in part by the State, or any grade or class thereof, and may, in like manner, by similar order, postpone the opening of any or all such educational institutions, or any grade or class thereof, during the continuance of a state of war.

Sch C, 1929, p 108 See also Stats 1943, Ch 71 Applicability, modification, etc, of order

SEC. 2. Section 3.33 of the School Code is amended to read:

3.33. An order issued under the provisions of this article may be made applicable to such district, city, city and county, county or group of any thereof, as the Superintendent of Public Instruction may determine and specify therein, and may be altered, amended, or rescinded from time to time.

Note.—See Stats. 1943, Ch. 71.

Effect Stats 1943, Ch 71

SEC. 5. Sections 3 and 4 of this act become operative only if the Education Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said Education Code takes effect, at which time Sections 3.30 and 3.33 of the School Code amended by this act are repealed.

Repeal

Urgency

SEC. 6. This act is hereby declared to be an urgency measure necessary for the immediate preservation of public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

Teachers and pupils have proven themselves to be valuable elements in the labor necessary to provide food for victory. The ordinary requirements for the opening and closing of schools seriously interfere with the service which may be rendered by the teachers and pupils. The shortage of agricultural labor is becoming increasingly serious and it is essential that

teachers and pupils be available immediately to perform some of the necessary work to be done. The Superintendent of Public Instruction who is in close contact with the schools of the State should be given authority to regulate the opening and closing of schools during the existence of war.

CHAPTER 179

An act to add Section 6 to an act entitled "An act authorizing the creation of a personnel system, merit system, or civil service system in cities; the creation of the office of personnel director; the appointment of a civil service commission; the delegation of certain authority to said personnel officer or commission in municipalities within this State; and prohibiting certain political activities and providing penalties for the violation of said provisions," approved April 11, 1935, relating to war emergency appointments, declaring the urgency thereof, to take effect immediately.

Stats 1935, p 380, amended

[Approved by Governor April 21, 1943. Filed with Secretary of State April 21, 1943.]

In effect immediately

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

SECTION 1. Section 6 is added to the act cited in the title, to read:

New section

Sec. 6. Notwithstanding the other provisions of this act, the legislative body of any municipality which has adopted a personnel, merit, or civil service system may during the war emergency provide for the emergency employment of any person or persons, to fill any offices or positions of employment in such municipality, without requiring that such person or persons shall be subject to the requirements, regulations, and qualifications of the personnel, merit, or civil service system so adopted by such municipality. No such emergency appointee shall acquire civil service or other permanent status because of such emergency appointment. The legislative body may prescribe that if such emergency appointee shall have been selected from an eligible list and was otherwise eligible and qualified for permanent appointment he may acquire such rights as may be expressly provided for under such rules and regulations as may be adopted hereunder.

Emergency employment

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

Urgency

Military and naval authorities have drafted into the armed forces of the United States many qualified officials and employees of municipalities.

There is a shortage of qualified persons to meet the requirements of personnel, merit and civil service systems. It is desirable as public policy that public officials now serving in the armed forces of the United States, be reinstated in their former positions upon their return to civil life.

It is necessary to employ during the war emergency temporary officers and employees to carry on the activities of municipalities, all for the public peace, health and safety.

CHAPTER 180

Stats 1925, p 648, amended

An act to amend Section 7a of the Municipal Court Act of 1925, relating to attaches.

In effect August 4, 1943

[Approved by Governor April 21, 1943. Filed with Secretary of State April 21, 1943.]

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

Stats 1941, p 1653

SECTION 1. Section 7a of the act cited in the title hereof is amended to read:

Municipal courts in Los Angeles: Deputies and clerks

Sec. 7a. The clerk of the municipal court in cities of the first and one-half class shall appoint the following deputies and attaches who shall each receive as monthly compensation the sum set opposite the title of their respective offices or positions:

One deputy clerk (chief clerk, traffic department), three hundred fifty dollars ($350);

One deputy clerk (chief clerk, civil department), three hundred fifty dollars ($350);

One deputy clerk (chief clerk, criminal department), three hundred fifty dollars ($350);

Three deputy clerks, two hundred seventy-five dollars ($275);

One deputy clerk (chief clerk, accounting department), three hundred fifty dollars ($350);

One deputy clerk (secretary of the court who shall also act as jury commissioner), three hundred fifty dollars ($350);

Thirty-seven deputy clerks, two hundred fifty dollars ($250);

Two deputy clerks, two hundred twenty-five dollars ($225);

Nineteen deputy clerks, two hundred dollars ($200);

Eight deputy clerks, one hundred eighty-five dollars ($185);

Thirty-six deputy clerks, one hundred seventy-five dollars ($175);

Thirty-two deputy clerks, one hundred fifty-five dollars ($155);

Four deputy clerks, one hundred fifty dollars ($150);

In addition to the salaries in this section above provided, the clerk and deputy clerks shall be allowed their necessary traveling expenses not exceeding six cents ($0.06) per mile, when

the business of the court shall require them to travel from the principal office of the clerk or from one division of said court, to another division thereof situated at a greater distance than five miles from the point of departure.

CHAPTER 181

An act to amend Section 1461a of the Penal Code, relating to procedure in municipal courts.

[Approved by Governor April 21, 1943. Filed with Secretary of State April 21, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 1461a of the Penal Code is hereby amended to read as follows:

Stats. 1935, p. 2181

1461a. The procedure to be followed in misdemeanor cases filed in municipal courts, over which such courts have jurisdiction, shall be the same as that provided for in this chapter for proceedings in justices' and police courts, as specifically provided in Sections 1426 to 1460, inclusive (except Sections 1431 and 1432), in so far as the same may be applicable to such municipal courts except where other provisions of law provide for different procedure in municipal courts in such cases, in which event such other provisions shall control.

Municipal courts. Procedure

All of the provisions of this code relating to rights, duties, powers, and procedure in jury trials in superior courts which are by their nature capable of application to jury trials in municipal courts shall be applicable to jury trials in criminal cases in municipal courts.

Jury trials

CHAPTER 182

Stats. 1929, p. 1038

An act to release The Regents of the University of California from all obligations assumed by said The Regents of the University of California pursuant to the provisions of Sections 1, 2 and 3 of an act entitled, "An act appropriating five hundred twenty-five thousand dollars ($525,000) to be used and expended by The Regents of the University of California for the construction and equipment of a building or buildings on the site of the University of California at Los Angeles; providing that none of said money shall be drawn or expended until said The Regents shall deliver to the Chairman of the Department of Finance an obligation binding said The Regents (a) to set aside for sale certain real property in Los Angeles owned by said The Regents; (b) not to use or permit to be used the same so as to interfere with or prevent its sale, provided, that said The Regents may lease the whole or part of said property for periods of not more than six months; (c) to sell parts or parcels of said property or the whole at such prices and on such terms and conditions as said The Regents with approval of the Department of Finance shall fix; (d) to pay over to the State treasury all sums received from sales or rentals, less the costs of selling and leasing and the necessary costs of care and maintenance of said real property; providing that on sale of the last part or the whole of said real property and payment of all moneys agreed to be paid into the State treasury by said The Regents, the Chairman of the Department of Finance shall deliver to said The Regents a written acknowledgment that all requirements of said The Regents' obligation have been performed and further providing that said The Regents shall thereupon be discharged of every duty and requirement in the premises, declaring the urgency thereof and providing that this act shall take effect immediately," approved May 31, 1929, assenting to the conveyance to the State of California by The Regents of the University of California of certain real property in the City of Los Angeles, providing for the transfer to the State of California of leases and contracts of sale affecting said real property, and providing for the sale of such property by the State.

In effect August 4, 1943

[Approved by Governor April 21, 1943. Filed with Secretary of State April 21, 1943.]

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

Declaration of purpose

SECTION 1. Chapter 625, Statutes of 1929 contained an appropriation to The Regents of the University of California to be used and expended for the purposes in Section 1 of said Chapter 625, Statutes of 1929 specified. The expenditure of said appropriation was conditioned upon the execution by The Regents of the University of California and the delivery to the Chairman of the Department of Finance of an instrument

in writing, binding said The Regents, among other things, (a) to set aside for sale certain real property then owned by The Regents of the University of California, situate in the City of Los Angeles, County of Los Angeles, State of California, and more particularly described in Section 2 of this act, (b) from time to time to sell parts of said real property, or the whole at one time, at prices and upon terms and conditions to be fixed by said The Regents with the approval of the Department of Finance, (c) to pay over to the State treasury all sums received as the sale price of said real property and as rental for the same, less the cost and expenses of every sale and leasing of said property or parts thereof, and less also the necessary cost and expense of the care and maintenance thereof. By an instrument in writing dated the eighteenth day of June, 1929, The Regents of the University of California assumed the obligations required by the provisions of Chapter 625, Statutes of 1929 to be by said The Regents assumed, and the Legislature and The Regents of the University of California now deem it to be to the best interests of the people of the State of California and The Regents of the University of California to have the hereinabove mentioned and hereinafter described real property conveyed to the State of California and said The Regents released from the hereinabove mentioned obligations.

Execution and delivery of release

SEC. 2. The Director of Finance is hereby authorized and directed to execute in the name of the State of California and deliver to The Regents of the University of California an instrument in writing releasing the said The Regents of the University of California from the written obligation dated the eighteenth day of June, 1929, executed by the said The Regents of the University of California and delivered to the Chairman of the Department of Finance of the State of California pursuant to the provisions of Section 2 of the act cited in the title hereof; provided that contemporaneously with the execution and delivery by the Director of Finance to the said The Regents of the University of California of the hereinabove mentioned instrument of release, The Regents of the University of California shall execute and deliver to the State Lands Commission a deed conveying to the State of California all of those certain lots, pieces or parcels of land situate, lying and being in the City of Los Angeles, County of Los Angeles, State of California, and more particularly described as follows:

Deed

Lots twenty-three (23), twenty-four (24), twenty-five (25), twenty-six (26), twenty-seven (27), twenty-eight (28), thirty (30), thirty-one (31), thirty-two (32), thirty-seven (37), thirty-eight (38), forty (40), forty-two (42), forty-three (43), forty-four (44), forty-six (46), forty-eight (48), ninety-five (95), ninety-six (96), ninety-seven (97), ninety-eight (98), ninety-nine (99), one hundred (100), one hundred one (101), one hundred two (102), one hundred four (104), one hundred six (106), one hundred seven (107), one hundred eight (108), one hundred nine (109), one hundred ten (110), one

hundred eleven (111), one hundred twelve (112), one hundred fourteen (114), one hundred fifteen (115), one hundred sixteen (116), one hundred seventeen (117), one hundred eighteen (118), one hundred nineteen (119), one hundred twenty (120), one hundred twenty-one (121), one hundred twenty-two (122), all in tract No. 1206 as said tract is shown on map recorded in book eighteen, page one of maps, in the office of the county recorder of Los Angeles County, excepting a strip 10 feet wide along the easterly edge of lots twenty-three (23), twenty-four (24), twenty-five (25), twenty-six (26), twenty-seven (27), twenty-eight (28), thirty (30), thirty-one (31), and thirty-two (32);

and shall assign to the State of California all leases and contracts of sale affecting said real property; provided further, that any such leases and contracts of sale shall meet with approval of the Department of Finance.

Assent

SEC. 3. The State of California hereby assents to the conveyance to it by The Regents of the University of California of the hereinabove mentioned lots, pieces or parcels of land, and authorizes the Director of Finance, in the name of the State, to accept the conveyance thereof.

Release from obligations

SEC. 4. Upon the execution and delivery to The Regents of the University of California by the Director of Finance of the instrument of release hereinabove in Section 2 of this act mentioned, the said The Regents of the University of California shall be forever freed and discharged of any and every duty and requirement arising under and from the hereinabove mentioned obligation dated the eighteenth day of June, 1929, entered into as required by the provisions of Section 2 of the act cited in the title hereof, and from every duty and requirement arising under and from the provisions of Sections 1, 2 and 3 of said act.

Authority to sell

SEC. 5. The State Lands Commission, upon receipt of the deed specified in Section 2 of this act, is authorized, with the approval of the Department of Finance, to sell all or any

Proceeds

portion of said real property. Any moneys received from the sale of said property, after deducting any expenses or cost incident to such sale, shall be deposited in the State treasury for credit to the General Fund.

CHAPTER 183

An act to amend Section 261 of the Code of Civil Procedure, relating to salaries of court commissioners.

In effect August 4, 1943

[Approved by Governor April 21, 1943. Filed with Secretary of State April 21, 1943.]

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

Stats 1939, p 1007

SECTION 1. Section 261 of the Code of Civil Procedure is amended to read:

Court commissioners: Salaries

261. In any county or city and county having a population of 900,000 or over in which the superior court shall

appoint eight court commissioners, each commissioner shall receive a salary of five thousand six hundred dollars ($5,600) per annum. The salaries in this section provided for shall be paid in monthly installments out of the salary fund of the county or city and county, or if there be no salary fund, then out of such fund as other salary demands against the county or city and county are paid, and shall be allowed and audited in the same manner as other salary demands against said county or city and county are required by law to be allowed and audited.

CHAPTER 184

An act to amend Sections 864 and 885 of an act entitled "An act to provide for the organization, incorporation, and government of municipal corporations," approved March 13, 1883, relating to cities and towns of the sixth class.

Stats 1883, p 93, amended

[Approved by Governor April 21, 1943. Filed with Secretary of State April 21, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 864 of the act cited in the title hereof is amended to read:

Stats 1933, p 1318

Sec. 864. All demands against such city shall be presented, in accordance with such regulations as the city council may by ordinance prescribe; provided, that the same are hereby required to be audited by the city council and upon the allowance of any such demand, the mayor shall draw a warrant upon the city treasurer for the same, which warrant shall be countersigned by the city clerk, and shall specify for what purpose the same is drawn, and out of what fund it is to be paid. The time and method of payment of salaries and wages of officers and employees may be prescribed by ordinance or resolution. Pay roll warrants drawn in compliance with such ordinances or resolutions need not be audited by the city council prior to payment; provided, that departmental pay rolls or attendance records are duly certified for payment or approved by the respective department heads as to employees in their respective departments, and by the city clerk as to all other officers and employees. Pay rolls duly certified to as aforesaid are to be presented to the city council for ratification and approval at the first or any regular meeting of the city council succeeding the delivery of such pay roll warrants.

Presentment, audit and payment of claims

SEC. 2. Section 885 of said act is amended to read:

Stats 1933, p 1318

Sec. 885. All moneys belonging to or collected or received for the use of such city by any officer or employee thereof shall immediately be deposited into the treasury in such manner as the city council shall prescribe by ordinance for the benefit of the funds to which such moneys respectively belong. Every

Deposit of funds

Reports

officer or employee collecting or receiving any such moneys shall report to the city clerk for the same on the first Monday in each month or at such shorter intervals as may be prescribed by ordinance. The city council may prescribe by ordinance or resolution for the setting up of a treasurer's departmental trust fund into which the collections of the city court, police department, license collector, building inspector, etc., may be deposited by the respective officers at frequent intervals during each month, with advice thereof being furnished to the city treasurer by the respective officers or employees upon the making of each deposit. Withdrawals from such fund may be made by the city treasurer only on order signed by the proper department head and for the following purposes only:

Treasurer's departmental trust fund

Withdrawals

(1) The making of a refund of bail which has been exonerated or of other refundable deposits, revolving fund advances authorized by the city council, or for the correction of clerical or ministerial errors in the receipt of payments to the city.

(2) The making of settlements with city funds at the end of each calendar month for collections accumulated during the month.

CHAPTER 185

An act to amend Section 117d of the Code of Civil Procedure, relating to small claims court and the time for appearance therein.

In effect August 4, 1943

[Approved by Governor April 21, 1943. Filed with Secretary of State April 21, 1943.]

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

Stats 1935, p 2193

SECTION 1. Section 117d of the Code of Civil Procedure is hereby amended to read:

Time for appearance

117d. The date for the appearance of the defendant as provided in the order indorsed on the affidavit shall not be more than 30 days nor less than three days from the date of said order. When the justice or clerk has fixed the date for the appearance of the defendant he shall inform the plaintiff of said date and at the same time order the plaintiff to appear on said date and to have with him his books, papers and witnesses necessary to prove his claim. If the order is not served upon the defendant within the time specified in this code for the service of such order the plaintiff may apply to the justice or clerk or deputy clerk for a new order setting a new date for the appearance of the defendant which shall not be more than 30 days nor less than three days from the date of the issuance of the new order.

Order

CHAPTER 186

An act to amend Section 117 of the Code of Civil Procedure, relating to the jurisdiction and venue of the small claims court.

[Approved by Governor April 21, 1943. Filed with Secretary of State April 21, 1943.] In effect August 4, 1943

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

SECTION 1. Section 117 of the Code of Civil Procedure is hereby amended to read: Stats 1933, p. 1806

117. All justices of the peace, and judges of the municipal court in any city or city and county in which a municipal court is established, and in which no other court inferior to the superior court is established, shall exercise the jurisdiction conferred by this chapter, and while sitting in the exercise of said jurisdiction shall be known and referred to as the small claims court; provided, that the jurisdiction of such court, when sitting as a small claims court, shall be confined to cases for the recovery of money only where the amount claimed does not exceed fifty dollars ($50). Small claims court. Jurisdiction

When a defendant has contracted to perform an obligation in a particular township, city or city and county, an action founded on such obligation may be commenced and maintained either in the township, city or city and county where such obligation is to be performed, or in which the defendant, or any such defendant, resides at the commencement of the action. If the action be for injury to person, or to personal property, either the township where the injury occurs, or where the defendants or any of them, reside at the commencement of the action, shall be the proper township for the trial of the action. Venue

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CHAPTER 187

An act to validate the organization, boundaries, governing officers or boards, acts, proceedings, and bonds of districts organized under the California Water District Act. Stats. 1913, p. 815

[Approved by Governor April 21, 1943. Filed with Secretary of State April 21, 1943.] In effect August 4, 1943

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

SECTION 1. All water districts heretofore organized and functioning under, or under color of "The California Water District Act" (approved June 13, 1913, California Stats. 1913, p. 815) as amended are hereby declared to have been legally organized and to be legally functioning as such water districts. Every such water district shall have all the rights, powers, and privileges, and be subject to all the duties and obligations of such a water district regularly formed pursuant to law. Validation· Organization

Boundaries

SEC. 2. The boundaries of every such water district as heretofore established, defined, or recorded are hereby confirmed, validated, and declared legally established.

Officers

SEC. 3. In so far as any other matter to which this act relates is or may be affected, the members of the governing board or the governing officers of every such water district heretofore elected or appointed and acting as such, are hereby declared the legally appointed or elected, qualified and acting governing officers or members of such governing board.

Acts and proceedings

SEC. 4. All acts and proceedings heretofore taken by any such water district under any law, or under color of any law, for the issuance, sale, or exchange of bonds of any such water district for any public purpose are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of such water district and of any other public officer or agency heretofore done or taken in connection with any election upon the question of the issuance, sale, or exchange of such bonds if any election be required by law.

Bonds

All such bonds heretofore issued, or heretofore authorized to be issued when hereafter issued in substantially the form contemplated in such authorization, shall be, in the form and manner in which issued and delivered, the legal, valid and binding obligations of the water district.

Effect of statute

SEC. 5. (a) This act shall be limited to the correction of defects, irregularities, and ministerial errors in complying with statutory requirements which the Legislature originally could have omitted from the law under which such acts or proceedings were taken.

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

CHAPTER 188

Stats 1913, p. 815, amended

An act to amend Section 36 of, and to add Sections 8b and 9a to, the California Water District Act, relating to districts organized under said act, declaring the urgency of this act, to take effect immediately.

In effect immediately

[Approved by Governor April 21, 1943. Filed with Secretary of State April 21, 1943.]

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

New section

SECTION 1. Section 8b is added to the California Water District Act, to read:

Estimated amount of water sales

Sec. 8b. The board of directors may also include in any annual estimate such an amount as it anticipates will be derived from sales of water by the district pursuant to Section 36 of this act and be available as needed to discharge obligations of the district during the year next following, and such

amount shall not be included in the sum required to be raised by assessment for such year pursuant to Section 8 of this act.

Elimination of assessment

If, at the time any annual estimate is required to be filed, the board of directors anticipates that the amount derived from such sales of water or from other sources will be sufficient and available as needed to discharge all obligations of the district during the year next following, the board of directors, in lieu of filing such estimate may report to the board of supervisors that no assessment pursuant to Section 8 of this act will be required for such year and, in that event, no such assessment shall be levied.

New section

SEC. 2. Section 9a is added to said act, to read:

Exemption from Pol C, Sec 3714b

Sec. 9a. The provisions of Section 3714b of the Political Code are not applicable to districts heretofore or hereafter organized under this act and all assessments heretofore levied by any such district without compliance with said Section 3714b shall nevertheless be valid notwithstanding such non-compliance.

Stats 1931, p. 784

SEC. 3. Section 36 of said act is amended to read:

Sale of water

Sec. 36. In lieu in whole or in part of raising money for district purposes by assessment pursuant to Section 8 of this act, the board of directors of any district organized under this act on or after July 30, 1917, shall have the power to sell water to owners of land in the district and to fix rates for the sale of water, and such rates may vary in different months and in different localities of the district to correspond to the cost and value of the service, and to collect for all water sold and to use so much of the proceeds of the sale of water as may be necessary to defray the ordinary operating expenses of the district and any funds derived from the sale of water, in excess of the amount necessary for operating expenses, shall be applied by the treasurer of the district upon the payment of interest on bonds or to create a sinking fund.

Ratable apportionment

Notwithstanding anything contained in Section 29 of this act, water so sold to land owners shall be apportioned ratably to each land owner making application therefor under such rules and regulations as the board of directors may from time to time establish.

Urgency

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

Large areas of productive land within this State are within water districts organized under the California Water District Act and the fiscal affairs of such districts have an important bearing upon the production of essential food products in the areas involved. This bill amends and clarifies the law relating to assessments and charges for water in such districts and will permit the orderly conduct of the affairs of such districts in the public interest and unless this act takes immediate effect

the fiscal affairs of certain districts may become unnecessarily complicated so as to result in difficulties in operation which might seriously interfere with agricultural production in the areas affected.

CHAPTER 189

Stats 1933, p. 394, amended

An act to add Section 1347 to the Fish and Game Code, relating to elk.

In effect August 4, 1943

[Approved by Governor April 21, 1943. Filed with Secretary of State April 21, 1943.]

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

New section

SECTION 1. Section 1347 is added to the Fish and Game Code, to read:

Tule elk

1347. The commission may determine and fix the area or areas, the seasons and hours, the bag and possession limit, and the total number that may be taken during any open season for the taking of dwarf elk *(Cervus nannodes)* commonly known as tule elk under such rules and regulations as the commission may prescribe from time to time. Only citizens and bona fide residents of the State of California may apply for or obtain a license for the taking of said elk. The fee for said license is ten dollars ($10). The fees provided herein shall be deposited in the Fish and Game Preservation Fund, and shall be expended in addition to moneys provided in the budget for salaries of the Division of Fish and Game for the expense of enforcing the provisions of this section.

CHAPTER 190

Stats. 1939, p. 49, amended

An act to repeal Section 4535 of the Elections Code, relating to the filing of vouchers.

In effect August 4, 1943

[Approved by Governor April 22, 1943. Filed with Secretary of State April 22, 1943.]

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

Stats. 1939, p. 49

SECTION 1. Section 4535 of the Elections Code is repealed.

CHAPTER 191

An act to amend Section 800 of the Military and Veterans Code, relating to veterans.

Stats 1935, p 1338, amended

[Approved by Governor April 22, 1943. Filed with Secretary of State April 22, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 800 of the Military and Veterans Code is amended to read:

Stats. 1939, p 1729

800. As used in this chapter, unless the context otherwise requires:

Definitions

(a) "Veteran" means any citizen of the United States who has served on active duty in the Army, Navy, or Marine Corps of the United States in time of war and has received an honorable discharge therefrom or who has been released from active duty under honorable conditions and who was, at the time of his enlistment, induction, commission, or drafting, a native of or a bona fide resident of this State or who, if a minor at such time, had lived in this State for six months immediately preceding his enlistment, induction, commission or drafting, but does not include:

"Veteran"

(1) A person who was separated from such forces under other than honorable conditions at any time after April 5, 1917;

(2) A person who was separated from the military or naval forces on account of alienage at any time after April 5, 1917;

(3) A person who performed no military duty whatever or refused to wear the uniform;

(4) A person who has received from another State a bonus, compensation, or benefit, the prerequisite of which is service in the Army, Navy, or Marine Corps of the United States, which service is the basis for the claim for benefits under this chapter;

(5) A person who did not enter the military or naval forces of the United States prior to November 12, 1918, unless he was so serving on December 7, 1941, or so served at any time after December 7, 1941 and prior to the cessation of hostilities, as declared by the President or Congress of the United States, in the wars in which the United States was engaged on January 1, 1942.

(b) "Farm" means a tract of land, which, in the opinion of the board, is capable of producing sufficient to provide a living for the purchaser and his dependents.

"Farm"

(c) "Home" means a parcel of real estate upon which there is a dwelling house and such other buildings as will, in the opinion of the board, suit the needs of the purchaser and his dependents as a place of abode.

"Home"

"Purchaser" (d) "Purchaser" means a veteran or any person who has entered into a contract of purchase of a farm or home from the board.

"Purchase price" (e) "Purchase price" means the price which the board pays for any farm or home.

"Selling price" (f) "Selling price" means the price for which the board sells any farm or home.

"Initial payment" (g) "Initial payment" means the first payment to be made by a purchaser to the board for a farm or home.

CHAPTER 192

Stats 1933, p 60, amended

An act to amend Section 611 of the Agricultural Code, relating to oleomargarine.

In effect August 4, 1943

[Approved by Governor April 23, 1943. Filed with Secretary of State April 23, 1943.]

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

Stats 1941, p 2495

SECTION 1. Section 611 of the Agricultural Code is amended to read:

Imitation milk products License to handle

611. It is unlawful except as to oleomargarine sold, dealt in or furnished by a retail dealer to engage in the business or occupation of manufacturing, selling, dealing in or furnishing, or to have in possession for any purposes other than for consumption in his own family, or for transportation in case of a boat or railroad company, or for the purpose of storage in the case of a warehouse or cold storage company, (a) imitation milk, (b) oleomargarine, renovated butter or a substitute for butter, or (c) imitation cheese or substitute for cheese, (d) imitation ice cream or imitation ice milk, without first having applied for and obtained a license so to do. To engage in any such businesses or occupations, other than that of a retail dealer in oleomargarine, a person shall first apply each year to the department for a license, and upon payment of the license fee mentioned in Section 612 the department shall issue a license to engage in the business for which the license is issued. Separate licenses are required for each such business or occupation, except that no license shall be required of a retail dealer in oleomargarine.

All licenses pertaining to oleomargarine, renovated butter or substitute for butter shall contain the following proviso:

Provided, that this license does not authorize the holder thereof to manufacture, sell, deal in or furnish any oleomargarine, or any substitute for butter, which contains any coloring matter or which resembles yellow butter in appearance, except oleomargarine or substitutes for butter containing coloring matter or resembling butter which are manufactured, dealt in, sold, or furnished for export to points outside of the United States and the Territories and territorial possessions of the United States.

CHAPTER 193

An act to amend Sections 13600, 13607, 13610, 13652, 13655, 13656, 13687, 13727 and 13728 of the Health and Safety Code, and to repeal Sections 13513, 13609, 13611 and 13653 thereof, relating to spotting, sponging and pressing establishments.

Stats. 1939, p. 482, amended

[Approved by Governor April 24, 1943. Filed with Secretary of State April 24, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 13600 of the Health and Safety Code is amended to read:

Stats. 1941, p. 3037

13600. No person shall establish or operate a cleaning and dyeing shop or store, a spotting, sponging, or pressing establishment, or a private school or college of spotting, sponging, or pressing unless he has first made application to and obtained a certificate of registration and a license therefor from the State Fire Marshal.

Certificate of registration and license required

SEC. 2. Section 13607 of said code is amended to read:

Stats. 1941, p. 3037

13607. Not later than the first day of July in each year, every person who operates any of the following shall make written application to the State Fire Marshal, upon a blank to be prepared by the latter, for a license:

Renewal of license

(a) A cleaning and dyeing shop or store, or any agency thereof.

(b) A spotting, sponging, or pressing establishment, or any agency thereof.

(c) An agency of a clothes cleaning establishment, or any other agency.

(d) A private school or college of spotting, sponging, or pressing.

The application shall be accompanied by the annual license fee required by this chapter.

SEC. 3. Section 13610 of said code is amended to read:

Stats. 1939, p. 482

13610. A duplicate of any certificate of registration or license which has been lost or destroyed shall be issued to the person entitled to the certificate or license upon his sworn statement of the loss or destruction and the payment by him of the fee for a duplicate required by this chapter.

Lost or destroyed license

SEC. 4. Section 13652 of said code is amended to read:

Stats. 1941, p. 3037

13652. Each annual license fee shall cover a license period from the first day of July in any year to the thirtieth day of June in the following year, or any portion of any such license period during which the shop, store, establishment, agency, school, or college is operated, regardless of the date when the fee is paid.

Period covered

Stats. 1941, p. 3037
Fee schedule

SEC. 5. Section 13655 of said code is amended to read:

13655. The fees required by this chapter are those fixed by the following schedule:

(a) The application fee for investigation and examination is ten dollars ($10).

(b) The annual license fee for each cleaning and dyeing shop or store, and for each spotting, sponging, or pressing establishment, is six dollars ($6).

(c) The annual license fee for each agency is six dollars ($6).

(d) The annual license fee for each private school or college of spotting, sponging, or pressing is two hundred fifty dollars ($250).

(e) The fee for a duplicate certificate of registration, license, or license plate is one dollar ($1).

Stats 1941, p. 3037
Delinquent payment Penalty

SEC. 6. Section 13656 of said code is amended to read:

13656. If the annual license fee required of any person who operates a cleaning and dyeing shop or store, a spotting, sponging, or pressing establishment, or any agency is not paid on the date when it is due and payable, a penalty shall be added to the fee in accordance with the following schedule:

(a) Fifty cents ($0.50), if it is not paid within a period of 30 days from and after the date it is due and payable but is paid within a period of 60 days from and after such date.

(b) One dollar ($1), if it is not paid within a period of 60 days from and after the date when it is due and payable but is paid within 90 days from and after such date.

(c) One dollar and fifty cents ($1.50), if it is paid subsequent to the expiration of 90 days from and after the date when it is due and payable.

Stats. 1939, p. 482
Reports Change in ownership, etc.

SEC. 7. Section 13687 of said code is amended to read:

13687. Any change in the location or ownership of a shop, store, establishment, school, or college subject to the provisions of this chapter shall be reported, in writing, at the office of the State Fire Marshal within 48 hours after the change by the person who is owner after the change.

Stats 1941, p. 3037
Aiding violation

SEC. 8. Section 13727 of said code is amended to read:

13727. No person shall aid or abet the owner, manager, or operator of a cleaning and dyeing shop or store, of a spotting, sponging, or pressing establishment, of any agency of any such shop, store, or establishment, of any agency of a clothes cleaning establishment, of any other agency, or the owner, manager, or instructors of a private school or college of spotting, sponging, or pressing, in violating any of the provisions of this chapter.

Stats 1941, p 3037
Report of violations

SEC. 9. Section 13728 of said code is amended to read:

13728. The State Fire Marshal shall submit to the district attorney any evidence relating to:

(a) A violation of any provision of this chapter.

(b) Aiding or abetting any owner, manager, or operator of a cleaning and dyeing shop or store, of a spotting, sponging, or pressing establishment, of any agency of any such shop, store, or establishment, of any agency of a clothes cleaning establishment, of any other agency, or the owner, manager, or instructors of a private school or college of spotting, sponging, or pressing to violate any provision of this chapter.

SEC. 10. Sections 13513, 13609, 13611 and 13653 of said code are hereby repealed. Repeals

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CHAPTER 194

An act to amend Section 51 of the Bank Act, relating to deposit of moneys in banks by executors and other fiduciaries. Stats 1909, p 87, amended

[Approved by Governor April 24, 1943. Filed with Secretary of State April 24, 1943.] In effect August 4, 1943

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

SECTION 1. Section 51 of the Bank Act is hereby amended to read as follows: Stats 1935, p. 1570

Sec. 51. Any court having appointed and having jurisdiction of any executor, administrator, guardian, assignee, receiver, depositary or trustee, upon the application of such executor, administrator, guardian, assignee, receiver, depositary or trustee, or upon the application of any person having an interest in the estate administered upon by such officer or trustee, after notice to other parties in interest as the court may direct, and after a hearing upon such application may authorize or may direct such officer or trustee to deposit any money then in his hands as such officer or trustee or which may thereafter come into his hands, and until the further order of the court, in any bank in this State; and upon such deposit being made, the officer or trustee so depositing the same shall thereafter and while such moneys remain on deposit in such bank, be relieved and discharged from all liability and responsibility therefor, and the bond required of such officer or trustee given upon his appointment shall be thereupon by said court reduced to such an amount as the court may deem reasonable; such deposit shall be repaid only upon the orders of said court, and shall be a preferred claim against such bank and be paid in full before any other depositor of such bank shall have been paid. If the amount sought to be deposited in any one bank does not exceed the amount which would be insured under any law of the United States such order may be made ex parte without notice or hearing. Deposits by order of court

CHAPTER 195

Stats 1939, p 1067, amended

An act to amend Section 3424 of the Public Resources Code, relating to the recording of oil production charge payments.

In effect August 4, 1943

[Approved by Governor April 24, 1943. Filed with Secretary of State April 24, 1943.]

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

Stats 1939, p 1067

SECTION 1. Section 3424 of the Public Resources Code is amended to read:

Payment of charges

3424. All charges assessed and levied shall be paid to the State Treasurer upon the order of the Controller. The Controller shall record the payment of any charge and shall give a receipt for the payment.

CHAPTER 196

Stats 1939, p 482, amended

An act to amend Section 10200 of and to add Section 10202 to the Health and Safety Code, relating to birth certificates.

In effect August 4, 1943

[Approved by Governor April 24, 1943. Filed with Secretary of State April 24, 1943.]

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

Stats 1941, p 1232

SECTION 1. Section 10200 of the Health and Safety Code is amended to read:

Certificate of birth Contents

10200. The certificate of birth shall contain the following items and such other items as the State department may designate:

(1) Full name of child. If the child dies without a name, before the certificate is filed, enter the words "died unnamed." If the living child has not yet been named at the date of filing certificate of birth, the space for "full name of child" shall be left blank.

(2) Place of birth, including State, county, township or town, village or city. If in a city, the street and house number; if in a hospital or other institution, its name shall be given, instead of the street and house number.

(3) Sex of child.

(4) Whether twin, triplet, or other plural birth. A separate certificate shall be required for each child in case of plural births. For plural births, the number of each child in order of birth.

(5) Date of birth, including year, month and day.

(6) Full name of father.

(7) Color or race of father.

(8) Birthplace of father; at least State or foreign country, if known.

(9) Full maiden name of mother.

(10) Color or race of mother.

(11) Birthplace of mother; at least State or foreign country, if known.

(12) The certification of attending physician or midwife as to attendance at birth, including statement of hour of birth. This certification shall be signed by the attending physician or midwife, with address; if there is no physician or midwife in attendance, then by the father or mother of the child, householder, owner of the premises, or manager or superintendent of the public or private institution where the birth occurred, or other competent person whose duty it is to notify the local registrar of the birth.

(13) Exact date of filing in office of local registrar; registered number.

(14) Signature of registrar.

(15) If given name is added later, the name and date of adding.

SEC. 2. Section 10202 is added to the Health and Safety Code, to read: New section

10202. Certified copies of birth certificates may be issued by the State Registrar, by the county recorder, or by any local registrar which shall contain only the data described in Section 10200. Other data required by the department shall not become part of the certified copy unless specifically requested. Certified copies of birth certificates hereafter issued shall contain only the information provided for in this section, unless otherwise requested, regardless of statements contained in or the form of birth records heretofore filed. Certified copies

The State Registrar shall prepare and furnish forms for certified copies of birth certificates.

CHAPTER 197

An act to amend Section 4891 of the Health and Safety Code, relating to sewer maintenance districts. Stats 1939, p. 482, amended

[Approved by Governor April 24, 1943. Filed with Secretary of State April 24, 1943.] In effect August 4, 1943

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

SECTION 1. Section 4891 of the Health and Safety Code is hereby amended to read as follows: Stats 1939, p. 482

4891. The board may levy a tax each year upon the real property in the district sufficient to defray the cost of maintaining, operating, and repairing the sewers in the district, of maintaining the district, and of meeting such other expenditures as are authorized by this chapter. Tax

CHAPTER 198

Stats 1913, p 815, amended

An act to amend Section 20 of the "California Water District Act," relating to the redemption of bonds of water districts.

In effect August 4, 1943

[Approved by Governor April 24, 1943. Filed with Secretary of State April 24, 1943.]

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

Stats. 1931, p 784

SECTION 1. Section 20 of the California Water District Act is amended to read:

Use of excess moneys to redeem bonds

Sec. 20. Whenever the funds of the district are in excess of the amount necessary to complete the construction of the irrigation works or to acquire the necessary water, water rights, property and rights in property therefor and to supply all the lands contained in the district with sufficient water for irrigation purposes and in addition thereto to pay every obligation of the district that is due and payable or that will become due and payable or that it is probable will become due and payable before the expiration of two years from the date on which the last preceding tax of the district was levied, the board of directors may direct the treasurer of the district to pay with said excess (specifying the amount thereof) such an amount of the sold bonds of the district as said excess sum of money will redeem at the lowest value at which they may be obtained for liquidation.

CHAPTER 199

An act making an appropriation for legislative printing, binding, etc., to take effect immediately.

In effect immediately

[Approved by Governor April 24, 1943. Filed with Secretary of State April 24, 1943.]

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

Appropriation Legislative printing

SECTION 1. Out of any money in the State Treasury not otherwise appropriated there is hereby appropriated the sum of twenty-one thousand two hundred twenty-three dollars and twenty-one cents ($21,223.21) in addition to, and in augmentation of, Item 9 in the "Budget Act of 1941."

Current expenses

SEC. 2. This act, inasmuch as it makes an appropriation for the usual current expenses of the State, shall under the provisions of Section 1 of Article IV of the Constitution take effect immediately.

CHAPTER 200

An act making an appropriation to the Printing Fund, to take effect immediately.

[Approved by Governor April 24, 1943. Filed with Secretary of State April 24, 1943.] In effect immediately

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

SECTION 1. Out of any money in the State Treasury, not otherwise appropriated, there is hereby appropriated for transfer to the Printing Fund in the State Treasury the sum of forty-one thousand nine hundred ninety-two dollars and eleven cents ($41,992.11), representing the cost of publications paid from said fund under the provisions of Section 695 of the Political Code, as enacted by Chapter 412, Statutes of 1931. Appropriation Printing Fund

SEC. 2. Any moneys received by the State Printer from the sale of documents, the cost of which was paid out of the Printing Fund, after deducting expenses in connection with the sale or distribution of such documents shall be remitted to the State Treasury for credit to the General Fund. Receipts from sale of documents

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

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CHAPTER 201

An act relating to officers, deputies, assistants and employees of counties, cities and counties, and cities, and their rights and privileges in relation to their several public offices and employments during and after termination of their service in civilian defense, declaring the urgency of this act, to take effect immediately.

[Approved by Governor April 24, 1943. Filed with Secretary of State April 24, 1943.] In effect immediately

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

SECTION 1. In regulating the method of appointment and terms of office or employment of officers, deputies, assistants, and employees of counties, cities and counties, and cities, the governing bodies thereof have the power and are hereby granted the power and responsibility to provide that any person leaving such office or employment for service of the State in the administration of the California War Powers Act or of the United States in the Office of Civilian Defense shall have the right to return to his said office or employment under the county, city and county, or city within six months after the termination of his said office or employment under the Return to office or employment after civilian defense service

State or United States, but in no case later than six months after the date of the cessation of hostilities in all wars in which the United States is now engaged, and shall retain and reacquire the rights and privileges he had and would have had in the absence of any interruption in his service to such county, city and county, or city.

Urgency

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

The development of effective leadership in civilian defense activities requires the utilization of the services of persons who have acquired familiarity with the problems of local defense activities through actual experience in local governmental agencies. Many men hesitate to sacrifice their civil service and similar rights to local office or employment to enter into civilian defense activities and as a result the State and Nation are deprived of the services of efficient and badly needed personnel in the conduct of civilian defense activities.

CHAPTER 202

Stats 1935, p 1338 amended

An act to amend Section 395.2 of the Military and Veterans Code, relating to leaves of absence of school employees, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor April 24, 1943. Filed with Secretary of State April 24, 1943.]

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

Stats 1941, p 749

SECTION 1. Section 395.2 of the Military and Veterans Code is amended to read:

Return to employment of non-certificated school employees

395.2. Any employee of a board of school trustees or board of education in a position not requiring certification qualifications who pursuant to the laws of the United States serves with the armed forces of the United States and who receives an honorable discharge therefrom shall regain all rights to his position and shall be reinstated thereto upon his application at any time within 90 days of the termination of that service, but in any event within one year from the date of a treaty of peace terminating the hostilities in which the United States is now engaged.

Urgency

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

immediate effect. A statement of the facts constituting such necessity is as follows:

The United States of America is in a state of war. It has been proposed that a system for compulsory service in civilian defense and in war industry be put into operation. Should such plan be put into effect it is necessary to protect the rights of noncertificated employees that their positions be held open for them in the same manner as though their service were in the armed forces.

CHAPTER 203

An act to amend Section 4267 of the Political Code, relating to compensation for public services in counties of the thirty-eighth class.

[Approved by Governor April 24, 1943 Filed with Secretary of State April 24, 1943.] In effect August 1, 1943

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

SECTION 1. Section 4267 of the Political Code is amended to read: Stats 1941, p 2561

4267. In counties of the thirty-eighth class, the following shall receive as compensation for the services required of them by law, or by virtue of their office, the following sums: Sutter Salaries

1. Auditor, three thousand two hundred dollars ($3,200) per annum. Auditor

2. District attorney, two thousand eight hundred dollars ($2,800) per annum. District attorney

3. Supervisors, each supervisor shall receive one hundred fifty dollars ($150) per month, and his actual expenses while attending to the business of the county by the order of the board of supervisors and mileage at the rate of fifteen cents ($0.15) per mile, one way, for traveling from his residence to the county seat to attend regular, special and adjourned sessions of the board of supervisors, and mileage at the rate of fifteen cents ($0.15) per mile, one way, for all actual distances traveled by him in the performance of his duties as road commissioner. Supervisors

4. Grand jurors and jurors in the superior court shall receive for each day's attendance three dollars ($3); for each mile actually traveled in attending court as a juror, and for attending regularly called grand jury meetings and grand jury committee meetings, one way, fifteen cents ($0.15). Mileage shall be paid for each time a regularly empaneled jury or grand jury shall be called in separate session. Jurors

CHAPTER 204

An act to amend Sections 737yy and 737fff of the Political Code, relating to the annual salaries of the judges of the superior courts of Sutter and Yuba counties.

In effect August 4, 1943

[Approved by Governor April 24, 1943. Filed with Secretary of State April 24, 1943.]

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

Stats 1933, p 1173

SECTION 1. Section 737yy of the Political Code is amended to read:

Superior judge Sutter

737yy. The annual salary of the judge of the superior court in and for the County of Sutter is seven thousand five hundred dollars ($7,500).

Stats 1933, p 1173

SEC. 2. Section 737fff of the said code is amended to read:

Superior judge Yuba

737fff. The annual salary of the judge of the superior court in and for the County of Yuba is seven thousand five hundred dollars ($7,500).

CHAPTER 205

Stats 1935, p 496, amended

An act to repeal Sections 7032, 7033, 9032, and 9033 of the Insurance Code, all relating to insurance.

In effect August 4, 1943

[Approved by Governor April 24, 1943. Filed with Secretary of State April 24, 1943.]

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

Repeals

SECTION 1. Sections 7032, 7033, 9032, and 9033 of the Insurance Code are repealed.

CHAPTER 206

Stats 1937, p 1229, amended

An act to amend Section 6361 of the Business and Professions Code, relating to provision of library quarters for law libraries, by counties, by defining such provision.

In effect August 4, 1943

[Approved by Governor April 24, 1943. Filed with Secretary of State April 24, 1943.]

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

Stats 1941, p 1742

SECTION 1. Section 6361 of the Business and Professions Code is amended to read as follows:

Library quarters

6361. The board of supervisors of the county in which the law library is established shall provide sufficient quarters for the use of the library upon request of the board of law library trustees. Such provision may include, with the room or rooms provided, suitable furniture, window shades, floor coverings, lighting, heat and telephone and janitor service.

CHAPTER 207

An act, relating to the relief of gold and silver mining operators, permitting postponement of sales under certain chattel mortgages, mortgages, deeds of trust or contracts of purchase on gold and silver mines and gold and silver mining machinery and equipment, or postponement of forfeitures and terminations under gold and silver mining contracts and leases, regulating appointment of receivers in certain cases, extending the time in which the purchase price may be paid and extending the statute of limitations, declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 24, 1943 Filed with Secretary of State April 24, 1943.] In effect immediately

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

SECTION 1. Due to the necessity of conserving labor and strategic materials in connection with the war effort, the United States War Production Board has issued an order directing the cessation of operations of gold mines throughout the United States. The issuance of this order has caused widespread distress among the gold miners of California, and the Legislature finds that as a war measure it is necessary to provide for the relief of said distress in the following manner until causes of said distress have been removed by cessation of the war. Necessity for act

This act shall, therefore, be effective until six months after the termination of hostilities between the United States and all nations with which the United States is at war as determined by an act of Congress or proclamation of the President of the United States, or until October 1, 1945, whichever first occurs. Duration

SEC. 2. Any person who is or has been engaged in mining gold or silver from any mining property of which property he is the owner and which property produces no revenue except from the mining of gold and silver, and against which property he has incurred obligations in connection with its purchase, or which he holds under contract (1) providing for his purchase or lease of such property or giving him an option to purchase or lease such property, or an interest therein, or stock in a corporation which holds title thereto, and (2) requiring the performance of certain work on such property, or on adjacent property or properties or periodic rental or installment payments with respect thereto, or minimum royalties, or (3) holds the property subject to a mortgage or trust deed or (4) holds gold or silver mining machinery or equipment under contract of sale or subject to chattel mortgage, and who has been prevented by reason of any statute, rule, regulation, or order of the United States, or of any officer or agency of the United States made in connection with the National defense or war effort from (1) obtaining Moratorium Who entitled to

necessary supplies or equipment with which to perform the minimum work requirements of his contract, or (2) from obtaining or employing the necessary workmen to carry out the terms of his contract, or (3) as a result of said prevention, from producing ore or gold-bearing gravel from the proceeds of which payments on said obligations could be made, or payment could be made on the purchase, lease or option to purchase of other mining property in California or stock in a corporation which holds title thereto, which the person is purchasing or leasing for the purpose of fulfilling his program of mining operations, shall be entitled, upon establishing these facts, to the satisfaction of any superior court having jurisdiction in the premises, to receive a moratorium order suspending his obligations under said contract under which he holds the property, or an interest therein, or the right to acquire stock in any corporation holding the title thereto as aforesaid, during the effective period of such statute, rule, regulation, or order, and for a period of six months after the termination of said effective period. In considering whether or not such petitioner is entitled to receive a moratorium order the court to whom the petition is addressed may consider the issuance of any such regulation, rule or order pursuant to the terms of a statute of the United States as conclusive evidence of the prevention of the petitioner from performing his contract by causes wholly beyond his control, if the court finds that such regulation, rule or order has prevented said petitioner from carrying on operations on said property or producing gold or silver therefrom.

Suspension of obligations, etc

SEC. 3. The court, in its discretion, if it finds that the ability of such person to produce gold and silver sufficient in quantity to enable him to make the payments required under such contract from the proceeds of his operation or otherwise to perform the terms of his contract has been impaired by reason of said order, rule or regulation, (a) may make an order suspending, in whole or in part, the requirement that such work be performed or such payments be made; and (b) may make such other disposition of the case as may be equitable to conserve the interests of all parties, including an extension of the term of any contract or lease for a period corresponding to the period during which such war order, rule or regulation remains in effect; provided, however, that in no case shall such suspension under (a) extend for more than six months after the termination of the present war.

Conditional sales contracts, etc

SEC. 4. The relief made possible under this act shall also extend to a person who is or has been engaged in mining gold or silver from any mining property, and has been prevented from continuing operations for any of the reasons mentioned in Section 2 hereof with respect (1) to the payment of the balance of the purchase price of any equipment which may have been purchased on a conditional sales contract and placed on the premises prior to the effective date of said order, rule, or regulation preventing continued operation; and (2) to the

enforcement of any mortgage, attachment, or other lien against said premises or against the mining property covered by said prevented operation for nonpayment of any debt, or for nonpayment of taxes accruing after the effective date of said preventing order, rule or regulation.

Petition

SEC. 5. Subject to the limitations as to time provided in Section 1 hereof, any operator of gold or silver mining property who has ceased operating pursuant to the restrictions imposed on gold or silver mining by the United States, and who is in danger of forfeiture under any of the instruments named in Section 2 hereof, may file a petition in the superior court of the county in which such gold or silver mining property or machinery or equipment or the major portion thereof is situated, praying for an order postponing the sale of such property or machinery and equipment, or prevention of forfeiture under the instruments set forth in Section 2 hereof.

Service of petition

SEC. 6. A copy of such petition shall be served upon the trustee and the beneficiary under such deed of trust, upon the mortgagee under such mortgage, upon the lessor in a lease providing for payment of minimum royalties and upon the holder of the contract of sale or chattel mortgage on machinery and equipment or the obligee in any contract mentioned in Section 2 hereof, as the case may be, in the manner provided by law for the service of summons in a civil action.

Notice

A notice of pendency of such petition shall immediately be recorded in each county in which any of such property is situated, and on the day of such recordation a copy thereof shall be mailed, postage prepaid, from a post office within this State, addressed to such trustee and beneficiary, such mortgagee, or the holder of the contract of sale or chattel mortgage on machinery and equipment, or upon the lessor in a lease providing for payment of minimum royalties or the obligee in any contract mentioned in Section 2 hereof, as the case may be, at their respective places of residence, if known to petitioner, if not, then at the county seat of the county, or at the city and county, where the proceeding is pending.

Such notice of pendency shall state the name of the petitioner, the nature of the petition, and the book and page of the records of the county recorder in which the mortgage or deed of trust or other instrument is recorded.

Hearing

SEC. 7. Upon application of the petitioner, after service of such petition, or upon application of any other interested party after the filing of the petition, a hearing shall be had thereon within 20 days after such application, upon such notice as the court shall reasonably prescribe; provided, however, that the court if it finds equitable grounds therefor, may postpone such hearing for not to exceed 10 days.

Prevention of sale or forfeiture

After the filing of such petition and the recording and mailing of the notice of the pendency thereof as provided in Sections 5 and 6 of this act, no sale under the power of sale conferred by such deed of trust or such mortgage or other instrument shall be held nor shall any forfeiture be effected

under any of the instruments set forth in Section 2 hereof until the court makes its order in the matter, but nothing herein contained shall prevent such sale or forfeiture at any time after October 1, 1945, or six months after termination of the war, whichever shall first occur.

Order

SEC. 8. Upon such hearing the court may make its order, if it finds equitable grounds for relief, and finds that the security will not be unreasonably jeopardized thereby, ordering that such sale shall not be held or forfeiture declared until after such date as the court considers just and equitable, but in no event shall such date be beyond October 1, 1945, or six months after termination of the war, whichever first occurs, or may make its order dismissing such proceedings.

Payment of income or rental toward debt

If the court orders the sale or forfeiture postponed it shall determine the reasonable value of the income from such property, or if the property has no income, then the reasonable rental value of such property, or if the property is unimproved, a reasonable sum to be paid by the trustor or mortgagor, or holder under other instrument set forth in Section 2 hereof, as determined by the court, and by such order shall require the trustor or mortgagor to pay all or at least a reasonable part of such income, rental value, or sum so determined by the court, in or toward the payment of taxes, insurance, interest, or principal of the indebtedness at such times and in such manner as are determined to be just and equitable under the circumstances.

Maintenance and repair

SEC. 9. The court must include in such order provisions requiring maintenance and repair by the trustor or mortgagor, or holder under other instrument set forth in Section 2 hereof, regulating the disposition of any income from the property and such other provisions as it deems just and equitable for the protection of the security, but in no event shall the court order the payment by the trustor or mortgagor or holder under other instrument set forth in Section 2 hereof of a lesser sum than necessary to pay (a) current taxes, (b) all delinquent taxes, except that such taxes may be paid in installments as may be provided by law, and (c) any insurance premiums required to be paid by the petitioner under the contract between the parties.

Extension of redemption period

SEC. 10. When any mortgage or deed of trust upon property, or upon machinery and equipment attached to or used in operating gold or silver mining property or other instrument, has been foreclosed, and the property covered thereby has been sold in whole or in part under decree of foreclosure, and the period of redemption has not yet expired, the mortgagor or trustor thereof, or holder under other instrument set forth in Section 2 hereof, having the right of redemption, may at any time not later than October 1, 1945, or six months after termination of the war, whichever first occurs, file a

Petition

petition in the superior court of the county in which the property so sold or the major portion thereof is situated, praying for an order extending such period of redemption.

SEC. 11. A copy of such petition shall be served upon the purchaser of such property at the foreclosure sale, or, if there has been a redemption, upon the last redemptioner, in the manner provided by law for the service of summons in a civil action. Service of petition

A notice of pendency of such petition shall immediately be recorded in each county in which any of such property is situated, and, on the day of such recordation, a copy thereof shall be mailed, postage prepaid, from a post office within this State, addressed to such purchaser or last redemptioner, as the case may be, at his place of residence, if known to petitioner, if not, then at the county seat of the county, or at the city and county, where the proceeding is pending. Notice

Such notice of pendency shall state the name of the petitioner, the nature of the petition, and the book and page of the records of the county recorder in which the mortgage or deed of trust or other instrument is recorded.

SEC. 12. Upon application of the petitioner after service of such petition, or upon application of any other interested party, after the filing of the petition, a hearing shall be had thereon within 20 days after such application, upon such notice as the court shall reasonably prescribe; provided, however, that the court, if it finds equitable grounds therefor, may postpone such hearing for not to exceed 10 days. Hearing

Upon the filing of such petition and the recording and mailing of the notice of pendency thereof as provided in Sections 10 and 11 of this act, the period of redemption, if such period would sooner terminate, shall be extended until 10 days after the court makes its order in the matter, but in no event beyond October 1, 1945, or six months after termination of the war, whichever first occurs.

SEC. 13. Upon such hearing the court may make its order, if it finds equitable grounds for relief and finds that the security will not be unreasonably jeopardized thereby, extending such period of redemption for such additional time as the court considers just and equitable, but in no event beyond October 1, 1945, or six months after termination of the war, whichever first occurs, or may make its order dismissing such proceeding. Order

If the court by its order extends the period of redemption, it shall determine the reasonable value of the income from such property, or if the property has no income, then the reasonable rental value of such property, or if the property is unimproved, a reasonable sum to be paid by the operator as determined by the court. Payment of income or rent toward taxes, etc

The court shall require the operator to pay all or at least a reasonable part of such income, rental value, or sum so determined by the court, in or toward the payment of taxes upon such property, the cost of insurance and the sums to which the purchaser of such property at such foreclosure sale, or the last redemptioner, as the case may be, is entitled under the provisions of Section 707 of the Code of Civil Procedure, at such

times and in such manner determined to be just and equitable under the circumstances.

Maintenance and repair

SEC. 14. The court may include in such order provisions requiring maintenance and repair by the operator, regulating the disposition of any income from the property, and such other provisions as it deems just and equitable for the protection of the interest and security of the purchaser or last redemptioner, as the case may be.

Minimum payment

In no event shall the court order the payment by the operator of a lesser sum than the greater of (1) the amount of such reasonable value of the income, or such reasonable rental value, or such reasonable sum so determined by the court, or (2) a sum sufficient to pay (a) current taxes, (b) all delinquent taxes, except that such taxes may be paid in installment as provided by law, and (c) a sum reasonably necessary for fire and other insurance upon any improvement upon such property.

Credit

SEC. 15. Any sums paid to a purchaser or redemptioner pursuant to Sections 13 or 14 of this act shall be a credit upon the redemption money to be paid as provided in Section 707 of the Code of Civil Procedure; but in the event no redemption is made, the same shall belong to such purchaser or redemptioner.

Statutory right of redemption

SEC. 16. Nothing in this act shall be construed as abridging or limiting the statutory right of redemption provided in Sections 701, 702, 703, 704, 705, 706 and 707 of the Code of Civil Procedure, or as shortening the period of redemption as therein provided, or as altering the mode or procedure for redemption as therein provided.

Postponement of mortgage sales

SEC. 17. In any decree rendered prior to October 1, 1945, foreclosing a mortgage or deed of trust upon real property, the court may provide that the sale of the property shall not be held until on or after such date as the court considers just and equitable, but in no event later than October 1, 1945. If the court provides in such decree that the sale shall not be held until on or after such date as it shall fix, it shall determine the reasonable value of the income from such property, or if the property has no income, then the reasonable rental value of

Payments by mortgagor

such property, or if the property is unimproved, a reasonable sum to be paid by the trustor or mortgagor or holder under other instrument set forth in Section 2 hereof, as determined by the court, and shall require the trustor or mortgagor or holder under other instrument set forth in Section 2 hereof to pay all or at least a reasonable part of such income, rental value, or sum so determined by the court, in or toward the payment of taxes, insurance, interest, or principal of the indebtedness at such times and in such manner determined to be just and equitable under the circumstances. The court may include in such order provisions requiring maintenance and repair regulating the disposition of any income from the property, and such other provisions as it deems just and equitable for the protection of the security.

After such hearing the court, if it shall determine that it is equitable and just so to do and that the security will not be unreasonably jeopardized thereby, may make its order postponing to a date not later than October 1, 1945, or six months after termination of the war, whichever shall first occur, the foreclosure, termination or forfeiture of the petitioners' interest under such contract of purchase on substantially the same terms and conditions as those prescribed in Sections 5, 6, 7, 8 and 9 of this act, or the court may make its order dismissing such proceeding. Postponement of foreclosure, etc

SEC. 18. If the trustor, mortgagor or purchaser under a contract of purchase commits waste or defaults in any payment or act required by order or decree of court, the court, unless good excuse therefor is shown, shall order that the sale, foreclosure, termination or forfeiture postponed by its order or decree proceed as provided by law, or that the period of redemption extended by its order or decree shall expire on the making of its order or within the time provided by law, whichever shall last occur, and that the moneys to be paid on redemption, if theretofore reduced, be increased to the extent of such previous reduction, if it finds after hearing upon such notice to the original petitioner or his attorney as it prescribes, that there has been such waste or such default, unless good excuse therefor is shown, amounting to a material breach of the order or decree of postponement or extension. Waste or default

SEC. 19. No suit or action shall be commenced against the guarantor of any note secured by a mortgage or deed of trust upon gold or silver mining property, or upon chattels attached to or used in connection with gold or silver mining property, in any case while, pursuant to the provisions of this act, no sale may be made under any power of sale contained in such mortgage or deed of trust or while no sale may be made under the final decree of foreclosure rendered in an action to foreclose such mortgage. Prohibitions Suits

SEC. 20. No sale shall be made under any decree of foreclosure, of, or under any power of sale contained in, any chattel mortgage upon any personal property located in and used in connection with the operation of any building located upon gold or silver mining property, until on or after such date as a sale of such gold or silver mining property is lawfully held under such mortgage, deed of trust, or contract of purchase, when such chattel mortgage was given as additional security for an obligation also secured by deed of trust, mortgage, or contract of purchase, on such real property or other instrument mentioned in Section 2 hereof. Sales

SEC. 21. Whenever the time within which an action may be commenced upon any obligation founded upon a written instrument secured by chattel mortgage, mortgage, deed of trust or contract of purchase, or founded upon any guarantee of such obligation or any contract of suretyship therefor or any endorsement of such instrument, would expire by virtue of Section 337 of the Code of Civil Procedure, or any other Period of limitation extended

provision of law, during the period commencing with the effective date of this act and ending on the date upon which this act shall cease to be in effect, with respect to any property or chattel relating to which a petition has been filed under this act, such time is hereby extended so as not to expire until December 31, 1945, or nine months after cessation of the war, whichever shall first occur.

Exceptions

SEC. 22. Nothing contained in this act shall apply to or be deemed to affect:

(a) Any mortgage, deed of trust, lease agreement, operating agreement or contract of sale upon gold or silver mining property, or upon chattels attached to real property, executed after the effective date of this act.

(b) Any mortgage or deed of trust while held and owned by the original lender securing any loan made by the United States Government or any agency thereof or any loan insured by the United States Government or any agency thereof; and any judgment entered in favor of, or any sheriff's or commissioner's certificate of sale issued to the United States Government or any agency thereof in an action to foreclose any such mortgage or deed of trust;

(c) Any mortgage or deed of trust securing an obligation in default at the time the owner or owners acquired title by purchase subsequent to the effective date of this act.

Definitions

SEC. 23. As used in this act:

(a) The terms "mortgagor," "mortgagee," "trustor," "trustee," "purchaser," "vendor," "lessee," and "guarantor," shall include their personal representatives, assigns or successors in interest, and the singular shall include the plural.

(b) The term "trustee" shall also include the beneficiary of a deed of trust.

(c) As used in this act, the term "chattels attached to mining property," or similar designation, includes anything which is deemed affixed or attached to land, or as forming part of the land.

(d) The term "mining" means gold or silver mining.

(e) The term "real property" means gold or silver mining property.

(f) The term "operator" includes all persons, firms or corporations engaged in gold or silver mining operations.

(g) "Machinery" and "equipment" shall mean "gold or silver mining machinery" and "equipment."

Waiver

SEC. 24. Nothing contained in this act shall preclude any trustor under a deed of trust or any mortgagor of chattels or any mortgagor under a mortgage or any purchaser under a contract for the purchase of real property, or chattels attached to real property, from executing and delivering at any time a deed to his beneficiary, mortgagee or vendor, or the purchaser at any foreclosure sale or a redemptioner, as the case may be, and the execution and delivery of any such deed by any such trustor, mortgagor or purchaser shall constitute a waiver of the benefit of all the provisions of this act. The failure on the

part of any trustor, mortgagor or purchaser or operator to file a petition within the times specified in this act, shall be deemed a waiver of the benefits of the provisions of this act.

Voidable sales and forfeitures

SEC. 25. Any sale of property under a chattel mortgage, or of real property, or of chattels attached to real property, under a deed of trust, mortgage, or chattel mortgage, and any forfeiture made in violation of this act shall be voidable, except as against a bona fide purchaser or encumbrancer for value, at the instance of the record owner of such real or personal property at the time of such sale, or the operator at the time of such forfeiture; provided, that any action to avoid such sale or any deed executed pursuant thereto must be brought within one year of the date of such sale.

Fees

SEC. 26. There shall be no filing fees for the filing of any document with the county clerk under the provisions of this act.

Receivers

SEC. 27. Until October 1, 1945, or six months after termination of the war, whichever shall first occur, no receiver shall be appointed at the instance of the mortgagee of any mortgage or the trustee or beneficiary of any deed of trust, with respect to real property or chattels attached to real property subject to mortgage or deed of trust, except in a suit or action for the foreclosure of such mortgage or deed of trust or for the enforcement of the covenants, or any thereof, contained in such mortgage or deed of trust, or in a proceeding ancillary to any such suit or action, or until after recording notice of default.

Constitutionality

SEC. 28. If any section, clause or part of this act, or the application thereof to any person or circumstance, is finally determined by the courts to be unconstitutional such section, clause or part shall no longer be effective or such application shall no longer control, but all other sections, clauses or parts or the application thereof to other persons and circumstances shall continue in full force and effect; it being the intent of the Legislature to make this act as effective as possible to relieve operators in the manner herein provided.

Composition or settlement

SEC. 29. Whenever any petition under this act is to be or is being heard by the court, the interested parties may submit to the court, in writing, a composition of the indebtedness involved in the proceeding, or a compromise settlement of the proceeding, and the court shall have jurisdiction and may by its order confirm and approve such composition or settlement.

Rights not affected

SEC. 30. Nothing contained herein shall be construed as affecting any rights which have accrued under Chapter 1, Statutes of the Extra Session of 1934, or shorten the time within which any action may be commenced.

Same

SEC. 31. Nothing contained herein shall be construed as affecting any rights which have accrued under Chapter 7, Statutes of 1935; Chapter 348, Statutes of 1935; Chapter 5 or Chapter 167, Statutes of 1937; Chapter 86, Statutes of 1939; or Chapter 208, Statutes of 1941; or shorten the time within which any action may be commenced, or affect any proceedings taken thereunder.

Temporary orders

SEC. 32. Whenever a proceeding is instituted in accordance with Sections 2, 3, or 4 of the act, the court may, upon cause shown, make a temporary order suspending the requirements for performing work and making payments under the contract or restraining the enforcement of liens for any of the items mentioned in Sections 3 or 4 hereof, pending final disposition of such proceedings, and may make such additional and supplementary orders as may be necessary for proper disposition of the case.

Liability

SEC. 33. No person shall be held liable in any proceeding in any court for any damages, penalty, or forfeiture on account of any act done or omitted to be done in good faith in accordance with or in reliance upon any provision of this act, or any order or judgment of a court made pursuant to any such provision.

"Person"

SEC. 34. For the purposes of this act, the term "person" includes any individual, partnership, firm, corporation, association, or other organization, or the legal representative of any of the foregoing.

Urgency

SEC. 35. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

The United States War Production Board has ordered the cessation of gold mining for the duration of the war. Many persons engaged in gold and silver mining face financial ruin as a result of this order unless given immediate relief.

CHAPTER 208

An act to amend Section 227 of, and to add Section 227aa to, the Civil Code, relating to adoption.

In effect August 4, 1943

[Approved by Governor April 24, 1943. Filed with Secretary of State April 24, 1943.]

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

Stats 1931, p 2401

SECTION 1. Section 227 of the Civil Code is amended to read:

Hearing Appearance

227. The person or persons desiring to adopt a child, and the child proposed to be adopted, must appear before the court; provided, that if said adoptive parent is then commissioned or enlisted in the military service, or auxiliary thereof, of the United States, or of any of its allies, or in the American Red Cross, so that it is impossible or impracticable, because of such person's absence from the State of California, or otherwise, for said person to make such appearance in person, and said circumstances are established by satisfactory evidence, said appearance may be made for such person by his or her

counsel, commissioned and empowered in writing so to do and which said power of attorney may be incorporated in the petition for adoption. The court must examine all persons appearing before it pursuant to this section, each separately, and if satisfied that the interests of the child will be promoted by the adoption, the party or parties adopting shall execute or acknowledge an agreement in writing that the child shall be treated in all respects as the lawful child of the party or parties, and the court shall thereupon make an order awarding the custody of the child to the adopting parent or parents; provided, that in any case where said adoptive parent is permitted to appear by counsel hereunder, or otherwise, the court may, in its discretion, cause such examination of said adoptive parent, other interested party, or witness to be made upon deposition, as it deems necessary, said deposition to be taken upon commission, as prescribed by the Code of Civil Procedure, and the expense thereof to be borne by the petitioner. The petition, relinquishment, agreement, order, and any power of attorney and deposition must be filed in the office of the county clerk and shall not be open to inspection by any other than the parties to the action and their attorneys and the State Department of Social Welfare except upon the written authority of the judge of the superior court.

Agreement

Order

Filing

SEC. 2. Section 227aa is added to said code, to read:

New section

227aa. In the case of an adoption of a child by a stepparent where one natural parent retains his or her custody and control of said child, the stepparent may appear by attorney if he or she is in the military, naval or marine service of the United States. The natural parent retaining custody of the child and the child proposed to be adopted must appear before the court; provided, that if said natural parent is then commissioned or enlisted in the military service, or auxiliary thereof, of the United States, or of any of its allies, or in the American Red Cross, so that it is impossible or impracticable, because of such person's absence from the State of California, or otherwise for said person to make such appearance in person, and said circumstances are established by satisfactory evidence, said appearance may be made for such person by his or her counsel, commissioned and empowered in writing so to do and which said power of attorney may be incorporated in the petition for adoption. The court must examine all persons appearing before it pursuant to this section, each separately, and if satisfied that the interests of the child will be promoted by the adoption shall order that the stepparent shall execute or acknowledge an agreement in writing that the child shall be treated in all respects as the lawful child of the party. The agreement shall be executed or acknowledged before a notary public or other person authorized under Civil Code Sections 1182, 1183 and 1183.5 to acknowledge instruments or a commissioned officer in command of the stepparent executing or acknowledging the agreement. If the court approves the agreement, it shall thereupon make an order awarding the

Adoption by stepparent

Hearing Appearance

Agreement

Order

Duration

adoption. This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section; but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

Existing law

CHAPTER 209

An act to amend Section 444 of the Code of Civil Procedure, relating to grounds of demurrer to the answer.

In effect August 4, 1943

[Approved by Governor April 24, 1943 Filed with Secretary of State April 24, 1943.]

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

Stats 1907, p 705

SECTION 1. Section 444 of the Code of Civil Procedure is amended, to read:

Demurrer to answer Grounds

444. The demurrer may be taken upon one or more of the following grounds:

1. That several causes of counterclaim have been improperly joined, or not separately stated;

2. That the answer does not state facts sufficient to constitute a defense or counterclaim;

3. That the answer is ambiguous;

4. That the answer is unintelligible;

5. That the answer is uncertain; or

6. That, where the answer pleads a contract, it can not be ascertained from the answer, whether or not the contract is written or oral.

CHAPTER 210

Stats 1939, p 482, amended

An act to add Section 249 to, and to amend Sections 250, 257, and 268 of the Health and Safety Code, relating to services for physically handicapped children providing for receipt and administration of Federal funds, providing for cooperation with the Federal Government.

In effect August 4, 1943

[Approved by Governor April 24, 1943 Filed with Secretary of State April 24, 1943.]

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

New section

SECTION 1. Section 249 is hereby added to Article 2 of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, to read as follows:

Services for handicapped children

249. The Department of Public Health shall have the power to establish and administer a program of services for

physically defective or handicapped persons under the age of 21 years, in cooperation with the Federal Government through its appropriate agency or instrumentality in developing, extending and improving such services, to receive and expend all funds made available to the department by the Federal Government, the State, its political subdivisions or from other sources, and shall have power to supervise those services included in the State plan which are not directly administered by the State, and to cooperate with the medical, health, nursing and welfare groups and organizations, and any agency of the State charged with the administration of laws providing for vocational rehabilitation of physically handicapped children.

SEC. 2. Section 250 of the Health and Safety Code is hereby amended to read as follows: Stats 1939, p 482

250. "Handicapped child," as used in this article, means a physically defective or handicapped person under the age of 21 years who is in need of services. "Handicapped child"

SEC. 3. Section 257 of the Health and Safety Code is hereby amended to read as follows: Stats 1939, p 482

257. It may without the possession of a certificate, pay the expenses for services required by any physically handicapped child out of any funds received by it through gift, devise, or bequest, or from private, State, Federal or other grant or source. Payment for services without certificate

SEC. 4. Section 268 of the Health and Safety Code is hereby amended to read as follows: Stats 1939, p 482

268. The board of supervisors in each county may provide for services for any handicapped child in each county, when the parents or guardian consent in writing and when the parents or estate of the child is not financially able to provide services. The county may cooperate in this service with the State department and pay the cost as provided in this article or may perform the services independently, if such services meet minimum standards set by the State Board of Public Health for the care of physically handicapped children. County services

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CHAPTER 211

An act to amend Sections 2271, 2274 and 2275 of the Public Resources Code, relating to the Ore Buyer's License Fund. Stats 1939, p 1067, amended

[Approved by Governor April 24, 1943. Filed with Secretary of State April 24, 1943.] In effect August 4, 1943

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

SECTION 1. Section 2271 of the Public Resources Code is hereby amended to read as follows: Stats 1939, p 1067

2271. Upon the trial, the court shall hear all parties who have appeared. If any party proves ownership or that he Trial and judgment

has any right or interest therein, the court shall make an order for the delivery of the property to him, or the sale thereof and a distribution of the proceeds to discharge the right or interest which he has therein, the balance of the proceeds to escheat to the State; otherwise, the court shall declare the property to have escheated to the State. Thereafter the State Mineralogist may sell the ores, concentrates and amalgams not theretofore sold by court order and shall account for and report the proceeds of the sale to the State Controller and at the same time remit the money to the State treasury to be credited to the General Fund.

Sale of escheated ores

Stats 1939, p 1067

SEC. 2. Section 2274 of the Public Resources Code is hereby amended to read as follows:

Enforcement of chapter

2274. Any violation of Sections 2250, 2251, 2252, 2265, 2266, 2267, or 2272 is a misdemeanor punishable by a fine of not less than one hundred dollars ($100) and not more than one thousand dollars ($1,000), or by imprisonment in the county jail for not less than 30 days nor more than six months, or both such fine and imprisonment. The State Mineralogist shall notify the district attorney of the county in which the offense occurs of any such violation, and the district attorney shall institute criminal proceedings for the enforcement of this chapter before any court of competent jurisdiction.

Disposition of forfeited bail and fines

All forfeited bail and fines received under the provisions of this section shall be sent without delay by the magistrate receiving them, 50 per cent to the State Treasurer, to be deposited in the State treasury to the credit of the General Fund and 50 per cent to the city treasurer of the city, if incorporated, or to the county treasurer of the county in which the prosecution is conducted.

Stats 1939, p 1067

SEC. 3. Section 2275 of the Public Resources Code is hereby amended to read as follows:

Disposition of proceeds

2275. All money received by the State Mineralogist under this chapter, shall be accounted for and reported monthly to the State Controller, to be remitted by the Controller to the State treasury to the credit of the General Fund. All money deposited with the State Mineralogist for fees for licenses which have not been granted shall be retained by him in the trust fund of the division to be remitted to the State Treasurer upon the issuance of the license or returned to the applicant in case a license is refused.

Ore Buyer's License Fund abolished

SEC. 4. The Ore Buyer's License Fund is abolished. Any unexpended balance in the fund shall be transferred to the General Fund in the State treasury.

CHAPTER 212

An act to add Section 156.1 to the Welfare and Institutions Code, relating to travel expenditures by the Department of Institutions.

Stats 1937, p. 1005, amended

[Approved by Governor April 24, 1943. Filed with Secretary of State April 24, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 156.1 is hereby added to the Welfare and Institutions Code, to read as follows:

New section

156.1. The department may expend moneys in accordance with law for the actual and necessary travel expenses of officers and employees of the department and any officer or employee of any institution within the department who are authorized to absent themselves from the State of California on official business.

Out-of-State travel expenses

For the purposes of this section and of Section 352 of the Political Code, the following constitutes, among other purposes, official business for said officers and employees for which such officers and employees shall be allowed actual and necessary traveling expenses when incurred either in or out of this State upon approval of the Governor and Director of Finance:

Official business

Attending meetings of any National association or organization having as its principal purpose the study of matters relating to administration of institutions, and care and treatment of mental, feeble-minded or other institutional inmates; conferring with officers or employees of the United States or other States, relative to problems of institutional care, treatment or management; and obtaining information therefrom, which information would be useful in the conduct of institutional, psychiatric, medical, and similar activities of the Department of Institutions.

CHAPTER 213

An act to provide for the disposal of certain real property of the State in Sonoma County and for the disposition of the proceeds of such sale.

[Approved by Governor April 24, 1943. Filed with Secretary of State April 24, 1943.]

In effect August 4, 1943

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

SECTION 1. The Director of Institutions with the approval of the Director of Finance is hereby authorized and directed to sell and convey on behalf of the State the property belonging to the State situated in the County of Sonoma, State of California and more particularly described as follows:

Authority to sell

Parcel one: Commencing on the northern boundary of what is known as the "Lac" survey of the Buena Vista, at the

Description

crossing of the west branch of the Arroyo Seco, which point of crossing is south 53° east, distant 1524 feet from the northwest corner of said Lac Survey; thence along said northern boundary line, south 53° east 2186 feet to the east branch of the Arroyo Seco; thence down the same to its junction with said west branch; thence up said west branch to the point of beginning, containing 38 acres of land, more or less. Courses true.

Parcel two: Beginning at the most northerly corner of lot numbered 70, as said lot is delineated and so designated on that certain map entitled "Map of Sonoma Mission Farms No. 5," filed in the office of the county recorder of Sonoma County on July 13, 1914, and recorded in Book 31 of Maps, pages 6 and 7; running thence along the northwesterly boundary line of said lot numbered 70, to the most westerly corner thereof; thence south 74° 20′ east 1730.7 feet to a stake in the center of the creek; thence north 14° 26′ east 4650 feet to a point on the northeasterly boundary line of said lot numbered 70, which point is 1114.66 feet south 34° 17′ east of the said most northerly corner of said lot numbered 70; thence north 34° 17′ west along said northeasterly boundary line of said lot numbered 70, 1114.66 feet to the point of beginning, containing 140.31 acres, more or less.

Being a portion of said lot numbered 70, of said Sonoma Mission Farms No. 5, and also included within lot numbered 14 of the hereinafter mentioned referee's map of certain property belonging to Kate Johnson Estate Company, et al.

Parcel three: Subdivisions seven (7), eight (8), nine (9), ten (10), fifteen (15), and all that portion of Subdivision five (5) which would lie southeast of Buena Vista Avenue, if said avenue were continued in a straight line through lots 5 and 8 instead of as shown on the map hereinafter referred to, all as designated and laid down upon the map entitled "Referee's Map of certain property belonging to Kate Johnson Estate Company, et al., in Sonoma and Napa Counties, California, showing the subdivision thereof as divided and sold by the referees in partition, in the suit entitled "Kate Johnson Estate Company, et al. vs. Clara Turnbull, et al. Superior Court of the City and County of San Francisco, State of California," filed in the office of the county recorder of Sonoma County, on April 29, 1907, and recorded in Book 21 of Maps, page 2.

Saving and excepting from Subdivisions 8 and 15, however, the following portion thereof, to wit:

Beginning at a point in the center line of Buena Vista Avenue at the southeast corner of lot No. 1 of Sonoma Mission Farms No. 1, the same being designated and delineated on the map entitled, "Sonoma Mission Farms No. 1," on file in the county recorder's office of Sonoma County, California; thence north 32° west 916.72 feet along and with the easterly line of said lot No. 1 to the southeast corner of lot No. 10; thence north 32° west 196.94 feet along and with the easterly line of lot No. 10 to the southwest corner of lot 8, section 5, township 5 north, range 5 west M.D.M.; thence north 566 feet along

the westerly line of lot 8, section 5, township 5 north, range 5 west, M.D.M. to a point; thence south 32° 05′ east 1584.7 feet to a point in the aforementioned center line of Buena Vista Avenue, extended; thence south 58° 13′ west, 300 feet along and with the center line of said avenue, to the point of beginning, containing 9.52 acres of land.

Also saving and excepting from Subdivision 10, however, the following portion thereof, to wit:

Beginning at the southeast corner of said lot 10, as shown upon the referee's map mentioned above; thence north 7° 16′ east to the center of a proposed road, 1093.3 feet; thence north 79° 55′ west 147.9 feet; south 1° 55′ west 284.1 feet; south 22° 19′ west 398.3 feet; south 43° 33′ west 147.8 feet; south 61° 01′ west 148 feet; south 67° 49′ west 95.2 feet; north 83° 35′ west 156.7 feet; north 74° 13′ west 81.8 feet; south 48° 35′ west 85.4 feet to the south line of said lot 10; thence leaving the center of said proposed road and along the said south line of said lot 10 easterly, to the point of beginning, bearings true. Saving and excepting from the above tract of land a strip 20 feet in width adjoining and parallel to the center line of said proposed road on the southerly and easterly side. The tract of land hereby described, containing six acres, a little more or less.

Mineral deposits

SEC. 2. There is hereby excepted and reserved to the State of California all deposits of minerals, including oil and gas, in said lands, together with the right to prospect for, extract and remove such deposits of minerals, including oil and gas, therefrom.

Proceeds of sale

SEC. 3. The proceeds of the sale of said lands shall be deposited in the General Fund in the State treasury.

Sale formalities

SEC. 4. Any grant made pursuant to this act shall be signed, sealed and countersigned in conformity to Section 14 of Article V of the Constitution of California.

CHAPTER 214

An act to add Section 79.03a to, and to amend Sections 79.03, 79.04 and 79.05 of the Civil Code, all relating to premarital examinations.

[Approved by Governor April 24, 1943. Filed with Secretary of State April 24, 1943.]

In effect August 1, 1943

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

Stats. 1939, p. 1716

SECTION 1. Section 79.03 of the Civil Code is amended to read:

See also Stats. 1943, Ch. 871 "Certificate form"

79.03. Except as hereinafter provided, the certificate of a physician and the statement from a person in charge of a laboratory or from a person authorized to make reports for the laboratory shall be on a form to be provided and distributed

by the California State Department of Public Health to laboratories in the State approved by the California State Department of Public Health. This form is hereinafter referred to in this article as "the certificate form."

New section
See also Stats 1943, Ch 871
Other forms

SEC. 2. Section 79.03a is added to the Civil Code, to read:

79.03a. Certificate forms provided by other States having comparable laws will be accepted for persons who have been examined and who have received serological tests for syphilis outside of California; provided, such examinations and tests are performed not more than 30 days prior to the issuance of a marriage license. Certificates provided by the United States Army or Navy will be accepted for military personnel; provided, such certificates are signed by a medical officer commissioned in the United States Army or Navy; and provided, the certificates state the examinations and serological tests for syphilis were performed not more than 30 days prior to the issuance of the marriage license.

Stats 1939, p 1716
See also Stats 1943, Ch 871
Standard serological test

SEC. 3. Section 79.04 of the Civil Code is amended to read:

79.04. For the purpose of this article a standard serological test shall be a test for syphilis approved by the California State Department of Public Health and an approved laboratory shall be the laboratory of the California State Department of Public Health or a laboratory approved by the California State Department of Public Health or any other laboratory the director of which is licensed by said State Department of Public Health according to law. In case of question concerning accuracy of tests prescribed in this article, it shall be mandatory upon the State Department of Public Health to accept specimens for checking purposes from any district in the State.

Stats 1939, p 1716
See also Stats 1943, Ch 871
"Laboratory Report Form"

SEC. 4. Section 79.05 of the Civil Code is amended to read:

79.05. The California State Department of Public Health shall issue a "Laboratory Report Form" to be distributed upon application to all laboratories approved to do tests called for in this article. Any laboratory doing tests called for in this article shall prepare the report in triplicate. The original of this report shall be transmitted by the laboratory doing such test together with the certificate form to the certifying physician. The duplicate reports shall be forwarded at weekly intervals to the California State Department of Public Health. The triplicate shall be retained by the laboratory on file for five years and shall be open during that time for inspection by any authorized representative of the California State Department of Public Health.

CHAPTER 215

An act to amend Section 50¼ of the Public Utilities Act, relating to fees for applications for certificates of public convenience and necessity.

Stats. 1915, p. 115, amended

[Approved by Governor April 24, 1943. Filed with Secretary of State April 24, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 50¼ of the Public Utilities Act is amended to read:

Stats. 1931, p. 2598

Sec. 50¼. No passenger stage corporation shall hereafter operate or cause to be operated any passenger stage over any public highway in this State without first having obtained from the Railroad Commission a certificate declaring that public convenience and necessity require such operation, but no such certificate shall be required of any passenger stage corporation as to the fixed termini between which, or the route over which, it is actually operating in good faith at the time this act becomes effective in compliance with the provisions of an act known as Chapter 213, Statutes of 1917, of the State of California, approved May 10, 1917, and amendments thereto, nor shall any such certificate be required of any person or corporation who on January 1, 1927, was operating, or during the calendar year 1926 had operated a seasonal service of not less than three consecutive months' duration, sight-seeing buses on a continuous sight-seeing trip with one terminus only. Any right, privilege, franchise or permit held, owned, or obtained by any passenger stage corporation may be sold, assigned, leased, mortgaged, transferred, inherited, or otherwise encumbered as other property, only upon authorization by the Railroad Commission. Every applicant for a certificate shall file in the office of the commission an application therefor in such form as shall be required by the commission, and the Railroad Commission shall have power, with or without hearing, to issue said certificate as prayed for, or to refuse to issue the same, or to issue it for the partial exercise only of said privilege sought, and may attach to the exercise of the rights granted by said certificate such terms and conditions as, in its judgment, the public convenience and necessity may require; provided, that the Railroad Commission shall have power, after hearing, to issue said certificate when an applicant requests a certificate to operate in a territory already served by a certificate holder under this act only when the existing passenger stage corporation or corporations serving such territory will not provide the same to the satisfaction of the Railroad Commission. The Railroad Commission, in the exercise of the jurisdiction conferred upon it by the Constitution of this State and by this act, shall have power and authority to grant certificates of public convenience and necessity and make decisions and orders and to prescribe rules and regulations affecting passenger stage

Passenger stage corporations Certificate of necessity

Exemption

Application for and issuance of certificate

Authority of Railroad Commission

corporations, notwithstanding the provisions of any ordinance or permit of any incorporated city or town, city and county, or county and in case of conflict between any such order, rule or regulation, and any such ordinance or permit, the certificate, decision, order, rule or regulation of the Railroad Commission shall in each instance prevail.

Order to cease and desist

When a complaint has been filed with the commission alleging that any passenger stage is being operated without a certificate of public convenience and necessity, contrary to or in violation of the provisions of this act, the commission shall have the power, with or without notice, to make its order requiring the corporation, or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, operating or managing such passenger stage, to cease and desist from such operation, until the commission makes and files its decision on said complaint, or until further order of the commission.

Operation between fixed termini

Whether or not any stage, auto stage, or other motor vehicle is being, or is proposed to be operated as a passenger stage corporation "between fixed termini or over a regular route" within the meaning of this act shall be a question of fact, and the finding of the Railroad Commission thereon shall be final and shall not be subject to review. Any act of transporting or attempting to transport any person or persons by stage, auto stage, or other motor vehicle upon a public highway of this State between two or more points not both within the limits of a single incorporated city, town or city and county, where the rate, charge or fare for such transportation is computed, collected or demanded on an individual fare basis, shall be presumed to be an act of operating as a passenger stage corporation within the meaning of this act.

Fee

Each application for a certificate of public convenience and necessity made under the provisions of this section must be accompanied by a fee of fifty dollars ($50), unless the applicant is already operating in the immediate vicinity under the jurisdiction of the commission.

CHAPTER 216

An act to amend Section 675 of the Political Code, relating to the powers of the Director of Finance.

In effect August 4, 1943

[Approved by Governor April 24, 1943. Filed with Secretary of State April 24, 1943.]

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

Stats 1937, p 1390

SECTION 1. Section 675 of the Political Code is amended to read:

General powers of director

675. The Director of Finance shall have power:

1. To let, with the consent of the State department, board, commission, or officer concerned, for a period of not to exceed

five years, any property, real or personal, which belongs to the State, except where such letting is expressly prohibited by law, if in the judgment of the director such letting will be for the best interests of the State.

2. To hire or lease, upon the written request of the State department, board, commission, or officer concerned, any property, real or personal, if in the judgment of the director such hiring or leasing will be for the best interests of the State.

3. To authorize, with the consent of the State department, board, commission, or officer concerned, the sale or exchange of any personal property which belongs to the State if in the judgment of the director such sale or exchange will be for the best interests of the State.

4. To acquire title to real property in the name of the State of California whenever the acquisition of such property is authorized or contemplated by law, if no other agency of the State is specifically directed and empowered to acquire such title.

5. To execute grants to real property belonging to the State of California in the name of, and upon behalf of, the State of California, whenever the sale or exchange of such real property is authorized or contemplated by law, if no other agency of the State is specifically directed and empowered to execute such grants; to execute grants to any real property belonging to the State of California in the name of, and upon the behalf of, the State of California with the consent of the State agency, if any, concerned, to the United States of America, in exchange for lands of the latter, or for such other considerations, as may appear to the Director of Finance to be to the best interests of the State; any real property acquired by the State of California by exchange pursuant to the provisions of this subsection shall be subject to the laws governing real property of the class to which such acquired real property belongs.

6. To render such advisory, investigational or other similar service to any city, county, city and county, district or any other political subdivision of the State or to the Federal Government, as may be deemed expedient by the director, said service to be rendered only upon such terms and conditions as may be satisfactory to the Director of Finance.

7. To institute, in the name of the State of California, condemnation proceedings for the acquiring of any land authorized by law to be obtained for any State department, board, commission or institution, except land to be acquired by the Department of Public Works for highway uses and purposes, and to proceed if necessary to condemn under the terms of the Code of Civil Procedure relating to such proceedings, if no other agency of the State is specifically directed and empowered to institute such proceedings.

8. To grant and convey in the name of the State of California, with the approval of the department concerned, easements and rights of way over and across real property belonging to the State except real property used for highway rights of way, for such purposes and upon such consideration and subject to such conditions, limitations, restrictions and reservations as in his judgment may be to the interest of the State.

9. To grant and convey by deed or otherwise to abutting property owners all right, title and interest of the State of California, in and to abandoned river channels.

10. To withdraw from sale any and all of the public lands belonging to the State of California by executive order, with the approval of the Governor, and by like procedure, to return any or all of any such lands so withdrawn for the purpose of sale or other disposition in accordance with law.

11. To establish, with the consent of the State agency concerned, boundaries between the property of the State of California held in proprietary capacity and real property in private ownership, and to execute in behalf of and in the name of the State of California, and to accept upon behalf thereof, instruments necessary to the establishment of any such boundary.

12. To authorize the transfer or loan between State department, boards, commissions, or officers of personal property owned by the State if in the judgment of the director such transfer or loan, and the terms and conditions thereof, will be for the best interests of the State.

CHAPTER 217

Stats 1917, p 1566, repealed
Stats 1939, p 2520, repealed

An act to provide for the final liquidation of the State Land Settlement, for the disposition by the State of all real and personal property and funds owned or held by the State in connection therewith, and to repeal the Land Settlement Act, an act entitled "An act authorizing the Department of Finance to manage, administer, or dispose of certain real and personal property owned by the State of California at Delhi State Lands Settlement, and acquired through trade of property at Delhi State Lands Settlement," approved July 22, 1939, and Sections 361e, 361f, 361g, 361h, 361i, 690a, 690b, 690c and 690d of the Political Code.

In effect August 4, 1943

[Approved by Governor April 24, 1943 Filed with Secretary of State April 24, 1943.]

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

Purpose

SECTION 1. This act is intended to provide for the final and complete liquidation of the State Land Settlement, originally established under Chapter 755 of the Statutes of 1917,

and for the sale or other disposition of all remaining real or personal property owned by the State, directly or indirectly, in connection therewith.

Merced property

SEC. 2. Complete jurisdiction and control of all of the land owned by the State in the Delhi Colony in Merced County, consisting of approximately 58.50 acres, are hereby transferred to the State Department of Finance. The department may sell all or any part thereof, reserving to the State the minerals including oil and gas in such lands, and reserving to the State or persons authorized to do so by the State the right to prospect for, extract and remove, said minerals, oil and gas therefrom, for cash at a price fixed by the Director of Finance. The department may lease all or any part of the land for such rental and upon such terms and conditions as are provided for other State lands of similar character. All money received by the Department of Finance under this section shall be deposited in the General Fund in the State treasury.

State Fair Grounds property

SEC. 3. Jurisdiction and control of the real property in the City of Sacramento, described as lots 62, 63, 64 and 65 on Fifth Avenue and Fifty-seventh Street, and now merged with the land comprising the State Fair Grounds, are hereby transferred to the State Agricultural Society, for use for State Fair purposes.

Other property in Sacramento

SEC. 4. Jurisdiction and control of the remaining real property in the City of Sacramento, consisting of property known as the State Garage on L Street, and lots designated 83, 84 and H on Fifth Street, are hereby vested in the Department of Finance for use for State purposes. The department may sell all or part thereof upon such terms and conditions as the Director of Finance deems for the best interests of the State.

Personal property

SEC. 5. All personal property shall be held by the Department of Finance for use by it, for transfer to other State agencies which receive their support from the General Fund for use by such agencies, or said property may be sold.

Disposition of money

SEC. 6. The State Lands Settlement Fund in the State treasury is abolished and the unencumbered balance of the money therein, together with any money held by any State agency for the account or use of the State Land Settlement, shall be deposited in the General Fund.

Stats 1917, p 1566

SEC. 7. (a) The Land Settlement Act (Chapter 755 of the Statutes of 1917) is hereby repealed.

Stats 1939, p 2520

(b) An act entitled "An act authorizing the Department of Finance to manage, administer, or dispose of certain real and personal property owned by the State of California at Delhi State Lands Settlement, and acquired through trade of property at Delhi State Lands Settlement," approved July 22, 1939, is hereby repealed.

Repeals

(c) Sections 361e, 361f, 361g, 361h, 361i, 690a, 690b, 690c and 690d of the Political Code are hereby repealed.

CHAPTER 218

An act granting to the County of Sonoma certain lands of the State of California located in the County of Sonoma, upon certain trusts and conditions.

In effect August 4, 1943

[Approved by Governor April 24, 1943 Filed with Secretary of State April 24, 1943.]

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

Grant

SECTION 1. There is hereby granted to the County of Sonoma all of the right, title and interest of the State of California held by said State by virtue of its sovereignty in and to the following described real property situate in the County of Sonoma, in said State, and described as follows, to wit:

Description

Parcel No. 1. Commencing at a 6″ x 6″ concrete monument from which Engineers Station 476+39.23 P.C. bears N. 32° 05′ 20″ E. a distance of 4657.88 feet, said station being shown on a map of Road District Improvement No. 3 as recorded in Book 44 of Maps, pages 145 to 186 Sonoma County Records; thence from said point of commencement S. 59° 16′ 30″ E. a distance of 61.46 feet to the ordinary high-water mark of Bodega Bay and the point of beginning of the herein described parcel of land; thence from said point of beginning and following said ordinary high-water mark N. 18° 11′ E. a distance of 1201.26 feet; thence leaving said ordinary high-water mark and crossing the waters of Bodega Bay S. 0° 25′ 20″ W. a distance of 2649.37 feet to a point in the ordinary high-water mark of Bodega Bay; thence along said ordinary high-water mark the following courses and distances, N. 18° 32′ W. 150.00 feet to a point from which a brass tablet marking U. S. Engineer's Triangulation Station "Gaffney" bears S. 55° 41′ W., a distance of 122.80 feet; thence continuing along said ordinary high-water mark N. 49° 20′ W. 512.40 feet; N. 17° 49′ W. 320.00 feet; N. 0° 49′ W. 500.00 feet and N. 39° 17′ 30″ E. 293.70 feet to the point of beginning, containing 18.83 acres.

Parcel No. 2. All of that real property adjacent to the Bodega Rancho and lying adjacent to the Pacific Ocean at Bodega Bay more fully described as follows:

Commencing at a 4″ x 4″ concrete monument marking the most westerly corner of that certain tract of land acquired by the County of Sonoma under an order of condemnation as recorded in Book 557, Official Records, page 353, which said tract is designated as Parcel 9 in said order and from which point of commencement Engineers Station 407+16.24 P.C. bears N. 56° 04′ 30″ E., a distance of 3940.90 feet; said station 407+16.24 being shown on a Map of Road District Improvement Number 3 as recorded in Book 44, of Maps, pages 145 to 186, Sonoma County Records; and from said point of commencement another 4″ x 4″ concrete monument bears N. 67° 21′ 30″ E., a distance of 576.36 feet; thence from said point of commencement S. 20° 01′ E., a distance of 124.85

feet; thence S. 19° 47′ E., a distance of 50.00 feet to the ordinary high tide line of the waters of the Pacific Ocean; thence along the said ordinary high tide line S. 74° 59′ W., a distance of 99.85 feet; thence still following said tide line S. 72° 55′ W., a distance of 404.32 feet to the point of beginning of the parcel to be described; thence from said point of beginning and along the ordinary high tide line of the waters of the Pacific Ocean as said high tide line existed prior to dredging operations of the years 1942 and 1943 the following courses and distances; S. 59° 00′ W. 194.25 feet; S. 64° 34′ W., 570.00 feet; S. 60° 19′ W., 447.70 feet; S. 61° 42′ W. 322.00 feet; S. 54° 34′ W. 330.67 feet; S. 48° 10′ W. 99.17 feet; S. 56° 42′ W. 100.00 feet; S. 53° 50′ W. 100.13 feet; S. 56° 30′ W. 38.00 feet to a point in the now existing ordinary high tide line of the waters of the Pacific Ocean; thence along said existing ordinary high tide line the following courses and distances; S. 54° 00′ W. 187.00 feet; S. 52° 30′ W., 220.00 feet; S. 64° 30′ W. 145.00 feet; S. 30° 00′ W. 125.00 feet; S. 34° 14′ E. 178.00 feet; S. 25° 36′ W., 125.56 feet; S. 19° 17′ W. 105.33 feet; S. 5° 57′ W. 100.82 feet; S. 3° 52′ E. 139.38 feet; S. 18° 19′ E., 161.29 feet; S. 30° 06′ E. 107.40 feet; S. 41° 55′ E. 190.77 feet; S. 43° 53′ E. 160.82 feet; S. 64° 40′ E. 105.68 feet; S. 75° 43′ E. 85.11 feet; N. 21° 55′ E. 455.00 feet; N. 1° 27′ W. 544.00 feet; N. 16° 29′ E. 355.47 feet; N. 39° 59′ E. 470.00 feet; N. 49° 39′ E. 395.00 feet; N. 52° 51′ 30″ E. 1280.65 feet to the point of beginning. Containing 28.52 acres.

Conditions of grant

SEC. 2. All of said real property above described and hereby granted shall be forever held by the said County of Sonoma, and by its successors, in trust for the uses and purposes and upon the express conditions following, to wit:

Said real property shall be used solely for the purposes of a public park, to which the public at all times shall have free access, and said County of Sonoma shall not at any time grant, convey, lease, give, or alien, said real property or any part thereof to any individual, firm or corporation whatever.

Fishing rights

SEC. 3. There is hereby reserved, however, in the people of the State of California, the right to fish in the waters of the tidelands, with the right of convenient access to said waters over said lands when improved, as aforesaid.

Mineral deposits

SEC. 4. There is hereby excepted and reserved to the State of California, all deposits of minerals, including oil and gas, in the land granted by this act, including the right to extract and remove the deposits.

CHAPTER 219

An act to amend Section 669 of the Penal Code, relating to terms of imprisonment.

In effect August 4, 1943

[Approved by Governor April 24, 1943. Filed with Secretary of State April 24, 1943.]

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

Stats 1941, p 2262

SECTION 1. Section 669 of the Penal Code is hereby amended to read as follows:

Terms of imprisonment upon conviction for two or more crimes

669. When any person is convicted of two or more crimes, whether in the same proceeding or court or in different proceedings or courts, and whether by judgment rendered by the same judge or by different judges, the second or other subsequent judgment shall direct whether the terms of imprisonment or any of them to which he is sentenced shall run concurrently, or whether the imprisonment to which he is or has been sentenced upon the second or other subsequent conviction shall commence at the termination of the first term of imprisonment to which he has been sentenced, or at the termination of the second or subsequent term of imprisonment to which he has been sentenced, as the case may be; provided, however, if the punishment for any of said crimes is expressly prescribed to be life imprisonment, whether with or without possibility of parole, then the terms of imprisonment on the other convictions, whether prior or subsequent, shall be merged and run concurrently with such life term. In the event that the court at the time of pronouncing the second or other judgment upon such person had no knowledge of a prior existing judgment or judgments, or having knowledge, fails to determine how the terms of imprisonment shall run in relation to each other, then, upon such failure so to determine, or upon such prior judgment or judgments being brought to the attention of the court at any time prior to the expiration of 60 days from and after the actual commencement of imprisonment upon the second or other subsequent judgments, the court shall, in the absence of the defendant and within 60 days of such notice, determine how the term of imprisonment upon said second or other subsequent judgment shall run with reference to the prior incompleted term or terms of imprisonment. Upon the failure of the court so to determine how the terms of imprisonment on the second or subsequent judgment shall run, the term of imprisonment on the second or subsequent judgment shall run concurrently.

The State Board of Prison Directors shall advise the court pronouncing the second or other subsequent judgment of the existence of all prior judgments against the defendant, the terms of imprisonment upon which have not been completely served.

CHAPTER 220

An act to amend Section 4041.11 of the Political Code, relating to control of dogs and predatory animals.

[Approved by Governor April 24, 1943. Filed with Secretary of State April 24, 1943.] In effect August 4, 1943

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

SECTION 1. Section 4041.11 of the Political Code is amended to read: Stats 1935, p 952

4041.11. (1) Under such limitations and restrictions as are prescribed by law, and in addition to jurisdiction and powers otherwise conferred, the boards of supervisors, in their respective counties, shall have the jurisdiction and powers to maintain, regulate and govern public pounds, fix the limits within which animals shall not run at large, and appoint poundkeepers, who shall be paid out of the fines imposed and collected from the owners of impounded animals, and from no other source. See also Stats 1943, Ch 677 Powers of supervisors Public pounds

(2) To provide for the prevention of injuries to sheep by dogs, and destruction and control of predatory animals, and to tax dogs and direct the application of the tax. Control of predatory animals

(3) To provide for the destruction of gophers, squirrels, other wild animals, noxious weeds, plant diseases, and insects injurious to fruit or fruit trees, or vines, or vegetable or plant life. Gophers, weeds, insects, etc.

(4) To provide for the enforcement of the provisions of the Agricultural Code relating to fruit, nut, and vegetable standards, and for this purpose may enter into cooperative agreements with the Director of Agriculture whereby county funds may be expended for the enforcement of said provisions within or outside of the county. Fruit, nut and vegetable standards

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CHAPTER 221

An act to amend Section 70 of and to add Sections 70.1 and 70.2 to the Streets and Highways Code, relating to the California Highway Commission and providing for the organization thereof. Stats 1935, p 248, amended

[Approved by Governor April 24, 1943. Filed with Secretary of State April 24, 1943.] In effect August 4, 1943

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

SECTION 1. Section 70 of the Streets and Highways Code is amended to read: Stats 1935, p 248

70. There is in the department the California Highway Commission, consisting of seven members. The Director of Public Works shall be an ex officio member and chairman of California Highway Commission

the commission. The Governor shall nominate and, with the advice and consent of the Senate, shall appoint the other six members of the commission. Except as provided in Section 70.1, the members shall hold office for terms of four years and until their successors are appointed and qualify. The members shall receive their actual and necessary traveling expenses incurred in the discharge of their duties and a per diem of fifteen dollars ($15) per day while in attendance at the meetings of the commission. Each member of the commission shall take the oath of office prescribed for other State officers.

New section

SEC. 2. Section 70.1 is added to the Streets and Highways Code, to read:

Appointments

70.1. The Governor shall make the first appointments hereunder for terms expiring, respectively, on the fifteenth day of January, one in each of the years 1944 and 1946 and two in each of the years 1945 and 1947, and shall appoint a successor to any term expiring before the next session of the Legislature convenes. Whenever a term expires or a vacancy occurs when the Legislature is not in session, the Governor shall appoint a successor to fill the vacancy. The Senate shall consider without further presentation any appointment made when the Legislature is not in session. If the Senate consents to any appointment, such person shall hold office to the end of the term to which appointed. If the Senate takes no final action on any appointment at the next regular session of the Legislature following such appointment, the person so appointed shall hold office only until the adjournment of such session. If the Senate by final vote refuses to consent, the person so appointed shall hold only until such refusal.

Senate action

New section

SEC. 3. Section 70.2 is added to the Streets and Highways Code, to read:

Representation

70.2. Each member of the California Highway Commission shall represent the State at large and not any particular district or section. It is hereby declared to be the policy of the Legislature to provide for advance planning and continuity of fiscal policy in the construction and improvement of the State Highway System and in the administration of the expenditures from the State Highway Fund. The commission is directed to follow such policy in so far as possible.

Policy

Incumbents

SEC. 4. The members of the California Highway Commission appointed prior to the effective date of this act shall continue to hold office until replaced by appointments made hereunder. The Governor shall designate the member heretofore appointed to be replaced by each appointment made hereunder, except that the Director of Public Works, as ex officio member of the commission, shall on the effective date hereof, replace the member heretofore appointed and designated as chairman of the commission.

Powers

SEC. 5. The California Highway Commission as organized under the provisions of this act shall have all the powers, duties, jurisdiction and responsibilities now or hereafter

vested in or imposed upon the California Highway Commission under the provisions of the Streets and Highways Code or any other law of this State.

CHAPTER 222

An act to abolish the Waste Utilization Commission and to provide for the transfer of its property, powers, and duties to the Department of Agriculture, and to repeal certain acts specified herein.

[Approved by Governor April 24, 1943. Filed with Secretary of State April 24, 1943.]

In effect August 4, 1943

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

SECTION 1. The Waste Utilization Commission is abolished. The Department of Agriculture shall succeed to and have possession of all records, books, papers, equipment, supplies, moneys, funds, appropriations, and all other property, both real and personal, now or hereafter belonging to, held by, or for the benefit of the Waste Utilization Commission, and all such property is transferred to the Department of Agriculture.

Abolition

Transfer of papers, funds, etc

SEC. 2. An act entitled "An act to provide for the investigation of, and utilization of waste products of agriculture, live stock, and timbers; creating the Waste Utilization Commission to carry out the provisions of this act and prescribing its powers and duties in connection therewith," approved July 13, 1939, is repealed.

Stats 1939, p 2269

CHAPTER 223

An act to amend Section 96.5 of the State Civil Service Act, relating to status of members of armed forces on civil service lists.

Stats 1937, p 2085, amended

[Approved by Governor April 24, 1943. Filed with Secretary of State April 24, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 96.5 of the State Civil Service Act is amended to read:

Stats 1941, p 1685

Sec. 96.5. Any person who holds a position with permanent status and whose name appears on a departmental reemployment, general reemployment or promotional list and who enters the armed forces of the United States before such list upon which his name appears is abolished shall retain his place

Retention of names during service with armed forces

on such list until the expiration of three years from the termination of his service with the armed forces; provided, however, this section does not apply to any person who refuses to accept appointment to a position after certification thereto subsequent to his discharge from the armed forces, or who has not been certified during his service with the armed forces of the United States, or who is not discharged from the armed forces of the United States within four years after the effective date of this section.

No promotional lists upon which the names of such persons appear may be abolished, except that they may be replaced by more recently prepared lists if the names of such persons are placed in the order in which they appeared on the former list and at the same place as they appeared on said list.

CHAPTER 224

An act to amend Section 4280 of the Political Code, relating to the compensation of public personnel.

In effect August 4, 1943

[Approved by Governor April 24, 1943. Filed with Secretary of State April 24, 1943.]

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

Stats 1911, p 1601

SECTION 1. Section 4280 of the Political Code is amended to read:

Lake County. Salaries

4280. In counties of the fifty-first class, the following shall receive as compensation for services required of them by law or by virtue of their offices, the following sums:

Auditor

1. The auditor two thousand two hundred twenty dollars ($2,220) per annum, in lieu of all fees and commissions.

District attorney

2. The district attorney, two thousand four hundred dollars ($2,400) per annum.

Supervisors

3. Each supervisor, twelve hundred dollars ($1,200) per annum for his services as supervisor, and a further sum of ten cents ($0.10) per mile, in traveling to and from his residence to the county seat; and for his services as road commissioner he shall receive a salary of six hundred dollars ($600) per annum; and ten cents ($0.10) per mile, for every mile actually traveled in the performance of his duty as road commissioner. He shall not receive more than five hundred dollars ($500) in any one year for such mileage as road commissioner nor more than three hundred dollars ($300) in any one year for such mileage as supervisor.

Jurors

4. For attending as grand juror or as trial juror, each such juror shall receive such fees and mileage as are now or may hereafter be allowed by law.

CHAPTER 225

An act to add Section 57.7 to the State Civil Service Act, relating to the secretary of the Advisory Pardon Board.

Stats 1937, p 2085, amended

[Approved by Governor April 24, 1943. Filed with Secretary of State April 24, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 57.7 is added to the State Civil Service Act, to read:

New section

Sec. 57.7. The provisions of Article XXIV of the State Constitution and of this act shall apply to, and the term "State civil service" shall include the person holding the position of secretary of the Advisory Pardon Board.

Civil service inclusion

CHAPTER 226

An act to add Section 1407 to the Elections Code, relating to the initiative.

Stats 1939, p 49 amended

[Approved by Governor April 26, 1943. Filed with Secretary of State April 26, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 1407 is added to the Elections Code, to read:

New section

1407. The date a summary of a proposed initiative measure is delivered or mailed by the Attorney General to the proponents is hereby designated the "Official summary date for such proposed initiative measure." The Attorney General shall forthwith notify the Secretary of State of such date and send the Secretary of State a copy of the summary. The Secretary of State forthwith shall notify the clerk or registrar of voters of each county of the State of the official summary date and mail each a copy of the summary.

"Official summary date"

No petitions for a proposed initiative measure shall be circulated for signatures prior to the official summary date First petitions with signatures on a proposed initiative measure shall be filed with the clerk or registrar of voters not later than 90 days from the "Official summary date" of such proposed initiative measure, and no clerk or registrar of voters shall accept first petitions on such proposed initiative measure thereafter. Supplemental petitions in accordance with Section 1 of Article IV of the Constitution of California may be filed in any county or city and county wherein first petitions were filed provided same are filed as required by said Section 1 of said Constitution.

Circulation and filing of petitions

CHAPTER 227

Stats 1913, p 76, amended

Stats 1911, p 582, repealed

An act to amend the title and Sections 1 and 2 of an act entitled "An act authorizing the investment and reinvestment and dispositions of any surplus moneys in the treasury of any county, city and county, incorporated city or town, municipal utility district, irrigation district, or flood control district," approved April 23, 1913, as amended, and to repeal an act entitled "An act authorizing the investment and reinvestment, and disposition, of any moneys in any sinking fund of any county, city and county, or incorporated city or town, and repealing an act entitled 'An act authorizing the investment and reinvestment and disposition of any moneys in any sinking fund of any county, city and county, or incorporated city or town,' approved March 3, 1909," approved April 3, 1911, relating to the investment of moneys in the sinking funds of or surplus moneys in the treasury of any county, city and county, incorporated city, or any department of any incorporated city having control of its own funds, or other public or municipal corporation or public district, and declaring the urgency hereof, to take effect immediately.

In effect immediately

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

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

Stats 1941, p 430 See also Stats 1943, Ch 571

SECTION 1. The title of an act entitled "An act authorizing the investment and reinvestment and dispositions of any surplus moneys in the treasury of any county, city and county, incorporated city or town, municipal utility district, irrigation district, or flood control district," approved April 23, 1913, is amended to read:

Title

An act authorizing the investment and reinvestment and dispositions of any moneys in any sinking fund of or any surplus moneys in the treasury of any county, city and county, incorporated city or any department of any incorporated city having control of its own funds, or other public or municipal corporation or public district.

Stats 1941, p 430 See also Stats 1943, Ch 571

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

Investment of surplus funds

Section 1. Any county, city and county, incorporated city or any department of any incorporated city having control of its own funds, or other public or municipal corporation or public district, which now has, or hereafter shall have, any moneys in any sinking fund of or any surplus money in the treasury thereof, not required for the immediate necessities of the said county, city and county, incorporated city, department, or other public or municipal corporation or public district, is hereby authorized to invest such portion of any such moneys as the governing body of the said county, city and county, incorporated city, department, or other public or municipal corporation or public district, may deem wise or

expedient in (1) any bonds already issued or hereafter issued by such county, city and county, incorporated city, department, or other public or municipal corporation or public district, respectively, and (2) treasury notes or bonds of the United States or those for which the faith and credit of the United States are pledged for the payment of principal and interest, or of this State, or of any county, city and county, city, department, or other public or municipal corporation or public district respectively within this State, or registered warrants of this State; provided, said notes, bonds or registered warrants are legal investment for savings banks in the State of California. Any such investment may be made by direct purchase of any issue of notes, bonds or registered warrants, or part thereof, at the original sale of such notes, bonds or registered warrants, or by the purchase of such notes, bonds or registered warrants after they have been thus issued. Any notes, bonds or registered warrants thus purchased and held may, from time to time, be sold and the proceeds reinvested in notes, bonds or registered warrants as above provided. Sales of any notes, bonds or registered warrants thus purchased and held shall, from time to time, be made in season so that the proceeds may be applied to the purposes for which the money with which the notes, bonds or registered warrants were originally purchased, was placed in the sinking fund or the treasury of the county, city and county, incorporated city, department, or public or municipal corporation or public district.

Sale and reinvestment

Any bonds so purchased, which were issued by the purchaser, may be canceled, either in satisfaction of sinking fund obligations, or otherwise, and when canceled shall no longer be deemed to be outstanding, or in the discretion of the governing body any bonds so purchased may be held uncanceled so long as may be determined upon, and while so held uncanceled may be resold. Any interest and the proceeds of any such resale, shall be deposited in the fund out of which the bonds were purchased.

Cancellation and resale

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

Stats 1941, p 430. See also Stats 1943, Ch 571

Sec. 2. The functions and duties authorized by this act shall be performed by the legislative or governing body of the county, city and county, incorporated city or department thereof, or public or municipal corporation or public district, or under its authority. In the case of any department of any incorporated city having control of its own funds, the board having control of such department and of the expenditure of such funds shall be deemed to be the governing body thereof within the meaning of this act.

Authority vested in governing body

SEC. 4. An act entitled, "An act authorizing the investment and reinvestment and disposition, of any moneys in any sinking fund of any county, city and county, or incorporated city or town, and repealing an act entitled 'An act authorizing the investment and reinvestment and disposition of any moneys in any sinking fund of any county, city and county,

Stats 1911, p 582

or incorporated city or town,' approved March 3, 1909,'' approved April 3, 1911, is repealed.

Urgency

SEC. 5. This act is hereby declared to be an urgency measure within the meaning of Section 1 of Article IV of the Constitution necessary for the immediate preservation of the public peace, health and safety, and as such shall take effect immediately.

The facts constituting such necessity are as follows:

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

CHAPTER 228

An act to amend Section 328b of the Civil Code, relating to the transfer by trustees.

In effect August 4, 1943

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

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

Stats 1933, p 1358

SECTION 1. Section 328b of the Civil Code is hereby amended to read as follows:

Presumption, etc., as to fiduciary's authority

328b. Whenever certificates for shares or other securities issued by a domestic or foreign corporation are to be or have been issued or transferred to a person or corporation as trustee or in any other fiduciary capacity, or to the nominee of such person or corporation, on the books or records of the corporation, whether or not such certificates or other securities or the instrument of transfer describe the trust or other document or appointment under which the fiduciary is acting or identify any heir, legatee, ward or beneficiary, it shall be presumed in favor of such corporation and its transfer agent that such fiduciary or the nominee of such fiduciary has the power to accept and transfer title to such certificates or other securities and there shall be no duty upon the corporation or its registrar or transfer agent to inquire into or determine the existence or validity of any trust or other document or appointment under which the fiduciary is acting or the terms thereof, or whether the fiduciary is committing a breach of obligation or exceeding his authority. The corporation, its registrar or transfer agent, shall be liable for recording or causing to be recorded a transfer of such certificates or other securities only if this is done with actual knowledge of a breach of trust or of the invalidity of the trust or other document or appointment under which the fiduciary is acting, or if it has been enjoined therefrom by a court of competent jurisdiction.

CHAPTER 229

An act to provide for precautions against enemy attack, including blackout and dimout regulations, declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.] In effect immediately

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

CHAPTER 1. ZONES OF RESTRICTED LIGHTING

SECTION 1. The present situation requires as a matter of military necessity that a Zone of Restricted Lighting be established within the areas described herein, and that illumination Necessity of act

PROCLAMATIONS UNDER CHAPTER 229, STATUTES OF 1943

Prior to the publication of this volume, four proclamations under Chapter 229 have been issued by the Governor. The text of these proclamations is printed as an addendum following page 3968 of this volume.

110 15, which runs approximately three miles west of Greenville, one mile west of Bena and seven miles east of Lebec, Los Angeles—all that portion situated southwesterly of Angeles National Forest and westerly of Mint Canyon, Madera—all that portion situated westerly of Sierra National Forest, Mariposa—all that portion situated westerly of Stanislaus National Forest and Sierra National Forest, Nevada—all that portion situated westerly of Tahoe National Forest, Placer—all that portion situated westerly of Tahoe National Forest, Riverside —all that portion situated westerly of the San Bernardino Meridian, including all of the city of San Jacinto, San Bernardino—all that portion situated southwesterly of the San Bernardino National Forest, San Diego—all that portion situated westerly of Anza Desert State Park, Shasta—all that portion situated westerly of the Mount Diablo Meridian, Tehama—all that portion situated westerly of the Lassen National Forest and westerly of the most westerly boundary of

Lassen National Forest projected north along the Mount Diablo Meridian to the southerly boundary of Shasta County, Tulare—all that portion situated westerly of Sierra National Forest, Sequoia National Park and Sequoia National Forest, Tuolumne—all that portion situated westerly of Stanislaus National Forest.

Illumination prescribed

SEC. 2. Illumination within the entire area of said Zone of Restricted Lighting described in Section 1 shall be extinguished or controlled at all times at night from sunset to sunrise, as follows:

Signs, etc

(a) Signs, Floodlighting, Display and Interior Lighting. Illuminated signs and ornamental lighting of every description which are located out-of-doors, and floodlighting which illuminates buildings or signs (including but not limited to all exterior advertising signs, billboards, display lighting, theater marquee signs, illuminated poster panels and building outline lighting), and all interior light sources (as hereinafter defined) which emit direct rays above the horizontal out-of-doors, shall be extinguished. The words, "light sources," as used herein are intended and shall be construed to mean and include any light generating elements and the bright portion of any reflector, lens, luminaire, transparency, or other equipment associated therewith for the control or diffusion of light. This Section 2 (a) shall not apply to illumination for industrial or protective purposes except to the extent provided for in Section 2 (b) hereof.

Outdoor areas

(b) Illumination of Outdoor Areas; Street and Highway Lights. Illumination of outdoor areas and industrial and protective illumination, shall be controlled as follows:

(1) Except as provided in Section 2 (b) (2) hereof, illumination on all outdoor areas (including but not limited to automobile service station yards, outdoor parking areas, recreation areas and outdoor structures and roofs) shall not exceed one foot candle at any point when measured on a horizontal plane at any level of such outdoor areas, and all outdoor light sources shall be shielded so that no direct rays from the light source are emitted above the horizontal. All interior lighting of every description shall be reduced or controlled so that it does not contribute more than one foot candle of illumination upon any outdoor area. All street and highway lights shall also be shielded so that each light source emits no more than 10 per cent of its total lamp lumens at angles above the horizontal. Provided the foregoing requirements are met, any further reduction or extinguishment of street or highway illumination which would unnecessarily aggravate traffic hazards is not required.

Industrial and protective lighting

(2) Variations from the foregoing requirements shall be permitted in the case of illumination for industrial and protective purposes, and from industrial processes, whether interior or exterior, but not including street or highway lights, only when and to the extent that it is necessary to vary from such requirements in order to achieve and maintain maximum

efficiency; but only with the written approval of the Commanding General of the Western Defense Command or an agency designated by such commander to approve such variations, obtained in advance.

Traffic signs

(c) Traffic Signs and Signals. Illuminated signs and signals which are authorized or maintained by governmental authority for the purpose of controlling or directing street or highway traffic shall be shielded so that no direct rays from the light source are emitted above the horizontal in respect to lights mounted 10 feet or more above the ground, or above an angle of more than six degrees above the horizontal in respect to lights mounted less than 10 but more than three feet above the ground, or above an angle of more than 12 degrees above the horizontal in respect to lights mounted less than three feet above the ground. Relative variations in the upward limit of light are permissible to compensate for grades.

Navigation and railroad lights

(d) Navigation and Railroad Lights. Authorized lights necessary to facilitate air or water navigation, authorized railroad signal lights, and headlights of railroad locomotives when in motion, are hereby excepted from all the provisions of this chapter.

"Visible from the sea"

SEC. 3. Definition of "Visible From the Sea." The phrase "visible from the sea," as used herein, is intended and shall be construed to mean and include the following:

Visible at any time from the waters of the Pacific Ocean, or visible from any of those bodies of water located on the shoreline of the State of California generally known and described as follows: Santa Monica Bay, Santa Barbara Channel, San Luis Obispo Bay, Estero Bay, and Monterey Bay; provided, however, that the waters of San Francisco Bay, lying easterly of a line extending from Point Bonita through Mile Rock, is not intended and shall not be construed to be a part of the sea; and solely for the purposes of Section 3 (c) hereof, concerning street and highway traffic, the phrase "areas visible from the sea" is also intended and shall be construed to mean and include that portion of streets or highways which may not in fact be visible from the sea but which is within areas generally visible from the sea.

Areas visible from sea

In addition to the restrictions hereinbefore imposed, illumination within that part of the Zone of Restricted Lighting which is visible from the sea, as herein defined, shall be further diminished or obscured at all times at night from sunset to sunrise, as follows:

Street and traffic lights

(a) Street, Highway and Traffic Lights. Street and highway lights, and illuminated signs (but not signals) which are authorized or maintained by governmental authority for the purpose of controlling or directing street or highway traffic and which are visible from the sea, shall be so shielded that they are not visible from the sea at night and so that no direct rays from the light source are emitted above the horizontal.

Windows

(b) Residential, Commercial and Industrial Windows. No lighting shall be permitted behind windows or glazed doors

visible from the sea unless they are covered by drapes or shades.

Automobiles

(c) Street and Highway Traffic. Within areas visible from the sea, but subject to the exceptions hereinafter stated, vehicles shall operate at night, regardless of the direction of travel, with two lighted driving lamps, but not more than two, and each such lamp shall provide a maximum of not more than 250 beam candlepower. Normal rear lights, license plate lights and clearance lights (where required by law) are permitted. Vehicles which are classified as authorized emergency vehicles under the laws of this State or under Federal laws or regulations, when displaying an illuminated red spotlight, and when responding to a fire alarm, or when in the immediate pursuit of an actual or suspected violator of the law, or when going to or transporting a person who is in apparent need of immediate emergency medical or surgical care, or when responding to some other emergency involving the protection of life or property, shall be excepted from the foregoing provision.

Industrial and protective lighting

(d) Industrial and Protective Illumination. Light sources for industrial purposes and light from industrial processes within areas visible from the sea, shall comply with the requirements of Section 2 (b) hereof, and shall also be shielded so that they are not visible from the sea at night; provided, that variations from these requirements may be permitted in case of illumination for industrial and protective purposes, and from industrial processes, whether interior or exterior (but not including street or highway lights), only when and to the extent that it is necessary to vary from such requirements in order to achieve and maintain maximum efficiency; but only with the written approval of the Commanding General of the Western Defense Command or of any other military agency designated by the Secretary of War, or an agency designated by such commander to approve such variations, obtained in advance.

Other illumination

(e) Other Illumination. Except as hereinabove provided in this Section 3, all other lights visible from the sea are prohibited at night, including but not limited to light from fires, bonfires, parked cars, flashlights and lanterns.

Additional restrictions

SEC. 4. Whenever the California State War Council, after such study, investigation or hearing as it may make, direct or conduct, shall find and determine that additional or different provisions restricting lighting are required in the areas described in Section 1 hereof, or that restrictions on such lighting are required in other areas in order to prevent aiding the operations of the enemy, the said State War Council shall address its findings to the Governor, and if the Governor concurs therein, he shall proclaim such additional or different restrictions and regulations governing illumination which shall thereupon become effective and shall have the same effect as laws of this State and shall supersede to the extent of any conflict the provisions of this chapter (including persons or subjects herein excluded from the operation of this

chapter) and any other provisions of law governing illumination. The violation of any such regulations shall constitute a misdemeanor and be punishable as a violation of this chapter. In making such investigations and determinations, the State War Council is hereby directed to consider the findings and recommendations of the Commanding General of the Western Defense Command or such other military agency as may be designated by the Secretary of War, and in no event shall the Governor proclaim more restrictive regulations than those specified by said Commanding General, it being the intention that insofar as possible the regulations so adopted shall be uniform with the orders or recommendations of the said Commanding General.

Violation

Findings of military authorities

Chapter 2. Air Raid Precautions

Sec. 5. "Air raid signal" shall mean a public notice or signal requiring compliance with the provisions of this chapter covering precautions against possible or assumed enemy attack within a specified area. The form of said public notice or signal shall be an audible signal of approximately two minutes duration, made by siren, whistle, horn or other audible device, consisting of a fluctuating or warbling sound of varying pitch, or a succession of intermittent blasts of approximately five seconds duration separated by a succession of silent periods of approximately three seconds duration. "All clear signal" shall mean a public notice or signal indicating termination of the requirement of compliance with the provisions of this chapter. The form of said notice or signal shall be a continuous audible signal of approximately two minutes duration at a steady pitch, made by a siren, whistle, horn or other audible device. The form of air raid or all clear signals may be varied to meet local conditions when a permit to vary the form of such signals has been granted by the State Director of Civilian Protection.

"Air raid signal"

"All clear signal"

"Period of Air Raid Alarm" shall mean the interval of time between the giving of the air raid signal and the giving of the next succeeding all clear signal.

"Period of Air Raid Alarm"

"Period of Blackout" shall mean a period of air raid alarm occurring at night between sunset and sunrise.

"Period of Blackout"

"Area of Air Raid Alarm" shall mean the district or area in respect to which an air raid signal is given, as such district may have been defined by the State War Council and the Commanding General, Western Defense Command, or such other military agency as may be designated by the Secretary of War.

"Area of Air Raid Alarm"

Sec. 6. None of the signals described in Section 5 hereof shall be given except by or under the authority of the IV Fighter Command, or such other military agency as may be designated by the Secretary of War.

Giving signals

Sec. 7. Immediately upon the commencement of a blackout period, every person in control of lighting within an area of air raid alarm shall extinguish or obscure all lighting which

Extinguishment of lighting

is visible from out-of-doors and shall keep such lighting extinguished or obscured until such blackout period is ended.

Unattended lighting

SEC. 8. No person in control of lighting shall permit any such lighting visible from out-of-doors to be left unattended at night from sunset to sunrise. Lighting shall be unattended within the meaning hereof unless it is left under the control of a competent person who has undertaken responsibility for such lighting or unless the lighting is controlled by a mechanical device competent to control such lighting. Persons in control of lighting shall be responsible for the timely and proper functioning of any such mechanical device relied upon for the control of lighting.

Operator of vehicle

SEC. 9. At the commencement of a period of air raid alarm (occurring during either day or night), the operator of any vehicle shall forthwith bring such vehicle as far as possible to the side of the street, road or highway off the main traveled portion thereof, and the operator of such vehicle, and the operator of any street car, shall bring such vehicle or street car to a stop clear of any crossing, intersection, fire house, fire plug, hospital or other emergency depot or area, and during a period of blackout shall extinguish all lights therein or thereon, and said vehicle or street car shall remain so situated during the period of air raid alarm, unless directed or ordered to move by any highway patrolman, peace officer, auxiliary policeman, air raid warden or other authorized person.

Taking shelter

SEC. 10. All persons within an area of air raid alarm in an unsheltered place shall immediately go to the nearest shelter and remain therein until the period of air raid alarm is ended

Exceptions

except:

(a) Uniformed members of the armed forces of the United States or of the State Guard, and regular firemen, peace officers or highway patrolmen, all when acting under official orders.

(b) Persons lawfully wearing any arm band with insignia prescribed by the Director of the United States Office of Civilian Defense, and persons lawfully wearing arm bands authorized for the Aircraft Warning Service, only when and to the extent that such persons are required to move or remain away from shelter in the performance of their emergency duties.

Law not applicable to

SEC. 11. The provisions of this chapter shall not include the following:

"Authorized emergency vehicles"

(a) "Authorized emergency vehicles" when responding to a fire alarm or when going to or transporting a person who is in apparent need of immediate emergency medical care, or when in immediate pursuit of an actual or suspected violator of the law, or when transporting essential personnel to posts of duty in compliance with specific orders, or when responding to some other emergency involving the immediate protection of life or property or when returning to a dispatching station;

"Auxiliary emergency vehicles"

(b) "Auxiliary emergency vehicles" in respect to which a valid written vehicle permit has been issued by, and which is displaying insignia or other identifying devices or articles

authorized by, the State Director of Civilian Protection in accordance with rules established by the State War Council. Notwithstanding the provisions of Section 3 (c) of this act auxiliary emergency vehicles shall be permitted to travel, as provided in this paragraph, in areas visible from the sea during periods of blackout when operated under the conditions prescribed by this paragraph.

Vehicles of armed forces

(c) Vehicles under the control of the armed forces of the United States, the operators of which are acting under official orders.

Illumination for railroad operation, etc

(d) Illumination in connection with railroad operations (except passenger and freight stations, offices and warehouses), aeronautical operations, and illumination in connection with water navigation and in and about ports under the jurisdiction of the United States Navy, and all lights operated by military or naval authority.

Exempt lighting

SEC. 12. The blackout provisions of this chapter shall not include the following:

(a) Incandescent electric lamps lawfully marked "Indoor Blackout—War Department Standard," and complying with the specifications therefor expressed in "War Department Specifications—Blackout of Buildings," may be left burning in commercial and industrial building interiors without the complete obscuration of doors and windows, only if such lamps are installed in accordance with the following specifications:

(1) In any one room, only one lamp shall be permitted for each two hundred (200) square feet of floor area or fraction thereof.

(2) Lamps shall be spaced not less than 10 feet apart in every direction.

(3) In hallways and corridors only one row of lamps shall be permitted, spaced not less than fifteen (15) feet apart, notwithstanding the provisions of paragraph (2) hereof.

(4) Lamps shall be placed at least three (3) feet from any window or other exterior opening in the building which is not completely obscured, and lamps shall not be pointed toward any such window or other exterior opening.

(5) All lamps shall be located or shielded so that they are not directly visible from out-of-doors when viewed from a point above the level of the bottom of the lamp.

(b) Red exit lights shall be permitted within buildings which are open to the public; provided, that all such lights are located or shielded so that no direct rays from such lights are emitted out-of-doors and provided that such lights shall be restricted to not more than one lamp of not more than fifteen (15) watts at each exit or at each turning point in the route to an exit.

(c) Flashlights may be used during periods of blackout in areas of air raid alarm; provided, that such flashlights shall not be pointed above the horizontal and provided that the lens, cover glass or lamp of such flashlights shall be completely screened with material which is the equivalent, in density and

light reduction properties, of three thicknesses of ordinary newspaper in the case of flashlights operated by two (2) dry cell batteries plus one additional thickness of such paper for each additional dry cell battery used in the operation of such flashlight.

(d) Lanterns may be left unattended and may be left burning during blackout periods in areas of air raid alarm for the purpose of marking excavations or obstructions in areas open to the public if such lanterns are equipped with red globes and if they are shielded so that no direct rays from the light source are emitted upward beyond twelve degrees (12°) above the base of the lantern flame, and if such lanterns are spaced at least ten (10) feet apart.

(e) Light emitted from industrial processes, such as furnaces, foundries and kilns, where the extinguishment of the light would involve serious difficulties in resuming operations after the blackout, shall be permitted during blackout periods in areas of air raid alarm; provided, that the light is shielded, obscured, reduced in intensity and otherwise controlled to as great an extent as may be practicable to reduce to a minimum the amount of light visible out-of-doors; and provided, that such light is specifically permitted in writing in advance by the Commanding General, Western Defense Command, or any other military agency designated by the Secretary of War, or an agency designated by such commanding general to approve such variations. Steam or smoke shall be reduced to the lowest practicable minimum except where such steam or smoke is used for protective concealment in accordance with plans approved by military authorities.

Unauthorized signals

SEC. 13. All persons are forbidden to order, alter, publish, sound or simulate in any manner, any air raid or all clear signal unless authorized to do so as provided in this chapter.

Unauthorized arm bands, etc.

SEC. 14. All persons are forbidden to wear, exhibit or use any arm band, pennant, permit, identification card or other identifying article or device unless lawfully authorized to do so.

Additional regulations

SEC. 15. Whenever the State War Council after such study, investigation or hearing as it may make, direct or conduct, shall find and determine that additional or different air raid precaution regulations are required in order to protect life or property, the State War Council shall address its findings to the Governor and if the Governor and the Commanding General of the Western Defense Command or such other military agency as may be designated by the Secretary of War concurs therein, the Governor shall proclaim such additional or different air raid precaution regulations which shall thereupon become effective and shall have the same effect as laws of this State. Such regulations shall supersede to the extent of any conflict the provisions of this chapter (including persons or subjects herein excluded from the operation of this chapter) and also any other provision of law which interferes with the purposes of this chapter. The violation of any such regula-

Violation

tions shall constitute a misdemeanor and shall be punishable as a violation of this chapter.

CHAPTER 3. GENERAL PROVISIONS

Public nuisance

SEC. 16. Any lighting remaining visible out-of-doors contrary to the provisions of this act constitutes a public nuisance, and the same shall be summarily abated by any peace officer or highway patrolman. Such nuisance may be abated by authorized civilian defense personnel if forcible entry or destruction of property is not required. Notwithstanding the provisions of this section any city, county, or city and county may provide by ordinance or resolution for the summary abatement of such nuisance by an auxiliary policeman or air raid warden.

Proclamation by Governor

SEC. 17. Any proclamation issued by the Governor pursuant to the provisions of this act shall be in writing and shall take effect immediately upon issuance thereof. As soon thereafter as possible such proclamation shall be filed in the office of the Secretary of State. The Governor shall cause widespread publicity and notice to be given such proclamation. Within 10 days after the convening of the next session of the Legislature the Governor shall make a report thereto of the provisions of any such proclamation.

Penalties

SEC. 18. Any person who violates any of the provisions of this act or who refuses or wilfully neglects to obey any lawful rule, regulation or order promulgated or issued as provided in this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not to exceed five hundred dollars ($500) or by imprisonment for not to exceed six months, or by both such fine and imprisonment.

Duration

SEC. 19. This act shall remain in effect only until the cessation of hostilities in the present war in which the United States is engaged, as declared by the President or the Congress of the United States, or until such time as the Governor after recommendation made by the Western Defense Command or such other military agency as may be designated by the Secretary of War proclaims the provisions of this act are no longer necessary as a matter of military necessity, or to preserve life and property.

Immediate effect

SEC. 20. If any section, subsection, subdivision, sentence, clause or phrase of this act is for any reason held to be not in immediate effect, it is the express legislative intent that such decision shall not affect the immediate operation or validity of the remaining portions of this act.

It is the intent of the Legislature that this entire act shall take effect immediately and that if any portion thereof can not, under the Constitution of this State, so take effect, that all of the remaining provisions hereof shall take effect immediately and that such portion or portions, if any, that can not take effect immediately, shall take effect at the time provided by law. Any portion of this act that may for any reason be held to be not in immediate effect is hereby expressly declared to be severable from the remaining portions of this act.

Further, in the event it is determined that the inclusion of a provision in this act that can not take effect immediately would prevent this act from being construed to be an urgency measure, then any such provision in this act shall be held to be inoperative, and the remaining portions of this act shall take effect immediately.

Constitutionality

SEC. 21. If any provision of this act or the application thereof to any person or circumstance is held invalid, the remainder of this act, or the application of such provision to other persons or circumstances, shall not be affected thereby.

Urgency

SEC. 22. This act is hereby declared to be an urgency measure within the meaning of Section 1 of Article IV of the State Constitution, necessary for the immediate preservation of the public peace, health and safety. The statement of the facts constituting such necessity is as follows:

The Western Defense Command of the United States Army has found that military necessity requires the restriction of the intensity of lights in certain areas of this State, and has by order prohibited the use of lights of more intensity than that prescribed. While a violation of such order is a crime under Federal law, there is no satisfactory available means by which the Federal Government can enforce such order and it is essential to the war effort that the State be enabled at the earliest possible moment to enforce the provisions of such order. The effect of this bill will be to permit such enforcement by the State.

Uniform air raid precautions are urgently needed to minimize the effect of enemy attack upon life and property and military installations within this State and uniformity is necessary so that all persons going from one area of the State into another may know their duties and conform to the law. It is therefore provided that this act shall take effect immediately.

CHAPTER 230

Stats 1943, Ch 368, amended
Stats 1913, p 1012, amended

An act to amend Section 1005 of the Water Code and to add Section 41.5 to the Water Commission Act, relating to water rights.

In effect August 4, 1943

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

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

Note.—See Stats. 1943, Ch. 368.

New section
See also Stats 1943, Ch 368

SEC. 2. Section 41.5 is added to the Water Commission Act, to read:

Restrictions on use, etc., of water non-applicable to certain streams

41.5. Any right to the water of any stream which flows along a boundary of the State and which is the subject of an interstate compact to which the State is a party, to the extent such right relates to quantities of water which the United

States has, under the authority of an act of Congress, contracted to deliver to any municipal corporation, political subdivision, or public district in the State, from storage constructed by the United States on any such stream, shall not be subject to any requirement or limitation provided by law relating to the time within which the construction of works for the use of such water shall be commenced, carried on, or completed, or within which such water shall be put to use, or relating to the continuity of use of such water; and water contracted to be delivered from such stream, shall be reserved to the contractor therefor without diminution by reason of the contractor's failure to apply such water to use during any period, and shall not be subject to appropriation by any other than such contractor.

SEC. 3. Section 1 of this act becomes operative only if the Water Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time said code takes effect; at which time Section 41.5 of the Water Commission Act added by this act is hereby repealed.

Effect Stats 1943, Ch. 368

Repeal

CHAPTER 231

An act to amend Sections 675, 684, 685, 686, 687 and 695 of the Elections Code, relating to precinct boards.

Stats 1939, p 49, amended

[Approved by Governor April 27, 1943 Filed with Secretary of State April 27, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 675 of the Elections Code is amended to read:

Stats 1939, p 49

675. The county clerk shall immediately mail or deliver to each person appointed as inspector a notice showing the precinct polling place and the voters appointed to serve with him as election officers in that precinct. The notice shall be substantially in the following form: Office of the county clerk (or registrar of voters). County of_____

Notice to persons appointed as inspectors

Form

NOTICE TO INSPECTOR

To _____, inspector for _____ precinct.

The polling place for the _____ precinct at the election to be held on _____ will be _____ and the precinct board for that precinct will be composed of you and the following named persons:

Position	Name	Address
_____	_____	_____
_____	_____	_____
_____	_____	_____

You, as inspector, before the polls are opened shall see that each of the other persons serving on the board has signed the declaration required of him by law and which will be found set forth in the tally list and that no person is permitted to act as a precinct officer unless he has signed such declaration and is otherwise qualified to act as a precinct officer.

County clerk (or other official.)

Stats 1939, p. 49
Declaration of inspectors

SEC. 2. Section 684 of said code is amended to read:

684. Each inspector shall sign a declaration of intention to faithfully discharge the duties of inspector and shall return it to the county clerk for filing at least 15 days before the day of election. If the inspector fails or refuses to sign and file the declaration the county clerk shall appoint a substitute who shall make and file the declaration.

The declaration of an inspector and each of the declarations provided for in Section 675 of other members of the precinct board shall be signed in the presence of a witness and shall be as binding on the signer as would be an oath of office.

Stats 1939, p 49
Form of declaration

SEC. 3. Section 685 of said code is amended to read:

685. The declaration of an inspector shall be in substantially the following form:

State of California }
County of_____} ss.

I do hereby solemnly declare that I will support the Constitution of the United States and the Constitution of the State of California, and that I will faithfully discharge the duties of the office of inspector on the precinct board for precinct _____ for the election to be held on _____, 19____, according to the best of my ability.

Signed in the presence of _____ on _____, 19____.

Stats 1939, p 49
Filing declaration

SEC. 4. Section 686 of said code is amended to read:

686. In a city and county where there is a registrar of voters, he shall require inspectors of election to file the declaration required of inspectors, at the office of the registrar of voters at least 10 days before the day of election. If the inspector fails or refuses to file the declaration the registrar shall appoint a substitute who shall qualify by filing the declaration.

Stats 1939, p 49
Declaration of election officers other than inspector

SEC. 5. Section 687 of said code is amended to read:

687. On the day of election and before entering upon the performance of their duties, each of the precinct election officers, other than the inspector, shall sign a declaration of intention to faithfully discharge the duties of an election officer, before the inspector, or, in case he is not present, before any other of themselves. Such declarations shall be substantially the same as that required of the inspector and the form for each of said declarations shall be provided in one of the tally lists for the precinct.

SEC. 6. Section 695 of said code is amended to read: Stats 1939, p 49

695. Any election officer may, on the day of an election at which he is serving, absent himself from any service or employment in which he is then engaged or employed. He shall not, because of so absenting himself, be liable to any penalty, nor shall any deduction be made from his usual salary or wages, nor shall he be suspended or discharged from his service or employment; provided, that no employee of any public or municipal corporation, or public district, shall be paid any compensation by the public or municipal corporation, or public district, employing him for any absence during which he receives compensation for acting as an election officer. Effect of election officer's absence from employment

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CHAPTER 232

An act to amend Sections 5437, 5439, 5440 and 5450 of the Public Resources Code, relating to public recreation districts. Stats 1939, p 1067, amended

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.] In effect August 4, 1943

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

SECTION 1. Section 5439 of the Public Resources Code is amended to read: Stats 1939, p 1683

5439. The trustees may erect one or more dams across a stream or river for the purpose of constructing a swimming pool in the district, may maintain, improve, and keep in a sanitary condition all community parks, community beaches, community recreational grounds, and community buildings within such districts, including the construction, maintenance, and operation of swimming pools, and any other amusement facilities on any of such lands, and may also contract for a system of improvements or works for sewage disposal, and drainage, garbage disposal, fire protection, roads, bridges, road repair, bridge repair, trails, lights and playgrounds, and may lease or rent lands or property for recreational purposes, and they may make proper regulations for the management of the district. Powers of trustees

The trustees shall have the right and power to acquire by condemnation, gift, purchase or otherwise all lands, or use thereof or interest therein, and any other property or rights by it deemed necessary for the construction, maintenance, improvement and operation of the works, or the carrying out of the projects of the district, and may assume and discharge the existing indebtedness on such lands, or interest therein or other property rights so acquired. In case of condemnation proceedings the board shall proceed in the name of the district under the provisions of Section 14 of Article I, as amended,

of the Constitution of the State of California, and Title 7, Part 3 of the Code of Civil Procedure of California, and all pleadings, proceedings and process in said title provided shall be applicable to the condemnation proceeding hereunder.

Stats 1941, p. 1206
District bonds

SEC. 2. Section 5440 of said code is amended to read:

5440. Bonds may be issued by a district for the erection of one or more dams across a stream or river for the purpose of constructing a swimming pool in the district, or for the erection of any other structure or the carrying on of any work or project authorized by this article, or for the making of improvements or the purchase of equipment, or for liquidating any indebtedness incurred for such purposes, or for refunding any outstanding valid indebtedness of the district, or for the purchase of property, or for the discharge of existing indebtedness on property acquired by purchase, gift or otherwise.

Stats 1939, p 1683
Estimate of funds to operate, etc., district

SEC. 3. Section 5450 of said code is amended to read:

5450. The trustees shall, on or before the tenth day of July in each year, certify to the county board of supervisors in a written statement, the amount of money necessary to be raised by taxation for the payment of all interest and principal of bonds which will be due on or before the tenth day of July of the succeeding year and for operating, improving, maintaining, and keeping sanitary the property, sewage disposal system, garbage disposal, fire equipment, roads, trails, lights, playgrounds and buildings of the district, including the cost of new construction of improvements or building thereon and the cost of purchasing property or discharging the indebtedness on property acquired by gift, purchase or otherwise. The board of supervisors shall keep the statement available to inspection by the public up to and including the first day of August of each year. Unless objection is made to the board of supervisors to the statement by 1 per cent or more of the voters in the district, and not less than 10 voters in any event, on or before the first day of August of any year, the statement shall become final. If objection is made, however, the board of supervisors shall call a public meeting at some place within the district or at the county seat.

Objections

Public meeting

Stats 1939, p 1217
Voters
Creation of district

SEC. 4. Section 5437 of said code is amended to read:

5437. Every registered voter residing in the district is entitled to cast one vote at the election. If, upon the election, a majority of the votes cast in the district favor its establishment, the district is created.

CHAPTER 233

An act to amend Sections 10490, 10500, 10971, 10972 and 10974 of, and to add Section 10971.4 to the Insurance Code, relating to insurance.

Stats 1935, p 496, amended

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 10490 of the Insurance Code is amended to read:

Stats 1941, p 2726 See also Stats. 1943, Ch 957

10490. This article is applicable only to life and disability insurance. Except as otherwise expressly permitted by this code, life or disability insurance shall not be transacted in this State by any person other than a corporation. A person shall not transact life or disability insurance in this State except pursuant to a valid and unrevoked certificate of authority issued by the commissioner or under a valid and unrevoked certificate of exemption issued by the commissioner pursuant to this article. Nothing in this article shall apply to any person expressly exempted by or subject to Chapter 10 of this part.

Certificate required

Exemption

SEC. 2. Section 10500 of said code is amended to read:

Stats 1941, p 2726 See also Stats 1943, Ch 957

10500. Every person not expressly exempted by or subject to Chapter 10 of this part who transacts life or disability insurance without a valid and unrevoked certificate of authority or without a valid and unrevoked certificate of exemption issued pursuant to this article, is guilty of a misdemeanor. Every employee, officer or agent of any person who knowingly assists any person in the transaction of insurance in violation of this article, is guilty of a misdemeanor.

Misdemeanor

SEC. 3. Section 10971 of said code is amended to read:

Stats 1941, p 2726

10971. This chapter shall not, except as provided by Section 10972, affect:

Certain societies exempt

(a) A lodge or association of local lodges or any corporation or association formed by a lodge or fraternal society which confines its membership to the members of such lodge or fraternal society and which provides death benefits not exceeding five hundred dollars ($500) on the death of any one person, disability benefits not exceeding five hundred dollars ($500) in any one year to any one person, or both such types of benefits.

(b) Contracts of reinsurance on a plan under subdivision (a).

(c) Domestic societies which limit their membership to the employees of a particular city or town, designated firm, business house or corporation.

(d) Domestic lodges, orders or associations of a purely religious or charitable or benevolent description, and which do not provide for a death benefit of more than one hundred

dollars ($100), or for disability benefits of more than one hundred fifty dollars ($150) to any one person in any one year.

New section

SEC. 3A. Section 10971.4 is added to the Insurance Code, to read:

Characteristics of exempt lodges

10971.4. A lodge, association of lodges, association or corporation within the meaning of Section 10971 shall have all of the following characteristics:

(a) It is organized without capital stock.

(b) It is organized and operated solely for the benefit of its members or their beneficiaries and not for profit.

(c) It has a lodge system and representative form of government within the meaning of Section 10992, holds regular meetings at periodical intervals, and has a ritualistic form of work.

Stats 1935, p 496

SEC. 4. Section 10972 of said code is amended to read:

Compliance with chapter

10972. Any lodge, corporation, association, order, society, or organization otherwise covered by Section 10971, which does not provide for death or disability benefits in its by-laws or rules or regulations, or which issues to any person a policy or certificate providing for the payment of benefits, shall comply with all the requirements of this chapter.

Stats 1935, p 496

SEC. 5. Section 10974 of the Insurance Code is hereby amended to read:

Restriction on exempted societies

10974. A society which is exempted from the requirements of this chapter by subdivisions (b) or (c) of Section 10971 shall not give or allow, nor promise to give or allow, any compensation for procuring new members.

CHAPTER 234

Stats 1933, p 394, amended

An act to amend Section 1340.6 of the Fish and Game Code, relating to bear

In effect August 4, 1943

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

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

Stats 1937, p 683

SECTION 1. Section 1340.6 of the Fish and Game Code is amended to read:

Bear

1340.6. Bear may be taken between October 15th and December 31st, except in District 1¼ in which bear may be taken between August 1st and December 31st. Not more than two bears may be taken during the open season. Bear may be taken only with firearms or with bow and arrow. Nothing in this code shall prohibit the owners of live stock from protecting such live stock from depredations of bear, nor to prohibit Federal, State or county trappers from killing or trapping bear when such bear are killing or molesting live stock.

CHAPTER 235

An act to repeal Section 64.5 of, and to amend Section 1270 of, the Fish and Game Code, relating to deer seasons, declaring the urgency thereof, to take effect immediately.

Stats 1933, p 394, amended

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

In effect immediately

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

SECTION 1. Section 64.5 of the Fish and Game Code is repealed.

Stats 1939, p. 1724

SEC. 2. Section 1270 of the code is amended to read:

Stats 1941, p 2843

1270. In District 2, excepting that part of District 2 within Mendocino County, and in District 3, deer may be taken between August 1st and September 15th; in that part of District 2 lying within Mendocino County, and in Districts 2¼, 2½ and 2¾ deer may be taken between August 15th and October 1st; in District 3½ and 4⅛ deer may be taken between August 10th and September 9th; elsewhere in the State deer may be taken between September 16th and October 15th.

Deer

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

Urgency

The effect of this act is to postpone the opening of the deer hunting season in an area on and near the north coast of the State from August until mid-September. This will result in reducing certain fire hazards in that area and will also tend to assure that the meat of deer taken in that area will be better preserved and kept suitable for use for human consumption. In view of the shortage of manpower for forest fire protection and the need for the fullest utilization of wild life as a wholesome food supply during the current year it is necessary that this act go into effect without delay.

CHAPTER 236

An act to amend Sections 1731.5 and 1732 of the Welfare and Institutions Code, relating to commitments to the Youth Correction Authority.

Stats 1937, p 1005, amended

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 1731.5 of the Welfare and Institutions Code is amended to read:

Stats 1941, p. 2522

1731.5. After certification to the Governor as provided in this article and until January 1, 1946, a court shall commit

Prerequisites of commitment

to the authority any person convicted of a public offense whom the authority believes can be materially benefited by the procedure herein provided for, and for whose care and maintenance there exists, in the opinion of the authority, proper and adequate facilities, and who

(a) Is found to be less than 23 years of age at the time of apprehension.

(b) Is not sentenced to death, imprisonment for life, imprisonment for not more than 90 days, or the payment of a fine.

Stats 1941, p 2522 Commitment

SEC. 2. Section 1732 of said code is amended to read:

1732. Except as otherwise provided in this chapter the court shall commit to the authority every person convicted of a public offense after January 1, 1946, who

(a) Is found to be less than 23 years of age at the time of apprehension, and

(b) Is not sentenced to death, imprisonment for life, imprisonment for not more than 90 days, or the payment of a fine, and

(c) Is not granted probation.

CHAPTER 237

Stats 1937, p 1005, amended

An act to add Section 1714.5 to the Welfare and Institutions Code, and to amend Sections 1717 and 1718 thereof, relating to the Youth Correction Authority, and providing for the appointment of temporary members thereof.

In effect August 4, 1943

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

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

New section

SECTION 1. Section 1714.5 is added to the Welfare and Institutions Code, to read:

Temporary member

1714.5. Pending appointment by the Governor of a person recommended by the advisory panel to fill any vacancy occurring in the second or third positions on the authority by reason of a cause other than expiration of a term, the Governor may appoint any qualified person as a temporary member of the authority to serve until the vacancy can be filled by the appointment of a person recommended by the panel. In no event, however, shall any such person so appointed serve as such temporary member for a period of more than 90 days from the date of the occurrence of the vacancy, nor shall any such temporary members consecutively appointed serve for an aggregate period of more than 90 days from the date of the occurrence of the vacancy. Any person appointed as a temporary member of the authority shall be a member of the authority for all purposes during the time he so serves, except that the appointment of a temporary member shall not be deemed to fill the vacancy so as to preclude the appointment by

the Governor of a person recommended by the panel to fill the vacancy for the unexpired term.

SEC. 2. Section 1717 of said code is amended to read: Stats 1941, p 2522

1717. All appointments to a vacancy occurring by reason of any cause other than the expiration of a term shall be for the unexpired term. Each member shall hold until the appointment and qualification of his successor. Term

The provisions of this section do not apply to persons appointed as temporary members of the authority. Exception

SEC. 3. Section 1718 of said code is amended to read: Stats 1941, p 2522

1718. All appointments to membership on the authority except appointments as temporary members shall be subject to confirmation by the Senate, as provided in this article. Confirmation

If the first appointments to the authority, or any of the succeeding appointments to fill vacancies, are made while the Senate is not in session, the persons appointed shall immediately undertake the performance of their duties and their names shall be submitted to the Senate for confirmation at the session of the Legislature first occurring thereafter, whether regular or extraordinary. As used in this section, the Senate is in session when it has convened, has not adjourned sine die, and has not recessed for more than three days. Failure of the Senate to confirm or reject the appointments, unless it adopts the resolution provided for in the next succeeding section, is equivalent to confirmation.

CHAPTER 238

An act to add Section 1767.3 to the Welfare and Institutions Code, relating to the Youth Correction Authority, and providing for the return to the custody of the authority of persons committed thereto who are at liberty on parole or otherwise. Stats 1937, p 1005 amended

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.] In effect August 4, 1943

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

SECTION 1. Section 1767.3 is added to the Welfare and Institutions Code, to read: New section

1767.3. The authority may suspend, cancel, or revoke any parole without notice, and may order returned to the custody of the authority any person committed to it who is upon parole. Suspension or revocation of parole

The written order of the chairman of the authority is a sufficient warrant for any peace officer to return to the custody of the authority any person committed to it who is upon parole, who has been permitted his liberty upon condition, or who has escaped from the custody of the authority or from any institution in which he has been placed by the authority.

All peace officers shall execute any such order in like manner as ordinary criminal process.

CHAPTER 239

Stats 1909, p. 969, amended

An act to add Section 20.7 to the Personal Property Brokers Act as revised by Chapters 952 and 1044 of the Statutes of 1939, relating to licensees in military service.

In effect August 4, 1943

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

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

New section

SECTION 1. Section 20.7 is added to the Personal Property Brokers Act as revised by Chapter 952 of the Statutes of 1939, to read:

License in "military service"

Sec. 20.7. The terms "military service," "period of military service" and "persons in the military service of the United States," as used in this section, have the meanings ascribed to them by Section 101 of the "Soldiers' and Sailors Civil Relief Act of 1940."

Investigating fee on discharge

No licensee under this act who now is in, or who hereafter enters, the military service of the United States shall be required, on his honorable discharge from said service, to pay the sum of one hundred dollars ($100) as a fee for investigating his application for a license under this act as set forth in Section 6 hereof.

Collection of outstanding loans

A person in the military service of the United States shall be permitted to collect all outstanding loans contracted for pursuant to this act to which he is a party, either in person or through an agent, without the necessity of such person or agent being licensed under this act.

New section

SEC. 2. Section 20.7 is added to the Personal Property Brokers Act as revised by Chapter 1044 of the Statutes of 1939, to read:

License in "military service"

Sec. 20.7. The terms "military service," "period of military service" and "persons in the military service of the United States," as used in this section, have the meanings ascribed to them by Section 101 of the "Soldiers' and Sailors Civil Relief Act of 1940."

Investigating fee on discharge

No licensee under this act who now is in, or who hereafter enters, the military service of the United States shall be required, on his honorable discharge from said service, to pay the sum of one hundred dollars ($100) as a fee for investigating his application for a license under this act as set forth in Section 6 hereof.

Collection of outstanding loans

A person in the military service of the United States shall be permitted to collect all outstanding loans contracted for pursuant to this act to which he is a party, either in person or through an agent, without the necessity of such person or agent being licensed under this act.

CHAPTER 240

An act to add Section 656.5 to the Fish and Game Code, relating to salmon.

Stats 1933, p. 394, amended

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 656.5 is added to the Fish and Game Code, to read:

New section

656.5. In Districts 6 and 7, salmon may be taken with hook and line, between April 1st and October 15th with no bag limit, and between October 16th and December 31st with a bag limit of two per day. The size limit in either case is as provided in Section 661 of this code.

Salmon limit

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section; but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

Duration

Existing law

CHAPTER 241

An act to amend Sections 619.5 and 620 of the Fish and Game Code, relating to bag limits and to lake fishing.

Stats 1933, p 394 amended

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 619.5 of the Fish and Game Code is amended to read:

Stats 1941, p 1060

619.5. In District 23 the bag and possession limit on Mackinaw trout is five per day, regardless of size.

Mackinaw trout. District 23

SEC. 2. Section 620 of the said code is amended to read:

Stats 1933, p 394

620. It is unlawful between November 1 and July 31 to take any trout, salmon or whitefish in any lake within 300 feet of the mouth of any stream flowing into said lake.

Lake fishing

CHAPTER 242

Stats 1933, p 1969, amended

An act to amend Section 25.1 of the Agricultural Prorate Act, relating to changes in proration zone boundaries.

In effect August 4, 1943

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

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

Stats 1939, p 2485

SECTION 1. Section 25.1 of the Agricultural Prorate Act is amended to read:

Annexation to proration zone

Sec. 25.1. Any other area or areas within the State of California producing the same kind or variety of agricultural commodity as a proration zone already established under this act, and competing with such proration zone, may be added to such already established proration zone in the following manner:

Procedure: Petition

Upon the receipt of a petition for modification of the boundaries of any proration zone, filed by producers owning or operating not less than 10 per cent of the producing factors located either within the boundaries of the zone as constituted, or within the boundaries of the area proposed to be added, requesting that the existing marketing program or a proposed marketing program as amended be made applicable to the entire area included within the recommended modified boundaries of the proration zone, the director shall, on behalf of

Hearing

the commission, hold a public hearing, as provided in Section 9 of this act, and receive testimony and evidence as to whether or not the boundaries of the proration zone as established shall be modified as recommended. The director shall further, at said hearing, receive testimony and evidence with respect to the marketing program which is to be applicable to all of the area within the proposed modified boundaries of the proration zone.

Boundaries modified

If after the public hearing the commission finds that a modification of the boundaries of the zone is necessary to the effectuation of the purposes of the act, said commission shall make effective such modified boundaries of said zone, and if the commission further finds after the public hearing that the proposed marketing program for said proration zone as modified will tend to effectuate the declared purposes of the

Approval

act within the standards prescribed in said act, the commission shall approve said marketing program.

Following the approval of said marketing program by the commission, the director shall submit said marketing program to all growers of record with the department within said zone as modified who are affected by such program, for their assent, as required by Section 16 of this act.

Assent of producers

If the director finds that the number of producers with the number of producing factors in the zone as modified have given their assent as required in Section 16, to said marketing program, he shall declare and fix the effective date of said

program. If the director finds that the requisite assent has not been given, he shall make an order dismissing the proceedings, and the program in operation at the time the proceedings were instituted shall continue in operation within the boundaries of the zone as then constituted, with the same force and effect as though no proceedings had been instituted under the provisions of this section. Order

CHAPTER 243

An act to amend Section 5 of the Agricultural Prorate Act, relating to meetings of the Agricultural Prorate Advisory Commission. Stats. 1933, p. 1969, amended

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.] In effect August 4, 1943

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

SECTION 1. Section 5 of the Agricultural Prorate Act is amended to read: Stats 1939, p. 2485

Sec. 5. The office of the commission shall be in the City of Sacramento and it may meet at such times and in such places as may be expedient and necessary for the proper performance of its duties; provided, however, said commission shall meet at least once every six months and oftener at the call of the president of the commission when in his discretion the need arises. No member or employee of the commission or member of the program committee or the zone agent shall unduly influence producers in their choice either for or against the institution of a marketing program or for or against the termination of such a program. At all meetings of the commission a majority of the commission shall constitute a quorum. Office and meetings; Quorum

CHAPTER 244

An act to amend Sections 18.1 and 19.1 of the Agricultural Prorate Act, relating to hearings on marketing program modifications and to functions of program committees under marketing programs. Stats. 1933, p 1969, amended

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.] In effect August 4, 1943

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

SECTION 1. Section 18.1 of the Agricultural Prorate Act is amended to read: Stats 1941, p 2858

Sec. 18.1. The marketing program to be made effective in any proration zone shall be so formulated as to rectify as far Program Character

as possible the adverse marketing conditions specified in Section 10 hereof, and to maintain market stability under the limitations of this act. Such marketing program after being in effect may be altered or modified in minor particulars from time to time by such program committee with the approval of the commission; provided, that the commission may require the director to hold a hearing in the zone prior to such approval. If any alteration or modification is proposed by the program committee altering the program then in effect, by the addition of any one or more of the particulars (a), (b), (c), (d), (e), (f) or (g) of Section 19.1 hereof, the commission shall not approve such alteration or modification unless a public hearing is held thereon. Following the public hearing a referendum shall be conducted by sending a mail ballot to all producers or their duly authorized agent as shown on the lists of producers of the commodity affected compiled in accordance with the provisions of this act and such alteration or modification shall not become effective if 40 per cent or more of said producers vote against such proposed alteration or modification. Before approving any alteration or modification of any marketing program, the commission must find that the same is reasonably calculated to carry out the purposes and attain the objectives of this act.

Alteration or modification

Public hearing
Referendum

Stats 1941, p 2858

SEC. 2. Section 19.1 of the Agricultural Prorate Act is amended to read:

Powers of program committee re adverse marketing conditions

Sec. 19.1. The program committee for the purpose of minimizing the effect of surpluses or other adverse market conditions may be empowered in any marketing program in any one or more of the following particulars:

(a) To establish and maintain stabilization and surplus pools. The program committee shall be authorized to receive from each producer for delivery into a stabilization or surplus pool the uncertificated portions of the marketable supply of the agricultural commodity covered by a marketing program and market the same by varieties, grades or sizes for the account of such producers when it can be disposed of advantageously either in its original or converted state. The program committee shall designate the quantity or the percentage of the marketable supply of such commodity that shall be placed in the stabilization pool and the quantity or the percentage of the marketable supply of such commodity that shall be placed in the surplus pool. Quantities or percentages so established shall be applicable to each producer. In operating any stabilization or surplus pool, the program committee may receive and account for the commodity on the basis of variety, grade or size classifications and may fix servicing charges to be assessed against the total quantity of any commodity received into such pools. The program committee shall have title to all of the commodity in each of such pools and shall handle all of such commodity received into each of such pools and account for the same to each producer who is beneficially interested therein upon a pooled basis.

(1) In the case of a stabilization pool, the contents thereof may be disposed of or may be marketed from time to time as the program committee deems advisable, consistent with the maintenance of stabilized marketing conditions.

(2) In the case of a surplus pool, the contents of any such pool shall not be marketed in any form which would directly compete with that portion of the commodity which is regularly certificated or which is in a stabilization pool. However, any part of any such surplus pool may be transferred by a program committee on a gratuitous basis to charitable organizations, self-help cooperatives and similar agencies under proper safeguards to prevent any part of the commodity so disposed of from directly competing with the part of the commodity marketed through the usual channels of trade.

(b) To establish and maintain diversion or substandard pools. The program committee shall be authorized to receive from each producer for delivery into a diversion or a substandard pool such quantity of each producer's production or deliveries as fails to qualify for marketing or sale in regular marketing channels, under grade, quality or size regulations established in the marketing program or under standardization laws or other laws of the State or of the United States. In operating any such diversion or substandard pool, the program committee may fix servicing charges to be assessed against the commodity received into such pool and may receive and account for such commodity on a basis of variety, grade and size classifications. The program committee shall have title to all of the commodity in either of such pools and shall handle all of such commodity received into either of such pools and account for the same to each producer who is beneficially interested therein upon a pooled basis. The contents of any diversion or substandard pool shall be disposed of for by-products or for other purposes under proper safeguards to prevent that part of the commodity so disposed of from directly competing with the part of the commodity marketed in its usual form through the usual channels of trade.

(c) To create, establish or otherwise obtain and operate facilities for the financing, grading, packing, servicing, processing, preparing for market, selling and disposal of the contents of any pools provided for in this section

(d) To create, maintain and disburse an equalization fund to be used for the removal of any inequalities between producers as to the total volume marketed through prorated channels resulting from errors in estimating production or surplus or for indemnifying producers whose production, in whole or in part, is diverted in green form or otherwise from normal marketing outlets or diverted to relief, by-products, or other noncompetitive purposes pursuant to a marketing program.

No part of any funds raised for equalization fund purposes as specified in this paragraph shall be applied to the cost of maintenance of the commission and the Department of Agriculture.

(e) To establish, adopt and apply methods for correlating the marketable supply of any commodity to the reasonable market demands therefor by means of volume limitation, time limitation, diversion, or by grade, quality or size regulations applicable to the total production of any commodity, or to that portion of any commodity which qualifies for marketing pursuant to standards authorized in the marketing program or standardization laws or other laws of this State, or of the United States.

(f) To broaden distribution and increase consuming outlets by appropriate educational and trade stimulation efforts of a general industry nature and not unfairly depreciative of the quality of any other food product.

Cost

The cost of the exercise of such powers as are herein granted to the program committee shall be a part of the cost of the operation of the program and shall be obtained through fees in the same manner as other costs of the program.

Acreage adjustment payments

(g) For the purpose of providing for the adjustment of production of any agricultural commodity by means of tree or vine pulling, the program committee may receive applications from growers for acreage adjustment payments. The program committee shall, upon proper review and certification, make such acreage adjustment payments on an equitable basis from funds collected for such purpose on a uniform basis from all commercial growers of such agricultural commodity in this State, or from funds received from Federal, State or other agencies for such purpose.

No program of production adjustment adopted hereunder shall authorize payments for the removal of acreages of trees or vines of the species, variety or varieties specified in the program which have, during the three years immediately preceding the date of application, produced an annual yield per acre in excess of the comparably computed average yield from bearing trees or vines of the same species, variety or varieties for the State as a whole, such yields and averages to be determined by the director from statistical data compiled by State or Federal agencies or such other data as the director deems to be representative and reliable.

Liability

No member or alternate member of any program committee nor any employee thereof shall be held liable individually in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate member or employee, except for acts of dishonesty.

CHAPTER 245

An act to amend Section 21 of the Agricultural Prorate Act, relating to the disposition of funds collected under marketing programs.

Stats 1933, p 1969, amended

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 21 of the Agricultural Prorate Act is amended to read:

Stats 1941, p. 2858

Sec. 21. The zone agent for each marketing program shall collect, either for each primary certificate or for each secondary certificate or for both such kinds of certificates issued to producers, a reasonable and proportional fee to be fixed by the program committee, subject to the approval of the director, so calculated as to provide an amount adequate to defray the necessary expenses of instituting and carrying out such marketing program and a proper proportion of the cost of the maintenance of the commission and of the Department of Agriculture in the performance of duties required by this act. The proportion of the fees payable to the commission and to the Department of Agriculture may vary upon a seasonal basis for each program according to the estimated expense to be incurred by the director and the commission in administering such program; provided, that the amount so required shall not exceed fifteen per cent (15%) of the certificate fees collected by the zone agent specifically for administrative purposes and in addition such proportion of fees collected for any trade stimulation or sales promotion program as may be required by the commission and the director to administer such program which shall in no event exceed five per cent (5%) of the fees collected for such purpose, unless the payment of a larger proportion of such funds is approved by the program committee for such marketing program.

Fees

Upon request of any program committee of any marketing program, the commission shall confer with said committee or its representatives prior to fixing the amount or proportion of any fees of said marketing program payable to the Department of Agriculture for maintenance of the commission and the department in the performance of the duties required by this act.

All such fees shall be deposited promptly by the zone agent in a bank or banks approved by the Director of Finance, and shall be accounted for forthwith to the Director of Agriculture. Such deposit shall be made in the name of the zone under which such funds are collected and shall be disbursed by the director, pursuant to rules and regulations prescribed by the director, and approved by the commission, only for

Deposit and disbursement

the expenditures incurred by the program committee in carrying out the specific purposes and provisions of such marketing program, including all necessary expenses incurred in the formulation, administration and enforcement of such marketing program.

Support of Department of Agriculture

The proportionate amount of fees payable, as determined herein, to the Department of Agriculture shall be withdrawn from such funds monthly by the director and paid into the Department of Agriculture Fund in the State Treasury and shall be used only for the support of the commission and of the Department of Agriculture in carrying out their duties as required by this act.

Surplus funds

At the end of any marketing season as designated in each marketing program, after proper provision has been made for the payment of all necessary expenses incurred in connection therewith, any funds remaining to the credit of the program committee shall be refunded upon a pro rata basis to all persons from whom such funds were collected; provided, that, if the marketing program continues in effect, such refund may, upon the resolution of the program committee with the approval of the director, be deferred so as to permit the program committee to use such residual funds to meet operating expenses in the succeeding season or until sufficient funds have been collected or the collection of sufficient funds is assured to enable such committee to make such refund and to defray the expenses of the then current marketing season, including an allowance for preliminary expenses of the next succeeding season. At the time such refund is made, the program committee shall file with the director a claim for such refund to growers entitled thereto. If the director finds that as of the end of any marketing season the amount remaining to the credit of the program committee is so small as to make impractical the computation and remitting of such pro rata refund, the director may authorize the transfer of such funds to the then current marketing season for expenditure in carrying out the marketing program.

Refund

Claim

Bond

No agent or employee of the program committee shall have or receive any funds collected pursuant to the provisions of this act until such agent or employee has filed with the director a bond in such form and in such penal sum as the director may prescribe.

CHAPTER 246

An act to add Section 21.1 to the Agricultural Prorate Act, relating to proceedings for the collection of fees.

Stats 1933, p 1969, amended

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 21.1 is added to the Agricultural Prorate Act, to read:

New section

Sec. 21.1. Any fee for primary certificates or secondary certificates fixed by the program committee with the approval of the director, pursuant to Section 21, shall be due and payable by each producer upon all units of the commodity of such producer which are subject to such certificates and shall constitute a personal debt of such producer. In the event that any such producer has authorized a handler as herein defined to obtain secondary certificates and pay secondary certificate fees on behalf of such producer, or in the event that the handler has been a party to noncompliance with respect to payment for certificates or corresponding fees, the amounts unpaid shall constitute a personal debt of such handler.

Fees for primary and secondary certificates

The director, in addition to other remedies provided by law, may direct suit in the name of the people of the State of California as plaintiff, to be brought for the recovery of fees as herein provided; and in such case the director may make the necessary affidavit for and a writ of attachment may issue, without any bonds being given on behalf of the plaintiff. All fees collected hereunder shall be handled in the same manner as provided in Section 21.

Suit

CHAPTER 247

An act to add a new section, to be numbered 25 2, to the Agricultural Prorate Act, relating to a periodic referendum.

Stats 1933, p. 1969, amended

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

In effect August 4, 1943

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

SECTION 1. A new section, to be numbered 25.2, is hereby added to the Agricultural Prorate Act, to read:

New section

Sec. 25.2. In the event any marketing program in active operation does not provide for a periodic referendum of producers of record with the department, directly affected by such marketing program, for the purpose of determining whether or not such program shall be continued or modified, it shall be the duty of the director, prior to the beginning of a marketing season, to conduct a referendum on such marketing program at

Periodic referendum

least biennially for the purpose of making such determination. An expression by a majority of the producers participating in the referendum shall govern the action of the commission and the director in declaring a program modified, continued or suspended. In conducting such referendum, the commission and the director may require the majority expression to be that of producers in terms of volume of production in addition to numbers of producers voting.

The amendment of any marketing program to provide for a referendum shall be deemed to be an alteration or modification of the program in a minor particular as provided in Section 18.1.

CHAPTER 248

Stats. 1937, p 1229, amended

An act to repeal Section 12108 of the Business and Professions Code, relating to the construction and installation of heavy duty scales.

In effect August 4, 1943

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

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

Stats 1941, p 2323

SECTION 1. Section 12108 of the Business and Professions Code is hereby repealed.

CHAPTER 249

Stats 1933, p 394, amended

An act to amend Section 1293 of the Fish and Game Code, relating to damage by animals and the taking of such animals.

In effect August 4, 1943

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

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

Stats 1933, p 394

SECTION 1. Section 1293 of the Fish and Game Code is amended to read:

Mammal damage

1293. Any owner or tenant of land or property that is being damaged or destroyed or is in danger of being damaged or destroyed by deer, elk, bear or beaver, may apply to the commission for a permit to kill such mammals. The commission, upon satisfactory evidence of such damage or destruction, actual or threatened, shall issue a revocable permit for the taking of such mammals under regulations promulgated by the commission. Mammals so taken shall not be sold, nor shipped from the premises on which they are taken, except under instructions from the commission.

CHAPTER 250

An act to amend Section 20 of the "Personal Property Brokers Act" as revised and set forth in Chapters 952 and 1044 of the Statutes of 1939, relating to personal property brokers and to persons who, as brokers, negotiate loans made by personal property brokers.

Stats. 1909, p. 969, amended

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 20 of the act cited in the title hereof, as revised by Chapter 952 of the Statutes of 1939, is amended to read:

Stats 1939 p. 2667

Sec. 20. Prohibition. No person, except as authorized by this act, shall directly or indirectly charge, contract for, or receive any interest, discount, or consideration greater than the lender would be permitted by law to charge if he were not a licensee hereunder upon the loan, use, or forbearance of money, goods, or things in action, or upon the loan, use, or sale of credit of the amount or value of three hundred dollars ($300) or less.

Charges of nonlicensees

The foregoing prohibition shall apply to any person, who by any device, subterfuge, or pretense whatsoever shall charge, contract for, or receive greater interest, consideration, or charges than is authorized by this act for any such loan, use, or forbearance of money, goods, or things in action or for any such loan, use, or sale of credit.

No loan of the amount or value of three hundred dollars ($300) or less, for which a greater rate of interest, consideration, brokerage, and charges than is permitted by this act has been charged, contracted for, or received, made within the State of California, shall be enforced in this State, and every person in anywise participating therein in this State shall be subject to the provisions of this act.

Enforcement of California loans

A loan lawfully made outside the State of California of the amount or value of three hundred dollars ($300) or less, may be enforced in this State as to the unpaid principal balance of said loan together with the interest, consideration, brokerage and all other charges, to the extent of but not to exceed said unpaid principal balance and the aggregate amount of interest, consideration, brokerage and all other charges permitted by this act in connection with a loan of the same amount made within this State. Any person who in anywise collects or attempts to collect in this State the unpaid principal balance of a loan made outside the State of California, and a greater aggregate amount of interest, consideration, brokerage and all other charges in connection with such loan than is permitted by this act in connection with a loan of the same amount made within this State, shall be subject to the provisions of this act. Any person who contracts for or negotiates

Enforcement of out-of-State loans

in this State a loan to be made outside the State of California for the purpose of evading or avoiding this act, shall be subject to the provisions of this act.

Collateral contracts

No licensee or any other person in connection with or incidental to the making of any loan, may require the borrower to contract for, purchase, or agree to purchase any other thing in connection with the loan, and no licensee or any other person in connection with or incidental to the making of such loan shall require the borrower to enter into any collateral sales agreement or contract, other than the contract of pledge, assignment or mortgage of personal property by the borrower to the lender as security for the repayment of the loan and charges thereon. The licensee shall deliver to the borrower at the time of making the loan an amount to be retained by the borrower equal to the face value of the loan and note evidencing same.

Profit from collateral contracts

Any profit or advantage of any kind whatsoever that any personal property broker or broker may contract for, collect, receive or in anywise obtain by a collateral sale, purchase, or agreement, in connection with the negotiating, arranging, making or otherwise in connection with any loan of three hundred dollars ($300) or less, except commissions received as a licensed insurance agent or broker on insurance written as hereinafter permitted, shall be deemed to be charges for the purposes of regulation under this act. Such transactions shall be governed by and subject to the provisions of this act. How-

Insurance

ever, security consisting of tangible personal property offered as security may be reasonably insured against loss for a reasonable term, considering the circumstances of the loan, and such insurance shall not be deemed such collateral sale, purchase, or agreement when the policy is payable to the borrower or any member of his family, even though the customary mortgagee clause is attached or the licensee is a coassured; provided, that such insurance is sold at standard rates through duly licensed insurance agents.

Maximum loan period

No licensee shall enter into any contract for a loan for a period of longer than 24 months after making the loan.

Stats 1939, p 2874

SEC. 2. Section 20 of the act cited in the title hereof, as revised by Chapter 1044 of the Statutes of 1939, is amended to read:

Charges of nonlicensees

Sec. 20. Prohibition. No person, except as authorized by this act, shall directly or indirectly charge, contract for, or receive any interest, discount, or consideration greater than the lender would be permitted by law to charge if he were not a licensee hereunder upon the loan, use, or forbearance of money, goods, or things in action, or upon the loan, use, or sale of credit of the amount or value of three hundred dollars ($300) or less.

The foregoing prohibition shall apply to any person, who by any device, subterfuge, or pretense whatsoever shall charge, contract for, or receive greater interest, consideration, or charges than is authorized by this act for any such loan, use.

or forbearance of money, goods, or things in action or for any such loan, use, or sale of credit

Enforcement of California loans

No loan of the amount or value of three hundred dollars ($300) or less, for which a greater rate of interest, consideration, brokerage, and charges than is permitted by this act has been charged, contracted for, or received, made within the State of California, shall be enforced in this State, and every person in anywise participating therein in this State shall be subject to the provisions of this act.

Enforcement of out-of-State loans

A loan lawfully made outside the State of California of the amount or value of three hundred dollars ($300) or less, may be enforced in this State as to the unpaid principal balance of said loan together with the interest, consideration, brokerage and all other charges, to the extent of but not to exceed said unpaid principal balance and the aggregate amount of interest, consideration, brokerage and all other charges permitted by this act in connection with a loan of the same amount made within this State. Any person who in anywise collects or attempts to collect in this State the unpaid principal balance of a loan made outside the State of California, and a greater aggregate amount of interest, consideration, brokerage and all other charges in connection with such loan than is permitted by this act in connection with a loan of the same amount made within this State, shall be subject to the provisions of this act. Any person who contracts for or negotiates in this State a loan to be made outside the State of California for the purpose of evading or avoiding this act, shall be subject to the provisions of this act.

Collateral contracts

No licensee or any other person in connection with or incidental to the making of any loan, may require the borrower to contract for, purchase, or agree to purchase any other thing in connection with the loan; and no licensee or any other person in connection with or incidental to the making of such loan shall require the borrower to enter into any collateral sales agreements or contracts, other than the contract of pledge, assignment or mortgage of personal property by the borrower to the lender as security for the repayment of the loan and charges thereon. The licensee shall deliver to the borrower at the time of making the loan an amount to be retained by the borrower equal to the face value of the loan and note evidencing same.

Profit from collateral contracts

Any profit or advantage of any kind whatsoever that any personal property broker or broker may contract for, collect, receive or in anywise obtain by a collateral sale, purchase, or agreement, in connection with the negotiating, arranging, making or otherwise in connection with any loan of three hundred dollars ($300) or less, except commissions received as a licensed insurance agent or broker on insurance written as hereinafter permitted, shall be deemed to be charges for the purposes of regulation under this act. Such transactions shall be governed by and subject to the provisions of this act. However, security consisting of tangible personal property offered as security may

Insurance

be reasonably insured against loss for a reasonable term, considering the circumstances of the loan, and such insurance shall not be deemed such collateral sale, purchase, or agreement when the policy is payable to the borrower or any member of his family, even though the customary mortgagee clause is attached or the licensee is a coassured; provided, that such insurance is sold at standard rates through duly licensed insurance agents.

Maximum loan period

No licensee shall enter into any contract for a loan for a period of longer than 24 months after making the loan.

CHAPTER 251

Stats 1939, p 2679, amended
Stats 1939, p 2886, amended

An act to amend Section 19 of the "California Small Loan Act," relating to lenders engaged in the business of making loans of three hundred dollars ($300) or less, and to persons who, as brokers, negotiate loans made by such lenders.

In effect August 4, 1943

[Approved by Governor April 27, 1943 Filed with Secretary of State April 27, 1943.]

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

Stats 1939, p 2679

SECTION 1. Section 19 of the act cited in the title hereof, as set forth in Chapter 953 of the Statutes of 1939, is amended to read:

Charges of nonlicensees

Sec. 19. Prohibition. No person by any device, subterfuge, or pretense whatsoever shall charge, contract for, or receive greater interest, consideration, or charges than is authorized by this act for any such loan, use, or forbearance of money, goods, or things in action or for any such loan, use, or sale of credit.

Enforcement of California loans

No loan of the amount or value of three hundred dollars ($300) or less, for which a greater rate of interest, consideration, brokerage, and charges than is permitted by this act has been charged, contracted for, or received, made within the State of California, shall be enforced in this State, and every person in anywise participating therein in this State shall be subject to the provisions of this act.

Enforcement of out-of-State loans

A loan lawfully made outside the State of California of the amount or value of three hundred dollars ($300) or less, may be enforced in this State as to the unpaid principal balance of said loan together with the interest, consideration, brokerage and all other charges, to the extent of but not to exceed said unpaid principal balance and the aggregate amount of interest, consideration, brokerage and all other charges permitted by this act in connection with a loan of the same amount made within this State. Any person who in anywise collects or attempts to collect in this State the unpaid principal balance of a loan made outside the State of California, and a greater aggregate amount of interest, consideration, brokerage and all other charges in connection with such loan than is permitted

by this act in connection with a loan of the same amount made within this State, shall be subject to the provisions of this act. Any person who contracts for or negotiates in this State a loan to be made outside the State of California for the purpose of evading or avoiding this act, shall be subject to the provisions of this act.

Collateral contracts

No licensee or any other person in connection with or incidental to the making of any loan shall require the borrower to contract for, purchase, or agree to purchase, any other thing in connection with the loan, nor to enter into any collateral sales agreements or contracts.

At the time of the making of the loan, the licensee shall deliver to the borrower, to be retained by the borrower, an amount equal to the face value of the loan and note evidencing the same.

Profit from collateral contracts

Any profit or advantage of any kind whatsoever that any lender or broker may contract for, collect, receive or in anywise obtain by a collateral sale, purchase, or agreement, in connection with the negotiating, arranging, making or otherwise in connection with any loan of three hundred dollars ($300) or less, except commissions received as a licensed insurance agent or broker on insurance written as hereinafter permitted, shall be deemed to be charges for the purposes of regulation under this act. Such transactions shall be governed by and subject to the provisions of this act. However, security consisting of tangible personal property offered as security may be reasonably insured against loss for a reasonable term, considering the circumstances of the loan, and such insurance shall not be deemed such collateral sale, purchase, or agreement when the policy is payable to the borrower or any member of his family, even though the customary mortgage clause is attached or the licensee is a coassured; provided, that such insurance is sold at standard rates through duly licensed insurance agents.

Maximum loan period

No licensee shall enter into a contract for a loan for a longer period than 24 months after the making of the loan.

Stats. 1939, p. 2886

SEC. 2. Section 19 of the act cited in the title hereof, as set forth in Chapter 1045 of the Statutes of 1939, is amended to read:

Charges of nonlicensees

Sec. 19. Prohibition. No person by any device, subterfuge, or pretense whatsoever shall charge, contract for, or receive greater interest, consideration, or charges than is authorized by this act for any such loan, use, or forbearance of money, goods, or things in action or for any such loan, use, or sale of credit.

Enforcement of California loans

No loan of the amount or value of three hundred dollars ($300) or less, for which a greater rate of interest, consideration, brokerage, and charges than is permitted by this act has been charged, contracted for, or received, made within the State of California, shall be enforced in this State, and every person in anywise participating therein in this State shall be subject to the provisions of this act.

Enforcement of out-of-State loans

A loan lawfully made outside the State of California of the amount or value of three hundred dollars ($300) or less, may be enforced in this State as to the unpaid principal balance of said loan together with the interest, consideration, brokerage and all other charges, to the extent of but not to exceed said unpaid principal balance and the aggregate amount of interest, consideration, brokerage and all other charges permitted by this act in connection with a loan of the same amount made within this State. Any person who in anywise collects or attempts to collect in this State the unpaid principal balance of a loan made outside the State of California, and a greater aggregate amount of interest, consideration, brokerage and all other charges in connection with such loan than is permitted by this act in connection with a loan of the same amount made within this State, shall be subject to the provisions of this act. Any person who contracts for or negotiates in this State a loan to be made outside the State of California for the purpose of evading or avoiding this act, shall be subject to the provisions of this act.

Collateral contracts

No licensee or any other person in connection with or incidental to the making of any loan shall require the borrower to contract for, purchase, or agree to purchase, any other thing in connection with the loan, nor to enter into any collateral sales agreements or contracts.

At the time of the making of the loan, the licensee shall deliver to the borrower, to be retained by the borrower, an amount equal to the face value of the loan and note evidencing the same.

Profit from collateral contracts

Any profit or advantage of any kind whatsoever that any lender or broker may contract for, collect, receive or in anywise obtain by a collateral sale, purchase, or agreement, in connection with the negotiating, arranging, making or otherwise in connection with any loan of three hundred dollars ($300) or less, except commissions received as a licensed insurance agent or broker on insurance written as hereinafter permitted, shall be deemed to be charges for the purposes of regulation under this act Such transactions shall be governed by and subject to the provisions of this act. However, security consisting of tangible personal property offered as security may be reasonably insured against loss for a reasonable term, considering the circumstances of the loan, and such insurance shall not be deemed such collateral sale, purchase, or agreement when the policy is payable to the borrower or any member of his family, even though the customary mortgagee clause is attached or the licensee is a coassured; provided, that such insurance is sold at standard rates through duly licensed insurance agents.

Maximum loan period

No licensee shall enter into a contract for a loan for a longer period than 24 months after the making of the loan.

CHAPTER 252

An act to amend Section 62.5 of the Fish and Game Code, relating to Fish and Game District 1⅛.

Stats 1933, p 394, amended

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 62.5 of the Fish and Game Code is amended to read:

Stats 1941, p 2226

62.5. District 1⅛. The following shall constitute Fish and Game District 1⅛: The waters of that portion of the Sacramento River including its tributaries for a distance of five miles upstream from their mouths, but on Deer Creek, from its mouth to the mouth of the Deer Creek Canyon; on Mill Creek, from its mouth to the mouth of Mill Creek Canyon; on Antelope Creek, from its mouth to Red Bluff City Water Dam; on Paynes Creek, from its mouth to Dale's Station; on Battle Creek, from its mouth to the junction of North and South Battle Creek, within the exterior boundaries of District 1, lying between the Vina Ferry near the town of Vina, in Tehama County, and the junction of Middle Creek and the Sacramento River, in Shasta County. Except as otherwise provided, and so far as consistent with other provisions of this code relating to a particular district, the provisions of this code relating to District 1 apply to District 1⅛.

District 1⅛

CHAPTER 253

An act to amend Section 610 of the Fish and Game Code, relating to bag limits.

Stats 1933, p 394, amended

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 610 of the Fish and Game Code is amended to read:

Stats. 1941, p 1154

610. Unless otherwise provided in this article, all varieties of trout and Rocky Mountain whitefish, except golden trout, may be taken in all districts, from May 1st to October 31st. In all districts, unless otherwise provided in this article, not more than 25 trout, or 25 Rocky Mountain whitefish, or 25 trout and Rocky Mountain whitefish in the aggregate, nor more than 10 pounds of trout, nor more than 10 pounds of Rocky Mountain whitefish, nor more than 10 pounds of trout and Rocky Mountain whitefish in the aggregate, and one trout, or one Rocky Mountain whitefish, may be taken or possessed in any day. Not more than one daily bag limit of trout or Rocky Mountain whitefish, or trout and Rocky Mountain whitefish together may be possessed by any person during one day.

General season and bag limit

CHAPTER 254

Stats. 1937, p 1229, amended

An act to amend Sections 2493 and 2494 of the Business and Professions Code, relating to license fees of the Board of Osteopathic Examiners.

In effect August 4, 1943

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

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

Stats 1941, p 2541

SECTION 1. Section 2493 of the Business and Professions Code is hereby amended to read as follows:

Annual fee

2493. Each person holding a certificate issued by the Board of Osteopathic Examiners residing in or out of California shall pay to the secretary-treasurer of the Board of Osteopathic Examiners an annual tax and registration fee on or before the first day of January of each year.

Stats 1941, p. 2541

SEC. 2. Section 2494 of said code is hereby amended to read as follows:

Failure to pay

2494. The failure of any person holding a certificate issued by the Board of Osteopathic Examiners to pay the annual tax and registration fee during the time his certificate remains in force, shall, ipso facto, work a forfeiture of his certificate after a period of 60 days from the first day of January of each year.

It shall not be restored except upon written application and the payment to the Board of Osteopathic Examiners of the fee provided by this article. But no examination shall be required for the reissuance of a certificate that was forfeited under the provisions of this section.

CHAPTER 255

Stats. 1937, p. 185, amended

An act to amend Section 3212.5 of the Labor Code, relating to workmen's compensation benefits for members of the State Highway Patrol.

In effect August 4, 1943

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

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

Stats 1939, p. 2047

SECTION 1. Section 3212.5 of the Labor Code is amended to read:

Heart trouble and pneumonia

3212.5. In the case of a member of a police department of a city or municipality, or a member of the State Highway Patrol, when any such member is employed under civil service upon a regular, full time salary, the term "injury" as used in this division includes heart trouble and pneumonia which develops or manifests itself during a period while such member is in the service of the department, or the State

Highway Patrol, as the case may be. The compensation which is awarded for such heart trouble or pneumonia shall include full hospital, surgical, medical treatment, disability indemnity, and death benefits as provided by the provisions of this division.

Such heart trouble or pneumonia so developing or manifesting itself shall be presumed to arise out of and in the course of the employment unless there is evidence to the contrary; provided, however, that the member of the police department or State Highway Patrol shall have served five years or more in such capacity before the presumption shall arise as to the compensability of heart trouble so developing or manifesting itself. Presumption

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CHAPTER 256

An act to amend Sections 44 and 44.1 of the Vehicle Code, relating to motor vehicles, and declaring the urgency of this act. Stats 1935, p. 93, amended

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.] In effect immediately

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

SECTION 1. Section 44 of the Vehicle Code is amended to read: Stats 1941, p. 1374

44. Authorized Emergency Vehicle. An "authorized emergency vehicle" is a vehicle of any of the following types: "Authorized emergency vehicle"

(a) A vehicle publicly owned and operated in the performance of his duty, by a member of any police or fire department, any sheriff, constable, or deputy sheriff, or traffic law enforcement officer who is regularly employed by the State, or any city, or any city and county, or any county in responding to emergency calls or in a traffic patrol duty.

(b) A motorcycle, either publicly or privately owned, operated by a police or traffic law enforcement officer in enforcing the provisions of this code.

(c) A motor vehicle, either publicly or privately owned, operated by a State or county forest ranger, or a fire warden on salary and directly in charge of fire protection work upon behalf of the State or in any county, or the chief or assistant chief of an organized fire department, in responding to emergency fire calls.

(d) Any fire fighting equipment designed and operated exclusively as such by an oil company and used in responding to emergency fire calls and in combating fires

(e) When used in responding to emergency calls, any privately owned ambulance, specially constructed and maintained exclusively for ambulance purposes, authorized by permit issued by the Chief of the California Highway Patrol, and any publicly owned ambulance.

(f) An emergency repair vehicle of a utility or public utility, whether privately, municipally or publicly owned, used in responding to emergency calls when authorized by the Chief of the California Highway Patrol.

(g) Any fire fighting equipment, emergency wrecking equipment or emergency repair equipment, owned and operated by a bridge and highway district for the purpose of extinguishing fires, removing wrecked motor vehicles, caring for injured persons, or repairing damaged lighting, or electrical equipment, of such bridge and highway district, when such vehicles are responding to emergency calls.

(h) A motor vehicle, owned by the State, and operated by a regularly employed special agent or investigator of the Attorney General's office in the performance of his duties under Section 476 of the Political Code.

Stats 1939, p 2214

SEC. 2. Section 44.1 of the Vehicle Code is hereby amended to read as follows:

"Authorized emergency vehicle" (privately owned)

44.1. Authorized Emergency Vehicle, Privately Owned. In addition to the vehicles defined as "authorized emergency vehicle" by Section 44, the provisions of this code relating to authorized emergency vehicles shall apply to vehicles publicly maintained in whole or in part by the State, or city, or city and county, or county, and privately owned and operated by a member of, and who receives salary from, and is regularly employed by, an organized municipal police department, or by any sheriff, constable, or deputy sheriff and such vehicles shall be "authorized emergency vehicles," but only under each and all of the following conditions:

1. When such vehicle has a permit from the Director of the Department of Motor Vehicles.

2. When said vehicle has affixed to the license plates thereon distinguishing signs of a type approved by the Director of the Department of Motor Vehicles and when said signs are so located as to be plainly visible at a distance of not less than 50 feet from the front and rear of said vehicle.

3. Where said person operates such vehicle so owned by him in responding to emergency calls or fire alarms or in street or highway patrol duty, or operates such vehicle in the pursuit of actual or suspected violators of the law.

4. When the State, city, or any city and county, or any county does not furnish to such sheriff, constable, or deputy sheriff, a publicly owned vehicle for the purpose above stated.

5. Whenever such vehicle is being used for purposes other than those specifically authorized herein, the siren must be disconnected and the red lights covered. Any violation of this provision shall constitute a misdemeanor and the permit granted hereunder shall be revoked.

Urgency

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

immediate effect. A statement of the facts constituting such necessity is as follows:

That by reason of the emergency created by war the Federal Government has made rules and regulations for blackout periods and areas and relate to the operation of emergency vehicles. That such rules require additional demands upon the law enforcement officers in patrolling such areas and protecting the preservation of the public peace, health and safety, and this act should therefore take effect immediately.

CHAPTER 257

An act to add Section 7154.1 to the Labor Code, relating to scaffolding.

Stats 1937, p 185, amended

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 7154 1 is added to the Labor Code, to read:

New section

7154 1. The use of lean-to scaffolds, sometimes known as jack scaffolds, as support for scaffolds is hereby prohibited.

Jack scaffolds

CHAPTER 258

An act to amend Section 1a of an act entitled "An act providing for the manner of payment of the extra compensation of justices, judges and justices of the peace, sitting in courts other than their own under assignment thereto by the Chairman of the Judicial Council, and for the manner of payment of the necessary expenses for travel, board and lodging of such justices and judges incurred in the discharge of such assignments," approved May 20, 1927, as amended, relating to expenses of judges and justices of the peace sitting under assignment from the Judicial Council.

Stats 1927, p 1119 amended

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 1a of the act cited in the title hereof is amended to read:

Stats 1933, p 2443

Sec. 1a. The county, other than his own, in which any judge or justice of the peace is sitting under assignment from the Judicial Council, may pay the full amount of the expenses of such judge or justice of the peace whenever the Chairman of the Judicial Council certifies that there is not available sufficient money to pay the State's share of such expenses, in

Expenses of judges under assignment

the amount provided in Section 1 of this act, of any such judge or justice of the peace. When the board of supervisors of any such county allows a claim for such expenses the latter shall become a county charge and the auditor is hereby authorized and directed to draw his warrant therefor and such expenses shall be audited and paid in the manner provided in Section 1 of this act. In no case shall the expenses paid by the county under the provisions of this section exceed the sum of ten dollars ($10) per diem. This section shall not apply to any county or city and county having a population of 500,000, or over.

Exemption

CHAPTER 259

Stats 1937, p 2085, amended

An act to amend Section 96 of the State Civil Service Act, relating to reemployment lists.

In effect August 4, 1943

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

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

Stats 1937, p. 2085

SECTION 1. Section 96 of the State Civil Service Act is hereby amended to read as follows:

Removal from reemployment lists

Sec. 96. Any name, after a period of five consecutive years, shall be removed from the reemployment lists for the class unless the period is extended by action of the board, provided that no such name may be removed until after notice to the person affected.

CHAPTER 260

Stats. 1937, p 2085, amended

An act to add Section 152.6 to the State Civil Service Act, relating to the effect of time spent in the military service by civil service employees.

In effect August 4, 1943

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

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

New section

SECTION 1. Section 152.6 is hereby added to the State Civil Service Act, to read as follows:

Time spent in military service

152.6. The board, by rule, may provide that time spent in the military service by persons entering such service in the manner provided in Section 152.5 may be considered as time spent in State service for the purpose of computing seniority rights under Section 172, and rights to salary adjustments under Section 70 at the time of the return of such person to State service.

CHAPTER 261

An act to amend Section 1 of an act entitled "An act to provide for the establishing and quieting of title to real property in case of the loss or destruction of public records," approved June 16, 1906, relating to destruction of such records as the result of enemy action or from any other cause.

Stats Ex Sess 1906, p. 78, amended

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 1, of the act cited in the title hereof, is amended to read:

Stats. 1917, p. 80

Section 1. Whenever the public records in the office of the county recorder of any county have been, or shall hereafter be, lost or destroyed, in whole or in any material part, by flood, fire, earthquake, enemy attack, or from any other cause, any person who claims an estate of inheritance, or for life in, and who is by himself or his tenant, or other person, holding under him, in the actual and peaceable possession of any real property in such county, or of any real property now in another county but which was formerly in the county of which all or a material part of the records were lost or destroyed as aforesaid, in the event that the records so lost or destroyed included all or a material part of the public records in the office of said county recorder covering all or a material part of the time when said last mentioned real property was in the county whose records were so lost or destroyed, may bring and maintain an action in rem against all the world, in the superior court for the county in which such real property is situate, to establish his title to such property and to determine all adverse claims thereto. Any number of separate parcels of land claimed by the plaintiff may be included in the same action.

Quiet title action

CHAPTER 262

An act to amend Sections 501, 502, 503, 504, and 505 of the Elections Code, relating to election precincts.

Stats. 1939, p. 49, amended

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 501 of the Elections Code is amended to read:

Stats. 1939, p 49

501. The surveyor within 90 days after receipt of a written request therefor, from the county clerk, shall divide the county into election precincts and prepare detail maps, exterior

Detail maps and descriptions

descriptions, thereof, or both and such copies as the county clerk may determine.

Stats 1939, p 49

SEC. 2. Section 502 of said code is amended to read:

Filing

502. Such maps and descriptions shall be filed with the board of supervisors.

Stats 1939, p 49

SEC. 3. Section 503 of said code is amended to read:

Order creating precincts

503. Within 10 days after receipt of said maps and descriptions, the board of supervisors shall adopt an order creating election precincts as prepared and described by the surveyor and county clerk.

Stats 1939, p 49

SEC. 4. Section 504 of said code is amended to read:

Change of boundaries

504. The surveyor shall within 15 days after receipt of a written request therefor from the county clerk:

(a) Change or alter any precinct boundaries.

(b) Prepare new detail maps or exterior descriptions thereof, or both, as directed by the county clerk.

(c) File said maps or descriptions with the board of supervisors.

Stats 1939, p 49

SEC. 5. Section 505 of said code is amended to read:

Order changing boundaries

505. At the first meeting of the board of supervisors after receipt of said maps or descriptions of changed or altered precinct boundaries, it shall by order, change the boundaries of the precincts as per the detailed descriptions furnished by the surveyor and county clerk.

CHAPTER 263

Stats 1933, p 394, amended

An act to add Section 1290.5 to the Fish and Game Code, relating to deer skins, declaring the urgency of this act, to take effect immediately.

In effect immediately

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

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

New section

SECTION 1. Section 1290.5 is added to the Fish and Game Code, to read:

Deer skins and hides

1290.5. It shall be lawful for any person to have in possession the skin or hide, tanned or untanned, of any deer lawfully taken, and such skins or hides may be lawfully donated, or sold, for the purpose of tanning and/or manufacturing into articles, suitable for and needed by the armed forces

Exception

of the United States; except that these provisions shall not be construed to permit any person or agency other than the commission to sell the skins or hides of deer killed under special permits as protection to crops. The commission shall prescribe, from time to time, such rules and regulations as may be necessary for the proper handling of skins and hides

Penalty

of deer and enforcement of this section. Violation of this section shall constitute a misdemeanor, punishable by a fine of

not less than twenty-five dollars ($25), nor more than five hundred dollars ($500).

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect it shall supersede any existing provisions of law which are in conflict with this act; but such provisions are not repealed by this act and after this act is no longer effective shall have the same force as though this section had not been enacted. Duration. Existing law.

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

Military authorities require deer skins for the manufacture of certain necessary articles for use by the armed forces of the United States.

CHAPTER 264

An act to repeal Section 20431 of the Education Code, relating to the admission of persons not residents of California to the State colleges. Stats. 1943, Ch. 71, amended.

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.] In effect August 4, 1943.

Note.—See Stats. 1943, Ch. 71.

CHAPTER 265

An act to amend Section 5050 of the Welfare and Institutions Code, relating to the safekeeping and examination of persons alleged to be mentally ill. Stats. 1937, p. 1005, amended.

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.] In effect August 4, 1943.

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

SECTION 1. Section 5050 of the Welfare and Institutions Code is amended to read: Stats. 1939, p. 1549.

5050. Whenever it appears, by petition pursuant to this chapter, to the satisfaction of a judge of the superior court in any county that any person therein is mentally ill, and in need of supervision, treatment, care or restraint, the judge shall make such orders as may be necessary to provide for examination into the state of mental health of the person, and Apprehension. Order for detention.

for the safekeeping of the person, pending hearing, in the county psychopathic hospital, in his own home, or in such other place as will afford access to medical examiners for the purpose of examination and suitable provision for the safety and comfort of the person. If it appears to the judge that the mental health of the person requires it, the judge shall issue and deliver to some peace or probation officer for service, an order directing that the person be detained in a place designated in the order.

CHAPTER 266

Stats 1937, p 1005, amended

An act to amend Sections 5404 and 5406 of the Welfare and Institutions Code, relating to the commitment of persons addicted to the intemperate use of stimulants, and the parole and discharge thereof.

In effect August 4, 1943

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

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

Stats. 1939, p. 1749

SECTION 1. Section 5404 of the Welfare and Institutions Code is amended to read:

Order of commitment

5404. If the judge, after such hearing and examination, believes the person is so far addicted to the intemperate use of stimulants as to have lost the power of self-control, or is subject to dipsomania or inebriety in such a degree as to require custodial care and treatment, he shall make an order that the person be confined in a hospital for the care and treatment of the insane designated in such order, or that such person be confined in an industrial farm or industrial road camp within the county or, in the event that the county maintains a branch of the county jail at which inmates thereof are required to perform agricultural and other out-of-doors labor, in such branch of the county jail. The order shall be accompanied by a written statement of the judge as to the financial condition of the patient and of the persons legally liable for his maintenance, as far as can be ascertained.

Statement of financial condition

Evidence of reputation

Before a person is committed to a State hospital, however, satisfactory evidence shall be submitted to the trial judge showing that the person to be committed is not of bad repute or bad character, apart from his habit for which the commitment is made, and that there is reasonable ground for believing that the person, if committed, will be permanently benefited by treatment.

Person previously committed as narcotic

No person who has been committed under the provisions of Article 1 of this chapter as an intemperate user of narcotics, and who has been discharged or has escaped, shall be again committed to any hospital unless permission for such recommitment be first obtained from the medical superintendent thereof.

SEC. 2. Section 5406 of said code is hereby amended to read: Stats 1937, p. 1005

5406. The court shall commit the person for a definite period, not to exceed two years, but he may be paroled by the medical superintendent under the same rules and conditions under which the insane are paroled, and the Department of Institutions may, upon recommendation of the hospital superintendent, discharge any person committed under this article when it is satisfied that he will not receive substantial benefit from further hospital treatment, with the same power as contained in Article 8, Chapter 1, Part 4, Division 6 of this code. In the event that the person shall have been committed to an industrial farm or industrial road camp or branch of the county jail, as provided in Section 5404 of this code, he may be paroled by the medical director of the county under the same rules and conditions under which insane persons may be paroled by the medical superintendents of the State hospitals, and the medical director of the county may discharge any person so committed to an industrial farm or industrial road camp or branch of the county jail, when he is satisfied that the person will not receive substantial benefit from further confinement there. Parole and discharge

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CHAPTER 267

An act to amend Section 6720 of, and to add Section 6726.5 to, the Welfare and Institutions Code, relating to the duty and power of the sheriff to arrest escaped and paroled patients and inmates of State hospitals and institutions and deliver them to persons authorized by the Department of Institutions. Stats 1937, p 1005, amended

[Approved by Governor April 27, 1943 Filed with Secretary of State April 27, 1943.] In effect August 4, 1943

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

SECTION 1. Section 6720 of the Welfare and Institutions Code is amended to read: Stats 1937, p 1005 See also Stats 1943, Ch. 879

6720. When any patient or inmate has escaped from any State hospital or from any hospital or facility operated by or under the Veterans' Administration of the United States Government, the sheriff of any county in which he is found shall arrest and deliver him to any person authorized by the Department of Institutions, directly or through the medical superintendent, or by the Veterans' Administration, as the case may be, to receive him. Arrest of escaped inmates

New section
See also Stats 1943, Ch 879
Return of paroled inmates

SEC. 2. Section 6726.5 is added to said code, to read:

6726.5. When any person or institution to whose custody a patient has been paroled from a State hospital or from any hospital or facility operated by or under the Veterans' Administration of the United States Government, certifies in writing that the patient's condition requires his return to the hospital, or the facility as the case may be, the sheriff of any county in which he is found shall arrest and deliver him to any person authorized by the Department of Institutions, directly or through the medical superintendent of the hospital or through the medical superintendent of extramural care, or by the Veterans' Administration, to receive him.

CHAPTER 268

Stats 1933, p 60, amended

An act to amend Section 323 of the Agricultural Code, relating to the payment of moneys into the State Treasury, and to further provide for the disposition of such moneys in the State Treasury

In effect August 4, 1943

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

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

Stats 1941, p 2430

SECTION 1. Section 323 of the Agricultural Code is hereby amended to read:

License and fee

323. The director, upon application of any person selling, dealing or furnishing foreign cold storage meat, shall issue a license to such applicant upon the payment of an annual fee of twenty-five dollars ($25) for importers and for wholesalers, of ten dollars ($10) for retailers, and five dollars ($5) for hotels, restaurants, lunch rooms, dining cars, or boarding houses, selling, handling, furnishing, or serving such cold storage meat. All such licenses shall expire on June 30th of each year. No license shall be issued for a period of less than one year.

Disposition of fees

All moneys collected under the provisions of this article shall be paid into the State Treasury to the credit of the General Fund.

Department of Agriculture Fund

SEC. 2. Any money remaining in the Department of Agriculture Fund in the State Treasury which may have been paid therein pursuant to Section 323 of the Agricultural Code shall be withdrawn by the State Treasurer and credited to the General Fund, and all moneys received pursuant to Section 323 of the Agricultural Code by the Department of Agriculture after the effective date of this act shall be paid into the State Treasury to the credit of the General Fund.

CHAPTER 269

An act to amend Section 215.17 of the Agricultural Code, relating to the payment of moneys into the State Treasury and to further provide for the disposition of such moneys in the State Treasury.

Stats. 1933, p. 60, amended

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 215.17 of the Agricultural Code is hereby amended to read:

Stats. 1937, p. 2214

215.17. All money received under the provision of this article shall be paid into the State Treasury to the credit of the General Fund.

Disposition of money

SEC. 2. Any money remaining in the Department of Agriculture Fund in the State Treasury which may have been paid therein pursuant to Section 215.17 of the Agricultural Code shall be withdrawn by the State Treasurer and credited to the General Fund, and all moneys received pursuant to Section 215.17 of the Agricultural Code by the Department of Agriculture after the effective date of this act shall be paid into the State Treasury to the credit of the General Fund.

Department of Agriculture Fund

CHAPTER 270

An act to amend Section 822 of the Agricultural Code, relating to markings on containers of apples.

Stats. 1933, p. 60, amended

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 822 of the Agricultural Code is amended to read:

Stats. 1941, p. 1718

822. All containers of apples shall bear upon them in plain sight and in plain letters on one outside end: The name of the person who first authorized the packing of the apples or the name under which such packer is engaged in business, together with a sufficiently explicit address to permit ready location of such packer; name of variety of the apples contained therein, if known, and when not known the words "unknown variety"; the grade of such apples; the minimum net weight of the apples contained therein, or the cubical contents of the package, and in the case of wrapped packed apples the numerical count. A variation of five apples, more or less, than the number stated, shall be allowed. Containers of apples which are place packed shall be required to show only the name and address of the person who first packed or

Markings

authorized the packing of the apples, the variety of apples, and the designation of grade. Open containers of apples which are not packed shall be required to show only the name and address of the person who first packed or authorized the packing of the apples, and the designation of grade.

In lieu of the standard grade markings required by this section any container of apples may be marked with the name of the equivalent grade established for such apples in the United States standards for apples promulgated by the United States Department of Agriculture and approved by the director.

CHAPTER 271

Stats 1937, p 1005, amended

An act to add Section 1756.5 to the Welfare and Institutions Code, relating to the Youth Correction Authority, and authorizing the authority to return persons committed thereto who are found to be mentally abnormal to the committing court for recommitment to the Department of Institutions for placement in State institutions.

In effect August 4, 1943

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

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

New section

SECTION 1. Section 1756.5 is added to the Welfare and Institutions Code, to read:

Return to committing court

1756.5. Whenever the authority finds that any person committed to the authority is feeble-minded, insane, mentally ill, a sexual psychopath, or a defective or psychopathic delinquent, the authority may return the person to the committing court for discharge from the control of the authority and recommitment in accordance with law to the Department of Institutions for placement in the appropriate State institution.

CHAPTER 272

An act to amend Section 4300l of the Political Code, relating to municipal court fees and costs.

In effect August 4, 1943

[Approved by Governor April 27, 1943 Filed with Secretary of State April 27, 1943.]

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

Stats. 1941, p. 2085

SECTION 1. Section 4300*l* of the Political Code is hereby amended to read as follows:

Municipal court fees

4300*l*. Municipal Court Fees. The clerk of each municipal court, except as otherwise provided by law, shall charge for all services to be performed, the following fees:

For filing the complaint, or other first paper, four dollars ($4), to include all proceedings before trial and all services

to be performed in a judgment by default or for the trial of either a question of law or fact, including all affidavits, swearing witnesses and jury, and entry of judgment.

For filing the first paper on behalf of any party (other than plaintiff) one dollar ($1), for each such party.

For filing the papers transmitted from another court, on the transfer of a civil action or proceeding, and all proceedings before trial and all services, four dollars ($4).

When the venue in a case in a municipal court shall be changed, for making up and transmission of transcript and papers, one dollar ($1), and a further sum equal to the fee for filing in the court to which the case is to be transferred. The clerk shall transmit such filing fee, with the papers in the case, to the clerk or justice of the court to which the case is transferred.

For receiving and filing an abstract of judgment rendered by a justice or judge of another court and for subsequent services based thereon, five dollars ($5).

For certificate and transmitting transcript and papers on appeal, one dollar ($1).

For issuing a transcript of the register of actions, one dollar ($1).

For issuing an abstract of judgment, fifty cents ($0.50).

For taking an acknowledgment of any instrument, for each signature, fifty cents ($0.50).

For administering an oath and certifying thereto, fifty cents ($0.50).

For issuing a writ of execution, a writ of restitution, a writ of possession, or any writ for the enforcement of any order or judgment, one dollar ($1).

For issuing an order of sale, one dollar ($1).

For exemplification of record or other paper on file, besides the charges allowed for copying or comparing, one dollar ($1).

For filing any notice of intention to move for a new trial of any cause, two dollars ($2).

For preparing a first copy, other than a carbon copy, of any record, proceeding, or paper on file in his office, per folio, twelve cents ($0.12).

For preparing a carbon copy of any record, proceeding or paper on file in his office, made at the time of preparing a first copy thereof, per folio, five cents ($0.05).

For certifying a copy of any paper, record or proceeding on file in his office, fifty cents ($0.50).

For comparing with the original on file in his office, the copy of any paper, record or proceeding by another and presented for his certificate, two cents ($0.02) per folio.

No fees shall be charged by the clerk for services rendered in any criminal action except for making or certifying to a copy of any filed paper, record or proceeding when not otherwise specified by law; nor shall any charge be made for any service to the United States of America or any officer thereof acting in his official capacity.

Marshals of municipal courts, except as otherwise provided by law, shall charge and collect the fees provided in Section 4300b, Political Code, except that for keeping property taken under legal process they shall collect the actual amount charged by any reputable warehouse or storage house for safely keeping and storing such property; but if such property shall be placed in the care of a keeper, the fee for such keeper shall be five dollars ($5) per day.

Sections 4292 to 4297, inclusive, and Section 4305 of this code shall apply to officers of municipal courts and to the disposition of fees collected by such officers.

Witnesses in municipal courts, except as otherwise provided by law, shall be paid the fees provided to be paid to witnesses in the superior court in the county or city and county in which any such municipal court is situated.

Jurors in municipal courts, except as otherwise provided by law, shall be paid the fees provided to be paid to trial jurors in the superior court in the county or city and county in which any such municipal court is situated.

Witnesses and jurors in criminal cases shall be paid by the county in the manner provided for the payment of such fees in the county or city and county in which any such municipal court is situated.

CHAPTER 273

Stats 1943, Ch 71, amended

An act to amend Section 5.120 of the School Code and to amend Section 12001 of the Education Code, relating to authorization of service in the public schools.

In effect August 4, 1943

[Approved by Governor April 27, 1943 Filed with Secretary of State April 27, 1943.]

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

Stats 1937, p 1711 See also Stats 1943, Ch 71

SECTION 1. Section 5.120 of the School Code is amended to read:

Issuance of credentials

5.120. The State Board of Education shall grant the appropriate credential to holders of diplomas granted by State colleges to applicants who have completed a teacher training course prescribed by the State Board of Education upon presentation of such diploma.

Such credential shall be subject to revocation or suspension by the State Board of Education for any of the causes specified as provided hereinafter in this part.

Note.—See Stats. 1943, Ch. 71.

Effect Stats 1943, Ch 71

SEC. 3. Section 2 of this act becomes operative only if the Education Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said code takes effect; at which time Section 5.120 of the School Code amended by this act is hereby repealed.

Repeal

CHAPTER 274

An act to amend Sections 736.3, 737.5, 737.6, 737.8, and 737.11 of the Agricultural Code, relating to licensing and bonding of distributors of fluid milk and fluid cream, and the fees therefor; providing for records of purchases, and for proceedings to refuse, revoke or suspend such licenses.

Stats 1933, p 60, amended

[Approved by Governor April 27, 1943 Filed with Secretary of State April 27, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 736.3 of the Agricultural Code is amended to read:

Stats 1941, p 3008

736.3. Any stabilization and marketing plan shall contain the following provisions:

Provisions of marketing plan

(a) Provisions for prohibiting distributors and retail stores from engaging in the unfair practices hereinafter set forth:

Unfair practices

(1) The payment, allowance or acceptance of secret rebates, secret refunds, or unearned discounts by any person, whether in the form of money or otherwise.

(2) The giving of any milk, cream, dairy products, services or articles of any kind, except to bona fide charities, for the purpose of securing or retaining the fluid milk or fluid cream business of any customer.

(3) The extension to certain customers of special prices or services not made available to all customers who purchase fluid milk or fluid cream of like quantity under like terms and conditions.

(4) The false or misleading advertising of fluid milk or fluid cream as defined in Section 654a of the Penal Code.

(5) The purchase of any fluid milk in excess of 200 gallons monthly from any producer or association of producers unless a written contract has been entered into with such producer or association of producers stating the amount of fluid milk to be purchased for any period; the quantity of such milk to be paid for as Class 1, and the price to be paid for all milk received, but in any marketing area where an equalization pool is a part of a stabilization and marketing plan, such contract need not specify the quantity of milk in any one class. The contract shall also state the date and method of payment for such fluid milk, which shall not be later than the last day of the month following the month during which the fluid milk was purchased, the charges for transportation if hauled by the distributor, and may contain such other provisions as are not in conflict with this chapter, and shall contain a proviso to the effect that the producer shall not be obligated to deliver in any calendar month fluid milk to be paid for at the minimum price for fluid milk that is used for Class 4, as said class is defined in Section 735 3 of this code. A signed copy of such contract shall be filed by the distributor with the director within five days from the date of its execution.

(6) The purchasing, processing, bottling, transporting, delivering or otherwise handling in any marketing area of any fluid milk or fluid cream which is to be or is sold or otherwise disposed of by such distributor at any place in the geographical area within the outer, outside and external boundaries or limits of such marketing area, whether such place is a part of the marketing area or not, at less than the minimum wholesale and minimum retail prices effective in such marketing area.

(7) The payment of a lesser price by a distributor to any producer for fluid milk or fluid cream which is distributed to any person, including agencies of the Federal, State or local government, located upon property within the geographical limits of any marketing area for less than the minimum prices established by the director to be paid by distributors to producers for fluid milk or fluid cream for said marketing area.

(8) The purchasing or receiving of any fluid milk or fluid cream by distributors from producers within a marketing area wherein a stabilization and marketing plan is in effect for less than the minimum prices established in such plan, regardless of whether such milk or cream is subsequently sold or distributed within or without such marketing area, or within or without the jurisdiction of the State of California; provided, however, that if such fluid milk or fluid cream is subsequently sold or distributed in another marketing area within the State of California where a stabilization and marketing plan is in effect, then the distributor shall pay the producer thereof not less than the minimum prices established in such plan in the marketing area wherein such milk or cream is sold or distributed; and provided further, that in the event such fluid milk or fluid cream is subsequently sold or distributed in any place within the jurisdiction of the State of California where no stabilization and marketing plan is in effect, then such milk or cream may be paid for by the distributor to the producer thereof at not less than the average price paid by distributors to producers for milk or cream of similar grade and quality at the plants in the vicinity where such milk or cream is so sold or distributed, as such prices are determined by the director from contracts required to be filed with him pursuant to this section.

Minimum prices: Fluid milk

(b) Provisions whereby the director designates and prescribes or provides methods for designating or prescribing minimum prices to be paid by distributors to producers, for fluid milk in one or more of the various classes; provided, however, that the prices so designated or prescribed shall be based upon the economic relationship of the price of fluid milk for the marketing area involved to the price of manufacturing milk, taking into consideration the additional costs incurred in producing and marketing fluid milk over and above costs incurred in producing and marketing manufacturing milk; and provided further, the director finds that such prices will

tend to effectuate the purposes and policy of this chapter and will insure consumers a sufficient quantity of pure and wholesome milk.

Any stabilization and marketing plan may contain the following provisions:

Distributor reports

(c) Provisions whereby distributors shall report to each producer from whom fluid milk is secured, the volume of fluid milk received from such producer in pounds of milk, the milk fat test of such milk and the amount of fluid milk in milk fat pounds paid for in the several classes and the prices paid for the various classes for each month.

Minimum prices Fluid cream

(d) Provisions whereby the director designates and prescribes or provides methods for designating or prescribing minimum prices to be paid by distributors to producers for fluid cream; provided, that the prices so designated or prescribed shall be based upon the economic relationship of the price of fluid cream for the marketing area involved to the price of manufacturing cream, taking into consideration the additional costs incurred in producing and marketing fluid cream over and above costs incurred in producing and marketing manufacturing milk; and provided further, that the director finds that such prices will tend to effectuate the purposes and policy of this chapter and will insure consumers a sufficient quantity of pure and wholesome cream.

Uniform prices

(e) Provisions whereby the director designates or prescribes methods to provide uniform prices to be paid to all producers supplying fluid milk to distributors for pasteurization purposes in the marketing area involved by pooling the returns of all such fluid milk; provided, that no equalization pool shall be established unless the director, after hearing, determines that producers who supply distributors with not less than sixty-five (65) per cent of the total volume of fluid milk used for pasteurization purposes and who represent not less than sixty-five (65) per cent of the total number of such producers desire the establishment of such pool, but no hearing shall be necessary if said sixty-five (65) per cent, by volume and production, of such producers petition the director in writing to establish such equalization pool as a part of the plan. If the director finds that an equalization pool is necessary to carry out the provisions of this chapter he shall make provision therefor. The director may designate the local control board for the marketing area as his agency to operate the equalization pool and may permit such local board to employ a pool manager and such other necessary personnel and to incur such expenses incidental to the operation of the pool as the director finds are necessary. The director is hereby empowered to require distributors to make reports to the pool manager at such intervals and in such detail as he finds is necessary for the operation of the pool which reports shall be kept confidential as to any individual distributor but shall be available to the director or his agents and the pool

Hearing and determination

Local control board

Reports to pool manager

manager, and such employees of the pool as are necessary to the operation of the equalization pool.

Premiums for quality, etc

No provision of any pooling program shall prevent any distributor from paying premiums for quality; provided, all producers supplying fluid milk of like quality to such distributor are paid similar premiums, nor shall any provision prohibit the paying of different prices to producers based on differentials in transportation, adjustments or deductions made by a cooperative association of producers to its members, including the blending of proceeds received from the sale of fluid milk by such cooperative in other markets. Distributors who purchase fluid milk from producers for pasteurization purposes shall deduct from payments due such producers at such time and in such manner such sums as the director determines are sufficient to insure uniform prices to all producers subject to the provisions of the equalization pool, irrespective of the usage of such fluid milk by the distributors. Distributors shall make, in addition to the deductions herein prescribed, such additional deductions per pound milk fat as the director finds necessary to pay all expenses incidental to the operation of the equalization pool, including the establishment of a reserve account to insure prompt payments to producers. The deductions herein prescribed are in addition to any other deductions prescribed by this chapter.

Sales stimulation program

(f) Provision whereby sales stimulation or consumer educational programs may be formulated and administered to increase the consumption of fluid milk and fluid cream, or other dairy products; provided, that such programs shall be carried on without reference to a particular brand or trade name; and provided further, that no such sales stimulation or consumer educational program shall be carried on which shall make use of false or unwarranted claims on behalf of such products or which disparages the quality, value, sale or use of any fluid milk or fluid cream or any other agricultural commodity authorized by law to be marketed within such marketing area.

Petition

Before any stabilization and marketing plan may provide for sales stimulation and consumer educational programs, not less than 65 per cent of the producers and who produce not less than 65 per cent of the total volume of fluid milk consumed in any marketing area shall petition the director in writing for the inclusion of such a program as part of the stabilization and marketing plan. If such a program is requested by distributors it shall be necessary that not less than 65 per cent of the total number of distributors and who distribute not less than 65 per cent of the total volume of fluid milk for consumption in the marketing area shall petition the director in writing for the inclusion of such a program as part of the stabilization and marketing plan.

The petition shall bear the signatures of petitioners, their addresses and the approximate daily volume of fluid milk

handled in gallons and milk-fat pounds and the type of product distributed, together with the estimated cost of the program each month and the number of months the program is to continue in operation.

Financing

A sales stimulation and consumer educational program instituted by producers shall be financed by all producers supplying fluid milk to the marketing area. Such program, if instituted by distributors, shall be financed by all distributors supplying fluid milk to the marketing area. If such program is instituted by both producers and distributors, both producers and distributors shall finance the program equally.

Assessments

If the program is instituted by producers the director is hereby empowered to require producers to pay assessments of not more than two mills ($0.002) per pound milk fat, or if the program is instituted upon a gallonage basis not more than seven mills ($0.007) for each 10 gallons of fluid milk received by distributor, including the production of distributors who are also producers.

If the program is instituted by distributors the director is hereby empowered to require distributors to pay assessments of not more than two mills ($0.002) per pound milk fat, or if the program is instituted upon a gallonage basis not more than seven mills ($0.007) for each 10 gallons of fluid milk received by distributors, including the production of distributors who are also producers.

If the program is instituted by both producers and distributors, the director is hereby empowered to require both producers and distributors to pay assessments for the purpose of providing funds for formulating, administering, and carrying on such program. The assessments to be paid by distributors shall not exceed two mills ($0.002) per pound milk fat, or if the program is instituted upon a gallonage basis not more than seven mills ($0.007) for each 10 gallons of fluid milk received by distributors including the production of distributors who are likewise producers. Assessments of not more than two mills ($0.002) per pound milk fat, or if the program is instituted upon a gallonage basis, not more than seven mills ($0.007) for each 10 gallons of fluid milk produced by producers and received by distributors, shall likewise be paid by producers. In no instance shall the combined assessments exceed four mills ($0.004) per pound milk fat, or if the program is instituted upon a gallonage basis not more than 14 mills ($0.014) for each 10 gallons of fluid milk received from producers and processed by distributors for distribution in the marketing area in the form of whole milk, fluid cream, or manufactured dairy products derived from fluid milk.

Hearing

Before a program may be instituted a public hearing shall be called by the director, the procedure for which public hearing is to be the same as that required for the institution of a stabilization and marketing plan for fluid milk. At such public hearing testimony and evidence shall be taken to determine the necessity of such a program, the estimated costs

of the program, the time during which the program is to be continued, and such other matters as are necessary in the institution of the program.

Order

If, after public hearing and consideration of the testimony and evidence presented at said hearing, the director finds that a sales stimulation and consumer educational program will tend to effectuate the purposes of this chapter, he shall issue an order making effective such program. Such order shall state the number of months the program shall continue in operation, the rate of assessment per pound milk fat or per gallon to be paid by those petitioning for the program, the names, addresses and business locations of the persons appointed to administer the program and such order may contain other provisions which are necessary and incidental to the operation of the program.

Person administering program

The person named in the order to administer the program shall be selected by the director in the following manner and in the following number:

(a) If the program was instituted by producers the director shall name five representative producers from nominations made at the public hearing by the petitioners.

(b) If the program was instituted by distributors the director shall name five representative distributors from nominations made at the public hearing by the petitioners.

(c) If the program was instituted by both producers and distributors the director shall name three representative producers from nominations made at the public hearing by the petitioning producers and three representative distributors from nominations made at the public hearing by petitioning distributors.

Eligibility of distributors

(d) Distributors who are also producers shall be eligible to nomination for service on, and may be named by the director to serve on the committee to administer any program for which they will be required to pay assessments, and at least one of the persons named by the director to serve on any committee to administer any program for which distributors who are also producers will be required to pay assessments shall be a distributor who is also a producer.

Administration of programs

All programs shall be administered by the persons named in the order of the director making the program effective, and shall be administered subject to the approval of the director. All amounts required to be paid to the director under this section by producers or distributors shall be paid to such director on or before the fifteenth day of the month following the month during which such fluid milk was received by distributors and all distributors receiving milk from producers in any area where the provisions of this section are in effect whereby the director is empowered to require payments from producers shall deduct and pay to the director such payments provided for under this section from the payments due for such distributors to such producers for fluid milk.

Upon the termination of any program, if there are any obligations arising thereunder, the final accrual or ascertainment of which requires further acts by any producer or distributor or by the persons appointed to administer the program or by the director, the power or duty to perform such further acts shall continue, notwithstanding such termination. Termination of program

All moneys received by the director pursuant to this section shall be deposited in the Department of Agriculture Fund in the State Treasury allocated to each separate marketing area from which they are collected and disbursed only for the purposes specified subject to the approval of the director. Disposal of proceeds

Any money received by the director in excess of the amount required for any program shall be returned at such time as the director may determine on a pro rata basis to the persons from whom such funds were collected. Refunds

SEC. 1.5. Section 737.5 of said code is amended to read: Stats 1941, p 3008

737.5. (a) After thirty (30) days after the effective date of this chapter no distributor shall deal in fluid milk or fluid cream without first having obtained a license from the director. The special licenses provided in this section are in addition to any and all licenses required by any other section of Division 4, Agricultural Code, or any law or ordinance of any county or municipality of this State. Applications for the licenses herein provided shall be made on forms prescribed by the director and shall state the name and address of the applicant and such details as to the nature of the applicant's business as the director may require. Such applicant shall further satisfy the director of his or its character, responsibility and good faith in seeking to carry on the business stated in the application. Licenses shall be issued for a period of twelve (12) months from the first day of each year or for the remainder of the calendar year from the date of issuance. Application for a new license for the following year by a licensee shall be made at least thirty (30) days prior to the commencement of such year, and if not so made the applicant shall pay an additional sum equal to 50 per cent of the license fee before such license shall be issued. Distributor's license; Term; Renewal

(b) Every distributor before purchasing any fluid milk or fluid cream from a producer must execute and deliver to the director a surety bond in the minimum sum of one thousand dollars ($1,000), executed by the applicant as principal and by a surety company qualified and authorized to do business in this State as surety. Said bond shall be upon a form approved by the director, and shall be conditioned upon the payment in the manner required by this chapter, of all amounts due to producers for fluid milk and fluid cream purchased by such licensee or applicant during the license year. Said bond shall be to the State in favor of every producer of fluid milk and fluid cream. In case of failure by a distributor to pay any producer or producers for fluid milk or fluid cream in the manner required by this chapter, the director shall proceed forthwith to ascertain the names and Distributor's bond

addresses of all producer-creditors of such distributor, together with the amounts due and owing to them and each of them by such distributor, and shall request all such producer-creditors to file a verified statement of their respective claims with the director. Thereupon the director shall bring an action on the bond on behalf of said producer-creditors. Upon any action being commenced upon said bond, the director may require the filing of a new bond and immediately upon a recovery in any action upon such bond, such distributor shall file a new bond, and upon failure to file same within ten (10) days in either case, such failure shall constitute grounds for the revocation or suspension of the license of such distributor. In the event that recovery upon the bond is not sufficient to pay all of the claims as finally determined and adjudged by the court, any such amount recovered shall be divided pro rata among said producer-creditors.

Amount of bond

The minimum bond of one thousand dollars ($1,000) shall be required of distributors purchasing an average daily quantity of fluid milk of less than 100 gallons; distributors purchasing an average daily quantity of 100 gallons and less than 200 gallons during any calendar month during a license year must post a bond in the amount of two thousand dollars ($2,000); distributors purchasing an average daily quantity of 200 gallons and less than 300 gallons during any calendar month during a license year must post a bond in the amount of three thousand dollars ($3,000); distributors purchasing an average daily quantity of 300 gallons or more during any calendar month during a license year shall post a bond in the sum of five thousand dollars ($5,000).

The same bond requirements shall apply to purchases of fluid cream, except that for the purposes of computation of the required bond, 10 gallons of fluid cream shall be deemed the equivalent of 100 gallons of fluid milk.

In the event that any distributor so increases his purchases of fluid milk or fluid cream during the license year that said purchases exceed the amount for which said distributor is bonded, said distributor shall forthwith post such additional bond or bonds as may be required to comply with the provisions of this section.

The licenses and bonds provided for in this section shall be required for each distributor, and for the purposes of this section each subsidiary milk plant or branch milk plant whether under one ownership or not shall be considered as an individual distributor.

Failure of any distributor who purchases fluid milk or fluid cream from producers to execute and deliver the bond as herein provided and required shall constitute a violation of this chapter; failure of any such distributor to post such additional bond or bonds as may be required to comply with the provisions of this chapter shall likewise constitute a violation of this chapter.

SEC. 2. Section 737.6 of said code is amended to read: Stats 1937, p 42 See also Stats 1943 Chs 387 and 615

737.6. The fees for all licenses shall be as follows, based on the volume of fluid milk and fluid cream handled for the previous year, provided that any distributor who has not previously engaged in such business during such prior year shall pay such minimum license fee as provided by this chapter.

Distributor's license fee

(a) Distributors purchasing or handling an average daily quantity of fluid milk of less than 50 gallons shall pay a license fee of three dollars ($3); distributors purchasing or handling an average daily quantity of 50 gallons and less than 100 gallons shall pay a license fee of five dollars ($5); distributors purchasing or handling an average daily quantity of 100 gallons, and less than 200 gallons, shall pay a license fee of ten dollars ($10); distributors purchasing or handling an average daily quantity of 200 gallons, and less than 300 gallons, shall pay a license fee of fifteen dollars ($15); distributors purchasing or handling an average daily quantity of 300 gallons, and less than 500 gallons, shall pay a license fee of twenty-five dollars ($25); distributors handling an average daily quantity of 500 gallons or more shall pay a license fee of fifty dollars ($50).

The same license requirements shall apply to purchases of fluid cream, except, for the purpose of computation of the required license fee, 10 gallons of fluid cream shall be deemed the equivalent of 100 gallons of fluid milk.

Deductions from payments

(b) Distributors who are subject to the provisions of any stabilization and marketing plan made effective by this chapter, shall deduct from payments due producers for fluid milk, fluid cream or both, including each distributor's own production, the sum of two mills ($0.002) per pound milk fat on all milk fat contained in fluid milk, fluid cream or both, or in the case of distributors who do not purchase or receive fluid milk, fluid cream or both, in milk fat pounds, the sum of seven mills ($0.007) for each 10 gallons of fluid milk sold. The amount so deducted shall be paid to the director on or before the fifteenth of the month following the month during which such fluid milk or fluid cream was received. The amounts so received by the director shall be used in the administration and enforcement of this chapter, or any stabilization and marketing plan established by this chapter. Any amounts in excess of that required for this purpose shall be returned at such time as the director may determine to producers pro rata from whom such sums were collected.

Use of deductions

Refunds

SEC. 3. Section 737 8 of said code is amended to read: Stats 1937, p 42

737.8. All such distributors shall make and file with the director at least once each month such reports as the director may require to enable him to enforce the provisions of this chapter.

Reports

Every distributor who purchases fluid milk or fluid cream from a producer shall make and keep for one year a correct

Records for fluid milk or cream

record showing in detail the following with reference to the handling, sale, or storage of such fluid milk or fluid cream:

(a) The name and address of the producer.

(b) The date the fluid milk or fluid cream was received.

(c) The amount of fluid milk or fluid cream received.

(d) The official butterfat test of the fluid milk or fluid cream if purchased on a butterfat basis.

(e) The usage of the fluid milk or fluid cream.

(f) Evidence of payment for the fluid milk or fluid cream purchased.

(g) Such further records as the director may require.

Stats 1941, p 3008

SEC. 4. Section 737.11 of said code is amended to read:

Refusal or revocation of license

737.11. The director may refuse to grant any license herein provided and may, after due hearing upon his own motion or upon a verified complaint signed and filed with the director by any interested person, refuse, revoke or suspend any such license as the case may require, when he is satisfied that any applicant or licensee has violated any provision of this chapter, or any provision of any stabilization and marketing plan formulated under the provisions of this chapter, or of any order of the director establishing minimum wholesale and minimum retail prices for fluid milk or fluid cream formulated under the provisions of this chapter. Upon the filing of such a verified complaint, the director shall cause a copy thereof, together with a notice of the time and place of hearing of such complaint, to be served personally or by mail upon the person or persons named as respondent or respondents therein. Such service shall be made at least ten (10) days before said hearing, which shall be held in the city or town in which is situated the principal place of business of the licensee or respondent, or in which the transaction or violation complained of is said to have occurred, or in the county seat of the county in which the transaction or violation complained of is said to have occurred, or in the nearest office of the State Department of Agriculture, at the discretion of the director. At the time and place appointed for such hearing the director or his agents shall hear the parties to said complaint, and shall enter in the office of the director at Sacramento a decision either dismissing such complaint or specifying the facts established on such hearing.

Complaint and notice

Hearing

Decision

Such decision may include an order refusing, revoking or suspending the license applied for or held by the respondent, or affixing such other conditional and probationary orders as may be proper for the enforcement of this chapter or any provision of any stabilization and marketing plan formulated under the provisions of this chapter, or of any order of the director establishing minimum wholesale and minimum retail prices for fluid milk or fluid cream formulated under the provisions of this chapter. A copy of the decision shall be furnished to the complainant and licensee.

Order to show cause

After any decision including any conditional or probationary orders, should respondent fail, refuse or neglect to comply

with any of such orders, the director may thereupon and in the premises issue to and serve upon said respondent an order directing said respondent to show cause why the license of said respondent should not be suspended or revoked for the failure to comply with such conditional or probationary orders as above described.

Notice

A copy of said order to show cause, together with the notice of the time and place of hearing upon said order, shall be served personally or by mail upon said respondent. Said order shall refer to an attached copy of the conditional or probationary orders in such a way as to advise and inform the respondent of the charge or violation upon which said order is based and pursuant to which it is issued. Such service shall be made at least ten (10) days before said hearing, which shall be held in the city or town in which is situated the principal place of business of the respondent, or in which the transaction or violation complained of is said or charged to have occurred, or in the county seat of the county in which the transaction or violation complained of is said or charged to have occurred, or at the nearest office of the State Department of Agriculture, at the discretion of the director.

Hearing

Order

At the time and place appointed for such hearing the director or his agents shall hear the matter set forth in the order, and the showing of the licensee in the premises, and shall enter in the office of the director at Sacramento an order and decision specifying the facts, dismissing the order to show cause or directing the suspension or revocation of the license or licenses held by the licensee, or making such further conditional or probationary orders as may be proper, upon the evidence presented at such hearing. A copy of said order and decision shall be furnished to the licensee.

Previous violation

Previous violation by any applicant, or by any person connected with said applicant, of any provision of this chapter, or of any provision of any stabilization and marketing plan formulated under the provisions of this chapter, or of any order of the director establishing minimum wholesale and minimum retail prices for fluid milk or fluid cream, formulated under the provisions of this chapter, shall be good and sufficient ground for denial, revocation or suspension of a license.

CHAPTER 275

An act to amend Section 489 of the Agricultural Code, relating to the sale of graded milk.

Stats 1933, p 60, amended

[Approved by Governor April 27, 1943 Filed with Secretary of State April 27, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 489 of the Agricultural Code is hereby amended to read as follows:

Stats 1941, p 475

489. Where a milk inspection service has been approved or established as provided in this code, market milk shall be

Grading of market milk and cream

graded and designated as follows: "Certified milk," "guaranteed milk," "grade A milk." Market cream shall conform to all of the standards set for market milk of the same grade except those relating to milk fat and solids not fat, and except that the maximum bacterial count for market cream shall be not more than three times as great as that for the corresponding grade of milk.

CHAPTER 276

Stats 1933, p 60, amended

An act to amend Section 498 of, and to add Section 498.5 to, the Agricultural Code, relating to dairy farm building requirements and qualifications for milk and dairy inspectors.

In effect August 4, 1943

[Approved by Governor April 27, 1943. Filed with Secretary of State April 27, 1943.]

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

Stats 1941, p 1385

SECTION 1. Section 498 of the Agricultural Code is hereby amended to read as follows:

Duties of director

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

Supervise milk inspection services

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

Establish standards

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

any existing dairy farm buildings unless the owner thereof is making repairs thereto to the extent of 75 per cent of the value of such building; provided, all existing structures used in the production of market milk shall be kept in repair in accordance with the sanitary requirements and standards of Division 4 of this code.

New section

SEC. 2. A new section to be numbered 498.5 is hereby added to the Agricultural Code, to read:

Employee qualifications

498.5. The State Personnel Board shall hold examinations in various parts of the State for the purpose of determining the qualifications of persons desiring to become employed by the department in the enforcement of the provisions of this division and the rules and regulations of the director, and shall establish an eligible list therefor; provided, however, that persons in the employ of the State of California or any county or city or city and county in California may be eligible for employment by any county or city without being on such eligible list if such person was in the employ of the State of California or any county or city or city and county in California, and while so employed, enforcing laws, rules, regulations and ordinances pertaining to milk and milk products within two years immediately preceding date of such subsequent employment.

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

(1) One year of experience in the production, processing, or inspection of milk or milk products and education equivalent to graduation from an agricultural or veterinary college of recognized standing with specialization in studies relating to the dairy industry, or (2) three years of experience in the dairy industry involving work in dairy inspection, dairy bacteriology, marketing milk, or manufacturing milk products and education equivalent to completion of the twelfth grade supplemented by a nondegree course in an agricultural college of recognized standing with specialization in studies relating to the dairy industry, or (3) three years of experience in work equivalent to that of junior dairy inspector in the State Dairy Service.

Certification of eligibles

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

(c) In case the employees of any county or city inspecting dairy farms, milk products plants, or milk products are subject to qualification by a civil service board or commission, it

shall be a condition prerequisite to the taking of such examination that such person shall be upon such eligible list or previously employed as provided for in this section; in the event that a county or city charter provision requires local residence as a prerequisite to employment, and the number of persons upon such eligible list who can meet such residence requirement is less than three, or if there be less than three persons upon such eligible list, the State Personnel Board shall prepare and certify to each county and city requesting the same, a list of persons eligible for temporary appointment pending the establishment of a suitable eligible list.

Training courses

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

(e) Any person employed by the department or any county or city, while attending such special training courses shall be paid his salary or compensation while so engaged.

Exceptions

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

CHAPTER 277

Stats 1931, p 483, amended

An act to amend Section 10.05 of, and to add Section 3.06 to, the Building and Loan Association Act, relating to audits of building and loan associations, and shares as legal investments.

In effect August 4, 1943

[Approved by Governor April 27, 1943 Filed with Secretary of State April 27, 1943.]

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

Stats 1933, p 1089

SECTION 1. Section 10.05 of the Building and Loan Association Act is amended to read:

Annual audit

Sec. 10.05. Annual Audit by Public Accountant. Each association, at least once in each year, shall cause its books and accounts to be audited at its own expense by a certified or

other public accountant or firm of certified or other public accountants selected by such association and approved by the commissioner. Such annual audit shall cover the fiscal year unless the commissioner shall fix a different period which he may do in the case of any association. Each association shall furnish to the commissioner annually, within 90 days after the end of the period covered by such audit, two signed copies of the report of such public accountant or accountants showing the result of such audit and including a balance sheet of such association at the date of such audit and a statement of the income and expenses of such association during the year ending with the date of such audit, which balance sheet and statement of income and expenses shall be certified by such public accountant or accountants. The commissioner shall have power to prescribe the scope of such audit, and to require such accountant or accountants to furnish him with information additional to that contained in the report of such audit. A copy of each report furnished to the commissioner pursuant to this section shall be kept at each office of the commissioner, and shall be open to examination by any investor of the association in question, subject to Section 13.01 of this act and to such reasonable regulations as the commissioner may prescribe. The audit required by this section shall be additional to, and shall not be in substitution for, the examination of associations by the commissioner or his deputies or examiners required by Section 13.06 of this act; provided, however, that in lieu of such audit, or as a portion of such audit, the commissioner may accept any audit, or that portion of any audit, made exclusively by the examiners for the Federal Home Loan Bank Administration, Federal Home Loan Bank or Federal Savings and Loan Insurance Corporation, or by such examiners in conjunction with the deputies and examiners of the Building and Loan Commissioner.

Copies to commissioner

Scope

In lieu audits

SEC. 2. Section 3.06 is added to the act cited in the title hereof, to read:

New section

Sec. 3.06. Shares as Legal Investments. All shares issued by any association issuing no investment certificates and which is an "insured institution" as defined in Title IV of the National Housing Act shall be legal investments for the funds of executors, administrators, guardians, receivers and trustees of every kind and nature, and for the funds of all insurance companies. This section is intended to be, and shall be considered, the latest enactment upon the matters herein contained, and is supplemental to any and all other acts regulating, relating to or declaring what shall be legal investments for the funds of executors, administrators, guardians, receivers and trustees, or for the funds of insurance companies.

Shares as legal investments

CHAPTER 278

Stats 1937, p 1229, amended

An act to amend Section 6021 of the Business and Professions Code, relating to election of officers of the Board of Bar Governors.

In effect August 4, 1943

[Approved by Governor April 28, 1943 Filed with Secretary of State April 28, 1943]

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

Stats 1939, p 347

SECTION 1. Section 6021 of the Business and Professions Code is amended, to read:

Election of officers

6021. The president and vice presidents shall be elected by the board from among its members at an organization meeting to be held immediately following the annual meeting, after the commencement of the term of office of new members of the board, as provided in Section 6016 of this code.

The newly elected president and vice presidents shall assume the duties of their respective offices at the conclusion of the meeting at which they are elected.

CHAPTER 279

Stats 1937, p 1005, amended

An act to amend Sections 105 and 106 of the Welfare and Institutions Code, relating to the Director of Social Welfare, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor April 29, 1943 Filed with Secretary of State April 29, 1943.]

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

Stats 1937, p 1218

SECTION 1. Section 105 of the Welfare and Institutions Code is amended to read:

Director

105. The Governor may appoint with the advice and consent of the Senate an executive officer, who shall act as the secretary of the board and who shall be the Director of the Department of Social Welfare. He shall serve at the pleasure of the Governor.

Stats 1937, p 1218

SEC. 2. Section 106 of said code is amended to read:

Qualifications and compensation

106 The director shall be appointed wholly on the basis of training, demonstrated ability, experience, and leadership in organized social welfare administration.

He shall receive the salary provided in Section 130.

Urgency

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of

Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

The State Board of Social Welfare is the chief administrative agency of the State Department of Social Welfare and will continue to act as such under the provisions of this act. It is necessary, however, that the views of the chief executive officer of the State be adequately represented and presented to the State Board of Social Welfare and for this reason it is necessary to provide that the Director of Social Welfare shall be appointed by the Governor and hold office at the pleasure of the Governor. In this way the State Board of Social Welfare will be immediately informed and cognizant of the views of the chief executive officer with reference to social welfare problems and will, therefore, be adequately able to meet and deal with such problems consistent with the general policies of the entire State Government. Unless this act takes effect immediately, the State Board of Social Welfare will not be able to function adequately with respect to the general policies adopted by the State Government as a whole and as a result the public peace, health and safety will be in danger.

CHAPTER 280

An act to add Section 161 to the Revenue and Taxation Code, relating to contracts for the publication of notices, delinquent lists and other documents.

Stats 1939 p 1274, amended

[Approved by Governor April 29, 1943. Filed with Secretary of State April 29, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 161 is added to the Revenue and Taxation Code, to read:

New section

161. Whenever any notice, delinquent list or other document required to be made under this code is to be published, the county shall contract directly with the newspaper in which publication is proposed to be made. Any contract so made or any moneys due thereunder shall not be assignable. The newspaper shall not pay, or contract to pay, to any person, firm or corporation, by way of commissions, any part of the moneys received from the county in payment of said publication.

Contract on publication

CHAPTER 281

Stats 1909, p 87, amended

An act to amend Section 80.1 of the Bank Act, relating to loans by banks which are covered by guarantees or agreements to purchase made by any Federal Reserve Bank or by the United States or any department or agency thereof, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor April 29, 1943. Filed with Secretary of State April 29, 1943.]

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

Stats 1935, p 2152

SECTION 1. Section 80.1 of the Bank Act is hereby amended to read as follows:

Restrictions not applicable to certain loans by commercial banks

Sec. 80.1. None of the limitations or restrictions contained in Section 80 of this Bank Act shall apply to loans made by any commercial bank of the character prescribed by the provisions of Section 13b of the Federal Reserve Act or of Section 5d of the Reconstruction Finance Corporation Act, as said sections have been amended; provided, however, that any portion of such a loan in excess of the limitations fixed by this Bank Act shall be covered by a commitment of the Federal Reserve Bank or the Reconstruction Finance Corporation to repurchase such excess portion on demand, at any time on or prior to maturity of the notes evidencing the indebtedness, without recourse upon the bank. Nothing in this Bank Act contained, limiting or restricting loans by banks, shall affect or be applicable to that portion of any loan heretofore or hereafter made by any bank which is secured or covered by a guaranty or commitment or agreement to take over or purchase, made by any Federal Reserve Bank or by the United States or any department, board, bureau, commission, or establishment of the United States, including any corporation wholly owned, directly or indirectly by the United States.

Urgency

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

To aid in the effective prosecution of the war, the Congress of the United States has authorized various agencies and departments of the Federal Government charged with the procurement of war supplies to guarantee in whole or in part loans made by banks to persons and corporations engaged in the production of war materials for the purpose of financing the production of such materials. Doubt has arisen as to the authority under the State Bank Act for State banks to make loans so guaranteed when such loans may exceed the limits otherwise prescribed by Section 80 of the Bank Act. It is urgently necessary in order to enable the State banks to use their funds for the financing of the war effort that this doubt be removed.

CHAPTER 282

An act to amend Section 4808 of the Penal Code, relating to the membership of the Advisory Pardon Board.

[Approved by Governor April 29, 1943. Filed with Secretary of State April 29, 1943.] In effect August 4, 1943

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

SECTION 1. Section 4808 of the Penal Code is hereby amended to read as follows: Stats 1941, p 1080

4808. An Advisory Pardon Board of and for the State of California, is hereby created, which shall consist of the Lieutenant Governor, who shall be chairman of said board, the Attorney General and the Director of the Department of Penology. Should the Lieutenant Governor be absent or unable to perform the duties herein prescribed the President pro tempore of the Senate shall act in his place. The board shall have and exercise the powers and duties hereinafter set forth and specified. The members of said board shall not receive any salary or compensation. Advisory Pardon Board

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CHAPTER 283

An act to amend Sections 224, 226 and 227a of the Civil Code, relating to the adoption of children.

[Approved by Governor April 29, 1943. Filed with Secretary of State April 29, 1943.] In effect August 4, 1943

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

SECTION 1. Section 224 of the Civil Code is amended to read: Stats 1939, p 1811

224. A legitimate child can not be adopted without the consent of its parents if living; provided, however, that after the custody of any child has by any judicial decree, been given to the mother, and the father for a period of one year shall wilfully fail to pay for the care, support and education of such child when able to do so, then the mother alone may consent to such adoption, but only after the father has been personally served with a copy of a citation requiring him to appear at the time and place set for the appearance in court under Section 227 of this code; if the father can not be located for personal service, the same may be made by publication as provided for the publication of summons in Section 413 of the Code of Civil Procedure; nor an illegitimate child without the consent of its mother if living; except that the consent of a father or mother is not necessary in the following cases: Consent to adoption When consent unnecessary

1. When such father or mother has been judicially deprived of the custody and control of such child by order of the juvenile court, declaring such child to be free from the custody

and control of either or both of his parents as provided in the Welfare and Institutions Code, adopted May 25, 1937, or any act or acts superseding or amending the same.

2. Where such father or mother of any child has deserted the child without provision for its identification.

3. Where such father or mother of any child has relinquished said child for adoption as provided in Section 224m of this code.

4. Where such father or mother, whose consent is otherwise required, has been declared by a court of competent jurisdiction to be feeble-minded or insane, if the State Director of Institutions and the superintendent of the State hospital of which, if any, such father or mother, is an inmate or patient, certify that such father or mother will not be capable of supporting or controlling the child in a proper manner.

Stats 1939, p 1811
See also Stats 1943, Ch 901

SEC. 2. Section 226 of said code is amended to read:

Petition for adoption

226. Any person desiring to adopt a child may for that purpose petition the superior court of the county in which the petitioner resides and the clerk of the court shall immediately notify the State Department of Social Welfare at Sacramento in writing of the pendency of the action. In all cases in which consent is required, except in the case of an adoption by a stepparent where one natural parent retains his or her custody and control of the child, unless a society licensed by the State Department of Social Welfare to find homes for children and place children in homes for adoption joins in the petition for adoption, the consent of the natural parent or parents for the adoption must be signed in the presence of an agent of the State Department of Social Welfare on a form prescribed by such department and filed with the clerk of the superior court, in the county of the petitioner's residence.

Execution of consent

Effect of consent

Such consent, when reciting that the person giving it is entitled to the sole custody of the minor child, shall, when duly acknowledged before such agent, be prima facie evidence of the right of the person making it to the sole custody of the child and such person's sole right to consent.

Department of Social Welfare

In all cases of adoption in which no agency licensed to place children for adoption is a party, except in the case of an adoption by a stepparent where one natural parent retains his or her custody and control of the said child, it shall be the duty of the Department of Social Welfare to ascertain whether the child is a proper subject for adoption and whether the proposed home is suitable for the child, prior to accepting the consent of a natural parent to the adoption of the child by the petitioner.

Department's consent

In all cases in which the consent of the natural parent or parents is not necessary and a society licensed to place children for adoption is not a party to the petition, the State Department of Social Welfare shall, prior to the hearing of the petition, file its consent to the adoption with the clerk of the superior court of the county in which the petition is filed. Such

consent shall not be given by the Department of Social Welfare unless the child's welfare will be promoted by the adoption.

Report

Except in the case of the adoption of a child by a stepparent where one natural parent retains his or her custody and control of the child, it shall be the duty of the Department of Social Welfare to submit to the court a full report of the facts disclosed by its inquiry with a recommendation regarding the granting of the petition within 180 days after the filing of the petition; provided, however, that the court may allow such additional time for the filing of said report as in its discretion it may see fit. The report required of the Department of Social Welfare may be waived by the department in all cases in which a society, licensed by the Department of Social Welfare to place children in homes for adoption, is a party or joins in the petition for adoption. Such waiver may be issued by the department at any time, either before or after the filing of the petition for adoption.

Waiver

Adoption by stepparent

In case of an adoption of a child by a stepparent where one natural parent retains his or her custody and control of said child, the consent of either or both parents must be signed in the presence of a county clerk or probation officer of any county of this State on a form prescribed by the State Department of Social Welfare and the county clerk or probation officer before whom such consent is signed shall immediately file said consent with the clerk of the superior court of the county where the petition is filed and said clerk shall immediately file a certified copy of such consent to adoption with the State Department of Social Welfare.

Consent of nonresident parent

If the father or mother of a child to be adopted resides outside the State of California, his or her consent may be signed before a notary and in such case the consent of the Department of Social Welfare will also be necessary.

Minor parents

A parent who is a minor shall have the right to sign a consent for the adoption of his or her child and such consent shall not be subject to revocation upon such parent reaching his or her majority.

Appeal

If for a period of 180 days from the date of filing the petition, or upon the expiration of any extension of said period granted by the court, the Department of Social Welfare fails or refuses to accept the consent of the natural parent or parents to the adoption, or if said department fails or refuses to file or to give its consent to an adoption in those cases where its consent is required by this chapter, either the natural parent or parents or the petitioner may appeal from such refusal to the superior court of the county in which the petition is filed, in which event the clerk shall immediately notify the Department of Social Welfare of such appeal and the department shall within 10 days file a report of its findings and the reasons for its failure or refusal to consent to the adoption or to accept the consent of the natural parent. After the filing of said findings, the court may, if it deems that the

Notice

Court action

welfare of the child will be promoted by said adoption, allow the signing of the consent by the natural parent or parents in open court, or if the appeal be from the refusal of said department to consent thereto, grant the petition without such consent.

Stats 1933, p 1436

SEC. 3. Section 227a of said code is amended to read:

Investigation by probation officer

227a. The probation officer in the county in which the action for adoption is pending shall make an investigation of each case of adoption by a stepparent. No order of adoption shall be made by the court until after such probation officer shall have filed his report and recommendation and the same shall have been considered by the court.

CHAPTER 284

Stats 1935, p 248, amended

An act to add Division 16, comprising Sections 25000 to 25551, inclusive, to the Streets and Highways Code, and to add Section 50005 to Division 50 of said code, thereby consolidating and revising the law relating to the creation, organization and government of joint highway districts composed of two or more counties of the State of California, and providing for the issuance of bonds and the levy and collection of all taxes, assessments and other moneys necessary for the retirement and payment thereof, and for the payment of the costs of all acquisitions and improvements and all other expenses hereunder.

In effect August 4, 1943

[Approved by Governor April 29, 1943. Filed with Secretary of State April 29, 1943.]

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

New division

SECTION 1. Division 16, comprising Sections 25000 to 25551, inclusive, is added to the Streets and Highways Code, to read:

DIVISION 16. HIGHWAY DISTRICTS

PART 1. JOINT HIGHWAY DISTRICTS

CHAPTER 1. GENERAL PROVISIONS

Short title

25000. This part may be cited as the Joint Highway District Act.

Construction

25001. Unless the particular provision or the context otherwise requires, the definitions and general provisions contained in this chapter shall govern the construction of this part.

"District"

25002. "District," means a joint highway district, unless the context clearly indicates otherwise.

"Improvement"

25003. "Improvement," and any of its variants, includes the laying out, construction, improvement, and maintenance

of public highways and appurtenances thereto, including tunnels which are incident to highway purposes.

Application

25004. This part shall apply only to those districts which are organized or reorganized under this part and to those districts organized or reorganized on or after August 14, 1931, under the Joint Highway District Act.

Prior districts

25005. All districts organized or existing prior to August 14, 1931, may continue their operations and the discharge of their obligations pursuant to the provisions of all laws appertaining to such districts in effect prior to that date.

Liberal construction

25006. This part shall be liberally construed, in order to effectuate its purposes. No error, defect, irregularity, informality and no neglect or omission of any officer or person, in any procedure taken under this part, which does not affect the jurisdiction of the board of directors to proceed shall render void or invalidate any proceeding hereunder, any bonds issued or levied, or taxes or assessment taxes levied or imposed hereunder.

CHAPTER 2. ORGANIZATION AND REORGANIZATION OF DISTRICTS

Creation

25025. Districts, to be composed of two or more counties, may be created in accordance with this part for the purpose of improving public highways.

Resolution

25026. The board of supervisors of any county may initiate proceedings proposing the creation of a district by adopting a resolution reciting:

(a) That the public interest requires the improvement of one or more public highways and the acquisition of any necessary rights of way therefor.

(b) The general location and extent of the highways to be improved.

(c) That it is proposed to create a district composed of the counties of_____(naming them) which will be benefited by the proposed improvement.

Representative of county

25027. Upon the adoption of the resolution the board of supervisors shall name and appoint one of its members to represent that county upon the board of directors of the district proposed to be organized.

Copies to other counties

25028. The clerk of the board of supervisors adopting the resolution shall transmit certified copies of the resolution to the clerk of the board of supervisors of each of the other counties named in the resolution.

Action by other counties

25029. Upon receipt of a copy of the resolution, the boards of supervisors of the several counties affected shall consider the advisability of creating and organizing a district as proposed in the resolution. After determining the facts involved, each of the boards of supervisors shall adopt a resolution either rejecting or approving the proposal to create the district.

Resolution of approval

25030. Each resolution of approval shall, in addition to the matter otherwise required therein, name and appoint a

member of the board of supervisors of the county adopting the resolution, to represent such county upon the board of directors of the proposed district. A certified copy of the resolution of approval shall be forthwith transmitted to the clerk of the board of supervisors initiating the proceedings.

Adoption by original county

25031. The adoption of the original resolution by the board of supervisors of the county initiating the proceedings shall constitute a sufficient approval in behalf of that county.

Declaration of organization

25032. After the receipt by the board of supervisors instituting the proceedings of a copy of the resolution approving the proposal from the board of supervisors of each county proposed to be included within the district, that board shall adopt a resolution declaring the district to be created and organized and setting forth the names of the counties composing the district.

Filing with Secretary of State

25033. The board of supervisors adopting the resolution declaring the creation and organization of the district shall file a certified copy of that resolution with the Secretary of State whereupon the district shall come into existence and shall have all of the powers granted in this part. The district shall constitute a public corporation and shall be known as "Joint Highway District No.____ of the State of California."

Certificate of organization

25034. The Secretary of State shall furnish and transmit to the clerk of the board of supervisors of the county adopting the initial resolution for the organization of the district a certificate of organization of the district. Within 10 days after the receipt of the certificate, the clerk shall notify: (a) the clerks of the several boards of supervisors of the counties constituting the district, (b) the Director of Public Works of the State of California and (c) each supervisor appointed as a member of the board of directors of the district that the district has been organized.

Notice

Register of districts

25035. All districts shall be numbered by the Secretary of State, in the order of their creation and he shall keep and maintain in his office a list and register showing the districts organized under the provisions of this part or the Joint Highway District Act.

Reorganization

25036. All districts organized or tentatively organized prior to August 14, 1931, may reorganize under this part. The board of directors of the district or tentative district proposing to reorganize under this part may adopt a resolution declaring its intention so to do. It shall then transmit a certified copy of the resolution to the boards of supervisors of the several counties composing the district for their approval. If the boards of supervisors of all of the counties composing the district consent to the reorganization, the board of directors of the district shall adopt a resolution setting forth such consent and declaring the district or tentative district reorganized under this part. Thereupon the reorganization shall be complete and the district shall thereafter conform to the provisions of this part and shall have all of the powers and duties

in this part provided. A certified copy of the resolution declaring reorganization shall be transmitted to the Secretary of State.

CHAPTER 3. GENERAL POWERS OF DISTRICTS

Powers of district

25050. The district, acting through its board of directors, shall have power to:

(a) Improve public highways.

(b) Issue bonds and levy and impose taxes and assessment taxes upon property within the boundaries of the district.

(c) Accept in the name of the district all gifts, donations or contributions from any source whatsoever made to further the purposes of the district.

(d) Exercise the right of eminent domain for the purpose of acquiring lands or rights of way for any of the authorized purposes of the district.

(e) Acquire and use such personal property as may in the opinion of the board of directors be necessary for the exercise of the powers granted by this part.

(f) Employ such labor and services as may in the opinion of the board of directors be necessary for the exercise of the powers granted by this part.

(g) Arrange for the safekeeping of all funds belonging to the district and appoint a treasurer and depositary to keep the funds of the district and exact from such treasurer and depositary such surety bonds or other security as the board of directors deems proper.

(h) Sue and be sued.

(i) Adopt a seal.

(j) Exercise all other powers expressly granted to it together with such powers as are reasonably implied therefrom and which are necessary and proper to carry out the objects and purposes of the district.

Conveyances to district

25051. The counties composing the district may convey to the district such public highways or rights of way as may be utilized as a part of, or in connection with any highway which the district is authorized to improve.

Eminent domain

25052. Before exercising the right of eminent domain the board of directors of the district shall adopt a resolution describing the lands or rights of way sought to be acquired and declaring that the public interest and necessity require the acquisition thereof for the purposes of the district. The adoption of the resolution shall be conclusive evidence that:

(a) The public necessity requires the improvement for which the condemnation is proposed.

(b) The condemnation and acquisition of the property or rights of way is necessary for the improvement.

(c) The proposed improvement is planned and located in the manner which will be most compatible with the greatest public good and the least private injury.

CHAPTER 4. DISTRICT BOARDS OF DIRECTORS

Board of directors

25070. The district shall be managed by, and the powers conferred upon the district shall be exercised by a board of directors appointed as provided in this part.

Term and compensation

25071. The members of the board of directors shall serve during the pleasure of the appointing power. They shall receive no compensation for their services, but shall be allowed the actual expenses incurred by them in connection with the discharge of their duties under this part.

Termination of membership

25072. The term of office of any member of the board of directors shall immediately cease and determine upon the termination of the term of office of such director as a member of the board of supervisors of a county within the district, except in the case of a member appointed by the Director of Public Works.

Additional member

25073. If an even number of counties comprise a district, an additional member of the board of directors shall be appointed by the directors already named in behalf of the several boards of supervisors. If the directors fail to make the appointment within 30 days after the date set for the first meeting of the board of directors, the secretary of the board shall, or any member thereof may, notify the Director of Public Works of that fact and he shall, within 30 days after receiving the notification, appoint a member of the board of supervisors of any county within the district or a person residing in the district and owning real property within the boundaries thereof, to serve as the additional member of the board of directors.

Vacancies

25074. If a position on the board of directors becomes vacant, the vacancy shall be filled by the appointing authority whose appointee last held the position.

First meeting

25075. Within 10 days after the receipt of the certificate of organization of the district, the clerk of the initiatory board of supervisors shall notify the persons selected to serve as members of the board of directors of the district of the time and place at which the first meeting of the board shall be held. The clerk may select the place and fix any time within 30 days after the date of mailing notices for the holding of the first meeting.

Quorum

25076. The persons appointed as members of the board of directors shall meet at the time and place fixed for the first meeting. A majority of the members of the board shall constitute a quorum for the transaction of business and in the absence of a quorum, any lesser number of directors may adjourn the meeting from time to time until a quorum is present.

Organization

25077. At the first meeting the board of directors shall organize by selecting from among its membership a president, vice president and secretary. The officers thus selected shall severally perform such duties as the board may from time to time prescribe.

Transaction of business

25078. The board of directors shall fix a place or places within the district for the transaction of business. It may hold meetings from time to time in any place that will, in its opinion, best serve the interest or convenience of the board and of the public. The board of directors may make all necessary rules relative to the orderly transaction of its business and the business of the district.

CHAPTER 5. DISTRICT OFFICERS AND EMPLOYEES

Officers and employees

25100. The board of directors shall appoint a treasurer and a district engineer, and may appoint an assistant secretary. The board may employ such clerical, legal, or additional engineering services as may in its discretion be required, and may fix the compensation to be paid to any officers or employees of the district. No officer of any county shall receive any compensation for services rendered in any capacity in behalf of the district.

Treasurer Qualifications

25101. The treasurer shall be a resident of the district and a person competent in the handling of financial matters. Before entering upon the duties of his office, he shall furnish to the district a bond which is satisfactory in form and amount to the board of directors.

Duties

25102. The treasurer shall have charge and custody of all of the funds of the district and he and his bondsmen shall be responsible for the safekeeping of those funds. He shall deposit all funds of the district in a depositary designated by the board of directors. He shall make report of the funds in his possession as required by the board of directors, and shall perform all the duties required of him by this part, and by the board.

Engineer.

25103. The district engineer shall be a qualified civil engineer, licensed to practice as such under the laws of this State. He shall perform all of the engineering services and duties required of him by this part and by the board of directors

Duties

Control

25104. All engineering work performed in the district shall be done under the direction and control of the district engineer.

Assistant secretary

25105. If an assistant secretary is appointed, he shall perform such duties as the board of directors determine. He may during the absence of the secretary, or under his direction, perform all of the duties and functions of the secretary.

CHAPTER 6. CONTINGENT FUND

Creation

25120. Immediately following the organization of the district, the several boards of supervisors of the counties composing the district shall provide the district with a sufficient contingent fund to enable the district and its officers to perform their prescribed functions and duties. The proportionate contributions of the several counties within the district may be suggested to the several boards of supervisors thereof by

the board of directors of the district and the board of directors shall from time to time report to the said boards of supervisors its requirements and in general its expenditures.

Contributions

25121. The boards of supervisors of the counties within the district may contribute to the contingent fund from any funds of the several counties not otherwise appropriated, including any moneys received from the State by the counties as a result of any tax or license upon motor vehicles or motor vehicle fuels. The State may contribute to the contingent fund any amount that it may desire out of any funds available for joint highway district purposes. The State may, through the director of public works, designate the purposes for which any money contributed by it to the contingent fund may be used and the purposes designated may be any which are authorized under the provisions of this part.

Use

25122. The contingent fund may be used for the following purposes:

(a) For any purpose necessary to create and maintain the organization of the district.

(b) For making reconnaissance, preliminary and final location surveys.

(c) For all necessary or proper engineering, legal or clerical work incident to the organization and operation of the district.

(d) For the improvement of any public highway to be improved under this part.

(e) For procuring any and all necessary lands or rights of way usable for the purposes for which the district is created.

CHAPTER 7 PRELIMINARY SURVEYS AND REPORT OF DISTRICT PROJECTS

Highway location

25150. The board of directors shall as soon as practicable cause the route of the highway or highways proposed to be improved by the district, to be tentatively located. For this purpose the board may employ all necessary engineering and other assistance and shall have such preliminary surveys made as in the judgment of the board of directors may be required.

Estimate of costs

25151. The district engineer shall make a preliminary report to the board of directors setting forth the result of his preliminary surveys and showing the tentative location of the highway or highways proposed to be improved together with an estimate of the approximate cost of improvement, the incidental expenses thereof and the estimated cost of the acquisition of any necessary property or rights of way therefor.

Method of finance

25152. In his preliminary report the district engineer shall also recommend an apportionment of the construction and other costs among the State, if any contribution is to be requested from it, and the counties comprising the district. The district engineer shall also recommend a method or

methods for financing the project. Upon completion of the preliminary report the district engineer shall file it with the secretary of the board of directors.

Consideration of preliminary report

25153. As soon as practicable after the filing of the engineer's preliminary report, the board of directors shall give it full consideration and shall formulate a report of the project or projects for which the district is organized

Report of board of directors

25154. The report of the board of directors shall contain the following:

(a) A general description of the approximate route and location of the highway or highways proposed to be improved.

(b) The estimated cost of the improvement.

(c) The general location and extent of any property or rights of way necessary for the entire improvement or for the improvement of the unit proposed to be immediately undertaken, together with the estimated cost of acquisition.

(d) A statement and recommendation of the portion or unit of the project which the board of directors recommends for immediate improvement, which may be the whole or any part of the project proposed.

(e) A statement of the estimated cost of each unit proposed to be immediately improved in the event that the board of directors determines upon the improvement of any unit less than the whole.

(f) A statement of the method of financing proposed by the board of directors

(g) A statement of the amount of contribution, if any, to be requested of the State

(h) A statement of the proportionate amounts of the cost of the unit or units proposed to be borne within the several counties composing the district, after deducting any contribution to be made by the State.

(i) If any particular unit is proposed for immediate construction and that unit is less than the whole project, a statement of a proposed program for the improvement of the other units necessary to complete the project.

Highways outside boundaries

25155. If highways are to be required or improved beyond the boundaries of the district, the consent of the governing body controlling the territory through which the proposed highways are to pass shall be first obtained.

CHAPTER 8. STATE APPROVAL AND CONTRIBUTION

Copy to Department of Public Works

25175. If the report of the project as adopted by the board of directors, contains a request for contribution from the State, the board shall, immediately upon its adoption, file a certified copy thereof with the State Director of Public Works

Action by department

25176. Within 90 days after its receipt the Department of Public Works, through its proper officers, boards or commissions, shall consider and pass upon the report so filed. It may approve or reject the request for contribution, and may reject, approve or modify the report in whole or in part, or may

suggest modifications thereof. Failure of the department to act on the report within the 90-day period shall operate as a rejection on the part of the State.

Contribution by State

25177. If the whole or any part of the project proposed in the report is approved and a contribution by the State is recommended, the State Highway Commission shall thereupon adopt a resolution setting forth the amount of the contribution, the time and manner of payment thereof and the purposes for which the contribution shall be used and the State shall be committed and obligated to make the specified contribution out of any funds which are then or thereafter available for joint highway purposes.

Certificate of commitment

25178. The Director of Public Works shall issue and transmit to the secretary of the district a certificate of commitment showing the decision of his department upon the report and setting forth the amount of contribution, if any, and the terms relative to the payment thereof.

Modification of report

25179. The board of directors may amend its report of the project to conform with any suggestions, modifications or recommendations of the Department of Public Works or the Highway Commission.

Contingency of obligation

25180. The obligation of the State for any contribution shall be contingent upon the approval by all counties comprising the district of the balance of the costs of the project, or of the particular unit thereof proposed to be immediately improved.

CHAPTER 9. COUNTY APPROVAL AND CONTRIBUTION

Copies of reports to counties

25200. Upon the receipt of the certificate of commitment from the Director of Public Works or, if no contribution is requested from the State, then upon the adoption of the report the board of directors shall transmit certified copies of their report of the project to each of the boards of supervisors of the counties composing the district.

Action by counties

25201. Upon receipt of the report of the project, each of the boards of supervisors shall forthwith consider it. Within 60 days after the receipt of the report, each board of supervisors shall by resolution approve or reject the report. Failure of any board of supervisors to act within the time allowed shall be deemed a rejection, but such rejection or a rejection by other means shall be without prejudice to the submission at any time of a new or amended report by the board of directors of the district.

Notification of district

25202. Each board of supervisors shall cause a certified copy of its resolution adopting or rejecting the report of the project to be sent to the secretary of the board of directors of the district.

Notice of hearing

25203. Upon receipt of the report of the project the clerk of each board of supervisors shall cause a notice to be published twice in a newspaper of general circulation published and

circulated in the county receiving the report. The last publication of the notice shall be at least 20 days prior to the date of the hearing on the report. The notice shall set forth:

(a) That the report has been received and is on file for public inspection.

(b) The time at which the board of supervisors will consider the report and hold the hearing thereon.

(c) That all interested persons may present any protests or suggestions which they have to offer concerning the report at that time.

Effect until report approved

25204. No county within the district shall be obligated or committed hereunder until the board of supervisors thereof approves the report of the project and until that report is approved by the boards of supervisors of all other counties in the district. The proportions of contribution provided for in the report thus approved shall not be exceeded without the consent of the board of supervisors of each county in the district.

Excess contributions

Referendum

25205. At any time prior to the approval of the report of the project by the board of supervisors of any county, the matter of the participation of the county in any issuance of bonds proposed in the report may be referred to a vote of the qualified electors of the county. Such reference shall be had upon the petition of 5 per cent of the registered electors of the county, or upon the resolution of the board of supervisors of the county.

Election

25206. The matter may be submitted at a special election called for that purpose or may be consolidated with any other election involving the entire county. All laws governing county elections shall apply to such election in so far as they may be applicable. The notice of election, in addition to the matters otherwise required, shall refer to the report of the project, a copy of which shall be on file in the office of the county clerk.

Rejection

25207. If at the election a two-thirds majority of the electors voting thereon do not approve the proposition, the county shall not participate in the issue of bonds proposed in the report of the project unless the same or any amended proposition for such participation is thereafter, at a subsequent election, approved by the electors.

Extension of time for approval

25208. If any county thus refers the matter of its participation in the issuance of bonds to the electors of the county, the time for the approval of the report by the board of supervisors of that county shall be extended to and including 30 days after the date of canvassing the returns upon the election.

Exception

25209. The provisions of this chapter relating to the submission of the question of county participation in the issuance of bonds to the electors shall not apply to bonds issued under Chapter 19 of this part.

CHAPTER 10 FINAL SURVEYS, PLANS, SPECIFICATIONS AND DRAWINGS

Proceedings toward construction

25230. After receiving the certificate of commitment for contribution by the State, if any, and certified copies of the resolutions of approval of the boards of supervisors of all of the counties comprising the district, the board of directors of the district may proceed with final surveys, the preparation of final plans and specifications, the award of contracts and the acquisition and improvement of the highway or highways constituting the project or the unit thereof which has been approved for immediate construction.

Preparation and approval of final surveys, etc

25231 In proceeding with a project, or unit thereof, the board of directors shall have all necessary final surveys, plans, specifications and detailed drawings prepared by the district engineer. Upon completion thereof the surveys, plans, specifications and detailed drawings shall be filed with and approved by the board of directors.

Estimate of cost

25232. The final surveys, plans, specifications and detailed drawings shall include a final estimate of cost. If the final estimate exceeds by more than 10 per cent the estimate named in the preliminary report of the district engineer, the final surveys, plans, specifications, and detailed drawings shall not be approved by the board of directors until the increase in estimated costs is approved by the board of supervisors of each county comprising the district, and by the Director of the Department of Public Works if any contribution is to be made by the State.

Approval by Director of Public Works

25233 Upon the adoption of the final surveys, plans, specifications and detailed drawings by the board of directors, a certified copy thereof shall be transmitted to the Director of Public Works for his approval.

CHAPTER 11. BIDS AND AWARD OF CONTRACT

Work to lowest bidder

25250. All construction work shall be done by contract awarded to the lowest responsible bidder after advertising for bids in a newspaper of general circulation published and circulated within the district which has been designated by the secretary or the board of directors for that purpose. The advertising shall be done by means of two publications of the notice inviting bids the first of which shall be not less than 10 days prior to the time fixed for receiving the bids.

Notice inviting bids

25251. The notice inviting bids shall be upon such terms and conditions as the board of directors may determine, and shall require that each bid be accompanied either by a check certified to by some responsible bank within the State, or by a cashier's check issued by a responsible bank in the State, and made payable to the district in an amount not less than 10 per cent of the aggregate amount of the bid No bid shall be considered unless the check which accompanies it is satisfactory to the board of directors.

Opening of bids

25252. All bids shall be delivered to the secretary of the board of directors not later than the hour fixed for receiving bids and shall thereafter be publicly opened by the secretary in the presence of the board of directors assembled in public session.

Award or rejection of bids

25253. The board of directors shall award the contract to the lowest responsible bidder. However, before awarding the contract the board may:

(a) Reject all bids should it deem this necessary for the good of the district.

(b) Reject the bid of any bidder who has been delinquent or unfaithful in any former contract with either the district, or any county composing the district, or with the State.

(c) Reject the bid of any bidder who is unable to satisfy the board of directors of his ability, financially or otherwise, to perform the contract for the proposed work.

Day labor where bids rejected

25254. If all bids have been rejected because it appears that they are too high and that the work can be done more cheaply by day labor, the board may, in lieu of readvertising for bids, order the work done by day labor under the supervision of the district engineer.

Contract

25255. The bidder to whom any contract is awarded shall, within 20 days after the date of the award by the board of directors, execute a contract to perform the work. The contract shall be in a form approved by an attorney employed by the board of directors.

Bonds

25256. Before the contract is executed, the person to whom it is awarded shall execute bonds for the faithful performance of the contract and for the payment of all claims for labor and material thereunder in the manner provided by law and in the form approved by an attorney employed by the board of directors.

Terms of bonds

25257. All of the bonds shall be executed by the bidder and by a corporate surety duly authorized to do business as such under the laws of the State of California. Each bond shall be in an amount not less than 50 per cent of the aggregate contract price. The contract shall not be executed on behalf of the district until all the contract bonds are approved by the president of the board of directors and the district engineer.

Authorization of officers

25258. The president or vice president and secretary or assistant secretary shall sign and attest all construction contracts on behalf of the district.

Labor provisions

25259. All construction contracts shall provide that a maximum of eight hours shall constitute a day's labor and that three dollars ($3) shall be the minimum amount paid for a day's labor performed upon any construction work covered by the contract.

Forfeit

25260. If any bidder to whom a contract is awarded fails to enter into the contract and execute the required bonds, the board of directors shall declare the check accompanying the bid of such bidder to be forfeited. Upon cashing the check

the proceeds shall be placed to the credit of the construction fund of the district. The board of directors may thereupon award the contract to the next lowest responsible and acceptable bidder, or may call for new bids.

Control of highway

25261. During the course of the improvement of any highway the highway or project shall be under the control of the board of directors. The board of directors may make all necessary regulations, not in conflict with law, concerning the use of the highway. During that period, the board may exclude from the highway any vehicular or other traffic which may, in the opinion of the board of directors, be detrimental to the public safety or will result in injury to the roadway during the progress of the improvement.

State highway laws

25262. All laws relating to the use of State highways shall be applicable to any highways under the control of any district.

CHAPTER 12. ACQUISITION OF PROPERTY AND RIGHTS OF WAY

Request

25280. The board of directors of the district may request the board of supervisors and the proper officers of any county situated within the district to condemn and acquire property or rights of way within that county which are necessary for the projects of the district. Upon receipt of the request, the board of supervisors shall undertake the condemnation and acquisition requested by the board of directors and the cost thereof shall be a proper deduction from any levy made by the district upon or within that county. Any excess in such cost over and above the amount of any such levy shall be paid to the county by the district out of any funds provided for that purpose. The proceedings required to be taken by any county or county officers under the provisions of this section may include the taking of immediate possession of any property or rights of way necessary for district purposes.

Condemnation, etc

Expenditure as required by Constitution

25281. If it is decided that any money authorized to be expended from the State treasury shall be expended as required by Section 22 of Article IV of the Constitution, the Director of Public Works shall have the exclusive management and control of such expenditure, if the boards of supervisors of the several counties concerned assent to the relinquishment and transfer of such management and control. However, the Director of Public Works may delegate his powers to the board of directors of the district which is hereby declared to be a State institution within the meaning of Section 22 of Article IV of the Constitution. The board of directors of the district may vest in the Director of Public Works, authority to supervise all or part of the work of improvement.

CHAPTER 13. COOPERATION WITH FEDERAL GOVERNMENT

Cooperation

25300. If the Federal Government desires to include any highway improved or to be improved by a district in any scheme of National defense and to use or assume the use of the highway for military or other purposes, the board of directors

of the district, either directly or through the proper board or officers of the State, may enter into negotiations respecting the highway and may enter into such contracts or agreements in relation thereto as are mutually satisfactory.

Chapter 14. Completion of Projects

Declaration of completion

25320. Upon the completion of the improvement of any portion of any highway by the district, the board of directors may, and on the completion of the whole of any such highway, the board of directors shall, adopt a resolution declaring such completion and transmit a copy of the same to the board of supervisors of the county in which such highway or portion of highway is situated.

Reversion to counties

25321. Upon receipt of the resolution of completion by the board of supervisors, the control of the highway, or portion thereof, shall revert to the county in which it is situated and become a part of the county highway system and the county shall be liable for its future maintenance and care.

Certificate of Director of Public Works

25322. The board of directors shall not adopt any resolution of completion until it obtains from the Director of Public Works a certificate in writing showing that the highway, or portion thereof, proposed to be surrendered to the county within which it is situated has been improved in accordance with the plans and specifications previously adopted therefor. Unless the highway, or portion thereof, has been improved under his supervision, the Director of Public Works shall not be required to furnish the certificate until the district engineer delivers his certificate to the Director of Public Works showing that the highway, or portion thereof, has been improved in accordance with the plans and specifications previously adopted.

Chapter 15. General Financing and County Levies

Construction fund

25340. All moneys of the district applicable to the payment of improvement costs shall be placed in a fund designated "construction fund," the moneys in which shall be disbursed by the treasurer of the district as ordered by the board of directors. This fund may be used to pay all improvement costs, all necessary engineering, legal and other operating costs of the district, including salaries of officers, agents and employees, and for the payment of the cost of the purchase and acquisition of all necessary property and rights of way required for any district project.

Financing

25341. The board of directors of the district shall provide for the financing of any projects to be undertaken by the district in one or more of the methods prescribed by this part.

Provision for payment for improvement

25342. Upon the award of a contract for the improvement of any project or unit thereof, the board of directors shall provide for the payment of the cost thereof unless such provision has been made prior to the award of the contract.

Levy

25343. A levy shall be made within and upon the several counties composing the district to provide for the payment of the costs and expenses of any acquisitions of property or rights of way, or improvement undertaken by the district.

Estimate

25344. The board of directors shall adopt a resolution setting forth in general terms the amount of money proposed to be raised by the levy and the project or portion thereof which is to be financed by the proposed levy. The proposed amount may be the total estimated amount payable under any contract awarded for improvement, or for any portion thereof, or for any excess of cost over the amount of any

Deduction

past levies already made for that purpose. There shall first be deducted from the amount of the levy any amount to be contributed thereto by the State and the balance of the levy shall be distributed among the several counties composing the district in the proportions set forth in the report of the board of directors.

Notice of levy

25345. The resolution shall specifically set forth the sum of money levied upon each county within the district and shall briefly recite the facts requiring the levy. After the adoption of the resolution a certified copy of the same shall be forthwith transmitted to the clerks of the several boards of

Obligation

supervisors of the counties composing the district. The counties shall then be obligated to pay the amount of the levy unless other provisions for financing are made.

Payment of levy

25346. The board of supervisors of each county shall, within 90 days after the resolution providing for the levy has been adopted by the board of directors, pay at least one-fifth of the total amount levied upon that county into the treasury of the district. The board of supervisors of each county is hereby authorized to and obligated to make such payment and may make payment of the entire amount of the levy made but not less than one-fifth of the total thereof. For the purpose of making the payment the board of supervisors of each county may utilize any funds of the county not otherwise allocated or appropriated, including any money received by the county from the State as the result of any tax or license upon motor vehicles or motor vehicle fuels.

Installments

25347. If the board of supervisors of any county within the district does not pay the entire amount of any levy made upon it within 90 days, the board of directors of the district shall provide for financing the balance in not to exceed four additional annual installments.

Statement

25348. The treasurer of the district shall, prior to the fifteenth day of August in each year, transmit to the board of supervisors of each county within the district a statement of the total sum to be collected within that county during

Duty of county officers

the fiscal year in behalf of the district. It shall be the duty of the board of supervisors of each county in the district, and of the other proper fiscal officers thereof, to cause the amount so certified by the district treasurer to be collected

from the taxable property within the county and the total amount of such collections shall be transmitted to and deposited with the district treasurer not later than the first day of each month following the date of their collection.

When levy not needed

25349. If, upon receiving the report of the district treasurer showing the amount to be raised within the county for the current year, the board of supervisors pays that amount out of any moneys of the county available for that purpose, no levy of district taxes within that county need be made for the year covered by that payment.

Collection

25350. All district taxes shall be collected in behalf of the district by the proper county officers in the several counties in the district at the same time and in the same form and manner as county taxes, and district taxes shall become due and payable in the same time and manner as county taxes are due and payable and shall become delinquent at the same times and in the same proportionate amounts and bear the same proportionate penalties and interest after delinquency as do county taxes, and, unless expressly provided to the contrary, all laws applicable to the levy, collection and enforcement of county taxes are hereby made applicable to district taxes.

CHAPTER 16. GENERAL BOND PROVISIONS

Application

25370. The provisions of this chapter shall apply to all bonds issued under the authority of this part.

Legal investments

25371. All bonds issued by joint highway districts shall be legal investments for the funds of:

(a) Trusts.

(b) Insurance companies.

(c) Banks, both commercial and savings.

(d) Trust companies.

(e) State schools.

(f) Any other body whose funds may be invested in bonds of cities, counties, school districts or irrigation districts within the State of California.

Use as security

25372. Whenever bonds of cities, counties, school districts or irrigation districts may be used as security for the performance of any act or the deposit of any public moneys, any bonds issued by joint highway districts may be so used.

Purchase by State

25373. The State Director of Finance may purchase any bonds issued by joint highway districts and pay for them out of any surplus money in the State treasury which, in his judgment, is not required for governmental purposes prior to the maturity of such bonds. The boards of supervisors of the several counties within the district may likewise purchase such bonds with any surplus funds under their control.

Period

25374. If the report of the board of directors shows that the proposed project or any unit thereof, is estimated to cost more than one million dollars ($1,000,000), the board of directors may provide that any bonds issued to finance the same

shall be extended over a period of not to exceed 15 annual installments, in which event the initial payment from each county within the district shall be not less than the sum obtained by dividing the total amount payable in each county by the number of installments in which the bonds are to be paid.

Validity of issuance

25375. The issuance of any bonds by the district shall be conclusive evidence of the regularity, validity and legal sufficiency of all proceedings, acts and determinations in any wise pertaining thereto. After the bonds are issued no assessment tax or tax or other charge levied or collected for the purpose of paying the principal or interest thereon shall be held to be invalid or illegal or set aside or refunded, by reason of any error, informality, irregularity, omission or defect in any of the proceedings, acts or determinations in any wise pertaining to the issuance or payment of the bonds. No action or proceeding shall be thereafter commenced or maintained to cancel or set aside the bonds or to prevent the payment thereof or the levy, collection or enforcement of any assessment tax, tax or other charge made for such payment.

Limitation on amount

25376. No bonds shall be issued by the district in an amount which will aggregate at any time an obligation in excess of 10 per cent of the assessed value of the aggregate total taxable property within the district as shown by the then current taxation assessment rolls of the several counties within the district.

Limitation on obligation of property

25377. The taxable property within any county shall not at any time be obligated for all joint highway district purposes, in any amount in excess of the following limitations:

(a) In counties having a total assessed value of all taxable property therein of one hundred million dollars ($100,000,000) or less, not more than 3 per cent thereof.

(b) In counties having a total assessed value of all taxable property therein of more than one hundred million dollars ($100,000,000), not more than 2 per cent thereof.

CHAPTER 17. REVENUE BONDS

Authority to issue

25400. The board of directors of the district may cause revenue bonds to be issued upon the security of the anticipated unpaid installments of any levies made upon the counties within the district.

Special fund

25401. All revenue bonds shall be payable out of a fund of the district designated "Joint Highway District No._____ of the State of California Revenue Bond Fund" and into which shall be paid all sums necessary for the retirement of any revenue bonds which may be issued by the district.

Denomination, maturity and interest

25402. The board of directors shall prescribe the denominations of the revenue bonds which shall mature serially in convenient amounts not necessarily equal. Revenue bonds shall bear such rate of interest not to exceed 6 per cent per annum as may be determined by the board of directors.

25403. Revenue bonds shall be in substantially the following form (filling in blanks as appropriate): Form

REVENUE BOND

Joint Highway District No._____of the State of California
$_____Bond No._____Series_____.

Under and by virtue of Part 1 of Division 16 of the Streets and Highways Code, the treasurer of Joint Highway District No _____of the State of California will pay to the bearer, out of the fund hereinafter designated, at the office of the treasurer of said district, on the_____day of_____, 19__, the sum of_____dollars, in lawful money of the United States of America, with interest thereon in like lawful money at the rate of_____per cent per annum, payable semiannually on the second day of January and the second day of July of each year from the date hereof (except the last installment thereof, which shall be payable at the maturity of this bond), upon presentation and surrender, as they respectively become due, of the proper interest coupons hereto attached, the first of which is for interest from date hereof to the next date of interest payment, and the last for interest to maturity hereof from the last preceding date of interest payment. This bond is issued under and in conformity with the provisions of the above mentioned Part 1 of Division 16 of the Streets and Highways Code, relative to the issuance of revenue bonds and is a primary obligation of the joint highway district above named.

This bond is payable out of the "Joint Highway District No. _____ of the State of California Revenue Bond Fund," in accordance with the provisions of the said Part 1 of Division 16 of the Streets and Highways Code.

It is hereby certified, recited and declared that all proceedings, acts and things required by law precedent to or in the issuance of this bond have been regularly had, done and performed, and this bond is by law made conclusive evidence thereof.

In witness whereof the board of directors of said joint highway district has caused this bond to be signed by the treasurer of said district, attested by the secretary of said board, and the official seal of said district to be affixed hereto, this_____day of_____, 19___.

(SEAL) _____
Treasurer of Joint Highway District No._____of the State of California

Attest:

_____
Secretary of the Board of Directors.

25404. Revenue bonds shall be dated as of the date of the resolution or order of the board of directors authorizing their issuance. The board of directors may use any available moneys of the district, not already allocated to some other purpose, for Date and payment

the payment of any interest or principal due or past due on any revenue bonds of the district, and may advance moneys of the district for such purposes and in the event of such advancement shall be entitled to reimbursement in the amount thereof out of any levies thereafter made or any moneys thereafter collected and applicable to the payment of such bonds.

Number

25405. Any number of series of revenue bonds may be issued under this part for any portion of a single or different projects in the district.

Signature

25406. All revenue bonds shall be signed by the treasurer of the district, attested by the secretary of the board of directors thereof and shall have the official seal of the district attached thereto. The form of the interest coupons attached to the bonds shall be determined by the treasurer subject to the approval of the board of directors. The signature on the interest coupons shall be that of the treasurer and may be either written or engraved or printed facsimile.

Interest coupons

Conditions of payment

25407. The principal and interest of all revenue bonds shall be payable in lawful money of the United States of America at the office of the treasurer of the district issuing the same. Revenue bonds shall be serial in character and an approximately even proportion of the total amount of each issue shall be payable annually. The amount of the principal due in each annual payment excepting the last may be made to differ not more than five hundred dollars ($500) from the amount obtained by dividing the total of the principal amount due under the bonds, by the number of installments which shall not exceed four. The last installment shall be for the balance of the total principal amount not provided to be paid in the previous installments.

Sale

25408. The revenue bonds shall be issued and sold by the board of directors at such times and manner and in such amounts as may be required to meet the demands of the district as may be determined by the board of directors or they may be delivered to any contractor performing any work for the district, at par, in satisfaction of any sum due upon his contract.

Tax levy

25409. The board of directors shall levy a tax annually within the district sufficient to meet the principal and interest of all outstanding revenue bonds coming due in each fiscal year.

Determination of amount

25410. The treasurer of the district shall annually determine the amount of money necessary to be raised for the payment of principal and interest coming due each fiscal year upon any outstanding revenue bonds. The treasurer shall add to that amount a sum sufficient, in his judgment, to cover anticipated delinquencies and the resulting sum shall be levied upon all of the property taxable for county purposes, in the several counties composing the district, according to the percentages and proportions established for each county.

CHAPTER 18. FUNDING BONDS

Purpose

25430. As a separate and cumulative method of financing, the board of directors of the district may issue funding bonds to cover the costs and expenses of the whole or any part of any acquisitions of property and improvements undertaken by the district.

Provisions cumulative

25431. The provisions of this chapter relating to the issuance of funding bonds shall be cumulative and shall not affect any of the other provisions or sections of this part relative to other bonds or levies. Any number of series of funding bonds may be issued for any portion or portions of a single or different projects of the district.

Number

Resolution Contents

25432. If the board of directors propose to issue funding bonds, they shall first adopt a resolution setting forth their intention so to do, and the resolution shall also contain the following:

(a) A general description of the boundaries of the funding district to be charged with the payment of any funding bonds which are proposed to be issued. The funding district may embrace the whole or any portion of the joint highway district, and the funding district shall be divided into zones composed of the counties, or portions thereof, composing the joint highway district. It shall be a sufficient description of the boundaries of the funding district and the zones therein, if the same are clearly shown upon a map or plat attached to the resolution.

(b) A description in general terms of the location, character and cost of the acquisition of property or improvement for which it is proposed to issue the funding bonds.

(c) A statement of the proposed amount for which funding bonds are to be issued, together with a statement of the maximum time for which such bonds are proposed to be issued (which shall not exceed five years from the date of the order providing for their issuance), and the rate of interest which such bonds shall bear, not to exceed 6 per cent per annum.

(d) A statement of the percentage of the total amount of the annual sums to be levied upon the lands, exclusive of improvements, within each zone in the funding district for the purpose of retiring the principal and interest of the funding bonds. The amount to be thus levied shall not exceed the proportionate amounts chargeable against the several counties within the district as set forth in the report of the board of directors adopted pursuant to Section 25154.

(e) A statement of the time and place fixed for the hearing upon the matter of the proposed issuance of funding bonds, in the manner provided for in this resolution.

Notice

25433. Upon the adoption of the resolution of intention to issue funding bonds, the secretary shall cause a notice of the time and place of hearing to be published twice in a newspaper of general circulation published at the county seat of each county embraced within the boundaries of the proposed

funding district. The newspapers in which such publication shall be made may be designated by the board of directors or, if the board does not make the designation, the secretary may do so.

Hearing

25434. The time fixed for the hearing shall not be less than 15 days after the completion of the required publication. Not less than 30 days prior to the time fixed for the hearing, a copy of the notice of the hearing shall be transmitted by the secretary of the board of directors to the several boards of supervisors of the counties comprising the district. No county or portion of a county shall be assessed within any funding district for the payment of any amount which has previously been paid by such county into the district treasury upon any amount previously levied within and upon such county.

Objections

25435. All persons interested may appear at the hearing and they may set forth in writing any objections they may have to the issuance of the funding bonds or to the boundaries of the proposed funding district or the zones therein, or to the amount of benefits to be derived by any parcel of land within the proposed funding district.

Determinations

25436. The board of directors shall hear and determine all objections presented at the hearing. The board may alter the boundaries of the proposed funding district or change the amount for which funding bonds are proposed to be issued, but it may not enlarge the boundaries of the funding district or increase the amount of bonds proposed to be issued. At the conclusion of the hearing, the board of directors shall finally determine the boundaries of the funding district and the zones therein and shall determine the amount of funding bonds to be issued, and the proportions of the bonds to be charged against each zone, which amounts shall not exceed the benefits to be derived by the lands within the funding district from the project for which the funding bonds are to be issued.

Decisions conclusive

25437. All decisions, findings and determinations of the board of directors made upon notice and hearing shall, in the absence of actual fraud, be final and conclusive upon all persons entitled to present objections at such hearing.

Bar to issuance

25438. If at the hearing, the owners of more than 25 per cent in area of the property within any proposed funding district object in writing to the issuance of funding bonds, the board of directors shall have no power to cause such funding bonds to issue.

Same

25439. Following the hearing the board of directors shall, if it determines to issue funding bonds, cause its findings in relation thereto to be transmitted to the boards of supervisors of the several counties within the district. If any board of supervisors makes objection to the issuance of the funding bonds within 35 days after receiving notice thereof, the board of directors shall have no power to cause the same to be issued, but may take new proceedings in the same manner

as provided in the first instance covering an amended proposition for the issuance of funding bonds for the same or any different project or any portions thereof. If no objections are made by any board of supervisors as in this section provided, the board of directors may proceed to issue the funding bonds.

25440. Funding bonds issued pursuant to the provisions of this chapter shall be in substantially the following form (filling in blanks as appropriate): Form

FUNDING BOND

Joint Highway District No._____of the State of California
$_____ Bond No._____ Serial_____.

Under and by virtue of Part 1 of Division 16 of the Streets and Highways Code the treasurer of Joint Highway District No._____of the State of California will pay to the bearer, out of the fund hereinafter designated, at the office of the treasurer of said district, on the_____day of_____, 19____, the sum of_____dollars, in lawful money of the United States of America, with interest thereon in like lawful money at the rate of_____per cent per annum, payable semiannually on the second day of January and the second day of July in each year from the date hereof (except the last installment thereof, which shall be payable at the maturity of this bond), upon presentation and surrender, as they respectively become due, of the proper interest coupons hereto attached, the first of which is for interest from date hereof to the next date of interest payment, and the last for interest to maturity hereof from the last preceding date of interest payment. This bond is issued under and in conformity with the provisions of the above mentioned Part 1 of Division 16 of the Streets and Highways Code, and is one of a series of bonds of like date and effect numbered from one to_____ consecutively. It is hereby certified, recited and declared that all proceedings, acts and things required by law precedent to or in the issuance of this bond have been regularly had, done and performed, and this bond is by law made conclusive evidence thereof.

This bond is payable out of the "Joint Highway District No._____of the State of California Funding Bond Redemption Fund," exclusively, as the same appears upon the books of the treasurer of said district, and in accordance with the provisions of Part 1 of Division 16 of the Streets and Highways Code special assessment taxes will be levied and collected upon the lands within Funding District No._____ in said joint highway district in an amount clearly sufficient to pay the principal and interest of said bonds as same shall become due and payable.

In witness whereof the board of directors of said district has caused this bond to be signed by the treasurer of said district attested by the secretary of said board and the official

seal of said district to be affixed hereto this_____day of _____, 19_____.

(SEAL) _____
Treasurer of Joint Highway District
Attest: No. _____ of the State of California.

_____
Secretary of the Board of Directors.

Date

25441. Funding bonds shall be dated as of the date of the resolution or order of the board of directors authorizing their issuance.

Payment

25442. The board of directors may use any available moneys of the district, not already allocated to some other purpose, for the payment of any interest or principal due or past due upon any funding bonds of the district, and may advance moneys of the district for that purpose. If an advancement is made the district shall be entitled to reimbursement out of any levies thereafter made or any moneys thereafter collected and applicable to the payment of the funding bonds.

Signature

25443. All funding bonds shall be signed by the treasurer of the district, attested by the secretary, and shall have the official seal of the district affixed thereto. The form of the interest coupons attached to the funding bonds shall be determined by the treasurer subject to the approval of the board of directors. The signature on the interest coupons shall be that of the treasurer and may be either written, or an engraved or printed facsimile. The principal and interest of the funding bonds shall be payable in lawful money of the United States of America at the office of the treasurer of the district issuing the same.

Interest coupons

How and where payable

Amount

25445. All funding bonds shall be serial in character and approximately an even proportion of the total amount of each issue shall be payable annually. The amount of the principal due in each annual payment need not be exactly the same but with respect to each installment excepting the last may be made to differ not more than five hundred dollars ($500) from the amount obtained by dividing the total of the principal amount due under the bonds, by the number of installments. The last installment shall be for the balance of the total principal amount not provided to be paid in the previous installments.

Form, rate of interest, etc

25446 The funding bonds shall be issued by the board of directors at such time and manner and in such amounts as may be required to meet the demands of the district, as may be determined by the board of directors The form, denomination, rate of interest, time, place and manner of payment and all matters relating to such issuance shall be determined by the board of directors, but the rate of interest shall not exceed 6 per cent per annum.

The funding bonds so issued may be sold in such amounts and at such times and in such manner as the board of directors may determine, or they may be delivered to any contractor performing any work for the district, at par, in satisfaction of any sum due upon his contract. Sale

25447. In each district in which funding bonds have been issued there is hereby created a special fund to be designated "Joint Highway District No ____ of the State of California Funding Bond Redemption Fund No. ____" (each such fund to be consecutively numbered within each district as created) for the discharge and payment of principal and interest on such bonds. Special fund

25448. The treasurer of the district shall annually before the fifteenth day of August transmit to the several boards of supervisors within the funding district, a statement showing the amount to be raised in such year by the levy and collection of special assessment taxes upon the lands only, exclusive of improvements, within each county which is within the funding district and subject to be taxed for the payment of principal, interest and delinquencies upon any funding bonds of the district The statement shall show the percentages of the total amount to be levied upon the lands in each county in accordance with the zones established for each such funding district. The engineer of the district shall cause to be prepared and filed in the office of the clerk of the board of supervisors of each county within the district, a map or plat showing the boundaries of the lands in each county which are within any funding district showing the boundaries of the zones therein and the percentage of the total assessment to be paid by each zone. Special assessments Statement Map

25449. The special assessment taxes levied for the payment of funding bonds shall be independent of and distinct from any other levies authorized by this part and shall be levied, collected and enforced by the proper officers of the several counties within the district, in behalf of the joint highway district and in the same manner and by the same persons and at the same time and with the same penalties and interest as are taxes for county purposes, and all laws applicable to the levy, collection and enforcement of taxes for county purposes are hereby made applicable to these special assessment taxes where such laws are not in conflict with the provisions of this part except that such special assessment taxes shall be levied and collected upon land only, exclusive of the improvements thereon. Duties of county officers

25450. It shall be the duty of the board of supervisors of each county within the district to annually cause to be levied upon the lands only, exclusive of improvements, within the county liable therefor the amounts reported to it by the treasurer of such district, which amounts shall be clearly sufficient to pay the principal and interest coming due or past due in such year upon any funding bonds of the district together with a sufficient amount to cover delinquencies. Levy

CHAPTER 19. EMERGENCY BONDS

Determination by court

25490. If a court of competent jurisdiction determines that any contract, proceeding, step or action taken, levy made, or any bonds issued under this part are void, invalid or unenforceable, or if such court shall for any reason enjoin the issuance or payment of any bonds proposed to be issued or paid under the provisions of this part the court shall also determine whether or not any improvement has been made or services rendered by any person in behalf of and for the benefit of the district under any invalid contract or proceeding or under any contract pursuant to which invalid bonds were issued or proposed to be issued, and if so what part, if any, is of a kind that the district might have lawfully authorized.

Order

25491. If the court finds that any such improvement has been made, or services rendered, or necessary rights of way or property acquired, the court shall order the board of directors of the district to take the steps authorized in this chapter for the issuance of bonds to cover the cost of the same. The board of directors of the district may also utilize the provisions of this chapter without order of court when it is necessary to correct any invalid act or proceeding which has resulted in a benefit to the district and which it might have lawfully authorized.

Purpose of chapter

25492. It is the purpose of this chapter to make the costs and expenses of all improvements made, or services rendered, and all necessary acquisitions of property or rights of way obtained, under an attempted compliance with and exercise of the powers and rights conferred by this part, payable by the property benefited or to be benefited thereby, by the issuance of bonds as provided in this chapter for the purpose of defraying the costs and expenses thereof

Report of board

25493. The board of directors shall cause a report on the bond issue proposed under this chapter to be made and filed by the district engineer or some other competent person appointed for that purpose. The report shall contain:

Contents

(a) A statement in general terms of what the proposed bond issue is to cover, together with the total amount of the same. The total amount shall not exceed the original charge made against the district for the items included, plus a reasonable interest thereon not to exceed 6 per cent per annum.

(b) A description of the lands benefited by the items for which the bonds are proposed to be issued.

(c) A description of the zones, if any, into which such district is to be divided, and a statement of the amounts (not exceeding the percentages of the total sum established for the several counties within the district under Section 25154 hereof) proposed to be made chargeable against each of such zones.

(d) A description of the bonds to be issued for the total amount set forth in the report.

Notice

25494. The report shall be filed with the secretary of the board of directors, who shall thereupon fix a time and place

for hearing the report and shall give notice thereof. Notice of the hearing shall be published at least twice in one or more newspapers of general circulation selected by the secretary, from those which are published and circulated within the boundaries of the land within the district which will be benefited by the items for which the bonds are to be issued. The last publication of notice of hearing shall be not less than 20 days prior to the date set for the hearing.

Hearing

25495. At the time of the hearing, or at any time to which the hearing may be continued, any person interested may appear and be heard upon any of the matters set forth in the report. The board of directors may confirm, revise, correct or modify the report in accordance with the facts found.

Confirmation of report, etc.

25496. At the conclusion of the hearing the board shall adopt a resolution declaring its findings upon the report. When adopted the resolution shall be final and conclusive upon all persons and in all proceedings or actions as to all matters so found. If no changes are made in the report, the board shall declare that the report is confirmed and that declaration shall constitute the findings of the board.

Chapter 18 applicable

25497. The bonds issued under this chapter shall in terms and form conform substantially to the provisions contained in Chapter 18 relating to funding bonds and shall be payable in not more than five annual installments. The annual amounts required for the payment of principal and interest on any bonds issued under this chapter shall be levied and collected in the same manner as the annual amounts required for the payment of principal and interest on funding bonds.

Issuance

25498. Upon the adoption of the resolution by the board, the treasurer of the district shall immediately cause bonds to be issued in the amount and manner provided in the resolution. The bonds shall be dated as of the date of the resolution and shall be issued and delivered to the persons entitled thereto. No action or proceeding shall be commenced or maintained after 60 days from the date of their issuance to cancel or set aside the bonds or prevent the payment thereof, or the levy, collection or enforcement of any taxes, assessment taxes or other charges or levies for such payment.

Date

Cancellation

CHAPTER 20. DISSOLUTION

Resolution

25520. Upon the completion of the projects for which the district is organized and upon the payment and retirement of all outstanding bonds and obligations of the district, the district shall be dissolved by resolution of its board of directors. The secretary shall or any member of the board of directors may call a meeting for the dissolution of the district. If a meeting for dissolution is not called the board of supervisors of any county within the district may demand the calling of such meeting and the dissolution of the district. A copy of the resolution of dissolution shall be transmitted to the Secretary of State and to the boards of supervisors of the several counties composing the district.

Distribution of property

25521. Any property or money belonging to the district at the time of dissolution shall be distributed by the board of directors to the several counties composing the district in the proportions in which such counties have contributed to the expense and operation of the district.

New section

SEC. 2. Section 50005 is added to Division 50 of said code, to read:

Repeal

50005. Chapter 52 of the Statutes of 1917, at page 46, together with all acts amendatory thereof and supplementary thereto, is repealed.

CHAPTER 285

Stats 1935, p 248, amended

An act to add Part 2, comprising Sections 26000 to 26263, inclusive, to Division 16 of the Streets and Highways Code, and to add Section 50006 to Division 50 of said code, thereby consolidating and revising the law relating to the formation, establishment and government of boulevard districts, and the construction, acquisition, maintenance, control and use of boulevards by such districts, and providing for the voting, issuing and selling of bonds and the levying of taxes to finance such boulevards.

In effect August 4, 1943

[Approved by Governor April 29, 1943. Filed with Secretary of State April 29, 1943.]

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

New part

SECTION 1. Part 2, comprising Sections 26000 to 26263, inclusive, is added to Division 16 of the Streets and Highways Code, to read:

PART 2. BOULEVARD DISTRICTS

CHAPTER 1. GENERAL PROVISIONS

"District"

26000. "District," means a boulevard district unless the context clearly indicates otherwise.

"Commission"

26001. "Commission," means the boulevard commission unless the context clearly indicates otherwise.

"Boulevard"

26002. "Boulevard," means a highway not less than 30 and not more than 100 feet in width and upon, along, and over the portion or portions of which where the same is less than 60 feet in width no railroad, electric road, or street railroad shall, except upon a permit granted therefor by the board or body in control of such boulevard evidenced by an order entered in its minutes, be constructed or operated; and any easements granted or condemned for the building of said boulevard shall be so granted or condemned. This section does not prevent or limit the use of vehicles across the boulevard.

Elections

26003. Except as otherwise provided in this part, all elections conducted in the district shall be conducted as nearly as practicable in accordance with the general election laws of the

State. The provisions of such election laws relating to the form of ballots and the making of nominations and the selection or appointment of officers of election, shall not apply to district elections.

No irregularity or informality in conducting any district election which does not substantially affect adversely the legal rights of any person who is entitled to vote at that election shall invalidate or affect the election.

Voters

26004. At each election held pursuant to this part, every registered voter residing in the district as proposed or established, who would be entitled on the date of the election to vote in the district at a general election, is entitled to vote.

CHAPTER 2. FORMATION PETITION

Authority and designation

26020. A boulevard district may be formed from any portion of a county not already contained in a boulevard district. When formed, the district shall be known and designated as _____ boulevard district (using the name of the district) of_____ county (using the name of the county in which the district is located).

Petition

26021. A petition for the formation of a district may be presented to the board of supervisors of the county in which the district is proposed to be formed. The petition shall be signed by not less than 10 freeholders, owning land within the proposed district and shall contain:

(a) The name of the proposed district.

(b) The boundaries of the proposed district, and an estimate of the number of inhabitants residing within those boundaries.

(c) An estimate of the number of acres contained within the boundaries of the proposed district and the assessed value of the land and of the improvements.

(d) A request that an election be called within the proposed district for the purpose of determining whether or not a district shall be formed for the purpose of constructing and maintaining a boulevard.

Bond

26022. At the time of the filing of the petition for the formation of the district the petitioners shall file a bond with the board of supervisors for not more than three hundred dollars ($300), with two sufficient sureties, approved by the board who shall each qualify in double the amount of the bond, upon the condition that they will pay the expense and cost of the election in an amount not exceeding the amount of the bond if the proposition to organize the district is defeated.

Presentation

26023. The petition shall be presented at a regular meeting of the board of supervisors which shall thereupon fix a time, not less than 20 nor more than 60 days after the date of presentation, for hearing the petition.

Notice of hearing

26024. The board of supervisors shall publish a notice of the fact that the petition has been filed and refer to it on

file with the clerk of the board of supervisors for further particulars. The notice shall give the time and place at which the petition shall be heard, and direct all parties interested to appear at that time and place, and show cause, if any they have, why the petition should not be granted.

Publication

26025. The notice shall be published at least once a week for two consecutive weeks in a newspaper published and circulated in the proposed district. If no newspaper is published in the proposed district, the notice shall be published in a newspaper published and circulated at the county seat of the county in which the proposed district is located.

Hearing

26026. Upon the day specified, the board of supervisors shall hear the petition and any objections thereto. The hearing may be adjourned from time to time, for not more than 60 days in all.

CHAPTER 3. ESTABLISHING DISTRICT BOUNDARIES

Exclusion

26040. In fixing the final boundaries of the district the board of supervisors may exclude any lands which it finds have been improperly included.

Inclusion of adjacent lands

26041. The board of supervisors may include any lands adjacent to those described in the petition, either on:

(a) Petition of the owners of the adjacent lands; or

(b) Upon notice of its intention to include the adjacent lands within the district.

If the lands are included upon notice, the notice shall be published in the same manner and for the same time as the original notice of hearing.

Notice of intention to include

26042. The notice of intention to include adjacent lands shall refer to the petition for the formation of the district on file with the board of supervisors, shall describe the adjacent territory intended to be included within the proposed boundaries of the proposed district and direct all persons interested to appear at a specified time and place and show cause if any there be why the described lands should not be included within the district.

Establishment of boundaries

26043. Upon the petition and evidence produced at the hearings the board of supervisors shall determine and fix the boundaries of the district and shall, by order entered in its minutes, define and establish such boundaries.

CHAPTER 4. CALLING AND CONDUCTING ELECTIONS

Order of board of supervisors

26060. Within 30 days after the establishment of the boundaries of the district, the board of supervisors shall, by order, call an election to be held in the proposed district for the purpose of determining whether or not the district shall be formed.

The order shall:

(a) Fix the day of the election, which shall be within 60 days after the date of the order.

(b) Show the boundaries of the proposed district.

(c) State that at the election one member of the commission will be voted for.

This order shall be entered in the minutes of the board and shall be conclusive evidence of:

(a) The due presentation of a proper petition.

(b) The fact that each of the petitioners was, at the time of the signing and presentation of the petition, a freeholder owning land within the proposed district.

(c) The fact that all other steps preliminary to the making of the order, including the hearing of the petition and establishment of the boundaries of the district, have been properly taken.

Notice of election

26061. Notice of the election shall be given by posting a copy of the order for three successive weeks prior to the election, in three public places within the proposed district, and by publication of a copy of the order at least once a week for three successive weeks prior to the election in a newspaper published in the proposed district, if there be one, and if not, in a newspaper published at the county seat of the county in which the district is located.

Polling places and officers

26062. At least 15 days prior to the election, the board of supervisors shall select one or more polling places within the proposed district, and make all suitable arrangements for the holding of the election. It shall select and appoint from among the qualified electors of the proposed district one inspector and two judges of election in each polling place, who shall constitute the officers of the election and the election board. If no officers are so appointed or if any officer appointed does not attend at the opening of the polls on the morning of the election, the electors present may appoint substitutes to fill the election board.

Election of member

26063. At the election there shall be elected one member of the commission, whose term of office shall be for four years and until the election, or appointment, and qualification of his successor.

Ballot

26064. The ballot shall contain the words "Boulevard District—Yes," and "Boulevard District—No," and shall also make provision for voting for one member of the commission.

Canvass

26065. The officers of election shall make a return of the election to the board of supervisors, which shall canvass the returns as provided by law. If a majority of the votes cast at the election are in favor of creating the district the board of supervisors shall make and enter in its minutes an order declaring that the district of the name, and with the boundaries theretofore established (setting forth the boundaries), has been duly created, and shall declare the person receiving the highest number of votes for member of the commission, duly elected.

Conclusiveness

The order shall be conclusive evidence of the fact and of the regularity of all prior proceedings provided for by this part, and of the existence of, and the validity of the creation of, the district.

Vote against creation

26066. If a majority of the votes cast are against the creation of the district, the board of supervisors shall by order entered in its minutes so declare, and no other proceeding shall be taken in relation thereto until the expiration of one year from the date of the presentation to the board of supervisors of the petition pursuant to which the election was called.

CHAPTER 5. SELECTION OF THE BOULEVARD COMMISSION

Number and qualifications

26080. The commission shall consist of the chairman of the board of supervisors and the county surveyor, or the county engineer, as the case may be, of the county in which the district is situated, who shall be ex officio members, and a third member elected pursuant to Chapter 4 of this part. The elected member shall have been a bona fide resident and freeholder within the boundaries of the district for at least one year prior to his election.

Vacancies

26081. Any vacancy in the membership of the commission shall be filled by appointment for the unexpired term by the board of supervisors from among the bona fide resident freeholders within the district who shall have been resident freeholders for at least one year prior to their appointment. No member of the board of supervisors, except the chairman thereof, shall be eligible to hold office on the commission or to hold any position in connection therewith.

Replacement of county surveyor or engineer

26082. Upon the receipt of a petition in writing, signed by at least 25 per cent in number of the registered voters residing within the district, the State Highway Commission shall declare the position on the commission theretofore held by the county surveyor, or county engineer, as the case may be, vacant, and nominate and appoint a person to fill the vacancy who is a civil engineer, and who, in the opinion of the State Highway Commission, is qualified to serve on the commission.

Member appointed by State Highway Commission

26083. The member appointed by the State Highway Commission shall hold office for the term of four years from and after his appointment, and until the appointment and qualification of his successor. All appointments to fill any vacancy in the position of that member either during or at the expiration of his term of office shall be made by the State Highway Commission upon the receipt of written notice from the commission, of the vacancy. No petition shall be necessary to authorize the appointment to fill the vacancy.

Members' bonds

26084. Each member of the commission shall give a bond in the sum of five thousand dollars ($5,000) which has been approved by a judge of the superior court of the county in which the district is located, to the district for the faithful performance of his duties. The members of the commission shall receive no compensation whatever either for general or special services for or on behalf of the district.

Time of election

26085. An election shall be held on the first Monday after the first Tuesday in March in the fourth year after the formation of the district, and in every fourth year thereafter, for

the purpose of electing a member to succeed the elected member of the commission whose term shall expire during that year.

Notice

26086. At least 20 days before the day of the election the commission shall post a notice of the election in three public places in the district. The notice shall specify the time and place of election, the hours during which the polls will be kept open, and the officer to be elected.

Polling places and officers

26087. The commission shall select one or more polling places within the district; shall appoint one inspector and two judges of election in each polling place, and make all necessary and proper arrangements for holding the election. The election officers shall constitute the election board. If no election officers are appointed by the commission, or if any of those appointed are not present at the time of the opening of the polls, the electors present may appoint substitutes to fill the election board who shall conduct the election as if they had been appointed by the commission and were present.

Canvass

26088. The election board shall publicly canvass the votes immediately after the closing of the polls, and shall make return of the election within 24 hours thereafter to the board of supervisors. The board of supervisors at its first meeting after receiving the returns shall canvass the same and shall make, sign and deliver a certificate of election to the person elected.

Certificate of election

Chapter 6. Powers and Duties of the Commission

Organization

26110. The commission shall be the governing body of the district, and shall exercise all of the powers which are vested in the district. At its first meeting or as soon thereafter as may be practicable, the commission shall choose one of its members as president, and another of its members as secretary. All written documents shall be signed in the name of the district by the president of the commission, and countersigned by the secretary.

Meetings

26111. The commission shall hold all meetings in the district at an appointed place, at such times as may be convenient. If either the president or the secretary are absent or unable to act, the commission shall, by order entered upon its minutes, choose from its members a president pro tempore, or secretary pro tempore, as the case may be.

Quorum

26112. A majority of the members of the commission shall constitute a quorum for the transaction of business, and every decision of the majority made when duly assembled, is valid as an act of the commission.

Powers

26113. The district may use a common seal, alterable at the pleasure of the commission and may:

(a) Sue and be sued in its own name.

(b) Lay out, establish, construct, acquire and maintain boulevards within the district, and for this purpose acquire by purchase, gift, devise, condemnation proceedings or otherwise, and pay for and hold, real and personal property and rights of way within the district.

Any easement procured for the building of a boulevard, whether procured by grant or condemnation, shall permit the use of the boulevard by a railroad, electric road, or street railroad pursuant to this part.

(c) Make and accept all contracts, deeds, releases and documents of any kind which shall be necessary or proper to the exercise of any of the powers of the district.

(d) Direct the payment of all lawful claims and demands against the district.

(e) Issue bonds as hereinafter provided, and provide for their payment.

(f) When directed to do so by a vote of the people of the district, have sufficient taxes levied for the construction, maintenance or repair of district boulevards, and the payment of all indebtedness and running expenses of the district.

(g) Employ all necessary engineers, surveyors, agents and workmen to do the work on or in connection with the boulevards in the district.

(h) Do any and all things necessary or proper for the complete exercise of its powers and the accomplishment of the purposes for which it was formed.

Constructing of boulevards, etc

26114. For the purposes of this part the district may take over, control, operate, and use in whole or in part any county road or public highway and may construct any boulevard in whole or in part, over, along, or upon all or any part of any county road or public highway. District funds may be expended in the improvement of such road or highway to conform to the width and general character of the balance of the boulevard.

Exercise of powers of Department of Public Works

26115. At its option, the commission may make application to the State Department of Public Works for the exercise by that department of any powers, duties or authority which that department may have with respect to the ownership, construction, maintenance or improvement of any boulevard pursuant to this part, including the preparation of plans, specifications and estimates and the handling and expenditure of district moneys for such construction, maintenance or improvement. Any such application to the Department of Public Works shall be made in accordance with the provisions of law defining the powers, duties or privileges of that department in relation to such matters, and upon the granting of any such application by the department, the commission shall have full power to carry out the terms of the application on its part.

CHAPTER 7. PRELIMINARY PLANS AND SURVEYS

Engineers to prepare

26130. Before the construction of any boulevard and before the calling of any election for the issuance of bonds, the commission shall employ one or more engineers who shall make all necessary surveys, prepare maps showing the location, cross-section and profile of the proposed boulevard. The engineer shall also prepare specifications for the construction

of the boulevard and estimates of the cost of construction and of acquiring rights of way.

Approval by commission

These surveys, maps, specifications and estimates shall, upon approval by the commission, be formally adopted by order entered upon its minutes and filed with its secretary and when so adopted shall constitute the plan of the district for the proposed boulevard. The commission may, at its option, direct the county surveyor, or county engineer, as the case may be, to do any of the engineering work.

Allowance of expense

26131. The expense of making the preliminary surveys may be allowed by the board of supervisors out of the county general fund or the general county road fund upon claims regularly presented and allowed in the manner provided by law.

Chapter 8. Bids and Award of Contract

Publication of notice

26140. The commission shall, pursuant to an order entered in its minutes, advertise for bids for the construction of the boulevard, either as a whole or in sections as it may see fit, in accordance with the plan theretofore adopted and filed, by publishing a notice calling for bids at least once a week for two successive weeks in a weekly newspaper published within the district if there is such a newspaper published therein, otherwise in a newspaper published at the county seat of the county in which the district is located. The notice shall refer to the order and plan for further particulars. If the commission elects to receive separate bids for the construction of sections of the boulevard, the order shall describe the sections for which separate bids are desired.

The commission may advertise at the same time and in the same notice both for bids for the construction of the boulevard as a whole and for bids for the construction of separate sections.

Letting of contract, etc

26141. Every contract for the construction of the boulevard or for any section, if it is to be constructed in sections, shall be let, after advertisement, to the lowest responsible bidder, or the commission shall reject all bids for the construction of the boulevard or for any section and may readvertise for bids for doing the work in the same manner and for the same time as bids were originally called for.

Bond

26142. Before the making of any contract the bidder shall give a bond to the district for the faithful performance of his contract, which shall be signed by the bidder and sureties satisfactory to the commission in an amount equal to at least 50 per cent of the amount of the contract price.

Approval or rejection by electors

26143. The contract shall be executed on behalf of the district by the commission, subject to approval or rejection by the electors of the district, expressed at an election called for the purpose of issuing bonds for the payment of the contract. If the electors fail to approve the bond issue, the contract shall be void and the commission shall immediately return the bond to the contractor.

Contracts under $1000

26144. If the cost of any construction work on the boulevard does not exceed one thousand dollars ($1,000) the commission may make contracts therefor without advertisement or it may do the work without letting any contract.

Maintenance

26145. The commission may do any or all maintenance or repair work upon the boulevard, either with or without contract, and with or without advertising for bids for contracts unless the cost of the work exceeds one thousand dollars ($1,000), in which event it shall only be done under contract after advertising for bids in the same manner as provided for advertising for bids and letting contracts for construction work.

Employees

26146. The commission may hire all necessary engineers, inspectors and superintendents to supervise the performance of contracts entered into by the commission, or to have charge of doing all work done without contract.

Chapter 9. Approval of Construction Plans

Election on bond issue

26160. At any time after the adoption of a plan for a boulevard or the letting of a contract for the construction of the whole or any portion of any boulevard, the commission may by order entered in its minutes call an election for the purpose of determining whether bonds shall be issued for the acquisition of rights of way for, and the construction of, such boulevard, or for the payment of such contract.

Order

26161. The order shall fix the day of the election, shall specify the amount of the bond issue, and shall state in general terms that the money raised from the sale of the bonds shall be used for the acquisition of rights of way for, and the construction of, boulevards in the district.

If the election is called for the payment of a contract already entered into by the commission, the order shall state the terms of the contract in such manner as will advise the electors of its contents. Any money raised by means of a bond issue which remains on hand after the acquisition of rights of way and the construction have been completed, shall be expended in the betterment and maintenance of the boulevard.

Notice

26162. Notice of the election shall be given in the manner and for the time provided for in Section 26061.

Polling places

26163. At any time prior to the day fixed for the election the commission shall select one or more polling places within the district, and appoint from among the qualified electors

Officers

within the district, one inspector, and two judges for each polling place who shall constitute the officers of the election and the election board, and shall make all other necessary

Ballots

and proper arrangements for holding the election. The ballots shall contain the words "Bonds, Yes" and "Bonds, No."

Canvass

26164. After the vote has been counted and the result announced by the election officers the ballots shall be sealed up and delivered to the secretary of the commission with the election returns. The commission shall, at its next meeting, canvass the returns and enter the result upon its minutes.

This entry in the minutes is conclusive evidence of the fact and regularity of all prior proceedings required by this part and of the facts stated in the entry.

Vote

26165. If, at the election, two-thirds of the votes cast are in favor of the issuance of bonds, the commission is authorized to issue and sell the bonds as proposed in the order calling the election. If the result of the election is against the issuance of bonds no other election upon the same question shall be called or held for one year after such election.

Taxation

26166. A boulevard may be constructed with money raised by taxation instead of a bond issue if authorized by a majority of the votes cast at an election called for the purpose of determining if the boulevard shall be so constructed.

Elections to authorize the construction of boulevards with money raised by taxation shall be called and held in the same manner as is provided for bond elections.

Chapter 10. The Bond Issue

Denominations

26180. All bonds shall be issued in such denominations as the commission may determine, except that they shall not be less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

How and where payable

Interest

When payable

26181. All bonds shall be payable in lawful money of the United States at the office of the county treasurer of the county in which the district is situated, and shall bear interest at a rate not to exceed 6 per cent per annum which shall be payable semiannually. Not less than one-thirtieth part of the total issue of bonds shall be payable each year, commencing not more than five years after the date of the bond issue.

Signing and serialization

26182. The bonds shall be signed by the president and countersigned by the secretary of the commission. They shall be numbered consecutively, in the order of their maturity, and shall have coupons for interest attached, attested by the facsimile signature of the secretary of the commission.

Sale

26183 The bonds may be sold by the commission in such manner and in such quantities as it may determine. However no bond may be sold for less than its face value.

Boulevard fund

26184. The proceeds of the sale of bonds shall be deposited with the county treasurer and shall be placed by him in a fund in the county treasury to be called the boulevard fund of --------boulevard district (naming it). The money in the fund shall be used for the purposes indicated in the order calling the election at which the issuance of the bonds was authorized.

Chapter 11. Levy and Collection of Taxes

Estimate of amount needed

26200. At or before the first meeting of the board of supervisors in September of each year, the commission shall furnish the board of supervisors and the auditor of the county

in which the district is situated, an estimate in writing of the amount of money needed for the purposes of the district for the ensuing fiscal year. The amount shall be sufficient to pay:

(a) The interest on all outstanding bonds of the district which will become due during the ensuing fiscal year.

(b) The principal of all outstanding bonds of the district which will mature during the ensuing fiscal year.

(c) The estimated cost of repairs and maintenance of the boulevard, and the running expenses of the district.

Annual levy

26201. Annually, at the time of levying county taxes, the board of supervisors shall levy a tax to be known as the "_____(name of district) boulevard district tax," sufficient to raise the amount estimated by the commission to be necessary for the purposes of the district for the ensuing fiscal year. The board of supervisors shall determine the rate of the tax by deducting 15 per cent for anticipated delinquencies from the total assessed value of the real property within the district, as it appears on the assessment roll of the county, and dividing the sum required to be raised, by the remainder of the total assessed value.

Determination of rate

Computation

26202. The tax so levied shall be computed and entered on the assessment roll by the county auditor, and if the board of supervisors fails to levy the tax the auditor shall do so.

Collection

The tax shall be collected at the same time and in the same manner as county taxes, and when collected shall be paid into the county treasury for the use of the district.

County tax laws

The provisions of law prescribing the manner of levying and collecting county taxes and the duties of the several county officers with respect to taxation are, so far as they are not in conflict with this part, applicable to taxation under this part. Such officers shall be liable upon their several official bonds for the faithful discharge of the duties imposed upon them by this part.

Ownership of funds

26203. All money raised by taxation which is authorized by this part shall belong to the district.

CHAPTER 12. COUNTY CONTRIBUTIONS

County contributions

26220. The board of supervisors shall set apart and turn over to the commission out of the general fund of the county 25 per cent of the cost of acquiring the rights of way for, and construction of, the boulevard and 25 per cent of the cost of maintaining and repairing the boulevard. All money so set apart and turned over to the commission shall be used exclusively for the purposes for which it was so set apart and turned over.

Money raised for district

The board of supervisors shall set apart and use for road work in the district all moneys raised in the district by the county for road purposes.

CHAPTER 13. DISTRICT FUNDS

Deposit in county treasury

26221. The treasury of the county in which the district is situated shall be the depository for the funds of the district. The county treasurer shall receive and receipt for the funds of the district, and shall place all such funds to the credit of the district. He shall be responsible upon his official bond for their safekeeping and proper disbursement.

Funds established

26222. The following funds are hereby established in the county treasury to which the money belonging to the district, and raised by taxation shall be apportioned by the treasurer:

(a) Bond fund.

(b) Construction and maintenance fund.

(c) District expense fund.

Payments

The treasurer shall pay out district funds only upon warrants of the commission, signed by the president and attested by the secretary, except that all bonds and coupons shall be paid on presentation by the county treasurer out of the bond fund without warrant.

Treasurer's report

Upon request of the commission or its secretary, the treasurer shall report in writing to the commission the amount of money in the various funds. the amount of receipts since his last report and the amounts paid out.

CHAPTER 14. TRANSFER OF DISTRICT BOULEVARDS

Transfer to county

26230. After any boulevard has been completely constructed the commission may, at its option, convey all the right, title and interest of the district in and to that boulevard to the county within which the district is situated, if the board of supervisors of the county consents to and accepts the conveyance and agrees to maintain the boulevard as a boulevard and as part of the county highway system. All boulevards so conveyed shall be held by the county as county boulevards without any further liability or responsibility on the part of the district. No such conveyance shall affect the liability of the district for, or any bonds previously issued by the district.

CHAPTER 15. DISSOLUTION

Election

26240. Whenever it shall deem it advisable, the commission shall, by resolution, order that an election be held in the district upon the question of dissolution of the district. The election shall be called and conducted in the same manner as other elections of the district, and if two-thirds of the electors of the district vote in favor of dissolution, the district shall be dissolved.

Distribution of property

26241. Upon dissolution, any property in unincorporated territory which may have been acquired by the district shall

vest in the county, and any property within the boundaries of an incorporated city shall vest in the city.

Outstanding debts

26242. If at the time of the election to dissolve the district there is outstanding any bonded indebtedness of the district, the vote to dissolve shall dissolve the district for all purposes except the levy and collection of taxes for the payment of that outstanding indebtedness.

From the time of dissolution until the bonded indebtedness together with the interest thereon is fully paid, the board of supervisors of the county shall constitute ex officio the boulevard commission of the district, and shall levy such taxes and perform such other acts as may be necessary to raise money for the payment of the outstanding indebtedness of the district.

CHAPTER 16. DETERMINATION OF LEGALITY OF THE DISTRICT

Suit

26260. Any district, in order to determine the legality of its existence, may institute a proceeding in the superior court of the county of its formation.

Complaint

26261. The proceeding is instituted by filing with the county clerk a complaint setting forth:

(a) The name of the district.

(b) Its exterior boundaries.

(c) The date of its organization.

(d) A prayer that the district be adjudged legally formed under this part.

Summons

26262. The summons shall be addressed generally to all persons interested in the district or in any of the lands contained in the district, and shall be served by publishing a copy once a week for four weeks in a newspaper of general circulation published in the county.

Answer

26263. Within 30 days after the last publication of summons any person interested may appear and answer the complaint. The answer shall set forth the facts relied upon to show the invalidity of the district. If no answer is filed within the time allowed, the court shall render judgment as prayed for in the complaint. If an answer is filed the court shall proceed as in other civil cases. The proceeding is a proceeding in rem and the judgment rendered is conclusive against all persons who could have appeared in the action, and against the State of California.

Judgment

New section

SEC. 2. Section 50006 is added to Division 50 of said code, to read:

Repeals

50006. Chapter 737 of the Statutes of 1911, at page 1425, together with all acts amendatory thereof and supplementary thereto, is repealed.

CHAPTER 286

An act to add Part 3, comprising Sections 27000 to 27325, inclusive, to Division 16 of the Streets and Highways Code, and to add Section 50007 to Division 50 of said code, thereby consolidating and revising the law relating to the incorporation, organization and management of bridge and highway districts and to provide for the acquisition and construction by said districts of highways, bridges and approaches thereto, and for the acquisition of all property necessary therefor, and also provide for the issuance and payment of bonds by said districts, for the levying of taxes and the collection of tolls by said districts and for the annexation of additional territory thereto.

Stats. 1935, p. 248, amended

[Approved by Governor April 29, 1943. Filed with Secretary of State April 29, 1943.]

In effect August 4, 1943

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

SECTION 1. Part 3, comprising Sections 27000 to 27325, inclusive, is added to Division 16 of the Streets and Highways Code, to read:

New part

PART 3. BRIDGE AND HIGHWAY DISTRICTS

CHAPTER 1. GENERAL PROVISIONS

Short title

27000. This part may be cited as the Bridge and Highway District Act.

"District"

27001. As used in this chapter "District" means a bridge and highway district unless the context clearly indicates otherwise.

"Board"

27002. As used in this chapter "Board" means the board of directors of the district unless the context clearly indicates otherwise.

"Contiguous counties"

27003. As used in this chapter, "Contiguous counties" include those counties separated by any of the waters of this State.

"Tolls"

27004. As used in this chapter, "Tolls" include tolls, charges, rentals, rates, traffic charges and other rates of income for the use of the facilities for travel constructed by the district.

Registrar of voters

27005. In any county having a registrar of voters, the powers conferred and the duties imposed by this part upon the county clerk in relation to matters of election and polling places, shall be exercised and performed by the registrar of voters.

General election laws

27006. Except as otherwise provided in this part, all elections held by the district shall be conducted as nearly as practicable in accordance with the general election laws of the State.

Irregularity in election

27007. No irregularity or informality in conducting any district election which has been otherwise fairly conducted shall invalidate or affect the election.

CHAPTER 2. ORDINANCE OF INTENTION

Authority

27020. A bridge and highway district may be organized and incorporated in accordance with this part. When so incorporated it shall be entitled to exercise the powers expressly or impliedly conferred upon it by this part.

Composition

27021. A district may consist of part or all of one or more contiguous counties.

Ordinance:

27022. Proceedings for the incorporation of a district may be instituted by the adoption of an ordinance by the board of supervisors of each county desiring to form a district or by the electors of each such county under the provisions of law applicable to passage of ordinances by initiative declaring that the county, or part of the county, intends to unite with such other counties as may adopt like ordinances to form the district.

General statement

The ordinance need not name the counties to be included in the district, and a general statement in the ordinance that the county adopting it intends to unite with any other counties which may adopt like ordinances to form the district, shall be sufficient.

Petition

27023. The ordinance of intention shall provide that a petition for the formation of the district be circulated, and the board of supervisors shall, by resolution name and appoint persons to circulate and secure signatures for the petition.

Name

27024. The ordinance of intention may also contain a distinctive corporate name for the proposed district.

Adoption

27025. The ordinance of intention may be adopted by the board of supervisors at any time after application shall be made to it for that purpose. If the board of supervisors neglects to act upon the application for the adoption of the ordinance for a period of 60 days after it is submitted to it, the ordinance may be submitted to the electors of the county under the provisions of the initiative applicable to ordinances generally in the county.

Referendum

27026. If the ordinance is adopted by the board of supervisors, it shall be subject to the referendum provisions applicable to ordinances generally in the county.

CHAPTER 3. PROCEEDING BY PETITION

Contents of petition

27040. The petition for the formation of the district shall give the name of the district, which shall be the legal name under which the district shall be known, and shall set forth the extent of the proposed district, either by describing its exterior boundaries, or by naming the counties proposed to be included in it and shall contain a prayer that the proposed district be incorporated under the provisions of this part.

Description of part of county

27041. If only part of any county is proposed to be included in the district, the extent of the part of the county included may be indicated by naming the county and excepting therefrom some administrative or governmental subdivisions thereof, such as townships, school districts or other similar

subdivisions, or the excluded portion may be described by its boundaries. In any description of included or excluded territory, reference to recorded instruments may be made for the purpose of defining boundaries.

Ordinance attached

27042. Attached to each copy of the petition shall be a copy of the ordinance providing for its circulation.

Circulation and signatures

27043. The petition circulated in each county may consist of any number of separate copies of the original instrument and shall be signed by voters residing within the boundaries of the county or portion of the county proposed to be included in the district equal in number to at least 10 per cent of the number of voters in the county or portion thereof from which the petition is presented who voted for Governor of this State at the last general election at which a Governor was elected prior to the presentation of the petition.

Verification

27044. The copies of the petition from each county shall be grouped or fastened together and submitted to the county clerk of that county for examination and verification. The county clerk shall have 10 days' time for the examination of the copies of the petition left with him for verification. Within that period of time he shall verify each of the signatures on the copies of the petition left with him, attach thereto his certificate that the copies of the petition have been signed by the requisite number of registered voters and forward the copies of the petition with his certificate attached to the Secretary of State.

Additional signatures

27045. If the county clerk finds that the copies of the petition are not signed by the requisite number of registered voters residing within his county he shall certify to the number of registered voters required to make the petition sufficient. Within 20 days from the date of such certificate, copies of the petition containing additional signatures secured either by the same persons theretofore appointed to secure signatures, or by other persons appointed by the board of supervisors for that purpose may be filed with the county clerk.

Verification of additional signatures

27046. The county clerk shall within 10 days after the filing of the supplemental copies of the petition examine and verify each of the signatures thereon and certify to the result of his examination as he did in connection with the original copies of the petition.

Certification to Secretary of State

27047. If the petition as supplemented contains a sufficient number of signatures the county clerk shall present it with his certificate to that effect attached to the Secretary of State without delay.

Certification and filing

27048. If the certificate of the county clerk shows that any petition as originally filed or as supplemented is insufficient he shall so certify and the petition with his certificate attached shall be filed by him with the Secretary of State and kept by the Secretary of State as a public record, without prejudice however, to the filing of a new petition to the same effect.

CHAPTER 4. PROCEEDING BY ELECTION

Election in lieu of petition

27060. The board of supervisors of any county may, instead of proceeding by petition, call a special election for the purpose of submitting the question of the inclusion of the county, or that part of the county which is proposed to be included, in the district, to the electors of the county, or to the electors of that portion of the county proposed to be included in the district.

Majority vote

27061. If a majority of the registered voters voting at the election vote in favor of including the county or a specified part thereof in the district, the county or the part thereof approved for inclusion in the district, shall be included therein.

Election laws

27062. The election shall be called and held in accordance with the general provisions of the election laws governing the calling and holding of special elections in counties.

Certification of results

27063. The county clerk shall certify the results of the election to the Secretary of State together with a copy of the action of the board of supervisors calling the election.

CHAPTER 5. EXCLUSION OF COUNTIES PROPOSED FOR INCLUSION IN THE DISTRICT

Failure to adopt ordinance of intention to unite

27080. If, within 120 days after application is made to it the board of supervisors of any county named in the petitions from other counties engaged in the formation of the district fails to adopt an ordinance of intention to unite with the other counties in the formation of the district, and no proceedings for the adoption of such an ordinance under the provisions of law relating to the initiative are on file with the county clerk, the clerk shall upon receipt of an affidavit of an elector of the county, setting forth: (a) The date the original application was made to the board of supervisors and (b) the failure of that body to act thereon for 60 days thereafter, issue his certificate to the Secretary of State certifying that on the date of the issuing thereof no proceedings have been filed in his office to submit such ordinance to the electors under the provisions applicable to the initiative. The clerk shall immediately transmit the certificate and affidavit to the Secretary of State.

Exclusion by Secretary of State

27081. The Secretary of State shall file the affidavit with the certificate attached and he shall exclude the county from which the affidavit and certificate have been received from the proposed district in the same manner as if the county had been excluded by order of the superior court.

Rejection by voters

27082. If an ordinance declaring it to be the intention of a county to become part of the district has been submitted to the people and has failed of adoption, that fact shall be certified to the Secretary of State by the county clerk, and that county shall be excluded from the district.

27083. If a county which is excluded because no ordinance of intention is adopted by it, separates another county, from which sufficient petitions have been received to become a part of the district, from the remainder of the counties of the proposed district, the county thus separated shall not be excluded from the district but shall be included therein even though it is not contiguous to the other counties composing the district. Noncontiguous counties

CHAPTER 6. INCORPORATION OF THE DISTRICT

27100. When all of the petitions, or certifications of the result of elections have been received from the county clerks of the counties having any portion of their territory within the boundaries of the proposed district the Secretary of State shall publish the text of the petition, together with a notice fixing the time within which protests against the inclusion of property within the proposed district may be filed. Publication of petition; Notice of time for protest

27101. The petition and notice shall be published for at least three weeks prior to the last day in which protests may be filed in at least one and not to exceed three newspapers printed and published in each of the counties from which petitions have been presented. Length of publication

27102. Neither the names attached to the petition, nor the certificates of any of the county clerks, need be published with the petition. It shall be sufficient to state that the petition has been signed by a certain number of electors, naming it, and duly verified by the county clerk of the county in which the petition was circulated. Sufficiency of publication

27103. Any owner of property which is subject to taxation within the boundaries of the proposed district may, within the time specified, protest against the formation of the district. Protest

The protest shall be in writing and shall be filed with the Secretary of State. The protest shall contain:

(a) The name and address of the person protesting and the name and address of his attorney, if he has one.

(b) The grounds upon which the protestant claims that his property will not be benefited by the formation of the proposed district.

27104. The Secretary of State shall attach the protests which he receives from each county to the petition filed from that particular county, and forward the petition with the protests attached to the superior court of that county. The superior court in each county shall have jurisdiction to hear and determine the protests so received. The clerk of the court shall set the protests for hearing, and give notice thereof in writing to the protestants, and to their attorneys if they have any, at least 10 days before the date set for the hearing. Court hearing

27105. At the time specified in the notice, or at such other time to which the said hearing may be continued, the superior court shall have jurisdiction to hear and determine all matters urged by the protestants against the formation of the Jurisdiction of court

proposed district, or against the inclusion of their lands therein.

Exclusion by court

27106. The superior court shall have jurisdiction to exclude any lands from the proposed district, together with any other lands contiguous to the excluded lands, and contiguous to the exterior boundaries of the proposed district which are similarly situated to the lands of the protestants, to the end that isolated tracts may not be excluded from the district without also rectifying the boundaries thereof so that the district when finally formed shall be compact, continuous and without tracts of land excluded therefrom which are totally surrounded by other lands which are left within the district.

Judgment final

27107. The judgment of the superior court shall not be appealable, and all questions of fact therein contained shall be final and conclusive.

Writ of review

27108. The judgment shall only be subject to review by the Supreme Court of this State, upon a writ of review issued out of that court in such cases as writs of review are now permissible against superior courts.

Proceedings for a writ of review may only be taken within 10 days after the entry of the judgment in the superior court and if not so taken all such judgments of the superior court shall become final.

Certification of judgment

27109. After the judgment of the court has become final the county clerk shall certify the judgment together with the petition and the protests which he received, to the Secretary of State.

Certificate of incorporation

27110. When the results of the final judgments upon all protests have been certified to the Secretary of State, he shall issue his certificate of incorporation declaring the district with the boundaries as finally established to be duly incorporated. He shall file the original certificate of incorporation in his office, and have a certified copy of the certificate recorded in the office of the county recorder of each of the counties having any territory within the boundaries of the district.

Establishment of district

27111. Upon the issuance of the certificate of incorporation the district shall come into existence and shall have all the rights, powers and privileges expressly or impliedly conferred upon it by this part.

Sufficiency not questionable

27112. After the Secretary of State has issued his certificate of incorporation of the district, the sufficiency of any petition shall not be subject to judicial review or be otherwise questioned.

Informality

27113. No informality in any proceeding not substantially affecting adversely the legal rights of any person shall invalidate the incorporation of any district.

Limitation on proceedings

All proceedings to contest the validity of the incorporation of any district may only be commenced within three months from the date of the issuance of the certificate of incorporation. If no such proceedings are commenced within the time allowed, the incorporation of the district, and all proceedings in connection therewith, shall be valid and incontestable.

Chapter 7. Appointment and Tenure of the Board of Directors

Notice of incorporation

27120. Within five days after the issuance of the certificate of incorporation, the Secretary of State shall notify the boards of supervisors of each of the counties in which any portion of the territory of the district is located, of the incorporation of the district.

Appointment

27121. Within 30 days after the receipt of the notice of incorporation of the district each of the boards of supervisors so notified shall appoint the persons to represent the county on the board of directors of the district.

Number

27122. The number of directors to which each county is entitled shall be determined as follows:

(a) Each county having a population of 40,000 or less, one director.

(b) Each county having a population over 40,000 and not more than 100,000, two directors.

(c) Each county having a population of more than 100,000 and less than 500,000, three directors.

(d) Each county having a population of 500,000 and over, five directors, or that number of directors equal to the total number of directors appointed from all of the counties within the district having a population of less than 500,000, whichever is greater.

Method of appointment

27123. The directors shall be appointed by resolution of the board of supervisors, a certified copy of which shall be immediately forwarded to the Secretary of State.

Term

27124. The term of office of all directors shall be four years from and after their appointment and until the appointment and qualification of their successors. Any director may be removed for cause by the board of supervisors appointing him, if notice is given and a hearing is held upon the complaint against him.

First members

27125. The first board of directors shall classify themselves by lot and one-half of their number shall hold office for two years only. If at the time of classification the number of directors is an odd number, the odd member of the board shall also hold office for two years. The board of supervisors which originally appointed a director whose term has expired shall appoint his successor for a full term of four years. Any vacancy in the board shall be filled for the unexpired term by appointment by the board of supervisors which originally appointed the director whose position has become vacant.

Vacancy

Chapter 8. Organization and Powers of the Board and the Executive Officers

General authority

27140. The board shall be the governing body of the district and shall outline rules of policy, approve plans, and vote or withhold appropriations to carry the same into effect.

First meeting

27141. Within two weeks after the Secretary of State has received certified copies of the resolutions of the board of

supervisors of each county in the district, appointing the members of the board of directors from that county, he shall call the first meeting of the board of directors and shall designate an appropriate time, which shall be within that two week period, and place at which the meeting shall be held.

Organization

27142. At the first meeting the board shall organize by choosing one of its members as president, and choosing a secretary, who shall not be a member of the board. At its first meeting the board shall also provide for the time and place of holding its meetings, and the manner in which its special meetings may be called.

Meetings

27143. All meetings of the board, whether regular or special, shall be open to the public. A majority of the board shall constitute a quorum for the transaction of business.

Procedural rules

27144. The board shall adopt rules to govern its proceedings.

Office

27145. The board shall select an office and place of business within the district.

Special meetings

27146. For the purpose of considering local questions affecting a particular county or group of counties the board may hold meetings in the chambers of the boards of supervisors of that county or of any county in the group, if suitable for the purpose, or at any other suitable place the board may designate which is conveniently located with respect to the county or group of counties concerned.

Ordinances and resolutions

27147. All official action of the board shall be by ordinance or resolution.

The ayes and noes shall be taken upon the passage of all ordinances and resolutions, and entered upon the journal of the proceedings of the board. No ordinance or resolution shall be passed or become effective without the affirmative votes of at least a majority of the members of the board.

Enacting clause

27148. The enacting clause of all ordinances passed by the board shall be "Be it ordained by the board of directors

Formalities

of_____bridge and highway district as follows:" All resolutions and ordinances shall be signed by the president of the board and attested by the secretary.

Compensation of members

27149. Each member of the board shall receive the sum of twenty dollars ($20) for attending each meeting of the board and his necessary traveling expenses, and he shall receive no other compensation. No director shall be paid for attending more than three meetings in any one calendar month.

Officers

27150. The board shall at its first meeting, or as soon thereafter as practicable, appoint by a majority vote a general manager, an auditor and a secretary. No director shall be eligible for appointment to any district office except president or vice president of the board. The compensation of the general manager, auditor, and secretary shall be fixed by the board, and such officers shall serve during the pleasure of the board.

General manager

27151. The general manager shall be the executive officer of the district. He shall employ and discharge at pleasure

all subordinate officers, employees and assistants, prescribe their duties, and subject to the approval of the board, he shall fix their compensation. He shall have full charge and control of the construction, maintenance and operation of all works of the district. The general manager shall report to the board in accordance with such rules and regulations as the board may adopt.

Attorney and subordinate officers

27152. The board shall appoint an attorney and all subordinate officers not provided to be appointed by the general manager, and shall fix their salaries. Subordinate officers appointed by the board shall serve at its pleasure.

Change in name

27153. The board may change the name of the district by resolution, which shall become effective upon the filing of a certified copy of the resolution with the Secretary of State and with the clerk of the board of supervisors of each county included in the district.

CHAPTER 9. DISTRICT POWERS

Perpetual succession

27160. The district shall have perpetual succession and acting through the board shall have the powers prescribed in this chapter in addition to any others expressly conferred on it by this chapter.

Suits

27161. The district may sue and be sued in its corporate name in all actions and proceedings in all courts and tribunals of competent jurisdiction.

Seal

27162. The district may adopt a seal and alter it at pleasure.

Property

27163. The district may take by grant, purchase, gift, devise or lease, and hold, use, enjoy and lease and dispose of real or personal property of every kind within or without the district necessary to the full exercise of its powers.

Acquisition of bridges etc

27164. The district may acquire, or contract to acquire; and may construct under contract, or by its own employees, maintain, improve and operate bridges, abutments, rights of way, roads, tunnels, railroads, streetcar lines, interurban lines, telephone and telegraph lines, footpaths, viaducts, toll gates, toll houses, subways, and all other forms of property necessary or proper for the successful prosecution of the project for which the district was organized, including all machinery or other property useful or necessary to construct, maintain, operate or otherwise make use of toll bridges and highways, and complete, add to, repair or otherwise improve any of such property acquired by it.

Acquisition of property

Tolls

27165. The district may acquire by purchase, gift or condemnation, or lease from the United States, this State, or from any person, or public or private corporation, lands, rights of way, or rights in, over or across lands or waters which are necessary or proper for the construction or operation of bridges, and the approaches thereto, fix and collect tolls, for the purpose of meeting the obligations of the district and repaying the same, and dispose of the surplus to the various counties within the district.

Eminent domain

27166. The district may have and exercise, in the name of the district, the right of eminent domain for the condemnation of any property necessary for the construction of bridges, or the approaches thereto, or highways leading thereto, whether such property is already devoted to the same use or another public use, or otherwise. The district may condemn any existing highway, or right of way, or any portion thereof, whether the same be publicly or privately owned. In any proceeding to exercise the right of eminent domain the district shall have the same rights, powers and privileges as the State of California. If property is condemned by the district, the district may take possession and use the property in accordance with the provisions of Section 1254 of the Code of Civil Procedure.

Bonds

27167. The district may borrow money, incur indebtedness and issue bonds or other evidences of such indebtedness; and refund or retire any indebtedness or lien that may exist against the district or any of its property.

Purchase or condemnation

27168. The district may purchase or condemn any works which might be constructed by the district, whether completed or partly completed, and conduct and manage the same.

Taxes

27169. The district may have taxes levied and collected in accordance with the provisions of this part for the purpose of paying running expenses, organization expenses and the investigation expenses of the district before the issuance of bonds, and for the purpose of paying the obligations of the district.

Contracts and employment

27170. The district may make contracts, employ labor, and all kinds of employees, whether skilled or unskilled, for the purpose of carrying on the business of the district.

Rules for operation of property

27171. The district may establish all necessary rules, regulation or conditions under which the property of the district may be used by the public and fix and collect all tolls for the use thereof, and enter into contracts with any persons or public officers or public or private corporations, whereby the facilities constructed by the district may be made use of, by such persons, officers, or corporations, and at the tolls or for the consideration fixed by such contracts.

General powers

27172. The district may do all things necessary for the complete exercise of the powers described in this chapter.

CHAPTER 10. DUTIES OF DISTRICT OFFICERS

President

27180. The president shall sign all contracts on behalf of the district, and perform such other duties as may be imposed by the board.

Secretary

27181. The secretary shall countersign all contracts on behalf of the district and perform such other duties as may be imposed by the board. The secretary shall devote his full time during office hours to the affairs of the district.

Auditor

27182. The auditor shall install and maintain a system of auditing and accounting which shall completely show the financial condition of the district at all times. He shall draw warrants to pay those demands made against the district

which have been approved by the general manager, and the auditing committee, consisting of at least three members of the board, and passed by the board.

Engineer

27183. The engineer, under the direction of the general manager, shall have full charge of the constructions and of the works of the district.

Attorney

27184. The attorney shall have full charge of the legal matters pertaining to the district, and shall be the legal adviser to the board, the general manager, and all of the officers of the district.

Fund depositaries

27185. The board shall designate a bank of good standing as the depositary for district funds. The board may also designate other banks as branch depositaries. The depositary and each branch depositary shall give security sufficient to secure the district against possible loss, and shall pay the warrants drawn by the auditor for demands against the district under such rules as the board may prescribe.

The board may also deposit all or part of the funds of the district in the State Treasury, and the State Treasurer shall receive any district funds sent to him for deposit and pay out said funds upon warrants of the district, under such rules as the board may prescribe.

Bonds

27186. The general manager, secretary, auditor, engineer, and attorney, and any other officers or employees of the district who may be required to do so by the board, shall give such bonds to the district, conditioned upon the faithful performance of their duties, as the board may prescribe.

Preparation of plans

27187. After the organization of the district the board, the general manager, and all of the other officers of the district shall prepare plans, both engineering and financial, for the purpose of putting into operation the project for which the district has been organized, and secure the necessary data, contracts, agreements, plans and specifications for the prosecution of such work as will enable them to put the matter before the voters at an election held for the purpose of authorizing the issuance of bonds by the district.

Chapter 11. Taxation for Preliminary District Expenses

New projects

27200. No taxes shall be levied under the provisions of this chapter for the purpose of carrying out new projects undertaken by the district after the original project for which the district was formed has been completed.

Tax rate

27201. During July of each year the board shall determine the amount of money required by the district which must be raised by taxation, and shall fix a rate of taxation which will raise that amount. If the purpose of the taxation is to supply funds for investigating the project prior to the issuance of bonds and the payment of the officers and employees of the district prior to the time when the works of the district are earning revenue the tax rate shall not exceed ten cents ($0.10) on each one hundred dollars ($100) of assessed valuation.

Running expenses

27202. All running expenses of the district prior to the time the works of the district are earning revenue, being a part of the cost of constructing or acquiring or both the works, may be paid from the proceeds of any bonds issued by the district.

Levy

27203. Within a reasonable time prior to the time that the boards of supervisors of the counties having any portion of their territory within the boundaries of the district are required by law to fix their tax rates, the board shall certify to the board of supervisors of each of the said counties the rate of taxation fixed for district purposes and at the time and in the manner required by law for the levying of taxes for county purposes each shall levy and collect a tax for district purposes in addition to any other tax levied by such board of supervisors at the rate certified by the board.

Collection

27204. All county officers charged with the duty of collecting taxes shall collect district taxes at the same time and in the same form and manner as county taxes are collected, and when collected pay the proceeds to the district. The appropriate county officers shall pay the taxes collected for the district to the secretary of the district who shall deposit them in the district depositary or in the State Treasury to the credit of the district.

Lien

27205. Taxes levied by the board of supervisors of a county for the benefit of the district shall be a lien upon all property within the district, and shall have the same force and effect as other liens for taxes. Their collection may be enforced in the same manner as liens for county taxes are enforced.

Special levy

27206. If during the month of July next preceding the expiration of the time estimated for the construction of the works it shall appear to the board that the construction of the works may be delayed beyond the time so estimated the board shall estimate the period of such delay and cause a tax to be levied and collected in accordance with the provisions of this chapter which shall be sufficient to produce the amount required to pay one year's interest on the bonds or, if the estimated period of delay will be less than one year, the amount required to pay the interest which will accrue on the bonds during such estimated period of delay.

The amount of any such tax shall be reduced to the extent that the district has funds on hand and available for the purpose of paying such interest.

CHAPTER 12. AUTHORITY FOR ISSUANCE AND SALE OF DISTRICT BONDS

Resolution

27220. Whenever the board deems it necessary for the district to incur a bonded indebtedness it shall, by resolution so declare. The resolution shall contain:

(a) A statement of the proposition to be submitted to the electors, including the purpose for which the proposed debt is to be incurred.

(b) The amount of debt to be incurred, which shall not exceed 15 per cent of the assessed value of all taxable property in the district.

(c) The maximum term, which shall not exceed 40 years, that the bonds proposed to be issued shall run before maturity.

(d) The maximum rate of interest to be paid, which shall not exceed 6 per cent per annum.

(e) A statement that interest, to be paid upon such bonds, during the period of construction of the works of the district and before any revenue is obtained therefrom shall be a capital charge, and shall be payable out of the principal sum realized from the sale of the bonds.

Election

27221. The board shall fix a date upon which a special election shall be held for the purpose of authorizing the bonded indebtedness to be incurred and shall provide for holding the election on the date so fixed.

Notice

27222. The board shall give notice of the holding of the election.

The notice shall:

(a) Refer to the resolution adopted by the board calling the election.

(b) Specify the precincts or consolidated precincts in each county or portion of a county which are adopted for the purposes of the election.

(c) Designate the location of the balloting places, and the names of the officers selected to conduct the election, who shall consist of one inspector and two judges in each precinct.

Publication

27223. The notice shall be published for two weeks in at least one newspaper and not more than three newspapers designated by the board, which are published in each county or portion of a county within the district. The notice as published in each county shall contain only the reference to the precincts, polling places and election officers in the county or portion of the county in which it is published.

If there is no newspaper published in any county the notice shall be posted in three public places in that county.

Expenses

27224. All the expenses of holding the election shall be borne by the district.

Canvass

27225. The returns of the election shall be made and the votes canvassed by the board within 30 days after the holding of the election, and the results thereof designated and declared in accordance with the general election laws of the State in so far as they may be applicable, and except as otherwise provided in this chapter.

As soon as the result is declared the secretary shall enter a statement of the results in the records of the board.

Favorable vote

27226. If more than two-thirds of the votes cast at the election are in favor of incurring the indebtedness, the board may by resolution at any time it deems proper provide for the form and execution of the bonds, and for the issuance of any part thereof, and may sell or dispose of the bonds so issued at such times or in such manner either for cash in lawful money

of the United States, or its equivalent as it may deem to be to the public interest.

Legal investments

27227. All bonds issued by the district shall be legal investments for savings banks, and shall have the same force and effect and shall be equivalent to bonds issued by any municipality, and shall be exempt from all taxation within this State.

CHAPTER 13. ISSUANCE OF DISTRICT BONDS AND DISPOSITION OF SURPLUS PROCEEDS

Estimate

27240. At or before the time of issuing any bonds the board shall estimate:

(a) The total cost of constructing or acquiring or both the works for which the bonds are to be issued.

(b) The period of construction of such works.

(c) The amount of bonds which will be required to pay the total estimated cost and to pay interest on the bonds during the estimated period of construction and for six months thereafter.

No bonds shall be issued if the estimated amount of bonds required to pay the estimated cost and interest exceeds the total amount of bonds authorized to be issued by the district.

Additional bonds

27241. If the estimated amount of bonds required to pay the estimated cost and interest exceeds the total amount of bonds theretofore authorized, the board may submit to the electors of the district the proposition of authorizing additional bonds for the purpose of meeting the estimate. No error or informality in any estimate shall invalidate any bonds of the district.

Amounts

27242. Bonds may be issued in accordance with the estimate in such amounts not exceeding the total amount of bonds authorized as will produce a sum sufficient to pay the cost of constructing or acquiring or both the works for which they were authorized and interest on the bonds so issued during the period of construction and six months thereafter. The failure to issue the full amount of bonds authorized shall not invalidate any bonds of the district.

Temporary bonds

27243. Prior to the preparation of definitive bonds the board may issue temporary bonds of any denomination and with or without coupons and subject to the same restrictions imposed upon the issuance of definitive bonds. Temporary bonds shall be exchangeable for definitive bonds upon the issuance of the latter.

Nonincumbency of signing officer

27244. If, after any bond has been duly signed by any properly authorized officer, that officer ceases to hold office, the bond may nevertheless be delivered with the same effect as if it had been signed by the person holding the office at the time of delivery.

Registration

27245. The district bonds may be made registerable as to principal alone or as to both principal and interest under such terms and conditions as may be fixed by the board prior to the issuance thereof.

Purchase by board

27246. The board may purchase district bonds from money in the sinking or other fund for the payment of bonds, at not more than the par value thereof. All bonds so purchased shall be canceled and shall not be issued again.

Reserve interest fund

27247. If after paying the cost of constructing or acquiring or both the works and interest on the bonds during the actual period of construction and for a period of six months thereafter, there is a surplus of the proceeds of the bonds issued by the district, including all premiums paid there shall be set aside out of such surplus in a reserve interest fund an amount equal to one year's interest on the bonds, or, if the surplus shall be less than one year's interest on the bonds, all of the surplus shall be so set aside.

Use of fund

27248. The money in the reserve interest fund shall be deposited in the same manner as other funds of the district or invested in securities which are legal investments for public funds, and the fund shall be used solely for the payment of interest on such bonds whenever there shall be a deficit in the revenues of the works and only to the extent of such deficit.

Proceeds, surplus

27249. If the surplus from the proceeds of the bonds exceeds one year's interest on the bonds, the balance shall be placed in the fund for the payment of the principal of such bonds.

Chapter 14. Rights of Way for District Works

Intersecting waters, etc

27260. The board may construct works across any stream, strait, bay, water course, street, avenue, highway, railway, canal, ditch, or flume which the route of the works may intersect or cross. The works may also be constructed along any street, avenue, or highway, if they are constructed so as to afford security for life and property. The board shall restore the crossings and intersections as nearly as possible to their former state or in a manner not to have impaired unnecessarily their usefulness.

Cooperation

27261. Every person, city or county or public corporation whose right of way is intersected or crossed by the works of the district shall cooperate with the board in forming such intersection or crossing, and grant the necessary rights of way therefor. The district shall pay the necessary expenses of any intersection and damages to any public corporation, city or county or abutting property owner for expenses caused by the construction of the works of the district.

Expenses

Rights of way over State property

27262. The necessary right of way is hereby given, dedicated and set apart to the district to locate, construct and maintain works over and through any of the lands which are the property of this State, including highways, and to have the same rights and privileges appertaining thereto that are granted to cities.

Chapter 15. Toll Charges

Fixation and collection

27280. The board shall fix all tolls for the use of the facilities of travel constructed by the district, and shall collect such tolls through the general manager.

Estimate

27281. The general manager shall furnish the board with an estimate of the tolls necessary to pay the obligations of the district. The board shall, upon the recommendation of the general manager, or such modifications thereof as it may adopt, fix such tolls as will:

(a) Pay the operating expenses of the district.

(b) Provide for repairs and depreciation of works, owned or operated by it.

(c) Pay the interest on any bonded debt, and

(d) As far as possible, provide a sinking or other fund for the payment of the principal of such debt, as it may become due, it being the intention of this part to require the district to pay the interest and principal of its bonded debt from the revenues of the district.

CHAPTER 16. DISPOSITION AND MAINTENANCE OF ADEQUATE DISTRICT REVENUES

Setting aside revenue

27300. The board shall in each fiscal year set aside in separate funds out of the revenues of the works sufficient sums to:

(a) Pay the operating expenses of the district.

(b) Provide for repairs and depreciation of the works.

(c) Pay the interest on district bonds as it becomes due.

(d) Provide a sinking or other fund for the payment of the principal of such bonds as they become due.

Pledge

The revenues of the works are hereby pledged to the aforesaid purposes.

Borrowing

27301. For the purpose of paying the principal or interest of bonds due or to become due within four months, and not otherwise adequately provided for, the district may borrow money in anticipation of the receipt of either the revenues and taxes of the fiscal year in which the loan is made or the revenues and taxes of the next succeeding fiscal year. The money borrowed shall be payable not later than the end of such next succeeding fiscal year.

Notes

27302. Negotiable notes shall be issued for all money borrowed by the district. The notes may be renewed from time to time, and money may be borrowed upon new notes from time to time after the payment of any indebtedness evidenced thereby; but all notes and loans shall mature within the time limited for the payment of the original loan.

Authorization of notes

27303. All notes shall be authorized by a resolution of the board, which shall fix the actual or maximum face amount of the notes, the actual or maximum rate of interest to be paid upon the amount borrowed, which shall not exceed the maximum rate permitted by law, and the actual or approximate maturity of the notes.

The form and manner of execution of the notes shall be determined by the board and the notes may be disposed of in such a manner as the board may determine.

Levy of tax

27304. After the completion of construction of the works, the board shall, in the month of July in each year, cause a

tax to be levied and collected in the manner provided in Chapter 11 of this part. The amount of such tax, after deducting any available and applicable moneys on hand (exclusive of moneys in the reserve interest fund) and the estimated amount of revenues of the works for the ensuing 12 months, which estimated amount shall not exceed the actual revenues for the preceding 12 months or, if the works have not been in operation for as long as 12 months, not to exceed an amount computed on the basis of the average daily revenues for the lesser period, shall be sufficient to produce the sums required to be set aside into separate funds by Section 27300, as well as any deficit in such funds and the principal and interest of any outstanding revenue and tax anticipation notes.

Liability for tax

27305. The taxes required to be levied and collected under this chapter shall be in addition to all other taxes levied for county purposes, and all taxable property of the district shall be and remain liable to be taxed as provided in this chapter until the entire principal and interest of the bonded indebtedness of the district has been paid in full.

Disposal of surplus revenues

27306. If the revenues of the works for any fiscal year produce a surplus over and above an amount sufficient to provide the sums required to be set aside out of the revenues and the amount of any deficit of revenues for any preceding fiscal year and a sum equal to the estimated operating expenses of the district and repairs of the works for the ensuing six months, there shall be set aside out of that surplus and deposited in the reserve interest fund a sum equal to one year's interest on the bonds then outstanding less the amount already contained in such reserve interest fund. Any remainder of the surplus shall be divided by the board and apportioned to each county within the district in the proportion which the assessed value of property within the county or part of a county within the district bears to the total assessed value of all the property within the district. If only a part of a county is within the district, the amount so apportioned to that county shall be deemed a partial payment of county taxes for the current or next succeeding year upon property situate within that portion of the district which lies within that county, and shall be credited pro rata against those taxes.

CHAPTER 17. ANNEXATION OF TERRITORY

Resolution

27320. Any county or any portion thereof may be added to the district at any time, in accordance with the provisions of this chapter by resolution of the board upon request of the board of supervisors of the county by an ordinance applying for permission for the county or portion thereof to become a part of the district.

Terms

27321. If the annexation of any county or portion thereof is proposed to any district already organized the board shall prescribe the terms upon which the territory proposed to be

annexed shall be admitted, including the payment of a just proportion of the organization and preliminary expenses originally incurred by the district. No county or portion thereof shall be annexed without first complying with those terms.

Where bonded debt has been incurred

27322. If the board consents to the annexation after any bonded debt of this district has been authorized, the board of supervisors so applying for annexation shall call an election at which the proposition to join the district and assume the obligation of the bonds of the district along with the territory already included therein, shall be submitted to the electors of the county or portion thereof as one proposition.

Election

Unless the proposition receives two-thirds of the vote cast at the election the county or part thereof shall not be annexed to the district. If the proposition carries by two-thirds or more of the votes cast at the election the result of the election shall be certified to the Secretary of State by the county clerk of the county and thereupon the Secretary of State shall give

Notice

notice and call for protests in the same manner as upon the original incorporation of the district.

Where not incurred

27323. If the district has not incurred a bonded indebtedness at the time of the application by the board of supervisors to join the district, the county or part thereof may be annexed if the board of supervisors passes an ordinance declaring its intention to join the district and upon petition presented in the manner provided in this part for the organization of the

Notice

district. The petition shall be presented to the Secretary of State, who shall give notice of the presentation thereof, and of the date set for receiving protests against the annexation in the same manner as for original petitions, and all of the provisions of this part which are applicable to original petitions shall be applicable to petitions for annexations.

Certificate of annexation

27324. After all protests have been disposed of in the same manner as protests upon the incorporation of the district, the Secretary of State shall issue his certificate certifying to the annexation and describing the boundaries of the district as finally determined, which certificate shall be recorded in the office of the county recorder of each county wherein any portion of the annexed territory is located, and thereupon the

Appointment of director

boards of supervisors of the county shall appoint a member or members of the board to serve until the expiration of the term of the directors then holding for the term of office that will soonest expire.

Annexation

27325. Upon the issuance of the certificate of annexation by the Secretary of State the territory named therein shall become a part of the district.

New section

SEC. 2. Section 50007 is added to Division 50 of said code, to read:

Repeal

50007. Chapter 228 of the Statutes of 1923, at page 452, together with all acts amendatory thereof and supplementary thereto, is hereby repealed.

CHAPTER 287

An act to add Section 50008 to Division 50 of the Streets and Highways Code, thereby repealing certain special statutes, relating to roads, bridges and highways.

Stats. 1935, p 248, amended

[Approved by Governor April 29, 1943 Filed with Secretary of State April 29, 1943]

In effect August 4, 1943

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

SECTION 1. Section 50008 is added to Division 50 of the Streets and Highways Code, to read:

New section

50008. The following acts, together with all acts amendatory thereof or supplementary thereto, are hereby repealed:

Repeals

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1851	71	323
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1852	78	150
1852	150	238
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1854 (special)	26	149
Supplemented		
1856	102	123
1854 (special)	36	154
1854 (special)	44	164
1854 (special)	77	189
1855	202	270
1857	150	175
1857	235	272
Supplemented		
1858	65	50
1857	241	291
1858	64	48
1858	280	242
1858	317	303
1858	322	307
1858	328	313
1858	350	336
1859	138	133
1859	194	201
1859	195	204
1859	256	260
1859	277	303
1859	295	323
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1860	359	344
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1861	98	78
1861	112	91
1861	119	97
1861	148	148
1861	165	164
1861	188	181
1861	189	182
1861	201	196
1861	240	245
1861	241	246
1861	246	250
1861	258	261
1861	267	268
1861	290	284
1861	295	292
1861	298	294
1861	306	300
1861	311	303
1861	327	313
1861	334	345
1861	337	347
1861	379	387
1861	428	489
1861	470	524
1861	510	579
1862	4	3
1862	22	16
1862	26	19
1862	39	32
1862	42	33
1862	50	39
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1862	260	283
1862	263	293
1862	300	407
1862	306	422
1862	314	427
1862	315	429
1862	319	435
1862	358	479
1862	370	490
1862	376	495
1862	384	506
1862	438	560
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1863	1	1
1863	10	12
1863	16	20
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1863	74	73
1863	91	99
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1863	120	142
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1863	213	294
1863	249	324
1863	255	330
1863	261	346
1863	262	348
1863	323	485
1863	328	491
1863	343	500
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1863	360	557
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1863	477	744
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1863-1864	57	56
1863-1864	109	101
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1863-1864	218	222
1863-1864	300	308
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1863-1864	365	405
1863-1864	370	416
1863-1864	374	421
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1863-1864	405	460
1863-1864	447	496
1863-1864	475	533
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1865-1866	56	37
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1865-1866	86	59
1865-1866	126	112
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1865-1866	133	119
1865-1866	152	133
1865-1866	169	152
1865-1866	177	158
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1865-1866	400	488
1865-1866	402	490
1865-1866	403	491
1865-1866	407	503
1865-1866	414	520
1865-1866	416	524
1865-1866	428	538
1865-1866	453	584
1865-1866	454	585
1865-1866	460	591
1865-1866	472	614
1865-1866	492	632
1865-1866	523	681
1865-1866	530	690
1865-1866	532	692
1865-1866	560	782
1865-1866	564	785
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1865-1866	598	825
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1867-1868	100	86
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1867-1868	181	159
1867-1868	185	168
1867-1868	217	208
1867-1868	270	283
1867-1868	311	350
1867-1868	363	433
1867-1868	380	463
1867-1868	413	505
1867-1868	426	541
1867-1868	449	594
1867-1868	451	600
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1869-1870	364	503
1869-1870	378	519
1869-1870	434	626
1869-1870	445	650
1869-1870	447	651
1869-1870	471	693
1869-1870	486	711
1869-1870	487	712
1869-1870	500	728
1869-1870	525	782
1869-1870	566	864
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1871-1872	4	4
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1871-1872	49	47
1871-1872	160	180
1871-1872	176	206
1871-1872	177	209
1871-1872	211	270
1871-1872	219	283
1871-1872	261	361
1871-1872	267	367
1871-1872	287	390
1871-1872	349	478
1871-1872	357	511
1871-1872	380	535
1871-1872	382	538
1871-1872	410	579
1871-1872	416	584
1871-1872	433	646
1871-1872	446	662
1871-1872	479	708
1871-1872	484	714
1871-1872	534	769
1871-1872	539	779
1871-1872	613	901
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1873-1874	239	341
1873-1874	241	342
1873-1874	260	358
1873-1874	262	359
1873-1874	291	425
1873-1874	312	444
1873-1874	332	479
1873-1874	333	487
1873-1874	367	527
1873-1874	382	544
1873-1874	387	556
1873-1874	414	588
1873-1874	415	589
1873-1874	416	590
1873-1874	421	599
1873-1874	433	607
1873-1874	462	693
1873-1874	485	715
1873-1874	500	728
1873-1874	507	740
1873-1874	514	750
1873-1874	576	815
1875-1876	73	47
1875-1876	101	72
1875-1876	157	157
1875-1876	229	303
1875-1876	230	304
1875-1876	317	406
1875-1876	326	433
1875-1876	327	443
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1875-1876	359	500
1875-1876	366	509
1875-1876	389	531
1875-1876	399	563
1875-1876	458	653
1875-1876	481	726
1875-1876	495	753
1875-1876	507	762
1875-1876	509	772
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1877-1878	187	232
1877-1878	189	234
1877-1878	195	241
1877-1878	223	270
1877-1878	237	287
1877-1878	282	341
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1877-1878	296	372
1877-1878	302	381
1877-1878	305	384
1877-1878	317	419
1877-1878	339	453
1877-1878	340	453
1877-1878	342	455
1877-1878	349	532
1877-1878	361	544
1877-1878	398	586
1877-1878	412	601
1877-1878	417	614
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1877-1878	459	701
1877-1878	486	749
1877-1878	517	801
1877-1878	518	802
1877-1878	531	829
1877-1878	533	832
1877-1878	547	849
1877-1878	581	923
1877-1878	587	931
1877-1878	588	931
1877-1878	591	932
1877-1878	620	959
1877-1878	622	961
1877-1878	633	966
1877-1878	646	998
1877-1878	657	1019
1880	98	105
1891	183	263

CHAPTER 288

An act to amend Sections 23, 23a, 23b, 24.1 and 24.5, and to repeal Sections 19, 25, 26, 26a, 26b, 26c, 27, 31, 31a, 31b, 31c, 31d, 31e, 31f, 31g and 32 of the Alcoholic Beverage Control Act and to add thereto new sections to be designated Sections 19, 23c, 23d, 26, 27 and 38.2, relating to the taxation of beer and wine and to provide that this act shall take effect immediately.

Stats 1935, p 1123, amended

[Approved by Governor April 29, 1943. Filed with Secretary of State April 29, 1943.]

In effect immediately

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

SECTION 1. Section 23 of the Alcoholic Beverage Control Act is hereby amended to read as follows:

Stats 1941, p 1850

Sec. 23. An excise tax is hereby imposed upon all beer and wine sold in this State by a manufacturer or importer, except as otherwise in this act provided, at the following rates:

Excise tax on beer and wine

(a) On all beer sixty-two cents ($0.62) for every barrel containing 31 gallons and at a proportionate rate for any other quantity; (b) on all still wines containing not more than 14 per cent of absolute alcohol by volume, one cent ($0.01) per wine gallon and at a proportionate rate for any other quantity; (c) on all still wines containing more than 14 per cent of absolute alcohol by volume two cents ($0.02) per wine gallon and at a proportionate rate for any other quantity; (d) on champagne, sparkling wine, excepting sparkling hard cider, whether naturally or artificially carbonated one and one-half cents ($0.01½) on each bottle or other container for each half pint or fraction thereof contained therein; (e) on sparkling hard cider two cents ($0.02) per wine gallon and at a proportionate rate for any other quantity.

SEC. 2. Section 23a of the Alcoholic Beverage Control Act is hereby amended to read as follows:

Stats 1937, p. 2126

Sec. 23a. Beer consumed by employees of manufacturers upon the premises of such manufacturers shall be exempted from the excise tax mentioned in Section 23 hereof under such rules and regulations as the board may prescribe.

Exemption

SEC. 3. Section 23b of the Alcoholic Beverage Control Act is hereby amended to read as follows:

Stats. 1937, p. 2126

Sec. 23b. It shall be presumed, for the purposes of this act, that all beer manufactured in this State by a manufacturer, or delivered to a manufacturer here, has been sold in this State by such manufacturer unless proven to the satisfaction of the board, in verified reports on forms prescribed by the board, that such alcoholic beverage (1) is still in the possession of such licensee or (2) has been sold and delivered to another manufacturer of such alcoholic beverage or (3) has been exported without this State or sold for export by the licensee making the report, or (4) prior to the termination of

Presumption re beer

possession has been lost through unintentional destruction, or (5) was spoiled beer which was destroyed in the presence of a representative of the board or of the United States Bureau of Internal Revenue, or (6) prior to the termination of possession has been unaccountably lost, but such unaccounted for loss shall not exceed a tolerance to be fixed by the board; or (7) is beer otherwise exempted from taxation under this act.

Exempt sales

No excise tax mentioned in Section 23 hereof shall be or is imposed by this act upon any beer exported by a licensed manufacturer from within this State to any place without the State or sold by a licensed manufacturer for export from within this State to any place without the State and actually exported from this State or upon any beer specifically mentioned in any subdivision (1) to (7) of this section, and no excise tax mentioned in Section 23 hereof shall be or is imposed by this act upon any transaction whereby any beer is sold by the licensed manufacturer to another licensed manufacturer.

Any claim for exemption from excise tax under this section must be made to the board, in such manner as the board shall prescribe.

Credit

In the event excise taxes under this act have been paid on beer subsequently exported from the State or sold for export and actually thereafter exported from this State, a taxpayer may claim and shall be allowed credit with respect to such tax in any report filed or assessment made under this act.

Stats 1941, p 1544

SEC. 4. Section 24.1 of the Alcoholic Beverage Control Act is hereby amended to read as follows:

"Taxpayer"

Sec. 24.1. "Taxpayer," whenever used in this act, means a person liable for the payment of a tax pursuant to the provisions of this act.

Stats 1941, p 1544

SEC. 5. Section 24.5 of the Alcoholic Beverage Control Act is hereby amended to read as follows:

Bond for payment of excise taxes

Sec. 24.5. Every taxpayer as defined in this act is required to file with the board in such form as the board prescribes a bond or bonds duly executed by such taxpayer as principal and a corporation such as is mentioned in Section 1056 of the Code of Civil Procedure in this State, as surety, payable to the people of the State of California, conditioned upon the payment of all excise taxes, penalties, and other obligations of the taxpayer arising under this act.

Subject to the limitations provided in this section, the board shall fix the total amount of the bond or bonds required of any taxpayer and may increase or reduce the amount at any time. In fixing the total amount, the board shall require a bond or bonds equivalent in total amount to twice the taxpayer's estimated monthly excise tax ascertained in such manner as the board may deem proper. The total amount of the bond or bonds required of any taxpayer shall never be less than five hundred dollars ($500) nor more than two hundred thousand dollars ($200,000).

SEC. 6. Sections 19, 25, 26, 26a, 26b, 26c, 27, 31, 31a, 31b, 31c, 31d, 31e, 31f, 31g and 32 of the Alcoholic Beverage Control Act are hereby repealed. Repeals

SEC. 7. A new Section 19 is hereby added to the Alcoholic Beverage Control Act, to read as follows: New section

Sec. 19. A wine manufacturer's license shall only be issued to, or held by, a person operating a winery, wine storeroom or field warehouse bonded under the internal revenue laws of the United States. Every person operating a winery or wine storeroom bonded under the internal revenue laws of the United States shall apply for, and hold, a wine manufacturer's license. Wine manufacturer's license

SEC. 8. A new Section 23c is hereby added to the Alcoholic Beverage Control Act, to read as follows: New section

Sec. 23c. It shall be presumed, for the purposes of this act, that all wine removed from a winery or wine storeroom bonded under the internal revenue laws of the United States on payment of the internal revenue tax by a wine manufacturer has been sold in this State by such manufacturer unless proven to the satisfaction of the board, in verified reports, on forms prescribed by the board, that such wine (1) has been exported from this State or sold for export by the manufacturer making the report and actually exported from this State (2) is otherwise exempt from taxation under this act. In the event excise taxes under this act have been paid on wine subsequently exported from this State or sold for export and actually thereafter exported from this State, a taxpayer may claim and shall be allowed a credit with respect to such tax in any report filed or assessment made under this act. Presumption re wine

Exempt sales

No excise tax mentioned in Section 23 hereof shall be or is imposed by this act upon any wine sold or delivered in internal revenue bond to another wine manufacturer in this State.

SEC. 9. A new Section 23d is hereby added to the Alcoholic Beverage Control Act, to read as follows: New section

Sec. 23d. It shall be presumed, for the purposes of this act, that all beer and wine imported into this State by a beer or wine manufacturer or importer has been sold in this State at the time such alcoholic beverage is received by such licensee unless proven to the satisfaction of the board, on forms prescribed by the board, that such beer or wine (1) is still in the possession of such wine manufacturer in internal revenue bond within this State, or (2) has been exported from this State by the licensee making the report, or has been sold by such licensee for export and actually exported from this State, or (3) is otherwise exempt under this act. In the event excise taxes under this act have been paid on beer or wine subsequently exported from the State or sold for export and actually thereafter exported from this State, a taxpayer may claim and shall be allowed credit with respect to such tax in any report filed or assessment made under this act. Presumption of sale in State

Credit

New section

SEC. 10. A new Section 26 is hereby added to the Alcoholic Beverage Control Act, to read as follows:

When tax payable

Sec. 26. The excise tax imposed by Section 23 hereof is a direct obligation of the taxpayer and shall be due and payable monthly on or before the first day of the second calendar month following each calendar month.

Return

Each taxpayer on or before the first day of August, 1943, and on or before the first day of each and every month thereafter, shall make out a verified return for the month preceding the previous calendar month, in such form as shall be prescribed by the board, showing the amount of beer or wine sold in this State, the amount of tax for the period covered by the return, together with such other information as the board may deem necessary. The taxpayer shall deliver the return, together with a remittance of the amount of tax due to the office of the board on or before such date.

Presumptions

It shall be presumed for the purpose of this act that any wine in the possession of a wine manufacturer at 12 o'clock midnight, June 30, 1943, on which the United States internal revenue tax had been previously paid, but on which the excise tax imposed by Section 23 of this act had not been paid, and that any beer or wine in the possession of a beer or wine importer at 12 o'clock midnight, June 30, 1943, previously imported into California, but on which the tax imposed by Section 23 of this act had not been paid, has been sold, and such wine manufacturer or beer or wine importer shall pay the tax imposed by Section 23 of this act. Such wine manufacturer or beer or wine importer shall file a report of such beer or wine, together with a remittance of the amount of tax due, to the office of the board on or before August 1, 1943.

New section

SEC. 11. A new Section 27 is hereby added to the Alcoholic Beverage Control Act, to read as follows:

Distilled spirits

Sec. 27. All of the provisions of Sections 27b, 27c, 30, 33, 33a, 33b, 33c, 33d, 33f, 33g, 34a, 34b, 34c, 34d, 34f, 34g, 34h, 34i and 34j shall apply to beer and wine with the same force and effect as they apply to distilled spirits. Whenever the words "distilled spirits" occur in such sections they shall include "beer and wine," and whenever the words "Section 24" occur in said sections they shall include "Section 23."

New section

SEC. 12. A new Section 38.2 is hereby added to the Alcoholic Beverage Control Act, to read as follows:

Rules and regulation

Sec. 38.2. The board shall adopt such rules and regulations as may be necessary to coordinate the system of wine taxation imposed by this act with the system of wine taxation imposed by the internal revenue laws of the United States.

SEC. 13. Nothing herein contained shall affect any liability for excise taxes imposed upon the sale of alcoholic beverages occurring prior to the operative date of this act.

Constitutionality

SEC. 14. If any section, subsection, clause, sentence or phrase of this act which is reasonably separable from the remaining portion of this act is for any reason held to be unconstitutional, such decision shall not affect the remaining

portions of this act. The Legislature hereby declares that it would have passed the remaining portions of this act irrespective of the fact that any section, subsection, clause, sentence or phrase of this act be declared unconstitutional.

SEC. 15. This act, inasmuch as it provides for a tax levy for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately; provided, however, that the provisions of the Alcoholic Beverage Control Act as they existed on January 1, 1943, are hereby continued in force and effect until July 1, 1943, and that the provisions of this act shall become operative on July 1, 1943. Tax levy

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CHAPTER 289

An act to amend Sections 528 and 540 of the Political Code, relating to State printing.

[Approved by Governor April 29, 1943. Filed with Secretary of State April 29, 1943.] In effect August 4, 1943

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

SECTION 1. Section 540 of the Political Code is amended to read: Stats 1899, p. 68

540. Subdivision 1. There is hereby created a fund to be known as the State Printing Fund of the State Treasury. State Printing Fund

Subdivision 2. The State Printing Fund shall consist of all moneys appropriated by the Legislature for the support of the State Printing Office, and all moneys received into the State Treasury from any source whatever in payment of all printing, ruling, and binding done in the State Printing Office. From it all expenses for the support of the State Printing Office shall be paid.

Subdivision 3. The reports of all State officers, boards of officers, commissions, trustees, regents, and directors, required or authorized by law to make reports, or to publish any circulars, bulletins, and to obtain any printed books, stationery, or printed matter of any kind, must be printed, ruled, and bound at the State Printing Office, at the expense of their respective funds or appropriations, after being first authorized in each instance by the State Board of Examiners. Reports of State officers, etc

Subdivision 4. The State Printer, subject to the approval of the Department of Finance, shall install a cost system for prepricing all orders for printing executed in the State Printing Plant and compile a schedule showing the value of each of the different types of work or operations which can be performed. The schedule shall be subject to revision and modification by the State Printer and the Department of Finance whenever the necessity therefor shall arise. Cost schedule

Transfer

Subdivision 5. The Controller and Treasurer are hereby authorized and directed to transfer from the General Fund to the State Printing Fund any and all moneys appropriated from time to time by the Legislature for the support of the State Printing Office.

Monthly reports

Subdivision 6. The Superintendent of State Printing shall render monthly reports to the State Controller of all moneys received under the provisions of this section, and shall pay same into the State Treasury to the credit of the State Printing Fund.

Transfer

Subdivision 7. The Board of Examiners may at any time order the Controller to transfer money from the sum allowed to any officer, board, or other body mentioned in Subdivision 3 of this section, for printing and other work at the State Printing Office, to the credit of any other such officer, board, or other body that may need the same, and whose allowance for that purpose has been exhausted.

Stats 1943, Ch 135

SEC. 2. Section 528 of said code is amended to read:

Printing and sale of statutes

528. 1 There must be printed of the laws of each session of the Legislature, 1,800 copies in English, to be deposited with the Secretary of State, who, after retaining a sufficient number of said volumes for distribution, in accordance with the provisions of Section 410 of the Political Code, shall sell the remaining copies at a price to be approved by the State Board of Control, who may authorize the Superintendent of Printing to compile and print any number of additional copies; the moneys thus received to be paid into the State Treasury at the end of each month.

Printing and distribution of individual laws

2. Whenever a law is signed by the Governor, official notice shall be forwarded, in writing, to the Superintendent of State Printing of the fact. Upon the receipt of said official notice, the Superintendent of State Printing shall cause to be printed, for the use of the Legislature, 240 copies of said law, joint or concurrent resolution, to be distributed, one-third to the Senate and two-thirds to the Assembly, the Sergeant-at-Arms of the respective houses to receipt to the Superintendent of State Printing for the same, whose receipt shall be a proper voucher for the work. He shall also cause to be printed the requisite number of sheets to make the number of copies of the Statutes required by law to be printed, the one composition of type to answer the purpose of printing the three editions.

Delivery to Secretary of State

The Superintendent of State Printing shall have the laws, Journals of Senate and Assembly, and the appendices thereto, properly indexed and bound, the laws in law buckram binding, and deliver the same to the Secretary of State for distribution as soon as practical after the final adjournment of the Legislature, and the receipt of the Secretary of State shall be his voucher therefor.

CHAPTER 290

An act to add Section 39 1 to the Fish and Game Code, relating to open seasons, and providing a penalty for the breach thereof.

Stats 1933, p 394, amended

[Approved by Governor April 29, 1943 Filed with Secretary of State April 29, 1943]

In effect August 4, 1943

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

SECTION 1. Section 39 1 is added to the Fish and Game Code, to read:

New section

39 1 Whenever after due investigation the commission shall find that big game animals and upland game birds have increased in numbers in any fish and game district or refuge to such an extent that a surplus exists, or to such an extent that such animals or birds are damaging public or private property, or are overgrazing their range, the said commission, with the approval of the Director of the Department of Natural Resources and with the consent of the Governor, is hereby authorized and directed to provide for a special hunting season for such animals and birds, additional to, or concurrent with any open season specified by law; or to provide for increased bag limits; or to remove sex restrictions specified by law. The Fish and Game Commission may fix a license fee for special hunting, designate the number of special licenses to be issued, the area in which such hunting will be permitted, the number and sex of animals or birds that may be killed by each holder of special license, and the conditions and regulations to govern such hunting. The money received from the sale of such licenses shall be paid into the State Fish and Game Preservation Fund

Special hunting season, etc

License fee

CHAPTER 291

An act to add Section 1752 7 to the Welfare and Institutions Code, relating to the collection of statistics and other information by the Youth Correction Authority, and requiring public officers and employees to furnish statistics and other information to the Authority.

Stats 1937, p 1005, amended

[Approved by Governor April 29, 1943 Filed with Secretary of State April 29, 1943.]

In effect August 4, 1943

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

SECTION 1 Section 1752.7 is added to the Welfare and Institutions Code, to read:

New section

1752.7 The Authority may collect statistics and information regarding juvenile delinquency, crimes reported and discovered, arrests made, complaints, informations, and indictments filed and the disposition made thereof, pleas, convictions,

Statistics

acquittals, probations granted or denied, commitments to and transfers and discharges from places of incarceration, and other data and information useful in determining the cause and amount of crime in this State, or in carrying out the powers and duties of the Authority.

All officers and employees of the State and of every county and city shall furnish to the Authority upon request such statistics and other information within their knowledge and control as the Authority deems necessary or proper to be collected by it pursuant to the provisions of this section.

CHAPTER 292

Stats 1933, p 394, amended

An act to amend Section 1346 of the Fish and Game Code, relating to antelope, and declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor April 29, 1943. Filed with Secretary of State April 29, 1943.]

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

Stats 1941, p 3091

SECTION 1. Section 1346 of the Fish and Game Code is amended to read:

Male antelope

1346. Male antelope may be taken during any 10 consecutive days, as may be determined and fixed by the commission, between May 20th and September 30th but only as provided in this section. The commission shall prepare applications, pursuant to this section, and such applications shall be filed with the commission, 30 days prior to the opening day of hunting as may be prescribed by the commission, of each year. If 500 applications, or any lesser number of applications, are filed, the commission shall grant special permits to each application. If more than 500 applications are filed, the commission shall grant permits by lot. In no event, however, shall more than one permit in any calendar year be given to any one person. The fee for each permit issued shall be five dollars ($5). The fees provided herein shall be deposited in the Fish and Game Preservation Fund. The commission may make such regulations not in conflict with this section as it deems desirable and may authorize the taking of male antelope pursuant to this section and such regulations in any district or area in this State, including game refuges.

The provisions of Section 1275.5 of this code shall apply to the possession of antelope meat.

Urgency

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

Inasmuch as application to hunt antelope must be filed prior to the first day of the month of May, it is necessary that this

act go into immediate effect as otherwise prospective applicants would not have previous knowledge of the dates for open season for the hunting of antelope as provided by this act.

CHAPTER 293

An act making an appropriation to be expended under the direction of the Governor to effectuate the purposes of the California State War Powers Act, to take effect immediately.

[Approved by Governor April 29, 1943. Filed with Secretary of State April 29, 1943.] In effect immediately

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

SECTION 1. Out of any money in the State Treasury not otherwise appropriated there is hereby appropriated the sum of one million five hundred thousand dollars ($1,500,000), or as much thereof as may be necessary, to be expended, under the direction of the Governor, in carrying out the objects and purposes of the California War Powers Act. Appropriation California War Powers Act

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

The war in which the United States is engaged demands that effective steps in preparation for complete defense of the State and its institutions, people, industries and interests shall be taken without delay, and that the legislation of this State in support of the National war effort shall be fully implemented.

SEC. 3. Section 1 of this act shall become operative if and at the same time as the California War Powers Act becomes effective. Operative date

CHAPTER 294

An act to amend Sections 1509.4 and 1571 of and to add Sections 1509.6, 1509.7, 1509.8, and 1509.9 to the Military and Veterans Code, relating to and providing for State and local participation in civilian defense and the war effort and for the administration of the California War Powers Act, declaring the urgency hereof, to take effect immediately. Stats 1935, p. 1338, amended

[Approved by Governor April 29, 1943. Filed with Secretary of State April 29, 1943.] In effect immediately

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

SECTION 1. Section 1509.4 of the Military and Veterans Code is hereby amended to read as follows: Stats First Ex. Sess 1943, Ch 1

1509.4. No salary provided by this chapter shall exceed the sum of seven thousand five hundred dollars ($7,500) per Maximum salary

Rights of civil service appointee

annum. Any State civil service employee who may be appointed by the Governor to any position under this chapter has the right, upon termination of such appointment, to be reinstated to the civil service position vacated by him upon his acceptance of such appointment hereunder, and during the period of his appointment hereunder shall as to vacation, sick leave, continuity of service and seniority have and enjoy the same rights and privileges as he would if he were holding a position in the State civil service.

New section

SEC. 2. Section 1509.6 is added to said code, to read:

Powers of Governor

1509.6. In carrying out the provisions of this chapter, the Governor may:

(a) Procure and maintain offices in such parts of the State as may be necessary or convenient;

(b) Acquire property, real or personal, or interests therein;

(c) Cooperate and contract with public and private agencies for the performance of such acts, the rendition of such services and the affording of such facilities as may be necessary and proper;

(d) Do such other acts and things as may be necessary and incidental to the exercise of powers and the discharge of duties conferred or imposed by the provisions of this chapter.

New section

SEC. 3. Section 1509.7 is added to said code, to read:

Assistance

1509.7 Each department, division, bureau, board, commission, and officer of this State and of each agency, political subdivision, or local governmental unit of the State shall render all possible assistance to the Governor in carrying out the provisions of this chapter.

New section

SEC. 4. Section 1509.8 is added to said code, to read:

Transfer: Duties, etc

1509.8. Except as in this chapter otherwise provided the War Council succeeds to and is vested with all the duties, powers, purposes, responsibilities and jurisdiction of the State Council of Defense; and except as in this chapter otherwise provided whenever by the provisions of any statute or law now in force or that may hereafter be enacted a duty or jurisdiction is imposed or authority conferred upon the State Council of Defense such duty, jurisdiction and authority are hereby imposed upon and transferred to the War Council and the appropriate officers thereof with the same force and effect as though the title of the War Council had been specifically set forth and named therein in lieu of the State Council of Defense.

Books and funds

The War Council and the appropriate officers thereof shall be in possession and control of all records, books, papers, offices, equipment, supplies, moneys, funds, appropriations, land and other property, real or personal, now or hereafter in the custody or under the control of the State Council of Defense or held for the benefit or use of the State Council of Defense.

New section

SEC. 5. Section 1509.9 is added to said code, to read:

Expenditures

1509.9. The Governor and the War Council are empowered to expend the moneys in any appropriation or in any special fund in the State treasury now remaining or made available

by law for expenditure by the California State Council of Defense or for the use, support or maintenance of the California State Council of Defense.

Stats First Ex Sess 1943, Ch 1

SEC. 6. Section 1571 of said code is amended to read:

1571. The emergency power which may be vested in a local commander, during a period of a state of extreme emergency duly proclaimed as provided in this chapter, shall be subject or subordinate to the powers herein vested in the Governor and in the regional civilian protection officer of the protective region in which such county, city and county or city is located.

Limit on local commander powers

SEC. 7. The provisions of Sections 1 to 6, inclusive, of this act shall become and be operative and applicable on and after the day when the California War Powers Act takes effect.

Effective date

SEC. 8. This act is an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and as such shall take effect immediately. The following is a statement of the facts constituting such necessity:

Urgency

The California War Powers Act will soon take effect. The amendments and additions which are hereby made thereto are urgently necessary to assure immediate and completely effective State, local and regional participation in civilian defense and the war effort.

CHAPTER 295

An act to repeal Chapter 3 of Part 2 of Division 2 of the Military and Veterans Code and Sections 8, 9, 10, 11 and 12 of the California Guard Act of 1942 and to add Chapter 4 to Part 2 of Division 2 of the Military and Veterans Code relating to the California State Guard, providing for the pay, privileges, allowances and rights of the California State Guard, for the organization and administration of the California State Guard to permit the efficient operation thereof consistent with such privileges, allowances and rights, permitting school districts to make school busses available for use by the California State Guard, declaring the urgency of this act, and providing that it shall take effect immediately.

Stats 1937, p 1338, amended
Stats First Ex Sess 1941, Ch 19

[Approved by Governor May 1, 1943. Filed with Secretary of State May 2, 1943.]

In effect immediately

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

SECTION 1. The Legislature declares that it is the policy of the people of the State of California to accept and assume the responsibility for internal security of facilities and commodities within the State in accordance with the basic United States War Department policy as expressed in paragraph 3

Policy

of the War Department's Memorandum No. S 380-4-43, dated February 18, 1943, which reads:

"The primary responsibility for the internal security of facilities or commodities rests upon the operators, owners, and local and State Governments. It is of the utmost importance that appropriate military commanders make every effort to impress upon operators, owners, and State and local officials the extreme importance of their assuming their full responsibility in this matter. Federal troops will be used for such purposes only when the above-mentioned responsible agencies have exhausted their available means or when the protection furnished, in the opinion of the appropriate military commander, is inadequate."

The State of California is in an area designated as a combat zone and has heretofore provided for the organization and equipment of a State Guard. It has been impossible to recruit, maintain and equip the organization in a manner to enable the State to effectively and properly assume the responsibility herein outlined, because the United States Selective Service System has not provided deferments to enable the State Guard to enlist and keep sufficient personnel for, and Federal priorities on arms, ammunition, material, communications and transportation have prevented proper maintenance of, the State Guard. It is therefore necessary that the rights and privileges of the State Guard be immediately redefined and that an effective State Guard be provided to meet the demands of State and National defense and for the internal security of the facilities or commodities in this State.

Operation under existing law

SEC. 2. The State Guard shall continue to operate under the provisions of law heretofore in effect, until the Governor shall determine and declare by proclamation that the Selective Service System has provided deferments for personnel and Federal priorities have been adjusted to allow the State Guard to be recruited to effective strength and be properly armed and equipped, or until July 1, 1943, whichever first occurs.

If the Governor shall issue the proclamation above referred to prior to July 1, 1943, the State Guard shall be organized and shall operate under the provisions of this Chapter 4 of Part 2 of Division 2 of the Military and Veterans Code which is added by this act. If the proclamation shall not be issued prior to July 1, 1943, no active units shall be organized or operate under said chapter.

Repeals

SEC. 3. Chapter 3 of Part 2 of Division 2 of the Military and Veterans Code and Sections 8, 9, 10, 11 and 12 of the California Guard Act of 1942, are repealed, to take effect July 1, 1943.

New chapter

SEC. 4. Chapter 4 is added to Part 2 of Division 2 of the Military and Veterans Code, to read:

CHAPTER 4. VOLUNTARY ORGANIZATIONS

Short title

560. This chapter shall be known and may be cited as the California State Guard Act of 1943.

State Guard

561. Whenever any part of the National Guard of the State is in active Federal service, the Governor is hereby authorized to organize and maintain within the State during such period, under such rules and regulations as the Secretary of War may prescribe for discipline in training, such military forces as the Governor may deem necessary to defend the State and for the internal security of facilities or commodities within the State. Such forces shall be known as the California State Guard and shall be composed of:

(a) The Adjutant General, and the commissioned and enlisted personnel comprising his staff.

(b) Active units.

(c) Inactive units.

Two commissioned officers and three noncommissioned officers may be placed on active duty for each 1,000 inactive enlistees, whether or not active forces be organized.

Membership

562. The California State Guard shall be composed of officers commissioned or assigned, such able-bodied male citizens, or aliens who have declared their intentions to become citizens as shall volunteer for active or inactive service therein, and, such able-bodied female citizens or aliens who have declared their intention of becoming citizens who shall volunteer for active or inactive service as nurses therein.

Such forces shall be additional to and distinct from the National Guard.

Rules and regulations

563. The rules and regulations governing the California State Guard shall, when not inconsistent with the provisions of this chapter or rules and regulations prescribed by the Governor, conform to existing laws governing and pertaining to the National Guard and the rules and regulations promulgated thereunder, and shall prohibit the acceptance of gifts, donations, gratuities or anything of value by such forces or by any member of such forces from any person, firm, association or corporation by reason of such membership.

Expenses

564. There shall be allowed to each organization out of the appropriation for military purposes an amount fixed by The Adjutant General sufficient to pay for armory rental, janitor service, clerical service, recruiting, care of arms and equipment, purchase of ammunition, and proper incidental expenses; no obligation, however, shall be incurred except when authorized by The Adjutant General.

Active force

565. The active force shall be of such number as the Governor may deem necessary but not to exceed two infantry regiments and necessary auxiliary troops which shall be organized in conformity with the United States Army Table of Organization.

Inactive force

566. The inactive force shall be of such number and organization as the Governor deems necessary. It may be called into service, in addition to the active force, only when there exists a state of extreme emergency as defined in Division 7 or in case of local disaster, and no member shall, without his consent, serve outside the county in which he enlisted.

Limited active duty

567. The members of any unit of the California State Guard, including both the active membership and the inactive forces, may at any time voluntarily serve on limited active duty pursuant to the authorization thereof by the Governor or The Adjutant General and subject to such general or special orders as the Governor or The Adjutant General may issue, whenever such service is in connection with National defense problems, or for a limited period of time to be determined by The Adjutant General, for the purpose of instruction and training.

Removal

568. The Adjutant General, with the approval of the Governor, may remove and relieve from service, any officer or member of the California State Guard.

School bus use

569. Upon request of a regimental commander the governing board of any school district may permit the California State Guard to use any school bus owned by the district, without charge, for the transportation of members of the State Guard engaged in State Guard activities. Use of any school bus by the California State Guard shall not impose any liability by reason thereof upon the district or the members of the governing board thereof.

Ornament

570. There shall be prescribed a distinctive ornament to be worn on the left shoulder as part of the uniform of each member of the California State Guard and the same ornament shall be prominently displayed on all official motor vehicles and airplanes used by the California State Guard.

Penalties

571. The members of the California State Guard when called into active service by order of the Governor shall be subject to all military penalties and punishments for violation of the orders of the Governor or any officer placed in command of such organization by order of the Governor.

Articles of War

During such time as the United States is at war the commissioned and enlisted personnel of the State Guard will be subject to the Articles of War governing the Army of the United States, under the same conditions as now apply to the Army of the United States, without the restrictions or modifications heretofore applicable to the members of the National Guard of California. All sentences in excess of two years and all sentences directing dismissal of commissioned officers will be subject to approval by the Governor.

Pay and allowances

572. (a) Commissioned officers of the California State Guard while in active service shall receive the same pay and allowances as officers of similar grade in the Army of the United States, except that there shall be no longevity pay.

(b) Enlisted men of the California State Guard when in active service shall receive the same pay and allowances as are received by enlisted men of the same grade in active service with the Army of the United States, except that there shall be no longevity pay nor dependent allowances.

Termination of pay

573. No officer or member of the California State Guard shall be paid for active service at any time after the National Guard is no longer in active Federal service.

574. All of the members of the California State Guard are hereby declared to be engaged in military service within the meaning of that term as used in Article XXIV of the Constitution of this State and are exempt from civil service. Engagement in military service

575. (a) Members of the California State Guard shall have the right to unemployment insurance benefits and it is the purpose of this section to provide such benefits without loss because of active service with the California State Guard. Unemployment insurance benefits

(b) Benefit rights of members of the California State Guard shall be determined in accordance with the provisions of the Unemployment Insurance Act, except as otherwise provided in this section.

(c) Where there are 45 days (hereinafter referred to as the minimum period) or more of active service within any calendar quarter of the base period as determined under Section 52.2 of the Unemployment Insurance Act, then his benefits shall be determined under whichever of the following methods results in the higher maximum total amount of benefits payable: Computation

1. The base period is to be determined in accordance with Section 52.2 of the Unemployment Insurance Act.

2. (i) The base period is to consist of the first four out of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year, except that every calendar quarter in which the individual was in active service with the California State Guard for the minimum period or more days shall be excluded from the base period and, in lieu of each excluded calendar quarter, a calendar quarter prior to the normal base period shall be considered until there are four calendar quarters, none of which contain the minimum period or more days of active service in the California State Guard, from which to determine his benefits.

(ii) Where benefits are computed and paid upon the basis provided in subparagraph (i), that proportion of benefits based upon quarters within the normal base period as defined in Section 52.2 of the Unemployment Insurance Act, shall be charged against the account of employers employing the individual during the normal base period quarters and that proportion of benefits based upon quarters outside the normal base period shall not be charged against any employer.

(d) If, under an act of Congress, payments with respect to the unemployment of individuals who have completed a period of active service in the California State Guard are payable by the United States, an individual shall be disqualified for benefits with respect to any week for which he receives such payments and no benefits shall be paid under the Unemployment Insurance Act until he has exhausted all his rights to such payments from the United States. Payments by United States

Pension

576. No member of the California State Guard shall by reason of service therein be entitled to any pension, bounty, bonus or gratuity.

Compensation benefits

Members of the California State Guard are employees within the meaning of Division 4 of the Labor Code and as such are entitled to the benefits provided by said division, subject to the restrictions established in this section.

Medical care

577. The Adjutant General shall provide such medical, surgical and hospital care, including transportation, as may reasonably be necessary to maintain the health of active members of the California State Guard, and he shall pay not to exceed one hundred fifty dollars ($150) burial benefit to persons who incur necessary expenses of burial of a deceased California State Guardsman who dies while on active service, and whom he finds to be equitably entitled to receive such payment.

Authority of The Adjutant General to provide medical, surgical and hospital care to any person under the provisions of this section ceases when the latter's active membership in the California State Guard terminates from any cause.

The Adjutant General may enter into an agreement with the State Compensation Insurance Fund, with approval of the Director of Finance, to authorize the fund to render services in accordance with the terms and intent of the agreement, in the administration of the power conferred on The Adjutant General by this section. The agreement may authorize the fund to investigate facts and to select and designate physicians and hospitals in any case. The agreement shall provide that the fund shall make all expenditures required to be made to carry out the authority conferred on it by such contract, and that The Adjutant General shall reimburse the fund for all such expenditures, and the contract shall provide for a service charge and that The Adjutant General shall pay the same.

No liability shall exist against the State or The Adjutant General or the State Compensation Insurance Fund or any officer or employee thereof for damages for refusal or failure to provide medical, surgical or hospital care authorized by this section.

Death of member

578. The Adjutant General may cause the body of any member of the California State Guard who dies while in active membership therein to be transported to the decedent's home, when located within this State, and The Adjutant General is authorized to pay the necessary expense related thereto, and this expense is in addition to burial allowance.

Call to active service

579. Whenever the Governor deems it necessary for the public safety, he may call the California State Guard into active service of the State for the causes and purposes for which he may call the National Guard into active service. Such California State Guard shall rendezvous and report for active service at such time and place and to such officer as the Governor designates, and shall enter the active service of the

State and obey all lawful orders and commands issued by the Governor or any officer placed in command by his orders in the same manner as if such California State Guard were a part of the National Guard. This section shall not be construed as a modification of Section 566.

Military service of United States

580. Nothing in this act shall be construed as authorizing such forces, or any part thereof to be called, ordered or in any manner drafted, as such, into the military service of the United States, but no person shall by reason of his enlistment or commission in any such forces be exempted from military service under any law of the United States.

Associations

581. No civil organization, society, club, post, order, fraternity, association, brotherhood, body, union, league, or other combination of persons or civil group shall be enlisted in such forces as an organization or unit.

Prior dishonorable discharge

582. No person shall be commissioned or enlisted in the California State Guard who has been expelled or dishonorably discharged from any military or naval organization of this State, or of another State, or of the United States.

Oath

583. The oath to be taken by officers commissioned in such forces shall be substantially in the form prescribed for officers of the National Guard, substituting the words California State Guard where necessary.

Enlistment

584. Enlistments shall be for the present emergency and thereafter while any part of the National Guard of the State is in active Federal service. The oath to be taken upon enlistment in such forces shall be substantially in the form prescribed for enlisted men of the National Guard.

Courts-martial

585. (a) Whenever such forces or any part thereof shall be ordered out for active service the Articles of War of the United States applicable to members of the National Guard of this State in relation to courts-martial, their jurisdiction and the limits of punishment and the rules and regulations prescribed thereunder shall be in full force and effect with respect to the California State Guard.

Arrest

(b) No officer or enlisted man of such forces shall be arrested on any warrant, except for treason or felony, while going to, remaining at, or returning from a place where he is ordered to attend for military duty. Every officer and enlisted man of such active forces shall, during his service therein, be exempt from service upon any posse comitatus and from jury duty.

"Licensed Military Companies"

586. The Governor may revoke the license of any organization, company or body of men heretofore organized as "Licensed Military Companies." Such revocation automatically cancels all commissions and enlistments of officers and members of such units. The present "Licensed Military Companies" or the present members of the inactive State

Guard may be inducted into the California State Guard herein created, in a body and without the necessity of a new enlistment.

Specialists

587. The Adjutant General, with the approval of the Governor, whenever he may deem it necessary to do so for the best interest of the State, may, notwithstanding the provisions of Section 2 of this act, enlist, as members of the State Guard, such number of specialists as he may determine upon, to guard property owned by the State or any agency thereof. The specialists shall receive pay to be fixed by The Adjutant General, such pay, however, not to be greater than the prevailing wage for private guards in the community where the specialists are employed.

Such specialists shall have the power of peace officers while in active service and in the performance of their duties, and not otherwise, on the premises, and in the immediate vicinity thereof, which they are assigned to guard, concerning any act or conduct which might affect the safety of such premises.

Urgency

SEC. 5. This act is hereby declared to be an urgency measure necessary for the immediate preservation of public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is contained in Section 1 of this act.

Constitutionality

SEC. 6. If any provision of this act or the application thereof to any person or circumstance is held invalid, the remainder of this act, or the application of such provision to other persons or circumstances, shall not be affected thereby.

CHAPTER 296

Stats 1939, p 2679, amended

An act to amend Section 21.5 of the California Small Loan Act, approved July 21, 1939, relating to the deposit of fees in the General Fund and support from the General Fund.

In effect August 4, 1943

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

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

Stats 1939, p. 2679

SECTION 1. Section 21.5 of the act cited in the title hereof is amended to read:

Deposit of money

Sec. 21.5. All money paid or collected under this act shall be deposited in the State treasury to the credit of the General Fund.

Administration support

The administration of this act shall be supported from the General Fund of the State of California.

CHAPTER 297

An act to amend Section 20.5 of the Personal Property Brokers Act, approved July 21, 1939, relating to the deposit of fees in the General Fund and support from the General Fund.

Stats 1939, p 2667, amended

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 20.5 of the act cited in the title hereof is amended to read:

Stats 1939, p 2667

Sec. 20.5. All money paid or collected under this act shall be deposited in the State treasury to the credit of the General Fund.

Deposit of money

The administration of this act shall be supported from the General Fund of the State of California.

Administration support

CHAPTER 298

An act to amend Section 15, and add Sections 3a and 15a to, the Industrial Loan Act, relating to the deposit of fees in the General Fund and support out of the General Fund and the payment of costs of administration.

Stats 1917, p 658, amended

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 3a is added to the act cited in the title hereof, to read:

New section

Sec. 3a. All fees collected under this act shall be deposited in the State treasury to the credit of the General Fund. The administration of this act shall be supported out of the General Fund.

Deposit and administration support

SEC. 2. Section 15 of the act cited in the title hereof is amended to read:

Stats 1941, p 2945

Sec. 15. For the purpose of discovering violations of this act or securing information lawfully required by him hereunder, the commissioner may at any time, either personally or by a person or persons duly designated by him, investigate the loans and business and examine the books, accounts, records and files used therein, of every corporation which shall be engaged in the business of an industrial loan company or broker, whether such corporation shall act or claim to act as principal or agent, or under or without the authority of this

Examination of books, etc

act. For that purpose the commissioner and his duly designated representatives shall have free access to the offices and places of business, books, accounts, papers, records, files, safes and vaults of all such corporations. The commissioner shall have authority to require the attendance of witnesses and to examine under oath all persons whomsoever whose testimony he may require relative to such loans or such business or to the subject matter of any examination, investigation, or hearing.

The commissioner shall make such an examination of the affairs, business, office and records of each industrial loan company at least once each year.

Prosecution

Whenever, after an examination, investigation or hearing under this act, the commissioner deems it of public interest or advantage, he may certify a record to the proper prosecuting official of the county, city and county, or city in which the act or acts complained of, examined or investigated, occurred.

New section

SEC. 3. Section 15a is added to the act cited in the title hereof, to read:

Costs of administration

Sec. 15a. To defray the costs of administration of this act, including examinations and supervision, the commissioner shall require each company incorporated under and by virtue of the Industrial Loan Act to pay in advance to him its pro rata amount of all such costs as estimated by the commissioner for the ensuing year and it is hereby made the duty of every such company to pay the same. Such pro rata shall be the proportion which its assets bear to the aggregate assets of all companies incorporated under and by virtue of the Industrial Loan Act as shown by the latest annual reports of such companies to the commissioner.

Assessments

On or before the thirtieth day of November in each year, the commissioner shall notify each of such companies by mail of the amount assessed and levied against it and that the same must be paid within 20 days thereafter; and should payment not be made to him within said 20 days, he shall assess and collect a penalty in addition thereto of 5 per cent for each month or part of a month that such payment may be delayed or withheld.

Provided, however, that in the levying and collection of such assessment, no company shall be assessed for nor be permitted to pay less than ten dollars ($10) per annum and any such company hereafter formed shall be required to pay not less than one dollar ($1) per month or fraction thereof for the unexpired year ending December 31st succeeding its incorporation.

CHAPTER 299

An act to amend Section 2 of "An act requiring individuals, as in said act defined, to obtain a certificate from the Commissioner of Corporations prior to soliciting, receiving or collecting contributions, fees or funds from security owners or holders for the purpose of protecting, enforcing or representing the rights of such security owners or holders; authorizing the Commissioner of Corporations to regulate and supervise the solicitation, collection and application of such funds; and providing for the enforcement of said act and penalties for the violation thereof," approved July 1, 1937, relating to the deposit of fees in the General Fund and support from the General Fund.

Stats 1937, p 2232, amended

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 2 of the act cited in title hereof is amended to read:

Stats 1937, p 2232

Sec. 2. No individual, as in this act defined, shall, within this State, solicit, receive or collect any contributions, fees or funds, or compensation of any kind, or solicit any subscription or contract to pay the same, from any owner or holder of securities, for the purpose of protecting, enforcing or representing the rights of such security owners or holders evidenced by such security, until such individual has first applied for and secured from the commissioner a certificate then in effect authorizing such individual so to do. To secure such certificate, the applicant shall make and file in the office of the commissioner an application therefor in writing, verified by or in behalf of the applicant. In such application the applicant shall set forth, in addition to such other information as may be required by the commissioner:

Certificate of authorization

Application

(1) The name and address of the applicant and the name and address of each of its directors, managing officers and agents, if any;

(2) A succinct statement of facts showing that the applicant and its directors, managing officers and agents, if any, have a good business reputation;

(3) The particular securities and the name of the company issuing the same, in respect of which the individual proposes to solicit contributions, fees or funds from the holders thereof;

(4) A statement of the character and extent of services proposed to be rendered by the individual, together with a prima facie showing of the necessity therefor, and a statement of the total amount of contributions which it is estimated are to be solicited.

For filing such application the applicant shall pay the commissioner a fee of twenty-five dollars ($25), and all such fees charged and collected by the commissioner shall be paid into

Fee

the State treasury and credited to the General Fund. The administration of this act shall be supported from the General Fund of the State of California.

CHAPTER 300

Stats 1939, p 2874, amended

An act to add Section 20.5 to the Personal Property Brokers Act, approved July 24, 1939, relating to the deposit of money in the State treasury and to provide for support of the administration of said act out of the General Fund.

In effect August 4, 1943

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

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

New section

SECTION 1. Section 20.5 is added to the act cited in the title hereof, to read:

Deposit and administration support

Sec. 20.5. All money paid or collected under this act shall be deposited in the State treasury to the credit of the General Fund. The administration of this act shall be supported out of the General Fund.

CHAPTER 301

Stats 1917, p. 673, amended

An act to amend Sections 25, 26 and 28 of the Corporate Securities Act, relating to deposit of fees in and support from the General Fund, revision of fees, declaring the urgency of this act, to take effect immediately.

In effect immediately

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

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

Stats 1931, p 937

SECTION 1. Section 25 of the act cited in the title hereof is amended to read:

Offices

Sec. 25. The commissioner shall have his principal office in the City of Sacramento, and may establish branch offices in the City and County of San Francisco, in the City of Los Angeles, and in the City of San Diego, and he shall from time to time obtain the necessary furniture, stationery, fuel, light, and other proper conveniences for the transaction of the business of the department; the expenses of which shall be paid out of the General Fund, in accordance with law.

Stats. 1937, p 2320

SEC. 2. Section 26 of said act is amended to read:

Fees

Sec. 26. The commissioner shall charge and collect the following fees:

1. For filing an original or supplemental application for a permit to issue securities (except certificates of deposit or any

guarantee of any security, both of which are covered in paragraphs 10 and 11 of this Section 26; and except any application filed pursuant to paragraph 12 of this Section 26), twenty dollars ($20), plus—

Fifteen one-hundredths of 1 per cent of the amount of any excess of the aggregate value of the securities sought to be issued over one thousand dollars ($1,000) and not exceeding fifty thousand dollars ($50,000);

Five one-hundredths of 1 per cent of such amount in excess of fifty thousand dollars ($50,000) and not exceeding one hundred thousand dollars ($100,000);

Three one-hundredths of 1 per cent of such amount in excess of one hundred thousand dollars ($100,000) and not exceeding five hundred thousand dollars ($500,000); and

One one-hundredth of 1 per cent of such amount in excess of five hundred thousand dollars ($500,000).

For the purpose of determining the above fees:

(a) The value of such securities shall be deemed to be their par or face value unless the consideration for such securities is in excess of such par or face value, in which case the value will be deemed to be the amount of the consideration so received.

(b) Where the securities proposed to be issued have no nominal or par value, the value of such securities shall be deemed to be the price at which the company proposes to sell or issue the same, or the value, as alleged in the application, or the actual value, as determined by the commissioner, of the consideration (if other than money) to be received in exchange therefor; provided, however, until a new value shall have been established, each share of no par value stock proposed to be issued shall be deemed to have a value equal to the value which has been established by previous sales for money or other property of other shares of the same class.

(c) Interim or voting trust certificates shall be deemed to have a value equal to the aggregate value of the securities to be represented by said interim or voting trust certificates.

(d) Rights, warrants or other certificates evidencing stockholder's rights to purchase additional securities shall be deemed to have a value equal to the difference between the selling price of the securities represented by such rights, warrants or other certificates and the market value of the securities so represented at the date of filing of application.

(e) Where an application is made to issue securities containing a provision entitling the holder or holders thereof to convert or exchange the same for a different class of securities, the value of the securities to be so issued shall be deemed to be an amount equal to twice the amount of the consideration to be received for the securities containing the conversion or exchange provision.

2. For acting as escrow holder for securities as herein provided, up to par, stated or permit value of fifty thousand dollars ($50,000), twenty-five dollars ($25); in excess of par,

stated or permit value of fifty thousand dollars ($50,000), fifty dollars ($50). In addition a fee of two dollars and fifty cents ($2.50) shall be paid for the deposit with the commissioner of each new certificate, or other document resulting from a transfer in escrow.

2a. For filing an application for an order consenting to the transfer in escrow of securities, two dollars and fifty cents ($2.50).

3. For filing any application for a broker's or an investment counsel's certificate, twenty-five dollars ($25).

Provided, however, that if after a certificate shall have been issued to any broker operating as a partnership there shall be a change of interest affecting less than twenty-five per cent (25%) of the whole interest therein, no new application need be made, but there shall be filed with the commissioner, accompanied by payment of a fee of ten dollars ($10), written notice of such change, stating the names and addresses of the partners and their respective interests, and any other information which may be required by the commissioner, together with evidence satisfactory to the commissioner that the bond theretofore filed by such broker is and will be maintained in good standing notwithstanding such change. The commissioner may in his discretion require a new application, in which event the procedure and fee shall be the same as upon an original application for a broker's certificate. If the commissioner shall approve such change without a new application, the certificate theretofore issued and in force and any agents' licenses theretofore issued to agents of such partnership and then in force, shall continue in full force and effect.

4. For filing any application for an agent's certificate, fifteen dollars ($15).

5. For any examination, audit, or investigation, the actual amount of the salary or other compensation paid to the person or persons making the examination, audit or investigation plus the actual amount of expenses, reasonably incurred in the performance of such work.

6. For copies of papers and records not required to be certified or otherwise authenticated by the commissioner, ten cents ($0.10) for each folio.

7. For certified copies of official documents, orders and other papers filed in his office; for making and mailing copies of process served upon him under the provisions of Section 24 of this act, and for transcript on appeal, fifteen cents ($0.15) for each folio and one dollar ($1) for each certificate under seal affixed thereto.

8. For certificate of service and mailing of process served upon the commissioner under the provisions of Section 24 of this act, two dollars ($2).

9. For filing any application for an amendment to an existing permit to issue securities, or for a permit to negotiate for the sale of securities or requesting the written consent of the

commissioner to a proposed instrument amending, supplementing or abrogating any portion of any mortgage, deed of trust, indenture or other instrument under which bonds, debentures or other evidences of indebtedness are issued or secured, fifteen dollars ($15).

10. For filing any application for a permit to issue certificates of deposit, twenty-five dollars ($25), plus a sum, as estimated by the commissioner, to cover the actual expense of noticing and holding any hearing held in connection therewith.

11. For filing any application for a permit to execute or issue any guarantee of any security, twenty-five dollars ($25).

12. For filing any application for a permit or for an amendment to a permit not fully exercised, to issue securities evidencing changed preferences, rights, privileges, or restrictions granted to or imposed upon outstanding securities in exchange for said outstanding securities theretofore issued by the applicant company, after any change in the stock or share structure of any company by an amendment to the articles, certificate of incorporation or other agreement authorizing the issuance of stock or shares, which amendment has the effect of changing the number of, or the preferences, rights, privileges, or restrictions granted to or imposed upon said securities, or changing or eliminating the par value of said securities, or changing said securities from a no par to a par value (except where such amendment only increases or decreases the number of shares authorized but unissued pursuant to the articles, certificate or other agreement authorizing the issuance of stock or shares, in which case no permit shall be required by reason of such amendment), twenty-five dollars ($25).

No fees shall be charged or collected for copies of papers, records, or official documents furnished to public officers for use in their official capacity or for the reports of the commissioner in the ordinary course of distribution; but the commissioner may fix a reasonable charge for the publications issued under his authority.

Disposition of fees

All fees charged and collected under this section shall be paid at least once each week, accompanied by a detailed statement thereof, into the treasury of the State to the General Fund. The Corporation Commission Fund is hereby abolished. All money in said fund on the effective date of this act shall be transferred to the General Fund.

Stats 1931, p 937

SEC. 3. Section 28 of said act is amended to read:

Administration support

Sec. 28. The administration of this act shall be supported from the General Fund of the State of California.

1943 appropriation

SEC. 4. Any appropriation made or to be made by the Budget Act of 1943 for the support of the Division of Corporations, Department of Investment, payable from the Corporation Commission Fund, shall be paid out of the General Fund.

Urgency

SEC. 5. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and shall take effect immediately and become operative July 1, 1943. A statement of the facts constituting such necessity is as follows:

The Division of Corporations administers several acts essential to the preservation of the public peace, health and safety. During the present emergency the income from said acts has been reduced endangering the continuance of the functions of said division. A transfer to the General Fund as of July 1, 1943, is necessary in order to insure the continued functioning of said division and the preservation of the public health, peace and safety.

CHAPTER 302

Stats 1939, p 2886, amended

An act to add Section 21.5 to the California Small Loan Act, approved July 24, 1939, relating to the deposit of money in the State treasury and to provide for support of the administration of said act out of the General Fund.

In effect August 4, 1943

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

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

New section

SECTION 1. Section 21.5 is added to the act cited in the title hereof, to read:

Deposits and administration support

Sec. 21.5. All money paid or collected under this act shall be deposited in the State treasury to the credit of the General Fund. The administration of this act shall be supported out of the General Fund.

CHAPTER 303

An act granting certain tide lands, submerged lands and filled tide lands of the State of California to the City of Avalon, upon certain trusts and conditions.

In effect August 4, 1943

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

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

Grant

SECTION 1. There is hereby granted to the City of Avalon, a municipal corporation of the State of California, and to its successors, all the right, title and interest of the State of California held by said State by virtue of its sovereignty, in and to all of the tide lands, submerged lands and filled tide lands lying within the corporate limits of the City of Avalon and

bordering upon, in and under the Pacific Ocean, situated below the line of mean high tide of the Pacific Ocean, to be forever held by the City of Avalon and its successors in trust for the uses and purposes and upon the express conditions following, to wit: Conditions of grant

(a) Said lands shall be used by said city and by its successors solely for the establishment, improvement and conduct of a harbor and for the establishment and construction of bulkheads, or breakwaters for the protection of lands within its boundaries, or for the protection of its harbor, and for the construction, maintenance and operation thereof of wharves, docks, piers, slips, quays, ways and streets and other utilities, structures and appliances necessary or convenient for the promotion or accommodation of commerce and navigation, and for the protection of the lands within said city. And said city or its successors shall not at any time grant, convey, give or alien said lands or any part thereof to any individual, firm or corporation, for any purpose whatever; provided, that said city or its successors may grant franchises thereon for a period not exceeding 50 years for wharves and other public uses and purposes, and may lease said lands or any part thereof for limited periods, in any event not to exceed 50 years for any and all purposes which shall not interfere with commerce or navigation and are not inconsistent with the trusts upon which said lands are held by the State of California or with the requirements of commerce or navigation at said harbor.

(b) Said harbor shall be improved by said city without expense to the State and shall always remain a public harbor for all purposes of commerce and navigation, and the State of California shall have at all times the right to use, without charge, all wharves, docks, piers, slips, quays and other improvement constructed on said lands or any part thereof for any vessel or other water craft or railroad owned or operated by the State of California.

(c) In the management, conduct or operation of said harbor or any of the utilities, structures or appliances mentioned in paragraph (a) no discrimination in rates, tolls, or charges or in facilities for any use or service in connection therewith shall ever be made, authorized or permitted by said city, or by its successors. The absolute right to fish in the waters of said harbor with the right of convenient access to said water over said lands for said purpose is hereby reserved to the people of the State of California.

There is hereby excepted and reserved to the State of California all deposits of minerals, including oil and gas in said land, and to the State of California, or persons authorized by the State of California, the right to prospect for, mine, and remove such deposits from such land. Reservations

CHAPTER 304

Stats 1939, p. 1274, amended

An act to amend Sections 3791 and 3792 of the Revenue and Taxation Code, relating to property sold or deeded for taxes.

In effect August 4, 1943

[Approved by Governor May 2, 1943 Filed with Secretary of State May 2, 1943.]

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

Stats 1939, p 1274

SECTION 1. Section 3791 of the Revenue and Taxation Code is amended to read:

Purchase by taxing agency

3791. Whenever tax-deeded property has been sold for taxes for two or more years or has been deeded for taxes to another taxing agency than the State, the governing body of the taxing agency may, as provided in this article, make an agreement with the board of supervisors of the county in which the property is situated for the purchase of, or for an option to purchase, all or any of the tax-deeded property.

Stats 1939, p 1274

SEC. 2. Section 3792 of the Revenue and Taxation Code is amended to read:

Joint purchase

3792. If tax-deeded property has been sold for taxes for two or more years or has been deeded for taxes to two or more taxing agencies, they may make a joint agreement with the board of supervisors under this article. The joint agreement may provide for the conveyance of all or any interest in the property to one of them or to any combination of them.

CHAPTER 305

Stats 1931, p 587, amended

An act to amend Section 41 of the Probate Code, relating to bequests to charity and charitable use.

In effect August 4, 1943

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

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

Stats 1937, p 1435

SECTION 1. Section 41 of the Probate Code is amended to read:

Restrictions

41. No estate, real or personal, may be bequeathed or devised to any charitable or benevolent society or corporation, or to any person or persons in trust for charitable uses, by a testator who leaves a spouse, brother, sister, nephew, niece, descendant or ancestor surviving him, who, under the will, or the laws of succession, would otherwise have taken the property so bequeathed or devised, unless the will was duly executed at least 30 days before the death of the testator. If so executed at least 30 days before death, such devises and legacies shall be valid, but they may not collectively exceed one-third of the testator's estate as against his spouse, brother,

sister, nephew, niece, descendant or ancestor, who would otherwise, as aforesaid, have taken the excess over one-third, and if they do, a pro rata deduction from such devises and legacies shall be made so as to reduce the aggregate thereof to one-third of the estate. All property bequeathed or devised contrary to the provisions of this section shall go to the spouse, brother, sister, nephew, niece, descendant or ancestor of the testator, if and to the extent that they would have taken said property as aforesaid but for such devises or legacies; otherwise the testator's estate shall go in accordance with his will and such devises and legacies shall be unaffected.

Construction

Nothing herein contained is intended to, or shall be deemed or construed to vest any property devised or bequeathed to charity or in trust for a charitable use, in any person who is not a relative of the testator belonging to one of the classes mentioned herein, or in any such relative, unless and then only to the extent that such relative takes the same under a substitutional or residuary bequest or devise in the will or under the laws of succession because of the absence of other effective disposition in the will.

CHAPTER 306

An act making an appropriation for support of Division of Beaches and Parks, Department of Natural Resources, to take effect immediately.

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

In effect immediately

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

SECTION 1. The sum of thirty-nine thousand five hundred forty-four dollars ($39,544) is hereby appropriated out of the State Park Maintenance and Acquisition Fund for support of the Division of Beaches and Parks, Department of Natural Resources, in addition to, and in augmentation of, the appropriation contained in Item 152 in "The Budget Act of 1941" for expenditure during the Ninety-fourth Fiscal Year. The amount herein appropriated shall augment the schedules contained in said Item 152 in "The Budget Act of 1941" as the Director of Finance by executive order may direct.

Appropriation Division of Beaches and Parks

SEC. 2. This act, inasmuch as it makes an appropriation for the usual current State expenses, shall under provision of Section 1 of Article IV of the Constitution take effect immediately.

Current expense

CHAPTER 307

Stats 1925, p 648, amended

An act to amend Section 7b of the Municipal Court Act of 1925, relating to the salaries of marshal's deputies and assistants in cities of the first and one-half class.

In effect August 4, 1943

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

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

Stats 1931, p 1537

SECTION 1. Section 7b of the act cited in the title hereof is amended to read:

Marshal's deputies

Sec. 7b. The marshal of the municipal court in cities of the first and one-half class shall appoint the following deputies and attaches who shall receive as monthly compensation the sums set opposite the title of their respective offices or positions:

One assistant marshal at four hundred dollars ($400); one deputy (chief clerk) at three hundred dollars ($300);

Three deputies (captains) at two hundred sixty dollars ($260);

Four deputies (lieutenants) at two hundred thirty-five dollars ($235);

Fifteen deputies at two hundred twenty-five dollars ($225);

Thirty deputies at two hundred ten dollars ($210);

Six deputies at one hundred eighty-five dollars ($185);

Six deputies at one hundred sixty dollars ($160);

Three deputies at one hundred forty dollars ($140);

One hundred deputies (custodians), at the fee allowed by law for keeping property.

The deputy marshals serving as custodians shall be paid only for their actual services as keepers of property taken under legal process and shall be paid out of the funds deposited by the parties to the action in which such services are rendered.

In addition to the salaries in this section above provided, the marshal and deputy marshals shall be allowed their necessary incidental expenses incurred in the performance of their duty. They may be furnished with automobiles at public expense for use in the service of writs and processes or may in lieu of the traveling expenses be allowed not to exceed six cents ($0.06) per mile for the operation of automobiles furnished by themselves while actually used on public business in the performance of their duty.

CHAPTER 308

An act to amend Section 45 of the Elections Code, relating to petitions and papers signed by voters.

Stats 1939, p 49, amended

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 45 of the Elections Code is amended to read:

Stats 1939, p 318

45. Wherever, by the Constitution or laws of this State any initiative, referendum, recall or nominating petition or paper, or any other petition or paper, is required to be signed by voters, only a voter who is a registered qualified voter at the time he signs the petition or paper, is entitled to sign it. Each signer shall at the time of signing the petition or paper himself affix thereto his place of residence, giving street and number, and if no street or number exists, then a designation of his place of residence which will enable the location to be readily ascertained; provided, however, that each signer of any municipal initiative, referendum, recall or any nominating petition or paper shall in addition to the other requirements of this section, at the time of signing the petition or paper affix thereto the date of his signing. Where successive signers reside in the same city or town, each signer need not repeat the name of said city or town, but may use marks to indicate that the city or town in which he resides is the same as the one which the prior signer has indicated as his residence. The date of signing shall appear opposite each name, but if successive signers sign on the same date, marks may be used to indicate that the dates are the same.

Petitions or papers signed by voters

Wherever, by the Constitution or laws of this State, any such petition or paper is required to be accompanied by the affidavit of the person soliciting signatures thereto, that affidavit shall set forth the dates between which all signatures on the petition or paper were secured by him.

Accompanying affidavit

CHAPTER 309

An act to amend Sections 2.02, 2.04 and 12.06 of the Building and Loan Association Act, relating to building and loan associations, names and articles, and restrictions on advertising.

Stats 1931, p 483, amended

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 2.02 of the act cited in the title hereof is amended to read:

Stats 1931, p 483

Sec. 2.02 Restrictions on corporate name. The name of each domestic association hereafter incorporated, and the name

Corporate name

of each foreign association hereafter qualifying to do business in this State, shall include the words "building and loan association" or "building-loan association" or "savings and loan association"; provided, however, that no domestic association hereafter incorporated, and no foreign association hereafter qualifying to do business in this State, shall include the word "mutual" in its name unless it shall be organized without stock, nor shall it include the word "guaranty" or "guarantee" in its name unless it shall be organized to issue stock.

Stats 1931, p 483

SEC. 2. Section 2.04 of said act is amended to read:

Approval of articles

Sec. 2.04. Articles to be approved by commissioner. Before the articles of incorporation of any proposed domestic association, or the articles of incorporation, certificate of incorporation, charter, or any similar document relating to any foreign association, shall hereafter be filed in the office of the Secretary of State of the State of California, there must be attached thereto a certificate of the commissioner approving

Application

the same. Such articles, certificate, charter, or other similar document shall be submitted to the commissioner with a copy of the by-laws and an application, signed by a majority and verified by one of the directors, requesting such approval; which application shall set forth (a) the names and addresses of the incorporators, directors and officers, with a statement of their character, experience and general fitness to engage in the building and loan business; (b) an itemized statement of the estimated receipts and expenditures of such association for the first year or such longer period as the commissioner in his discretion may require; (c) a statement that such association will not issue either stock or investment certificates, or in the alternative, a showing that the public convenience and advantage will be promoted by the formation of such association or its qualification to do business in this State; and (d) such

Investigation

other matters as the commissioner may require. Upon receipt of such articles, certificates, charter, or other similar document, and of such application, the commissioner shall immediately examine and investigate into all the facts connected with the formation or qualification of such association, including its incorporators, directors and officers, its proposed location, its estimated receipts and expenditures and, unless such application shall have stated that such association will not issue either stock or investment certificates, whether the public convenience and advantage will be promoted by the formation

Denial

or qualification of such association. The commissioner may refuse to execute his certificate of approval, if, upon his examination and investigation, he has reason to believe that the corporation is to be formed or qualified for any business other than legitimate building and loan business, or that the incorporators, directors or officers lack the character, experience or general fitness to engage in such business, or that such association's financial program is unsound, or, unless such application shall have stated that such association will not issue

either stock or investment certificates, that the public convenience and advantage will not be promoted by the formation or qualification of such association. The commissioner, however, shall not execute such certificate until he has given written notice by mail to each association then existing in this State having a name raising the presumption hereinafter mentioned, directed to it with postage thereon prepaid at its principal office in this State, that an application for the issuance by him of such certificate has been made, together with the name of the association in respect of which such application shall have been made, and that a hearing will be held by him at his office at a time to be therein specified, which shall not be less than 10 days after the mailing thereof; and the commissioner shall give such notices, and at the time and place specified in such notices shall hold a hearing at which any person, firm or corporation may appear in person or by agent or attorney, and orally or in writing show cause why such certificate should not be issued upon the ground that the name of such association is the same as one already adopted or appropriated by any association then existing in this State, or so similar thereto as to be likely to mislead the public; and if, upon such hearing or his examination or investigation, the commissioner shall have reason to believe that the name of the association is the same as one already adopted or appropriated by any association then existing in this State, or so similar thereto as to be likely to mislead the public, he shall refuse to issue such certificate; and the commissioner shall conclusively presume that the use of any word or words in the name of the association the same as or similar in spelling or sound to any word or words already adopted, appropriated, or used in its corporate name by any association then existing in this State, except the words: "the," "and," "mutual," "guaranty," "guarantee," "building," "loan," "savings," or "association," constitutes such similarity of names as to be likely to mislead the public; provided, further, that if any and all associations then existing in this State causing such presumption file consent in writing thereto with the commissioner, the commissioner may nevertheless issue such certificate. Wherever in this section reference is made to the by-laws, incorporators, directors and officers, such reference in the case of a proposed domestic association shall refer to the proposed by-laws, incorporators, directors and officers thereof.

Notice

Hearing

Similarity of name

No association which in its application to the commissioner referred to in this section shall have stated that it would not issue either stock or investment certificates, shall issue any stock or investment certificates except with the prior written consent of the commissioner. In applying for such consent such association shall set forth (a) the names and addresses of its directors and officers with a statement of their character, experience and general fitness to engage in the new type of building and loan business proposed; (b) a showing that the

Consent to stock issuance

Application

public convenience and advantage will be promoted by permitting such association to issue stock or investment certificates as proposed in such application; and (c) such other matters as the commissioner may require. Upon receipt of such application the commissioner shall immediately examine and investigate into all the facts stated in such application; and the commissioner may refuse to give his written consent if upon his examination and investigation he has reason to believe that the directors or officers lack the character, experience or general fitness to engage in the new type of building and loan business proposed, or that the public convenience and advantage will not be promoted by permitting such association to issue stock or investment certificates. No domestic association hereafter incorporated, and no foreign association hereafter qualifying to do business in this State, which shall include the word "mutual" in its name, shall be permitted to issue stock without first eliminating from its name the word "mutual." The term "existing in this State," wherever used in this section, shall include foreign associations licensed to do building and loan business in this State.

Examination

Stats 1931, p. 483

SEC. 3. Section 12.06 of said act is amended to read:

Advertising restrictions

Sec. 12.06. Restrictions on advertising. No association shall issue or publish or cause or permit to be issued or published, any advertisement that it is doing or permitted to do any business which is prohibited by law to an association, or any advertisement which shall misrepresent the nature of the shares, stock or investment certificates of such association, or the rights of investors in respect thereto. Any association whose corporate name does not include the words "building and loan," "building-loan" or "savings and loan" shall in all advertisements state "This is a building and loan association" or "This is a savings and loan association," or words to that effect. The commissioner shall have power to require any or all associations, before issuing, circulating or publishing any advertisement, to file a true copy of the proposed text thereof in the office of the commissioner at least one day prior thereto; and if the commissioner shall have made the aforesaid requirement as to any association, such association shall comply therewith and shall not issue, circulate or publish any advertisement after notice in writing from the commissioner that in his opinion the same is unauthorized, false, misleading or otherwise likely to deceive a reader or hearer thereof. No association in any advertisement shall state that it is under State supervision or control, or shall include in any advertisement or in any instrument used by it, a replica of the Great Seal of the State of California.

CHAPTER 310

An act to add Section 167.5 to, and to amend Sections 277 and 278 of, the Fish and Game Code, relating to game refuges. Stats 1933, p. 394, amended

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.] In effect August 4, 1943

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

SECTION 1. Section 167.5 is added to the Fish and Game Code, to read: New section

167.5. The following shall constitute the "Fig Garden Game Refuge": "Fig Garden Game Refuge"

Beginning at a point on Blackstone and Dakota Avenues in the City of Fresno, Fresno County, thence north on Blackstone Avenue to Shaw Avenue, thence west on Shaw Avenue to Fruit Avenue, thence south to the intersection of Fruit Avenue and the Herndon Canal, thence on the north bank of the Herndon Canal to Moroa Avenue, thence directly east following the power line to the point of beginning, the whole comprising approximately three miles square.

SEC. 2. Section 277 of the Fish and Game Code is amended to read: Stats 1933, p 394

277. In the Huntington Lake Game Refuge and in the Fig Garden Game Refuge, it is lawful to possess firearms, except as otherwise provided by law, and such firearms may be possessed unsealed. Huntington Lake and Fig Garden Game Refuge Firearms

SEC. 3. Section 278 of the Fish and Game Code is amended to read: Stats. 1933, p 394

278. In the Huntington Lake Game Refuge and in the Fig Garden Game Refuge, birds and mammals lawfully possessed outside the boundaries of the refuge may be possessed within the refuge. Same Possession of game

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CHAPTER 311

An act to add Section 174 to the State Civil Service Act, relating to reinstatement of persons who leave the civil service to serve as seamen on vessels of the United States in time of war. Stats 1937, p. 2085

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.] In effect August 4, 1943

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

SECTION 1. Section 174 is added to the State Civil Service Act, to read: New section

SEC. 174. Any officer or employee of the State having civil service status who in time of war leaves or has left his position to serve as a seaman on board any vessel of the United States shall retain all civil service rights to his position and shall be reinstated to his position upon application within 90 days after the termination of such service or the termination of the war, as proclaimed by the President of the United States, whichever is the earlier; provided, however, that any such Reinstatement to former position

officer or employee whose service shall be terminated in a foreign country and who shall leave the foreign country to return to the United States within 90 days after termination of service shall have 90 days after return to the United States within which to make application.

"Seaman" As used in this section the term "seaman" means any person, including the master and officers, employed on board any vessel of the United States in the care, preservation, operation, management or navigation of such vessel, but it does not include any person who is a member of the land or naval forces of the United States; and the term "vessel of the United States" means any vessel registered, enrolled or licensed under the laws of the United States, any vessel acquired by the United States under the provisions of the act entitled "An act to authorize the acquisition by the United States of title to or the use of domestic or foreign merchant vessels for urgent needs of commerce and National defense, and for other purposes," approved June 6, 1941, as amended, or any other merchant or cargo vessel not of foreign registry owned or operated by or on behalf of the United States, except that the term does not include any fishing or whaling vessel or yacht.

CHAPTER 312

An act to amend Section 869a of the Civil Code, relating to the effect of omitting beneficiaries in instruments to trustee affecting real property.

In effect August 4, 1943

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

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

Stats 1923, p. 274

SECTION 1. Section 869a of the Civil Code is hereby amended to read as follows:

Undisclosed beneficiary. Presumption

869a. Whenever any estate or interest in, or lien on or encumbrance on real property is conveyed, created, aliened, mortgaged, encumbered or affected by an instrument in writing to or in favor of a person or persons in trust, or (a) where such person is designated "trustee" or "as trustee," or (b) where such persons are designated "trustees" or "as trustees," and regardless of whether a joint tenancy or right of survivorship as between such persons is expressed or not, then, if no beneficiary be indicated or named in said instrument, it shall be presumed that said person or persons, as the case may be, holds or hold the title to the estate, interest, lien or encumbrance absolutely in his or their own individual right and free from any trust, and an instrument executed by such person or persons, whether purporting to be the act of such person or persons in his or their individual right, or in his or their capacity as trustee or trustees, shall prima facie affect such estate, interest, lien or encumbrance according to the tenor of such instrument. As to such instrument

last mentioned and any judgment against such person affecting the title, such presumption shall be and become conclusive as to such undisclosed beneficiary and the original grantor or trustor and anyone claiming under them in favor of a purchaser or encumbrancer in good faith and for valuable consideration upon the filing of such instrument last mentioned for record in the office of the recorder of the county wherein the land affected thereby is situated.

Action

In any action or proceeding involving the estate, interest, lien or encumbrance affected by the instrument first mentioned instituted against such person or persons, he or they shall be deemed the only necessary representative of such undisclosed beneficiary and of the original grantor or trustor and anyone claiming under them, and any judgment or decree shall be binding upon and conclusive against them as to all matters finally adjudicated therein.

Exceptions

Provided, however, that as to such instruments so filed for record prior to the taking effect of this act, such presumption shall not become conclusive except in favor of a purchaser or encumbrancer in good faith and for a valuable consideration until one year after the taking effect of this act when it shall become conclusive without any qualification whatsoever and no action to avoid or impugn any such instrument last mentioned shall be commenced after the time when such presumption becomes conclusive as hereinbefore provided; and further provided, that nothing herein contained shall be construed as depriving such original grantor or trustor or undisclosed beneficiary, or anyone claiming under them, from commencing and maintaining actions other than actions affecting the land the subject of such instruments.

CHAPTER 313

Stats. 1921, p 906, amended

An act to amend Section 43 of an act entitled "An act providing for the incorporation of public utility districts in unincorporated territory, authorizing such districts to incur bonded indebtedness for the purpose of the construction of works and the acquisition of property, and to levy and collect taxes to pay the principal and interest on bonds and for the carrying on their operations, and providing for the powers, management and government of such districts, and imposing certain duties and functions in connection with such districts upon certain county officers," approved May 31, 1921, relating to powers of the board.

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

In effect August 4, 1943

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

Stats 1921, p 906

SECTION 1. Section 43 of the act cited in the title is amended to read:

Payment of claims

Sec. 43. No claims shall be paid until allowed by the board, and only upon a warrant signed by any two officers.

CHAPTER 314

Stats 1935, p 1338, amended

An act to add Section 395.8 to the Military and Veterans Code, relating to the reinstatement of officers of any city, who shall have left the services of such city to enter upon active services of the armed forces of the United States, upon his discharge or release from such active service; to provide for temporary officers to serve during such absence of officers; and declaring the urgency hereof, to take effect immediately.

In effect immediately

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

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

New section

SECTION 1. Section 395.8 is hereby added to the Military and Veterans Code, to read as follows:

Reinstatement to office of city officers in armed forces

395.8. Any officer, elective or otherwise, who leaves or shall have left the service of any city in order to enter upon active service with the armed forces of the United States shall be reinstated and restored to his office upon his discharge or release from such active service with the armed forces; provided, such discharge or release is prior to the expiration of the term for which he has been elected or appointed.

Exception

The rights created by this section shall have no application to any officer who shall have been dishonorably discharged or released from such armed forces, or shall have been so mentally or physically disabled as to be incapable of performing the duties of his office or shall fail to present himself to the legislative body or other appointing authority of such city ready and willing to assume the duties of his office, within ninety (90) days from the time of his discharge or release from active service with the armed forces.

Temporary appointee

The office from which such officer absents himself to enter upon active service with the armed forces shall not be considered to be vacant but the legislative body or other appointing authority, as the case may be, may appoint an officer to temporarily replace any such officer so absenting himself to enter upon active service with the armed forces. Such temporary officers shall have all of the powers and duties of the office to which he may be temporarily appointed and shall hold said office until the expiration of the term thereof or until the officer returns from service with the armed forces, whichever event first occurs.

Urgency

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

An emergency exists in the United States and the State of California in providing adequate armies and facilities of

defense. The arming of the Nation is resulting in many city elected officers resigning from their positions because of entry into the armed forces. To protect these officers in their positions and to enable them to return to necessary public work at the expiration of the existing National emergency, it is necessary to immediately adopt laws permitting leaves of absence for the duration of the war or at least until the expiration of their terms.

CHAPTER 315

An act to amend Section 202 of the Welfare and Institutions Code, relating to county contracts for hospital care and services.

Stats. 1937, p. 1005, amended

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 202 of the Welfare and Institutions Code is amended to read:

Stats. 1941, p. 2891

202. (a) The board shall not let the care, maintenance, or attendance of such indigent sick or dependent poor by contract to any person. However, in cases of unusual difficulty or which require treatment or the use of facilities not immediately available in the county hospital, the board may secure by agreement, for the indigent sick, hospital service within or without the county, at cost from any public hospital, clinic, rest home or sanitarium, or at an agreed rate from any private hospital, clinic, rest home or sanitarium in the State. Such agreements shall be made only with those hospitals, clinics, rest homes or sanitariums which are qualified to render and are actually rendering services to the sick, economically and efficiently, and the books of which reflect accurately in monthly statements the per diem cost of hospital service.

Contracts for care

(b) The county may also contract with public or private hospitals or clinics for emergency hospital service to persons admissible to the county hospital, and for continued hospital service to indigent patients at the expense of the county after the emergency has ceased to exist, if the per diem cost, inclusive of all services of whatsoever nature, does not exceed the cost of the same type of service in a hospital operated by the county pursuant to Section 203 of this code. The county shall pay to the public or private hospital or clinic the cost of the emergency service provided during the first 24 hours to all patients who are unable to pay for the service provided to them.

(c) As used in this section, "hospital service" includes medical, surgical, radiological, laboratory, nursing and such other care and service as may be necessary for the treatment of the sick or injured.

"Hospital service"

CHAPTER 316

Stats 1943, Ch 71

An act to add Section 5.45-1 to the School Code and to add Section 20380 to the Education Code, relating to employees of State colleges not serving in the State civil service.

In effect August 1, 1943

[Approved by Governor May 2, 1943 Filed with Secretary of State May 2, 1943.]

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

New section

SECTION 1. Section 5.45-1 is added to the School Code, to read:

Reinstatement of non-civil service State college employee in armed forces

5.45-1. Every employee of a State college not serving in the State civil service who has entered or who hereafter enters the active military service of the United States of America or of the State of California, including active service in any uniformed auxiliary of, or to, any branch of such military service created or authorized as such auxiliary by the Congress of the United States of America or by the Legislature of the State of California, or in the full-time paid service of the American Red Cross, during any period of National emergency declared by the President of the United States of America or during any war in which the United States of America is engaged, shall be deemed to have been entitled or shall be entitled to absent himself from his duties as an employee of the college.

Within 90 days after such employee honorably leaves such service or has been placed on inactive duty he shall be entitled to return to the position held by him at the time of his entrance into such military service, at the salary to which he would have been entitled had he not absented himself from his duties as an employee of the college under this section.

Note.—See Stats. 1943, Ch. 71.

Effect Stats 1943, Ch 71

SEC. 3. Section 2 of this act becomes operative only if the Education Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said code takes effect; at which time Section 5.45-1 of the School Code added by this act is hereby repealed.

Repeal

CHAPTER 317

An act to amend Sections 12, 21.30 and 21.90 of, and to add Section 31 to, an act entitled "An act to provide for the organization, incorporation, and government of municipal utility districts, authorizing such districts to incur bonded indebtedness for the acquisition and construction of works and property, and to levy and collect taxes to pay the principal and interest thereon," approved May 23, 1921, relating to municipal utility districts.

Stats. 1921, p. 245, amended

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 12 of the act cited in the title hereof is amended to read:

Stats. 1941, p. 1478

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

Powers of district

First—To have perpetual succession.

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

Third—To adopt a seal and alter it at pleasure.

Fourth—To take by grant, purchase, gift, devise, or lease, or condemn in proceedings under eminent domain, or otherwise acquire, and to hold and enjoy real and personal property of every kind within or without the district necessary to the full or convenient exercise of its powers. The directors of the district may lease, mortgage, sell or otherwise dispose of any real or personal property within or without the district when in their judgment it is for the best interests of the district so to do. The provisions of this section shall apply to all sales or mortgages heretofore or hereafter made.

Fifth—To acquire, construct, own, operate, control or use, within or without, or partly within and partly without, the district, works or parts of works for supplying the inhabitants of said district and public agencies therein, or some of them, with light, water, power, heat, transportation, telephone service, or other means of communication, or means for the collection, treatment or disposition of garbage, sewage, or refuse matter, and to do all things necessary or convenient to the full exercise of the powers herein granted; also to purchase any of the commodities or services aforementioned from any other utility district, public agency, person, or private company, and distribute the same. Whenever there is a surplus of water, light, heat or power above that which may be required by such inhabitants or public agencies within the district, such district shall have power to sell or otherwise dispose of such surplus outside of the district to persons, firms, and public or private corporations, or public agencies outside said district.

Whenever any of the facilities, works, or utilities of the district, or part thereof, is not used or employed to its fullest capacity for the benefit or requirements of the district or its inhabitants, such district shall have power to enter into an agreement or agreements with public agencies or any person, firm or corporation, upon such terms and conditions as may be satisfactory to its board of directors, for renting, leasing, or otherwise using the available portion or parts of such facilities, works, or utilities, and in connection with any such agreement, renting or leasing, the district may undertake or perform any services incidental thereto.

Sixth—To have or exercise the right of eminent domain in the manner provided by law for the condemnation of private property for public use. To take any property necessary or convenient to the exercise of the powers herein granted, whether such property be already devoted to the same use or otherwise. In the proceedings, venue and trial, relative to the exercise of such right the district shall have all the rights, powers and privileges of an incorporated city or town, and all rights, powers and privileges herein conferred.

Seventh—To construct works across or along any street or public highway, or over any of the lands which are now or may be the property of this State, and to have the same rights and privileges appertaining thereto as have been or may be granted to municipalities within the State, and to construct its works across any stream of water or water-course. The district shall restore any such street or highway to its former state as near as may be, and shall not use the same in a manner to unnecessarily impair its usefulness.

Eighth—To borrow money and incur indebtedness, and to issue bonds or other evidences of such indebtedness; also to refund or retire any indebtedness that may exist against or be assumed by the district, and any special district established pursuant to the provisions of this act; provided, no indebtedness shall be incurred exceeding the ordinary annual income and revenue of the district without the approval of a two-thirds vote of the electors voting on the proposition to incur such indebtedness; provided, however, that a further vote of the electors is not required for any indebtedness heretofore or hereafter incurred within the purposes and not exceeding the available amount of any previously authorized bond issue and as to such indebtedness the proceeds of any of such bonds unexpended in the treasury of the district, or the par value of any of such bonds which are unsold shall be deemed a part of the ordinary annual income and revenue of such district; provided further, that any district operating a utility under rules and regulations requiring applicants for extensions to advance the expenses of such extensions and facilities for serving additional territory may enter into agreements to refund to such applicants in a subsequent year the whole or any part of such expenses so advanced and such refunds may be paid out of the revenues of such subsequent years.

Ninth—To levy and collect, or cause to be levied and collected, taxes for the purpose of carrying on the operations and paying the obligations of the district, and any special district established pursuant to the provisions of this act.

Tenth—To make contracts and to enter into stipulations of any nature whatsoever, either in connection with eminent domain proceedings or otherwise, including, without limiting the generality of the foregoing, contracts and stipulations to indemnify and save harmless, also to employ labor, and to do all acts necessary and convenient for the full exercise of the powers herein in this act granted.

Eleventh—To proceed in the name of the district in case of condemnation proceedings.

Twelfth—To invest any surplus money in the district treasury, including money in any sinking fund established for the purpose of providing for the payment of the principal or interest of any bonded or other indebtedness or for any other purpose, not required for the immediate necessities of the district, in its own bonds, or in bonds of any special district established pursuant to the provisions of this act or in treasury notes or bonds of the United States, or of this State, or bonds of any county, city and county, city, school district, or in bonds of any other public or municipal corporation or public district within this State which are legal as security for the deposit of public funds, or in obligations issued pursuant to the provisions of the Federal Home Loan Bank Act, approved June 22, 1932, as now or hereafter amended, or in obligations issued pursuant to Title IV of the National Housing Act, approved June 27, 1934, as now or hereafter amended, and such investment may be made by direct purchase of any issue of such bonds, treasury notes, or obligations, or part thereof, at the original sale of the same or by the subsequent purchase of such bonds, treasury notes, or obligations. Any bonds, treasury notes, or obligations thus purchased and held may from time to time be sold and the proceeds reinvested in bonds, treasury notes, or obligations as above provided. Sales of any bonds, treasury notes, or obligations thus purchased and held shall from time to time be made in season so that the proceeds may be applied to the purposes for which the money, with which the bonds, treasury notes, or obligations were originally purchased, was placed in the treasury of the district.

Thirteenth—To sell, or otherwise dispose of any water, sewage effluent, fertilizer or other by-product resulting from the operation of a sewage disposal system, and to construct, maintain and operate such pipe lines and other works as may be necessary for that purpose.

Fourteenth—To accept, without limitation by any other provisions of this act requiring approval of indebtedness, contributions or loans from the United States of America, or any

department, instrumentality or agency thereof, for the purpose of financing the construction, maintenance and operation of any enterprise in which the district is authorized to engage, and to enter into contracts and cooperate with, and accept cooperation from, the United States of America, or any department, instrumentality or agency thereof, in the construction, maintenance and operation, and in financing the construction, maintenance and operation, of any such enterprise in accordance with any legislation which Congress may have heretofore adopted or may hereafter adopt, under which aid, assistance and cooperation may be furnished by the United States of America in the construction, maintenance and operation or in financing the construction, maintenance and operation of any such enterprise; and to do any and all things necessary in order to avail itself of such aid, assistance and cooperation under any Federal legislation now or hereafter enacted.

Fifteenth—To accept, without limitation by any other provisions of this act requiring approval of indebtedness, contributions of money, rights of way, labor, materials and any other property for the construction, maintenance and operation of any enterprise in which the district is authorized to engage, and to enter into any contracts and cooperate with, and accept cooperation from, the State of California, or any department, instrumentality or agency thereof, or any public agency of this State in the construction, maintenance and operation of, and in financing the construction, maintenance and operation of, any such enterprise.

Stats 1943, Ch. 24

SEC. 2. Section 21.30 of said act is amended to read:

Incumbents

Sec. 21.30. The incumbents of permanent positions who have held such positions for a period of at least one year continuously next preceding the time that a civil service system shall first be adopted pursuant to the provisions of this act shall be continued in their positions as if appointed thereto after examination and certification from a list of eligibles and shall be governed thereafter by the provisions of this act and the rules and regulations adopted pursuant thereto but shall not be subject to the six months' probation period.

Whenever any district acquires existing facilities from a public utility, whether by proceedings in eminent domain or otherwise, any or all of the officers or employees of the public utility whose duties pertained to the facilities acquired may be appointed to positions in the district's civil service system without examination and certification from a list of eligibles and shall be governed thereafter by the provisions of this act and the rules and regulations adopted pursuant thereto but shall not be subject to the six months' probation period.

In the event that a civil service system is adopted for a district pursuant to this section during the period of a leave of absence granted under Section 395.4 of the Military and Veterans Code or similar legislation, the officer or employee

shall, on the termination of his leave of absence, be restored to a position in the district's civil service system wherein he shall have the same or equivalent status as of the last working day before his leave of absence began. Such officer or employee shall hold that position as if appointed thereto after examination and certification from a list of eligibles, and shall be governed thereafter by the rules and regulations of the civil service system, except that if such officer or employee had held a permanent position with the district for a period of one year continuously next preceding the beginning of his leave of absence, he shall not be subject to the six months' probation period.

Stats 1943, Ch 24

SEC. 3. Section 21.90 of said act is hereby amended to read:

Civil service rules and regulations

Sec. 21.90. The general manager shall adopt rules and regulations to carry out the purposes of the civil service provisions of this act and may from time to time amend existing rules, and except as otherwise provided herein such rules shall govern applications, examinations, eligibility, duration of eligible lists; certifications of eligibles; appointments; promotions; transfers; resignations; layoffs or reductions in force, both permanent and temporary, due to lack of work or funds, retrenchment, or completion of work; the filling of positions, temporary, seasonal and permanent; classification; and such other matters as are not in conflict with the civil service provisions of this act. Said rules and regulations or any proposed amendments thereto shall be in writing and a copy thereof shall be posted in a conspicuous place in the office of the district and shall not become effective until 20 days after the posting thereof. Any person interested may within 10 days after such posting file written objections to such proposed rules or amendments, or any part thereof, with the general manager, in which event such rules or amendments shall not become effective until the general manager has given notice of a hearing and heard objections thereto and announced his decision on the objections; provided, however, that anything herein to the contrary notwithstanding the civil service provisions hereof shall not apply to any district until such time as it has operated, controlled or used works or parts of works for the providing of the inhabitants and municipalities within the boundaries of said district with the utility services, or any of them, specified in this act. A civil service system may, however, be adopted under Section 21 at any time after the district commences to operate, control, or use works or parts of works for the providing of the inhabitants and municipalities within the boundaries of said district with the utility services, or any of them, specified in the act, and such system shall be adopted within six months thereafter.

New section

SEC. 4. Section 31 is added to said act, to read as follows:

Short title

Sec. 31. This act may be cited as the "Municipal Utility District Act."

CHAPTER 318

Stats 1935, p 496, amended

An act to add Section 10505 to the Insurance Code, relating to insurance.

In effect August 4, 1943

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

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

New section

SECTION 1. Section 10505 is added to the Insurance Code, to read:

Exempt labor unions

10505. (A) A labor union having all of the following characteristics is exempt from the provisions of this code relating to life and disability insurance in respect to the benefits herein specified and transactions connected therewith:

1. It is composed of members of one craft or industry or allied crafts or industries.

2. It is organized for the purpose of collective bargaining concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work and for the mutual benefit of its members and not for profit.

3. Either (a) it does not issue policies but provides for payment of such benefits in its by-laws, constitution or rules and regulations; or (b) it limits its membership to one hazardous occupation.

4. Such payment of benefits is incidental to the purposes of such union.

(B) Any incorporated organization, the membership and insurance in which are restricted to members of such a labor union and the officers of which are the officers of the labor union, is likewise exempt from the provisions of this code to the same extent as such labor union.

CHAPTER 319

Stats 1943, Ch. 134

An act to amend Section 4295 of the Political Code and to amend Sections 6103 and 6107 of the Government Code, relating to payment of fees to State, county and township officers.

In effect August 4, 1943

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

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

Stats 1939, p. 2066

See also Stats 1943, Ch 134

SECTION 1. Section 4295 of the Political Code is amended to read:

When fees not required

4295. State, county and township officers shall not perform any official services unless upon the payment of such fees as are prescribed by law for the performance of such services, except in proceedings upon habeas corpus, and in the following cases:

(1) Guardianship proceedings. In proceedings for the appointment of a guardian for any persons receiving charity or relief under the laws of this State;

(2) Filing document or performing service on behalf of the State, etc. Except where otherwise specifically provided, and except where a public officer is acting with reference to private assets or private obligations which have come under his jurisdiction by virtue of his office, neither the State nor any county, city and county, city, district, or other political subdivision, nor any public officer, or board or body, acting in his or its official capacity on behalf of the State or any county, city and county, city, district or other political subdivision, shall be required to pay or deposit any fee for the filing of any document or paper; or for the performance of any official service; or for the filing of any stipulation or agreement which may constitute an appearance in any court by any other party to said stipulation or agreement;

(3) Recording discharges for soldiers, etc. Neither the State nor any county, city and county, city, nor any public officer, board or body acting in his or its official capacity on behalf of the State, or any county, city and county, city, including notaries public, shall collect, demand or receive any fee or compensation for recording or indexing any discharge of a soldier, sailor, or marine, of the United States Army, Navy, or Marine Corps, or of a nurse who served in the American Red Cross or in the Army or Navy Nursing Corps, or for issuing certified copies thereof, or for any service whatever rendered in the matter of a pension claim, application, affidavit, voucher, or in the matter of any claim to be presented to the Bureau of War Risk Insurance, under and by virtue of an act of Congress of the United States entitled "An act to amend an act entitled 'An act to authorize the establishment of a Bureau of War Risk Insurance in the Treasury Department,'" approved October 6, 1917, and acts amendatory thereof, or furnishing a certified copy of the public record of marriage, death, birth or divorce, deed of trust, mortgage, or property assessment, or making the search for the same, when the same is to be used in a claim for pension, or a claim for allotment, allowance, compensation, insurance, automatic insurance, or otherwise, under the said act establishing the said Bureau of War Risk Insurance or any other act of Congress granting claims for pensions, allotments, allowances, compensation insurance, or automatic insurance to any person by reason of service of that person or any other person in the Army, Navy, or Marine Corps. Said services shall be rendered on the request of a United States official, a claimant, his or her guardian, or attorney, and for every failure or refusal so to do, such officer shall be liable on his official bond;

(4) Affidavits to recover public funds. Whenever the oath of an affiant, or the affidavit of a person is necessary in order that the State or any political subdivision thereof may recover funds or property due the State or political subdivision, no fee shall be charged for the taking of such oath;

(5) Affidavits to obtain aid. Whenever the oath of an affiant or the affidavit of a person is necessary in order that a

person may obtain charity or relief from any agency or department of the United States Government, the State of California, or any political subdivision thereof, no fee shall be charged for the taking of such oath;

Liability for failure or refusal to perform

Liability for failure or refusal to perform; recording instrument to which the United States is a party. Upon payment by any person of the fees required by law, the officer must perform the services required, and for every failure or refusal so to do, such officer shall be liable upon his official bond; provided further, that upon the request of any official of the United States, the county recorder shall record instruments to which the United States is a party without payment of the recording fee in advance and shall execute the proper government voucher for payment thereof, upon payment of which he shall transmit same to the treasurer with his first settlement after such collection.

Note.—See Stats. 1943, Ch. 134.

Effect Stats 1943, Ch 134

Repeal

SEC. 4. Sections 2 and 3 of this act shall take effect only if a Government Code is enacted by the Legislature at its Fifty-fifth Session, and in such case, at the same time as the Government Code takes effect; at which time Section 4295 of the Political Code as amended by this act is hereby repealed.

CHAPTER 320

Stats 1943, Ch 71, amended

An act to add Section 24409.1 to the Education Code, relating to facilities of community recreation centers maintained solely by school districts.

In effect August 4, 1943

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

Note.—See Stats. 1943, Ch. 71.

CHAPTER 321

An act to amend Section 1203.2a of the Penal Code, relating to probation and terms of imprisonment.

In effect August 4, 1943

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

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

Stats 1941, p 2100

SECTION 1. Section 1203.2a of the Penal Code is amended to read:

Probationer again committed

1203.2a. If any defendant who has been released on probation is committed to a prison in this State for another offense, the court which released him on probation shall have jurisdiction to impose sentence, if no sentence has previously been

imposed for the offense for which he was granted probation, in the absence of the defendant.

Report of commitment

The probation officer may, upon learning of such defendant's imprisonment, and must within 30 days after being notified in writing by the defendant or his counsel, or the warden or superintendent or clerk of the prison in which the defendant is confined, report such commitment to the court which released the defendant on probation.

Action of court which granted probation

Upon being informed by the probation officer of the defendant's confinement, or upon receipt from the warden, superintendent or clerk of any prison in this State of a certificate showing that the defendant is confined in prison, the court shall issue its commitment if sentence has previously been imposed, or shall impose sentence and issue its commitment if sentence has not previously been imposed, or shall make other final order terminating its jurisdiction over the defendant in the case in which the order of probation was made, and if no such order is made within 30 days after the court has been notified as herein provided of the defendant's confinement, then the court shall be deprived thereafter of any jurisdiction over the defendant in the case on which he was granted probation.

Term of sentence

Upon imposition of sentence hereunder the commitment shall be dated as of the date upon which probation was granted and if the defendant is then in a State prison for an offense committed subsequent to the one upon which he has been on probation, the term of imprisonment of such defendant under a commitment issued hereunder shall commence upon the date upon which defendant was delivered to prison under commitment for his subsequent offense, unless the court shall order that the sentence for the prior offense shall commence upon termination of the sentence for said subsequent offense. The sentence of the court may be imposed in the absence of the defendant in such cases. In the event the probation officer fails to report such commitment to the court or the court fails to impose sentence as herein provided, the court shall be deprived thereafter of all jurisdiction it may have retained in the granting of probation in said case.

CHAPTER 322

An act to add Section 2710.2 to the Penal Code, relating to the California Institution for Men Working Revolving Fund, declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 2, 1943 Filed with Secretary of State May 2, 1943.]

In effect immediately

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

New section California Institution for Men Working Revolving Fund

SECTION 1. Section 2710.2 is hereby added to the Penal Code, to read as follows:

2710.2. There is hereby constituted a permanent revolving fund in the sum of not less than one hundred thousand dollars

($100,000) to be known as the California Institution for Men Working Revolving Fund to be used to meet the expenses necessary in the purchasing of material and equipment and for the maintenance of the work program at the State Prison at the California Institution for Men. Said fund shall at all times contain the amount of one hundred thousand dollars ($100,000) after it has once reached that amount, either in cash or assets, consisting of raw materials and finished or unfinished products inventory at cost, or both, or proper charges made under this section. Money received from the rendering of services or the sale of manufactured products at California Institution for Men shall be paid to the State Treasurer monthly and shall be credited to said revolving fund. At such time as the board or the Director of Finance decide that the balance in said revolving fund is greater than is necessary to carry out the purposes of this section, it, or he, shall so inform the State Controller and request a transfer of the unneeded balance from the said revolving fund to the General Fund of the State of California. The Controller is authorized to transfer such balances upon the request of the Director of Finance.

Urgency

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

The following is a statement of facts constituting such necessity:

The United States of America is now at war with certain foreign powers and its manpower is being severely taxed to meet the personnel requirements of the Army and Navy and the National defense plants necessary to supply the Army and Navy with materials, supplies and equipment; that the Federal Government has called upon the State and Federal prisons to turn their inmate manpower and equipment previously done by unskilled workmen, such as the harvesting and planting of crops, the fighting of forest fires and the salvaging of scrap to productive war work and particularly to do work of the unskilled workman; that under the present laws the State prisons can not utilize their inmate manpower and equipment to the fullest extent for war work and this act is necessary to create a revolving fund to carry out the purposes of other urgency legislation passed at this session of the Legislature.

CHAPTER 323

An act to add Section 2710.1 to the Penal Code, relating to the Folsom Working Revolving Fund, declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.] In effect immediately

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

SECTION 1. Section 2710.1 is hereby added to the Penal Code, to read as follows: New section

2710.1. There is hereby constituted a permanent revolving fund in the sum of not less than one hundred thousand dollars ($100,000) to be known as the Folsom Working Revolving Fund to be used to meet the expenses necessary in the purchasing of material and equipment and for the maintenance of the work program at the State Prison at Folsom. Said fund shall at all times contain the amount of one hundred thousand dollars ($100,000) after it has once reached that amount, either in cash or assets, consisting of raw materials and finished or unfinished products inventory at cost, or both, or proper charges made under this section. Money received from the rendering of services or the sale of manufactured products at Folsom Prison shall be paid to the State Treasurer monthly and shall be credited to said revolving fund. At such time as the board or the Director of Finance decide that the balance in said revolving fund is greater than is necessary to carry out the purposes of this section, it, or he, shall so inform the State Controller and request a transfer of the unneeded balance from the said revolving fund to the General Fund of the State of California. The Controller is authorized to transfer such balances upon the request of the Director of Finance. Folsom Working Revolving Fund

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

The following is a statement of facts constituting such necessity:

The United States of America is now at war with certain foreign powers and its manpower is being severely taxed to meet the personnel requirements of the Army and Navy and the National defense plants necessary to supply the Army and Navy with materials, supplies and equipment; that the Federal Government has called upon the State and Federal prisons to turn their inmate manpower and equipment previously done by unskilled workmen, such as the harvesting and planting of crops, the fighting of forest fires and the salvaging of scrap to productive war work and particularly to do work of the unskilled workman; that under the present laws the State prisons can not utilize their inmate manpower and equipment

to the fullest extent for war work and this act is necessary to create a revolving fund to carry out the purposes of other urgency legislation passed at this session of the Legislature.

CHAPTER 324

An act to amend Section 2710 of the Penal Code, relating to working revolving funds for the State prisons, declaring the urgency hereof, to take effect immediately.

In effect immediately

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

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

Stats 1941, p 2411

SECTION 1. Section 2710 of the Penal Code is hereby amended to read as follows:

San Quentin Working Revolving Fund

2710. There is hereby constituted a permanent revolving fund in the sum of not less than one hundred thousand dollars ($100,000) to be known as the San Quentin Working Revolving Fund to be used to meet the expenses necessary in the purchasing of material and equipment and for the maintenance of the work program at the State Prison at San Quentin. Said fund shall at all times contain the amount of one hundred thousand dollars ($100,000), either in cash or assets, consisting of raw materials and finished or unfinished products inventory at cost, or both, or proper charges made under this section. Money received from the rendering of services or the sale of manufactured products in San Quentin Prison shall be paid to the State Treasurer monthly and shall be credited to said revolving fund. At such time as the board or the Director of Finance decide that the balance in said revolving fund is greater than is necessary to carry out the purposes of this section, it, or he, shall so inform the State Controller and request a transfer of the unneeded balance from the said revolving fund to the General Fund of the State of California. The Controller is authorized to transfer such balances upon the request of the Director of Finance.

Urgency

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

The following is a statement of facts constituting such necessity:

The United States of America is now at war with certain foreign powers and its manpower is being severely taxed to meet the personnel requirements of the Army and Navy and the National defense plants necessary to supply the Army and Navy with materials, supplies and equipment; that the Federal Government has called upon the State and Federal

prisons to turn their inmate manpower and equipment previously done by unskilled workmen, such as the harvesting and planting of crops, the fighting of forest fires and the salvaging of scrap to productive war work and particularly to do work of the unskilled workman; that under the present laws the State prisons can not utilize their inmate manpower and equipment to the fullest extent for war work and this act is necessary to create a revolving fund to carry out the purposes of other urgency legislation passed at this session of the Legislature.

CHAPTER 325

An act to amend Section 347½ of the Penal Code, relating to the sale and use of drugs.

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.] In effect August 4, 1943

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

SECTION 1. Section 347½ of the Penal Code is amended to read: Stats 1941, p 2331

347½. It shall be unlawful for any person, firm, or corporation to possess, sell, furnish, or give away, or offer to sell, furnish, or give away any veronal, barbital (acid diethylbarbituric) or other barbituric acid derivative of their salts, derivatives, or compounds of the foregoing substance, or any preparation or compound containing any of the foregoing substances, or their salts, derivatives or compounds, except upon the order or prescription of a physician and surgeon, dentist, chiropodist, or veterinary surgeon duly licensed to practice in the State of California, and shall not be refilled without the order of the prescriber; provided, however, that any prescription for phenobarbital or any preparation, mixture or compound of phenobarbital may be refilled, and said prescription or order shall be at all times open to the inspection by duly authorized officers of the law, and shall be preserved for at least three years from the date of filing thereof; provided, however, that the above provisions shall not apply to the sale at wholesale by drug jobbers, drug wholesalers and drug manufacturers to pharmacies as defined in, Chapter 9 of Division 2 of the Business and Professions Code, or to physicians, dentists, chiropodists, or veterinary surgeons, nor to each other, nor to the sale at retail in pharmacies by pharmacists to each other or to physicians and surgeons, dentists, chiropodists, or veterinary surgeons duly licensed to practice in this State; and provided further, however, that the above provisions with reference to possession of said drugs do not apply to drug wholesalers, drug jobbers, drug manufacturers, pharmacies, physicians, dentists, chiropodists, and

Possession, sale and use of drugs without order or prescription

Exceptions

Penalty

veterinary surgeons. Every person who violates any of the provisions of this section is guilty of a misdemeanor, and punishable by a fine not exceeding five hundred dollars ($500) or by imprisonment in the county jail, not exceeding six months, or by both such fine and imprisonment.

CHAPTER 326

Stats 1937, p 2204, amended

An act to amend Section 1 of an act entitled "An act to provide for the retirement with retirement allowance, of justices of the Supreme Court and of the district courts of appeal, and of judges of the superior courts and municipal courts," approved July 1, 1937, relating to retirement of judges.

In effect August 4, 1943

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

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

Stats. 1941, p 2939

SECTION 1. Section 1 of the act cited in the title hereof is amended to read:

Retirement for service

Section 1. (a) Every justice of the Supreme Court, or of a district court of appeal, or judge of a superior court or municipal court

(1) Who has attained the age of 70 years and who has been a judge or justice of the Supreme Court, a district court of appeal or superior court or municipal court, or any two or more of said courts, for 10 years in the aggregate within the period of 15 years immediately preceding, or

(2) Who has attained the age of 65 years, and who has been a judge or justice of the Supreme Court, a district court of appeal or superior court or municipal court, or any two or more of said courts, for 20 years in the aggregate within the period of 24 years immediately preceding, or

(3) Who has attained the age of 70 years and who has been a judge or justice of the Supreme Court, a district court of appeal, superior court or municipal court, or any two or more of said courts, for 20 years in the aggregate, the last five years of which period or periods shall have been served as said judge or justice immediately prior to the filing of the notice of retirement herein provided, and who has paid into the Judges' Retirement Fund a sum equal to the amount he would have paid had he been a judge or justice of the Supreme Court, a district court of appeal, superior court or municipal court for a period of 10 years immediately preceding the filing of said notice, may retire by filing written notice of retirement with the Secretary of State, and a successor shall thereupon be appointed to fill the vacancy.

(b) Every justice of the Supreme Court, or of a district court of appeal, or judge of a superior court

(1) Who has attained the age of 70 years and who has been a judge of a municipal court or a judge or justice of the Supreme Court, a district court of appeal or superior court, or any two or more of said courts, for 10 years in the aggregate within the period of 15 years immediately preceding, having served over six years of that period as a judge or justice of the Supreme Court, a district court of appeal, superior court, or any two or more of said courts, or

(2) Who has attained the age of 65 years, and who has been a judge of a municipal court or a judge or justice of the Supreme Court, a district court of appeal or superior court, or any two or more of said courts for 20 years in the aggregate within the period of 24 years immediately preceding, having served over six years of that period as a judge or justice of the Supreme Court, a district court of appeal or superior court, or any two or more of said courts, may retire if he pays into the Judges' Retirement Fund a sum equal to the amount he would have paid had he been a judge or justice of the Supreme Court, a district court of appeal or superior court during the time he was a judge of the municipal court during the 15- or 24-year period. Any sums paid into any State retirement fund under any existing law or under any law hereafter adopted for the retirement of judges of a municipal court, shall be deemed paid into the fund for the retirement of judges or justices of the Supreme Court, a district court of appeal or superior court or municipal court if such funds are transferred to the fund for the retirement of such judges or justices.

Any justice or judge who has served 30 days less than the aggregate number of years required for retirement shall be deemed to have been a justice or judge for such aggregate number of years within the meaning of this section.

Any justice or judge whose term of office expires within 30 days before he shall have attained the age required for his retirement, shall be deemed to have attained such age within the meaning of this section at any time during the 30-day period immediately preceding his actual attainment of such age.

CHAPTER 327

An act to amend Sections 9.09 and 9.18 of the Building and Loan Association Act, relating to building and loan associations and the making of loans by such associations.

Stats 1931, p 483, amended

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 9.09 of the act cited in the title is amended to read:

Stats 1933, p 1089

Sec. 9.09. Loan Terms. For the purposes of this act, an amortized loan shall be one which provides for payments to

Loan terms

be made on the principal in installments to be paid at regular intervals at least semiannually and to commence not later than one year after the date of the loan. Such installments may include interest and either as to principal alone or as to combined principal and interest, shall be approximately equal (except that the last installment may be unequal), and whether or not such loan be written for a shorter period such stipulated installments, if of principal alone shall be at least of a sufficient amount so that if continued at such regular intervals they would result in paying the entire principal in not more than 20 years from their commencement, and if of combined principal and interest, shall be at least of a sufficient amount so that if continued at such regular intervals they would result in paying the entire loan both principal and interest in not more than 20 years from their commencement. Such loans may provide for payment of interest or principal or both, in addition to such regular installments and in the event such regular installments are not sufficient to pay the entire principal within the term thereof, such loans must provide that the entire amount unpaid come due and payable within not more than six months after the due date of the last regular installment; provided, however, that the commissioner may by rules permit and prescribe a longer maximum term than as herein provided in the case of amortized loans upon particular classes of security, which classes he shall have power to prescribe and define.

Loans may be made by an association which may or may not provide for payments on account of the principal thereof during an initial period not to exceed three years. If any loan does not provide for the payment, commencing not later than one year after the date thereof, of installments either of principal alone or of combined principal and interest at a rate at least equal to the rate hereinabove provided for an amortized loan, the same shall not be an amortized loan for the purpose of Section 9.10 of this act; but for the purpose of Section 9.14 of this act, any loan held by an association may be classified as an amortized loan during any period within which payments are being made, or within which the note or obligation representing such loan provides for payments to be made, of installments either of principal alone or combined principal and interest thereof at a rate not less than that hereinabove provided for an amortized loan.

Solely for the purposes of this section and Section 9.14 of this act, but not for any other purpose, on loans made on the mutual plan where the installments are to be applied in payment of its own membership shares pledged therewith, such installments together with accumulated earnings thereon shall be construed as having been applied to the principal of such loans.

In the case of all loans hereafter made on the mutual plan, the note or other obligation of the borrower shall expressly

provide that in the event such association shall thereafter sell, exchange, transfer, or otherwise dispose of such note or obligation, or in the event such association shall thereafter be liquidated, either voluntarily or involuntarily, then the value of the shares pledged therefor, plus the accrued earnings thereon to the date of such sale or disposition or to the date of the commencement of such liquidation, shall be applied first to advances on account of such loans, second to the interest accrued and unpaid thereon, and third to the principal thereof; and said note or other obligation shall also expressly provide that in the event such association shall thereafter pledge, hypothecate or otherwise encumber such note or obligation, then the value of the shares pledged therefor, plus the accrued earnings thereon to the date of such pledge, hypothecation or encumbrance may, at the option of such association, be applied as aforesaid, and that if the association shall not exercise said option at the time of such pledge, hypothecation or other encumbrance then in the event such note or obligation shall be sold pursuant to such pledge, hypothecation or other encumbrance, the value of such shares, plus the accrued earnings thereon to the date of such sale, shall be applied as aforesaid. In any such case such shares from the time of such application shall be deemed surrendered to the association and canceled. In computing accrued earnings in any such case, the rate used in the last apportionment shall be applied.

Stats 1935, p 798

SEC. 2. Section 9.18 of the said act is amended to read:

National Housing Act loans and insurance

Sec. 9.18. National Housing Act Loans and Insurance. An association (a) either with or without security, may make loans, advance credit, and purchase obligations representing loans and advances of credit, pursuant to Title 1 of the National Housing Act, as amended, if the Federal Housing Administrator shall insure such association against losses which it may sustain as a result of such loans, advances of credit and purchases made by such association for such purposes, to the extent of 10 per cent of the total amount of the loans, advances of credit and purchases made by such association for such purposes on and after the date of the enactment of the National Housing Act Amendments of 1938; (b) may make loans upon the security of improved real property pursuant to the provisions of this section and pursuant to Title 2 and Title 6 of the National Housing Act, as amended, if the Federal Housing Administrator pursuant to said Title 2 or Title 6 shall have insured, or shall have made a commitment to insure, such association against losses of principal which it may sustain as a result of such loans; and (c) may secure insurance pursuant to said National Housing Act. No law of this State prescribing the nature, amount or form of security or requiring security upon which loans or advances of credit may be made or prescribing or limiting the period for which loans or advances of credit may be made, shall be deemed to apply to loans, advances of credit or purchases made pursuant to this section.

CHAPTER 328

Stats 1943, Ch 134, amended

An act to amend Section 791 of the Political Code and Section 8200 of the Government Code, relating to notaries public.

In effect August 4, 1943

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

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

Stats. 1923, p. 1890 See also Stats 1943, Ch 134

SECTION 1. Section 791 of the Political Code is amended to read:

Number of notaries

791. The Governor may appoint and commission such number of notaries public for the several counties and cities and counties of the State as he shall deem necessary for the public convenience, except that in counties of the second class the number shall not exceed 222.

Note.—See Stats. 1943, Ch. 134.

Effect Stats 1943, Ch 134

SEC. 3. Section 2 of this act shall take effect only if the Government Code is enacted by the Legislature at its Fifty-fifth Session and, in such case, at the same time as the Government Code takes effect, at which time Section 791 of the

Repeal

Political Code, as amended by this act, is repealed.

CHAPTER 329

Stats 1937, p 185, amended

An act to add Sections 1650, 1651, 1652, 1653, 1654, 1655, 1656, 1657, 1658, 1659, 1660, 1661, 1662 and 1663 to the Labor Code, relating to artists' managers.

In effect August 4, 1943

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

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

New section

SECTION 1. Section 1650 is added to the Labor Code, to read:

Artists' manager

1650. An artists' manager is hereby defined to be a person, who engages in the occupation of advising, counseling, or directing artists in the development or advancement of their professional careers and who procures, offers, promises or attempts to procure employment or engagements for an artist only in connection with and as a part of the duties and obligations of such person under a contract with such artist by which such person contracts to render services of the nature above mentioned to such artist.

"Artists"

The word "artists" as used herein refers to actors and actresses rendering services on the legitimate stage and in the production of motion pictures; radio artists; musical artists; musical organizations; directors of legitimate stage, motion picture and radio productions; musical directors; writers;

cinematographers; composers; lyricists; arrangers; and other artists and persons rendering professional services in motion picture, theatrical, radio, television and other entertainment enterprises.

New section

SEC. 2. Section 1651 is added to said code, to read:

License

1651. No person shall engage in or carry on the occupation of an artists' manager without first procuring a license therefor from the Labor Commissioner. Such license shall be posted in a conspicuous place in the office of the licensee.

Display

New section

SEC. 3. Section 1652 is added to said code, to read:

License fee

1652. Every artists' manager shall pay to the Labor Commissioner annually at the time the license is issued or renewed a license fee of fifty dollars ($50).

New section

SEC. 4. Section 1653 is added to said code, to read:

Employment agency and artists' manager license Fee

1653. A person may apply for both an employment agency license and an artists' manager license, as provided for in this code, and in such event shall pay a single license fee at the rate applicable under Section 1588 or under Section 1652 of this code, whichever is higher, and such single license fee shall cover the issuance or renewal of both the employment agency license and the artists' manager license.

New section

SEC. 5. Section 1654 is added to said code, to read:

Refund of employment fee

1654. In the event that an artists' manager shall collect from an artist a fee or expenses for obtaining employment for the artist, and the artist shall fail to procure such employment, such artists' manager shall, upon demand therefor, repay to the artist the fee and expenses so collected. Unless repayment thereof is made within forty-eight (48) hours after demand therefor, the artists' manager shall pay to the artist an additional sum equal to the amount of the fee.

Penalty

New section

SEC. 6. Section 1655 is added to said code, to read:

Approval of contracts

1655. Every artists' manager shall submit to the Labor Commissioner a form or forms of contract to be utilized by such artists' manager in entering into written contracts with artists for the employment of the services of such artists' manager by such artists, and secure the approval of the Labor Commissioner thereof. Such approval shall not be withheld as to any proposed form of contract unless such proposed form of contract is unfair, unjust and oppressive to the artist. Each such form of contract, except under the conditions specified in Section 1647.5 of this code, shall contain an agreement by the artists' manager to refer any controversy between the artist and the artists' manager relating to the terms of the contract to the Labor Commissioner for adjustment. There shall be printed on the face of the contract in prominent type the following: "This artists' manager is licensed by the Labor Commissioner of the State of California."

Adjustment of terms

New section

SEC. 7. Section 1656 is added to said code, to read:

Fee schedules

1656. Every person engaged in the occupation of an artists' manager shall file with the Labor Commissioner a schedule of fees to be charged and collected in the conduct of such occupation, and shall also keep a copy of said schedule posted

in a conspicuous place in the office of such artists' manager.

Changes in schedules

Changes in the schedule may be made from time to time, but no change shall become effective until seven days after the date of filing thereof with the Labor Commissioner, and until posted for not less than seven days in a conspicuous place in the office of such artists' manager.

New section

SEC. 8. Section 1657 is added to said code, to read:

Reimbursement of expenses to artist

1657. In cases where an artist is sent by an artists' manager beyond the limits of the city in which the office of such artists' manager is located upon the representation of such artists' manager that employment of a particular type will there be available for the artist and the artist does not find such employment available, such artists' manager shall reimburse the artist for any actual expenses incurred in going to and returning from the place where the artist has been so sent.

New section

SEC. 9. Section 1658 is added to said code, to read:

Display of law

1658. Every artists' manager shall post in a conspicuous place in the office of such artists' manager a printed copy of this chapter and of such other statutes as may be specified by the Labor Commissioner. Such copies shall also contain the name and address of the officer charged with the enforcement of this chapter. The Labor Commissioner shall furnish to artists' managers printed copies of any statute required to be posted under the provisions of this section.

New section

SEC. 10. Section 1659 is added to said code, to read:

Suspension or revocation of license

1659. The Labor Commissioner may revoke or suspend any license when it is shown that:

(a) The licensee or his agent has violated or failed to comply with any of the provisions of this chapter, or

(b) The licensee has ceased to be of good moral character, or

(c) The conditions under which the license was issued have changed or no longer exist.

New section

SEC. 11. Section 1660 is added to said code, to read:

Notification of labor trouble

1660. No artists' manager shall knowingly secure employment for an artist in any place where a strike, lock-out, or other labor trouble exists, without notifying the artist of such conditions.

New section

SEC. 12. Section 1661 is added to said code, to read:

Records

1661. Every artists' manager shall keep records approved by the Labor Commissioner, in which shall be entered: (1) The name and address of each artist employing such artists' manager; (2) the amount of fee received from such artist; (3) the employment in which such artist is engaged at the time of employing such artists' manager, and the amount of compensation of the artist in such employment, if any, and the employments subsequently secured by such artist during the term of the contract between the artist and the artists' manager, and the amount of compensation received by the artists pursuant thereto; and (4) other information which the Labor Commissioner requires.

No artists' manager, its agent or employees, shall make any false entry in any such records.

SEC. 13. Section 1662 is added to said code, to read: New section

1662. The definitions of "theatrical engagement," "motion picture engagement," "emergency engagement," as now contained in Section 1553 of this code; the definition of "fee," as now contained in Section 1554 of this code; and the definitions of "registration fee," "license" and "licensee," as now contained in Section 1555 of this code, shall be applicable to artists' managers with the same force and effect as though said definitions had been enacted with express reference to artists' managers. Incorporation of definitions by reference

SEC. 14. Section 1663 is added to said code, to read: New section

1663. No part of the provisions of Part 6, Chapter 1 of this code shall be applicable to an artists' manager, except as expressly provided in Sections 1650 to 1663, inclusive, of this code, and except that the following sections, in the terms thereof now in effect, shall be so applicable, to wit: Sections 1550, 1582, 1583, 1584, 1585, 1586, 1587, 1589, 1590, 1591, 1592, 1593, 1594, 1595, 1597, 1598, 1599, 1620, 1621, 1623, 1630, 1636, 1637, 1638, 1639, 1640, 1640.5, 1642, 1643, 1644, 1646, 1647, 1647.5, and 1648; and for such purpose, each of said sections, in the terms thereof now in effect, shall be read, applied, administered and enforced as though expressly made applicable to an artists' manager. Sections applicable to artists' manager

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CHAPTER 330

An act to add Section 1648.3 to the Insurance Code, relating to the qualifications of insurance producers. Stats 1935, p 496, amended

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.] In effect August 4, 1943

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

SECTION 1. Section 1648.3 is hereby added to the Insurance Code, to read: New section

1648.3. Before being permitted to take the qualifying examination for license to act as an insurance broker or to qualify to exercise the brokership powers of a corporation, association or partnership, an applicant or a person named to exercise such brokership powers shall have either: Qualifications of insurance brokers

(a) Successfully completed a course or courses of study approved as to method of instruction and content by the commissioner, covering the principal branches of the insurance business and requiring not less than 50 hours of classroom work or the equivalent thereof in correspondence work; or

(b) Been regularly employed by an insurance company, insurance broker, or an insurance agent, or licensed under this article, for a period or periods aggregating not less than one

year during the three years next preceding the date of application, in responsible insurance duties relating to classes of insurance other than life; provided, that time spent in military service shall be excluded in computing such three-year period; and he shall submit affidavits stating facts which show compliance with this requirement.

Course of study

Such course or courses either (1) shall be given by a degree conferring college or university which has, when such course is taken by such individual, a curriculum or curricula approved by the commissioner, whether such course be given as part of any such curriculum or separately or (2) shall have been given by any other institution which maintains equivalent satisfactory standards of instruction, and which shall have been approved for such purpose by the commissioner.

Approval of course

The commissioner shall not approve any curricula, whether given by a degree conferring college or university, a correspondence school, or any other institution, unless it includes instruction in: Classes of insurance except life insurance; the fundamental characteristics of each of the types of insurers admitted to transact insurance in California; the laws of the State of California relating to the transaction of insurance by insurance agents, brokers and solicitors; and such other subjects as the commissioner finds to be necessary to qualify a person to discharge his responsibilities as an insurance broker or to exercise brokership powers.

Persons covered

This section shall be applicable to all persons required to take the qualifying examination for a license to act as an insurance broker, or to qualify to exercise the brokership powers of a corporation, association or partnership, who make application for said licenses or to so qualify after January 1, 1944.

CHAPTER 331

Stats 1933, p 60, amended

An act to amend Sections 396 and 397 of the Agricultural Code, relating to estrays.

In effect August 4, 1943

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

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

Stats 1933, p 60

SECTION 1. Section 396 of the Agricultural Code is amended to read:

Sale of animals

396. If no person appears and claims the animal or animals taken up within 30 days after the filing of the notice hereinbefore mentioned or if a person does appear and claims the animal or animals seized within 30 days after the filing of the notice above referred to, but fails to pay to the lienholder the expenses as provided in Section 393 or fails to commence and prosecute with diligence an action for the

recovery of the possession of such estray animal or animals within the time required by Section 394; or if the award in said action is ineffective; then the lienholder shall, in writing, notify the Director of Agriculture that he has complied with all the provisions of this article, that one of the foregoing conditions exists and that such animal or animals are held by him subject to sale. The director shall proceed to sell or cause to be sold such animal or animals at public sale, in conformity with the general procedure provided in the law concerning sales on execution, and the department shall be entitled to the same fees as are provided by law for sales under execution.

SEC. 2. Section 397 of the Agricultural Code is amended to read: Stats 1933, p. 60

397. Out of the money realized from the sale of estrays, the director shall first retain his fees for conducting the sale; he shall then pay to the taker-up his expenses estimated as provided in Section 393, or so much thereof as the funds in his hands will permit, and the surplus, if any, he shall pay to the Department of Agriculture Fund to be held for the owner of the estray or estrays for which it was received in payment. If any person shall, within one year thereafter, prove, to the satisfaction of the director that he is entitled to the sum so held, or any part thereof, the director shall order such sum to be paid to him; if not so proven within one year, the same becomes a part of the Department of Agriculture Fund and shall be expended in carrying out the provisions of this code relating to hide and brand inspection. Proceeds of sale

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CHAPTER 332

An act to add Section 210.5 to the Revenue and Taxation Code, defining a householder. Stats 1939, p 1274, amended

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.] In effect August 4, 1943

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

SECTION 1. Section 210.5 is added to the Revenue and Taxation Code, to read: New section

210.5. The surviving spouse of an established household, whether with or without dependents, as long as the family home is maintained is a householder and is entitled to the exemption from taxation provided by Section 10½ of Article XIII of the Constitution of California. Householder Exemption

CHAPTER 333

Stats. 1931, p 587, amended

An act to amend Section 756.5 of the Probate Code, relating to sale of personal property.

In effect August 1, 1943

[Approved by Governor May 2, 1943 Filed with Secretary of State May 2, 1943.]

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

Stats 1939, p 2020

SECTION 1. Section 756.5 of the Probate Code is amended to read:

Sale of personalty

756.5. Upon the hearing of a petition for confirmation or approval of sale of personal property, where the original bid is in excess of one hundred dollars ($100), if a written offer of 10 per cent more in amount than named in the return is made to the court by a responsible person, and the bid complies with all the provisions of law, it is in the discretion of the court to accept such offer and confirm or approve the sale to such person or order a new sale.

Exceptions

This section shall not apply to personal property sold at public auction nor to personal property sold under the provisions of Section 770 of this code.

CHAPTER 334

Stats 1931, p 587, amended

An act to add Section 754.5 to the Probate Code, relating to the sale of personal and real property as a unit.

In effect August 4, 1943

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

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

New section

SECTION 1. Section 754.5 is added to the Probate Code, to read as follows:

Sale of personalty and realty as unit

754.5. When personal property has been used upon the premises of any parcel of real estate the executor or administrator may in his discretion sell both such personal property and the real estate as a unit and under one bid for not less than 90 per cent of the appraised value of the aggregate value of both the personal property and the real estate and otherwise in the manner provided for the sale of real estate, the bid and sale to be subject to the limitations and restrictions established for the sale of real estate.

CHAPTER 335

An act to amend Section 156 of the Revenue and Taxation Code, relating to abbreviations.

Stats 1939, p 1274, amended

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 156 of the Revenue and Taxation Code is amended to read:

Stats 1939, p 1274

156. In the assessment, advertisement, and sale of real property for taxes, initial letters, abbreviations, and figures may be used to designate the township, range, section, or part of a section. Any other abbreviations approved by the board may be used if an explanation of them appears on each page of the roll or a reference appears on each page to a list of abbreviations within each volume of the roll.

Abbreviations

CHAPTER 336

An act to add Section 359e to the Political Code, relating to sick leave for employees exempt from civil service.

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 359e is hereby added to the Political Code, to read as follows:

New section

359e. Employees exempt from civil service shall be entitled to 12 days sick leave, excluding time during which they are not regularly assigned to work, with pay for a calendar year of service, or one day of sick leave with pay for a calendar month of service, on the submission of satisfactory proof thereof as provided by rule of the State Personnel Board. The State Personnel Board shall, by rule, provide for the granting of additional sick leave, with or without pay, or with reduced pay, or for accumulation of sick leave.

Sick leave of non-civil service employees

CHAPTER 337

An act to amend Sections 701, 777 and 778 of the Welfare and Institutions Code, relating to minors who should be declared free from parental control, and relating to the procedure in such cases.

Stats 1937, p 1005, amended

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 701 of the Welfare and Institutions Code is amended to read:

Stats 1937, p 1005

701. The jurisdiction of the juvenile court extends also to any person who should be declared free from the custody and control of either or both of his parents. The words "person who should be declared free from the custody and control

Person declared free from custody and control of parent or parents

of either or both of his parents" shall include any person under the age of 21 years who comes within any of the following descriptions:

(a) Who has been left by either or both of his parents in the care and custody of another without any provision for his support, or without communication from either or both of his parents, for the period of one year with the intent on the part of such parent or parents to abandon such person. Such failure to provide, or such failure to communicate for the period of one year, shall be presumptive evidence of the intent to abandon. Such person shall be deemed and called a person abandoned by the parent or parents abandoning him.

(b) Who has been cruelly treated or neglected by either or both of his parents, if such person has been a ward of the juvenile court, and such parent or parents deprived of his custody because of such cruel treatment or neglect, for the period of one year continuously immediately prior to the filing of a petition praying that he be declared free from the custody and control of such cruel or neglectful parent or parents.

(c) Whose parent or parents are habitually intemperate, or morally depraved, if such person has been a ward of the juvenile court, and the parent or parents deprived of his custody because of such intemperance, or moral depravity, for the period of one year continuously immediately prior to the filing of the petition praying that he be declared free from the custody and control of such habitually intemperate or morally depraved parent or parents.

(d) Whose parent or parents are deprived of their civil rights due to the conviction of a felony, if, after investigation and service of citations as prescribed in this chapter, upon the parent or parents who are imprisoned, the court decides that the felony of which such parent or parents were convicted is of such nature as to prove the unfitness of such parent or parents to have the future custody and control of the child, or that the term of sentence of such parent or parents is of such length that the child will be deprived of a normal home for a period of years.

(e) Whose parent or parents have, in a divorce action, been found to have committed adultery and been divorced on that ground, if the court, after service of citations as prescribed in this chapter upon such parent or parents, and the presentation of all the evidence, finds that the future welfare of the child will be promoted by an order depriving such parent or parents of the control and custody of the child.

(f) Whose parent or parents have been declared by a court of competent jurisdiction to be feeble-minded or insane, if the State Director of Institutions and the superintendent of the State hospital of which, if any, such parent or parents are inmates or patients certify that such parent or parents so

declared to be feeble-minded or insane will not be capable of supporting or controlling the child in a proper manner.

SEC. 2. Section 777 of said code is amended to read: Stats 1937, p 1005

777. The father or mother of such person, if residing within the State, and if his or her place of residence is known to the petitioner, or, if there is no parent so residing, or if the place of residence of such father or mother is not known to the petitioner, then some relative of such person, if there is any residing within the State, and if his residence and relationship to such person are known to the petitioner, shall be notified of the proceedings by service of a citation requiring such person or persons to appear at the time and place stated in such citation. In all cases where one parent has relinquished his child for the purpose of adoption, or has signed a consent for adoption as provided in Sections 224m and 226 of the Civil Code, no notice as herein provided shall be given to the parent who has signed such relinquishment or consent. Service of such citations shall be made at least 10 days before the time stated therein for such appearance. Service of citation. When service need not be made

SEC. 3. Section 778 of said code is amended to read: Stats 1937, p 1005

778. If the father or mother of such person resides outside the State, or if his or her place of residence is not known to the petitioner, the petitioner or his agent or attorney shall make and file an affidavit, and shall state therein the name of the father or mother who resides outside the State and his or her place of residence, if known to the petitioner, and the name of the father or mother residing in or out of the State whose place of residence is unknown to the petitioner. Thereupon the judge of the juvenile court shall make an order that the service be made by the publication of a citation requiring such father or mother to appear at the time and place stated therein, and that said citation be published in a newspaper to be named and designated as most likely to give notice to the father or mother to be served once a week for four successive weeks. In case of publication where the residence of a nonresident or absent parent is known, the judge must direct a copy of the citation to be forthwith deposited in the post office, directed to such parent to be served, at his or her place of residence. When publication is ordered, personal service of a copy of the citation out of the State is equivalent to publication and deposit in the post office, and in either case the service of the citation is complete at the expiration of the time prescribed by the order for publication. Service when either parent nonresident or residence unknown. Publication

If one or both of the parents of such child be unknown or if the name or either or both of his parents be uncertain, then said fact shall be set forth in said affidavit and the court shall order the citation to be directed and addressed to either the father and/or the mother, or both, of the person sought to be declared free from parental custody and control, naming and otherwise describing said latter person, and to all persons When parent or parents unknown

claiming to be the father or mother of said person. Such citation shall be addressed in substantially the following form:

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF _____

IN THE MATTER OF

_____ _____, A Person Who Should Be Declared Free from the Custody and Control of his Parent or Parents. } CITATION

To the father and/or mother of the above-named person and to all persons claiming to be the father and/or mother of such person, who is described as follows:

CHAPTER 338

An act to amend Section 4252 of the Political Code, relating to compensation for public services in counties of the twenty-third class.

In effect August 4, 1943

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

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

Stats 1941, p 2320

SECTION 1. Section 4252 of the Political Code is amended to read:

Solano County Salaries

4252. In counties of the twenty-third class, the following shall receive as compensation for their services required of them by law or by virtue of their offices the following sums:

Auditor

(a) The auditor, three thousand eight hundred dollars ($3,800) per annum.

District attorney

(b) The district attorney, three thousand dollars ($3,000) per annum.

Board of supervisors

(c) Each member of the board of supervisors, one thousand two hundred dollars ($1,200) per annum for all services rendered including mileage and including services as road commissioners; provided, that when required to go on business to any point outside of the county, they shall be allowed actual expenses.

Jurors

(d) Trial jurors in the superior court in criminal and civil cases three dollars ($3) per day for each day's attendance. In addition, mileage fees shall be allowed trial jurors for attendance in court at the rate of fifteen cents ($0.15) per mile for each mile traveled in going only, payable only once in any three days.

CHAPTER 339

An act to amend Section 737q of the Political Code of the State of California, referring to the salary of the judge of the Superior Court of Lake County.

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.] In effect August 4, 1943

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

SECTION 1. Section 737q of the Political Code is hereby amended to read as follows: Stats 1933, p 1756

737q. The annual salary of the judge of the Superior Court in and for the County of Lake is six thousand five hundred dollars ($6,500). Superior judge Lake County

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CHAPTER 340

An act to amend Sections 3d and 38d of, and to add Section 28b to, the State Employees' Retirement Act, relating to authorizing the inclusion of any bridge and highway district in such retirement system. Stats 1931, p 1442, amended

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.] In effect August 4, 1943

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

SECTION 1. Section 3d of the act cited in the title hereof is amended to read: Stats 1939, p 2690

Sec. 3d. "Contracting district" shall mean any school district, or bridge and highway district, incorporated under the act of this Legislature dated May 25, 1923, in the State which has elected to have all or any part of its employees become a part of the retirement system and which has contracted with the board for such purpose. For the purpose of applying the provisions of this act to school districts, or bridge and highway districts, whenever in this act reference is made to "city," "contracting city," "city employee," "city clerk," "municipal corporation," or "legislative body" of any city or municipal corporation, such words shall be construed to read, respectively, as "school district," "contracting district," "school district employee," "secretary of governing board," "school district" or "governing board" of any school district, or "bridge and highway district," "bridge and highway district employee," "secretary of the bridge and highway district," or "governing board" of any bridge and highway district. "Contracting district"

SEC. 2. Section 28b is added to the act cited in the title hereof, to read: New section

Sec. 28b. Any bridge and highway district, incorporated under the provisions of the act of May 25, 1923, of the State of California and its amendments may participate in the State Employees' Retirement System provided in this act, making all or some of its employees members of such system Bridge and highway district employees

by contract entered into between the board of directors of such bridge and highway district and the board of administration of the retirement system. The provisions of this act relating to cities, counties and employees of either, the entering into contracts between cities or counties and the board of administration, the method of computing benefits and the benefits payable to bridge and highway district employees and all other provisions of this act, which relate to either cities or counties which elect to include employees under the State Employees' Retirement System shall also apply to bridge and highway districts in the same manner and to the same extent and with the same force and effect as if bridge and highway districts were specifically mentioned; and the officials of such bridge and highway districts, who perform duties similar to corresponding officials of either cities or counties shall have full and complete authority to perform all and any acts required to make this act effective as to such bridge and highway districts.

Stats 1939, p 2690

SEC. 3. Section 38d of the act cited in the title hereof is amended to read as follows:

Contracts with county or bridge and highway district

Sec. 38d. Any county in this State and any bridge and highway district incorporated under the act of May 25, 1923, of the State of California may participate in the State Employees' Retirement System, making all or some of its employees members of such system by contract entered into between the board of supervisors of such county or the board of directors of such bridge and highway district, and the board of administration of the retirement system. The provision of this act relating to cities, employees of cities, the entering into contracts between cities and the board, the method of computing benefits and the benefits payable to city employees, and all other provisions of this act which relate to cities which elect to include employees under the State Employees' Retirement System shall also apply to counties and bridge and highway districts in the same manner, to the same extent, and with the same effect as if counties or bridge and highway districts instead of cities were expressedly referred to in such provisions.

CHAPTER 341

An act making an appropriation in augmentation of the Special Emergency Fund specified in Item 217 of the Budget Act of 1941, declaring the urgency of this act, to take effect immediately.

In effect immediately

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

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

Appropriation Special Emergency Fund

SECTION 1. Out of any money in the State treasury not otherwise appropriated, the sum of three hundred eighty-four thousand six hundred two dollars ($384,602), or so much

thereof as may be necessary is hereby appropriated to, and in augmentation of, the Special Emergency Fund specified in Item 217 of Section 2 of the Budget Act of 1941 to be expended as provided therein during the Ninety-third and Ninety-fourth Fiscal Years.

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

The Special Emergency Fund referred to in this act was established for the purpose of augmenting the support appropriation of the State prisons, State hospitals and other State institutions when and if commodity prices increase. Rising prices of food and other commodities necessitate that the Special Emergency Fund provided for this purpose be increased and in order to facilitate proper planning of necessary outlays during the biennium it is necessary that this act take effect immediately.

CHAPTER 342

An act making an appropriation in augmentation of the Emergency Fund specified in Item 216 of the Budget Act of 1941, to take effect immediately.

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.] In effect immediately

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

SECTION 1. Out of any money in the State treasury not otherwise appropriated, the sum of one hundred fifty-eight thousand five hundred ten dollars ($158,510) is hereby appropriated to, and in augmentation of, the Emergency Fund specified in Item 216 of Section 2 of the Budget Act of 1941, to be expended as provided therein, during the Ninety-third and Ninety-fourth Fiscal Years. Appropriation Emergency Fund

SEC. 2. This act, inasmuch as it makes an appropriation for the usual current expenses of the State, shall under the provisions of Section 1 of Article IV of the Constitution take effect immediately. Current expense

CHAPTER 343

Stats 1941, p 684, amended

An act to amend Section 17 of an act approved March 22, 1941, entitled "An act creating a public airport district designated 'Monterey Peninsula Airport District'; defining its boundaries; providing for its organization, government and maintenance; prescribing its powers, duties, and liabilities; providing for the alteration of its boundaries, and the dissolution of said district."

In effect August 4, 1943

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

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

Stats 1941, p 684

SECTION 1. Section 17 of the act cited in the title hereof is amended to read:

Acquisition and improvements

Sec. 17. District Airport Acquisition and Improvements. All public improvements of said district, including the acquisition of land for district airport purposes, or the improvement thereof, or the acquisition of lands for airport approaches, or the improvement thereof, may be made or done in pursuance of general laws of the State empowering municipalities to acquire lands for any public purpose or to make local improvements and to assess the costs thereof upon the frontage or district of lands benefited thereby; provided, however, that whenever it is proposed to include the whole or any part of the lands within a municipality in said district in the frontage, or within the district of lands, to be assessed for such acquisition or improvement, the formal consent of the legislative body of such municipality shall first be obtained before the institution of such proceeding; provided further, that such consent shall be dispensed with in any local improvement proceeding or proceeding to acquire land, or make improvements, for district purposes where all lots and lands within the airport district are included in the assessment district and all assessments proposed or levied upon the taxable property in said district are computed on an ad valorem basis. In addition to other acts mentioned herein, the provisions of that certain act, entitled "An act to provide for work in and upon streets, avenues, lanes, alleys, courts, places and sidewalks within municipalities——," etc., approved April 7, 1911, and the acts amendatory thereto; and the provisions of that certain act, entitled "An act to provide for the issuance of improvement bonds to represent and be secured by certain assessments made for the cost of certain work and improvements——," etc., approved June 11, 1915, and of acts amendatory thereto, are hereby made applicable to the "Monterey Peninsula Airport District" and local airport district work and improvements therein; provided, however, that the words "city council" and "council" used in said, and other such, acts, shall be understood to mean the board of directors of said airport district: the words "city" and "municipality" shall be understood to

Stats 1911, p 730

Stats 1915, p 1441

mean the "Monterey Peninsula Airport District": the words "clerk" and "city clerk" shall be understood to mean "secretary" of said board of directors: the words "superintendent of streets" and "street superintendent" and the words "city engineer" shall be understood to mean the manager and the engineer, respectively, of said airport district: the words "tax collector" and the words "treasurer" or "city treasurer" shall be understood to mean the county tax collector and the county treasurer, respectively, of the County of Monterey; and provided further, that all of the powers and duties conferred by the provisions of said acts, and the acts amendatory or supplementary thereto, upon city councils, superintendents of streets, clerks and city clerks, tax collectors, treasurers and engineers, are hereby conferred and imposed upon respective officers and boards above specified; provided, however, that, notwithstanding anything herein contained, if protest against the proposed work is made by the owners of a majority of the property fronting on the proposed work or by the owners of more than one-half of the area of the property included within the assessment district to be assessed for the improvement (as the case may be) as provided in Section 5222 of the Streets and Highways Code, then and in either of such events the board of directors shall have no right or authority to overrule such majority protests and the proceedings for the making of such improvement shall thereupon terminate and no further proceedings shall thereafter be instituted within a period of one year from the date of filing of such majority protest.

Termination of proceedings

CHAPTER 344

An act to amend Sections 615.1 and 615.2 of the Fish and Game Code, relating to fish.

Stats 1933, p 394, amended

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 615.1 of the Fish and Game Code is amended to read:

Stats 1939, p 1429

615.1. In District 103.5 trout may be taken from May 1st to June 30th. In District 103.6 it is unlawful to take any fish at any time except from the first day of December to the last day of February, only on the Saturdays, Sundays, Wednesdays, and any legal holiday within such period including the opening and closing days of the season. The bag limit on trout or salmon is two per day in the aggregate, irrespective of size, and not more than one daily bag limit may be possessed by any person during one day.

District 103 5 Trout 103 6 Fish

SEC. 2. Section 615.2 of said code is amended to read:

Stats 1941, p 2644

615.2. It is unlawful to use or possess within 100 yards of that part of the San Lorenzo River comprising District 103.6 any treble hooks, landing gear, gaffs, nets, or spears.

Landing gear prohibitions

CHAPTER 345

Stats 1939, p 1274, amended

An act to amend Section 3572 of the Revenue and Taxation Code, relating to the termination of the right of redemption of tax-delinquent property, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

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

Stats 1941, p 1423

SECTION 1. Section 3572 of the Revenue and Taxation Code is amended to read:

Notice of termination

3572. Within one year after June 1, 1944, or within six months after default under any plan for payment of delinquent taxes in installments, whichever is later, the tax collector shall send a notice of termination of right of redemption to the last assessee of every assessment of tax-deeded property which was deeded to the State before June 1, 1942, except as provided in Section 3571.3. The notice shall be sent by registered mail to the assessee at his last known address, and if no address is known for him, or if the property was assessed to unknown owners, the tax collector shall make an affidavit of such fact and file the affidavit with his record of notices sent. The notice need not be mailed if the assessee files with the tax collector a waiver of the notice.

The auditor shall cooperate with the tax collector in the performance of the duties required of the tax collector by this chapter.

Urgency

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

There is pending before the Supreme Court of California the case of Mercury Herald Company v. Moore bearing on this problem. A decision will not be reached in sufficient time for the tax collector to send out the notices of termination of right of redemption before June 1, 1943, as required in Section 3572 of the Revenue and Taxation Code. Therefore, it is essential that the time limit for the tax collector to give these notices be extended to permit him a reasonable time to carry out the provisions of the section.

CHAPTER 346

An act to add Sections 453.5, 453.6, 453.7 and 453.8 to the Fish and Game Code, relating to storage locker plants.

Stats 1933, p 394, amended

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 453.5 is added to the Fish and Game Code, to read:

New section

453.5. All cold storage plants and cold storage locker plants in which legally taken wild game birds, or mammals, may be stored beyond the regular open season, as prescribed by this code, and for the storage of which beyond the regular open season a permit is required under the provisions of this code, shall be bonded in an amount to be determined by the commission. Such bond shall be conditioned upon the payment to the commission of the amounts required to be remitted to it pursuant to Section 453.7. The premium for such bond shall be paid by the commission out of any money available for the support of the commission.

Bonding of cold storage plants and lockers

Premium

SEC. 2. Section 453.6 is added to the said code, to read:

New section

453.6. The commission shall designate and authorize a person or persons in each such storage plant to issue permits for the storage beyond the regular open season of such wild game birds, or mammals; and to collect lawful fees to be paid, and stamps, or tags to be affixed to such mammals. Such permit forms, stamps, tags, or other such materials required for the enforcement of this section shall be supplied by the commission.

Issuance of permits

SEC. 3. Section 453.7 is added to the said code, to read:

New section

453.7. Bonded cold storage plants and bonded cold storage locker plants may retain one-half of all legal fees received for their services in marking such mammals, deposited with them to be stored in such plants, and shall remit one-half of such fees to the commission at such time, or times as the commission may determine. The commission shall deposit all such fees received by it to the credit of the Fish and Game Preservation Fund.

Disposition of fees

SEC. 4. Section 453.8 is added to the said code, to read:

New section

453.8. Bonded cold storage plants and bonded cold storage locker plants shall make and keep a complete detailed record of all wild game birds, or mammals, stored in such plants. Each wild game bird, or mammal shall be entered in such record at the time it is received at such plant for storage.

Such record shall be open for inspection at all times by wardens of the Division of Fish and Game.

Records

CHAPTER 347

Stats 1939, p 1274 amended

An act to amend Section 105 of the Revenue and Taxation Code, relating to property taxes.

In effect August 4, 1943

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

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

Stats 1939, p 1274

SECTION 1. Section 105 of the Revenue and Taxation Code is amended to read:

"Improvements"

105. "Improvements" includes:

(a) All buildings, structures, fixtures, and fences erected on or affixed to the land, except telephone and telegraph lines.

(b) All fruit, nut bearing, or ornamental trees and vines, not of natural growth, and not exempt from taxation, except date palms under eight years of age.

CHAPTER 348

Stats 1907, p 124, amended

An act to amend Section 5a of an act entitled "An act to regulate the sale and use of poisons in the State of California and providing a penalty for the violation thereof," approved March 6, 1907, as amended, relating to poison schedules and economic poisons.

In effect August 4, 1943

[Approved by Governor May 2, 1943. Filed with Secretary of State May 2, 1943.]

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

Stats 1929, p. 240
See also Stats 1943, Ch 977

SECTION 1. Section 5a of the act mentioned in the title hereof is amended to read:

Schedule "A"

Sec. 5a. The following is schedule "A" referred to in Section 1, viz.: Schedule "A", arsenic, its compounds and preparations, poisonous salts of barium, corrosive sublimate and other poisonous derivatives of mercury, cyanide of potassium, strychnine, hydrocyanic acid, oils of croton, rue, savin, and tansy, phosphorous and its poisonous derivatives and compounds, strophanthus or its preparations, aconite, belladonna, nux vomica, veratrum viride, their preparations, alkaloids or derivatives, ant poisons containing any of the poisons enumerated in this schedule except ant poisons which contain not to exceed 0.40 per cent by weight of arsenic expressed in terms of metallic arsenic; provided, however, that the following shall not be included in this schedule, pills or tablets of aloin belladonna and strychnine, plasters composed of aconite or belladonna, or elixir of iron quinine and strychnine or ethyl alcohol denatured in accordance with any formula approved by the Internal Revenue Department of the Federal Government for external use, and all economic poisons, as that term is defined in Article 3 of Chapter 7 of Division 5 of the

Agricultural Code, and licensed and registered thereunder and sold in original sealed packages and labeled with the official poison labels, except the following: Arsenate of lead, arsenate of calcium, paris green, london purple and hydrocyanic acid in original sealed packages of less than one pound and labeled with the official poison labels, any economic poison containing more than two (2) per cent strychnine or ten (10) per cent elemental phosphorous, ant poisons containing more than 0.40 per cent by weight of arsenic expressed in terms of metallic arsenic, corrosive sublimate and cyanide of potassium; all of which economic poisons, with the above exceptions, may be sold by dealers generally, when prepared, packaged, and sold in accordance with rules and regulations authorized by the provisions of said article of the Agricultural Code, anything in this or any other act to the contrary notwithstanding.

Schedule "B"

The following is schedule "B": Hydrochloric or muriatic acid, nitric acid, oxalic acid, sulphuric acid, bromine, chloroform, cowhage, creosote, ether, solution of formaldehyde or formalin, cantharides, cocculus indicus, all of their preparations; iodine or its tincture, oil of pennyroyal, tartar emetic and other poisonous derivatives of antimony, sugar of lead, sulphate of zinc, wood alcohol, lysol and compound solution of cresol.

CHAPTER 349

An act to amend Section 69 of the Civil Code, relating to marriage, declaring the urgency hereof, to take effect immediately.

[Approved by Governor May 5, 1943. Filed with Secretary of State May 5, 1943.]

In effect immediately

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

SECTION 1. Section 69 of the Civil Code is amended to read:

Stats 1935, p 398

69. All persons about to be joined in marriage must first obtain a license therefor, from the county clerk of the county in which the marriage is to be celebrated, which license must show:

Marriage licenses

1. The identity of the parties.
2. Their real and full names, and places of residence.
3. Their ages; and
4. Whether white, Mongolian, Negro, Malayan or mulatto.

No license must be granted when either of the parties, applicants therefor, is an imbecile, or insane, or is at the time of making the application, for said license, under the influence of any intoxicating liquor, or narcotic drug; and no license may be issued authorizing the marriage of a white person with a Negro, mulatto, Mongolian or member of the Malay race.

If the male is under the age of 21 years, or the female is under the age of 18 years, and such person has not been previously married, no license may be issued by the county clerk unless the consent in writing of the parents of the person under age, or one of such parents, or of his or her guardian, is presented to him, duly verified by such parents, or parent, or guardian; and such consent must be filed by the clerk, and he must state such facts in the license. For the purpose of ascertaining all the facts mentioned or required in this section, the clerk, at the time the license is applied for may, if he deems it necessary in order to satisfy himself as to matters in this section enumerated, examine the applicants for a license on oath, which examination shall be reduced to writing by the clerk, and subscribed by them.

Urgency

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

Many persons enlisted in the armed forces of the United States are temporarily in the State of California on furlough for a short period of time, sometimes for only one day or two, and unless this section is amended as proposed, many such persons will be unable to marry. It is necessary for the public peace, health and safety that this act take effect immediately.

CHAPTER 350

Stats 1933, p 394, amended

An act to amend Sections 794, 799, 800 and 801 of the Fish and Game Code, relating to abalones, and declaring the urgency of this act, to take effect immediately.

In effect immediately

[Approved by Governor May 6, 1943 Filed with Secretary of State May 6, 1943]

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

Stats 1933, p 394

SECTION 1. Section 794 of the Fish and Game Code is hereby amended to read as follows:

Abalones

794. It is unlawful to take any abalone the shell of which, measured in greatest diameter, is less than the following specifications: Red abalone, seven inches, red abalone taken or possessed in Districts 7, 18, or 19 for commercial purposes, eight inches; green abalone, six and one-half inches; green abalone taken or possessed in District 18 or 19 for commercial purposes, seven and one-quarter inches; pink abalone, six inches; black abalone, five inches.

Stats 1937, p 469

SEC. 2. Section 799 of the Fish and Game Code is hereby amended to read as follows:

Diving apparatus

799. Diving apparatus may not be used for the purpose of taking abalones in Districts 7, 10, 15, 16, 17, 20 and 20A.

SEC. 3. Section 800 of the Fish and Game Code is hereby amended to read as follows: Stats 1937, p. 381

800. In Districts 6, 7, 15, 16, 17, 20, and 20A not more than 10 abalones per day, nor more than 20 abalones per week, may be taken. Not more than one daily bag limit of abalones may be possessed by any person during one day. The bag limits prescribed herein for Districts 15, 16, and 17 do not apply to abalones taken outside of said districts and brought in by boats. Abalones

SEC. 4. Section 801 of said code is amended to read: Stats 1939, p 1787

801. In District 18 the bag limit is 10 abalones per day, in District 19 the bag limit is 10 abalones per day and 20 per week, and in District 10 the bag limit is five abalones per day, when the abalones are taken in water less than 20 feet in depth. Abalones so taken may not be sold. Abalones Districts 10, 18 and 19

SEC. 5. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows: Urgency

The shortage of food supplies in the present war emergency necessitates the utilization of all seafood products to the greatest extent compatible with proper conservation. Inasmuch as this act releases certain restrictions on the taking of abalones it will operate to increase the available supply of healthful food products and to release a comparable amount of food for use for war purposes.

CHAPTER 351

An act to amend Sections 1, 2, 3, 6, 7, 8, 9, 11, 12, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 29 of, and to add three new sections to be numbered 7.1, 8.1, and 18.1 to, The Corporation Income Tax Act, relating to taxes upon the income of corporations, associations and Massachusetts or business trusts, and to provide that this act shall take effect immediately. Stats 1937, p 2184, amended

[Approved by Governor May 7, 1943. Filed with Secretary of State May 7, 1943.] In effect immediately

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

SECTION 1. Section 1 of The Corporation Income Tax Act is hereby amended to read as follows: Stats 1943, Ch 38

Section 1. This act shall be known and may be cited as the "Corporation Income Tax Act." Short title

SEC. 2. Section 2 of said act is hereby amended to read as follows: Stats 1943, Ch 38

Sec. 2. For the purposes of this act and unless otherwise required by the context: Definitions

(a) The word "commissioner" as used in this act means the Bank and Corporation Franchise Tax Commissioner.

(b) The term "corporation" as herein used shall include every corporation, association, and Massachusetts or business trust, except a bank or banking association. It shall also include any corporation operated by any receiver, liquidator, referee, trustee or other officers or agents appointed by any court. For the purposes of this act a Massachusetts or business trust includes every business organization consisting essentially of an arrangement whereby property is conveyed to one, or more than one, trustee for purposes other than the mere conservation of assets, collection and disbursing of fixed and periodic income, or the securing of an obligation.

(c) The words "taxable year" mean the calendar year or the fiscal year, upon the basis of which the net income is computed under this act; if no fiscal year has been established they mean the calendar year.

"Taxable year" includes, in the case of a return made for a fractional part of a year under the provisions of this act or under regulations prescribed by the commissioner, the period for which such return is made.

(d) The words "fiscal year" mean an accounting period of 12 months ending on the last day of any month other than December.

(e) The words "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed under this act.

(f) The word "State" shall include the Territories of Alaska and Hawaii, the District of Columbia, and the possessions of the United States.

(g) The term "counsel for the commissioner," as used in Sections 20, 23 and 24 of this act, means attorney or attorneys appointed or employed by the commissioner and acting subject to the approval and under the supervision of the Attorney General.

Stats 1943, Ch 38

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

Tax levy

Sec. 3. There shall be levied, collected and paid for each taxable year, a tax at the rate of 4 per centum upon the net income of every corporation derived from sources within this State on or after January 1, 1937, other than income for any period for which the corporation is subject to taxation under the Bank and Corporation Franchise Tax Act, Statutes of 1929, Chapter 13, as amended, according to or measured by net income. There shall be offset against the tax hereby imposed for any period the amount of any tax imposed on the corporation under the Bank and Corporation Franchise Tax Act for the same period. In the event that taxes, interest and penalties have been or shall be assessed against, paid by or collected from a corporation under this act, which assessment, payment or collection should have been made under the Bank and Corporation Franchise Tax Act, such taxes, interest and penalties shall be considered as having been assessed, paid or collected under the Bank and Corporation

Franchise Tax Act as of the date or dates they were made. Income from sources within this State includes income from tangible or intangible property located or having a situs in this State and income from any activities carried on in this State, regardless of whether carried on in intrastate, interstate or foreign commerce.

SEC. 4. Section 6 of said act is hereby amended to read as follows: Stats 1943, Ch 38

Sec. 6. (a) "Gross income" includes gains, profits, and income derived from salaries, wages, or compensation for personal service, or whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce, or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in such property; also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatever, including interest which now or hereafter constitutionally may be taxed. Gross income

(b) The following items shall not be included in gross income and shall be exempt from taxation under this act: Exclusions

(1) Amounts received under life insurance policies and contracts paid by reason of the death of the insured, but if such amounts are held by the insurer under an agreement to pay interest thereon, the interest payments shall be included in gross income.

(2) Amounts received (other than amounts paid by reason of the death of the insured) under life insurance, endowment or annuity contracts, either during the term or at maturity or upon surrender of the contract, equal to the total amount of premiums paid thereon. In the case of a transfer for a valuable consideration by assignment or otherwise, of a life insurance, endowment or annuity contract or any interest therein, only the actual value of such consideration and the amount of the premiums and other sums subsequently paid by the transferee shall be excluded from gross income under paragraph (1) of this subsection. The preceding sentence shall not apply in the case of such a transfer if such contract or interest therein has a basis for determining gain or loss in the hands of a transferee determined in whole or in part by reference to such basis of such contract or interest therein in the hands of the transferor.

(3) Income which this State is prohibited from taxing under the Constitution or laws of the United States of America or under the Constitution of this State.

(4) Income, other than rent, derived by a lessor of real property upon the termination of a lease, representing the value of such property attributable to buildings erected or other improvements made by the lessee.

(5) Income attributable to the recovery during the taxable year of a bad debt, prior tax, or delinquency amount, to the extent of the amount of the recovery exclusion with respect

to such debt, tax, or amount. For the purposes of this paragraph:

(A) The term "bad debt" means a debt on account of worthlessness or partial worthlessness of which a deduction was allowed for a prior taxable year.

(B) The term "prior tax" means a tax on account of which a deduction or credit was allowed for a prior taxable year.

(C) The term "delinquency amount" means an amount paid or accrued on account of which a deduction or credit was allowed for a prior taxable year and which is attributable to failure to file return with respect to a tax, or pay a tax, within the time required by the law under which the tax is imposed, or to failure to file return with respect to a tax or pay a tax.

(D) The term "recovery exclusion," with respect to a bad debt, prior tax, or delinquency amount, means the amount, determined in accordance with regulations prescribed by the commissioner of the deductions or credits allowed, on account of such bad debt, prior tax, or delinquency amount, which did not result in a reduction of the taxpayer's tax under this act or the Bank and Corporation Franchise Tax Act, reduced by the amount excludible in previous taxable years with respect to such debt, tax, or amount under this paragraph.

Stats 1929, p. 19

(6) The amount of any income of a corporation attributable to the discharge, within the taxable year, of any indebtedness of the taxpayer (or for which a corporation is liable) evidenced by a security (as hereinafter in this paragraph defined) if a corporation makes and files at the time of filing the return, in such manner as the commissioner by regulations prescribes, its consent to the regulations prescribed under Section 12(b) (3). In such case the amount of any income of a corporation attributable to any unamortized premium (computed as of the first day of the taxable year in which such discharge occurred) with respect to such indebtedness shall not be included in gross income and the amount of the deduction attributable to any unamortized discount (computed as of the first day of the taxable year in which such discharge occurred) with respect to such indebtedness shall not be allowed as a deduction. As used in this paragraph the term "security" means any bond, debenture, note, or certificate, or other evidence of indebtedness, issued by any corporation.

(7) The amount of any income attributable to the discharge, within the taxable year, of any indebtedness of a railroad corporation, as defined in Section 77m of the National Bankruptcy Act, as amended, to the extent that such income is deemed to have been realized by reason of a modification in or cancellation in whole or in part of such indebtedness pursuant to an order of a court in a receivership proceeding or in a proceeding under Section 77 of the National Bankruptcy Act, as amended. In such case the amount of any income of the corporation attributable to any unamortized premium (computed as of the first day of the taxable year

in which such discharge occurred) with respect to such indebtedness shall not be included in gross income and the amount of the deduction attributable to any unamortized discount (computed as of the first day of the taxable year in which such discharge occurred) with respect to such indebtedness shall not be allowed as a deduction. Subsection 6(b) (6) shall not apply with respect to any discharge of indebtedness to which this paragraph applies.

Dividends

(c) (1) The term "dividend" when used in this act means any distribution made by a corporation to its shareholders, whether in money or in other property, out of its earnings or profits accumulated after February 28, 1913, or out of the earnings or profits of the taxable year (computed as of the close of the taxable year without diminution by reason of any distributions made during the taxable year), without regard to the amount of the earnings and profits at the time the distribution was made.

(2) For the purposes of this act every distribution is made out of earnings or profits to the extent thereof, and from the most recently accumulated earnings or profits. Any earnings or profits accumulated, or increase in value of property accrued, before March 1, 1913, may be distributed exempt from tax, after the earnings and profits accumulated after February 28, 1913, have been distributed, but any such tax-free distribution shall be applied against and reduce the adjusted basis of the stock provided in Section 12.

(3) Amounts distributed in complete liquidation of a corporation shall be treated as in full payment in exchange for the stock and amounts distributed in partial liquidation of a corporation shall be treated as in part or full payment in exchange for the stock. The gain or loss to the distributee resulting from such exchange shall be determined under Section 10. In the case of amounts distributed (whether before or after the effective date of this amendment) in partial liquidation (other than a distribution within the provisions of subdivision (7) of this subsection of stock or securities in connection with a reorganization) the part of such distribution which is properly chargeable to capital account shall not be considered a distribution of earnings or profits. In the case of amounts distributed (whether before January 1, 1934, or on or after such date) in partial liquidation (other than a distribution within the provisions of subdivision (7) of this subsection or stock or securities in connection with a reorganization) the part of such distribution which is properly chargeable to capital account shall not be considered a distribution of earnings or profits within the meaning of subdivision (2) of this subsection for the purpose of determining the taxability of subsequent distributions by the corporation.

(4) If any distribution (not in partial or complete liquidation) made by a corporation to its shareholders is not out of increase in value of property accrued before March 1, 1913, and is not a dividend, then the amount of such distribution

shall be applied against and reduce the adjusted basis of the stock provided in Section 12, and if in excess of such basis, such excess shall be taxable in the same manner as a gain from the sale or exchange of property.

(5) (A) A distribution made by a corporation to its shareholders in its stock or in rights to acquire its stock shall be treated as a dividend to the extent that it constitutes income to the shareholder within the meaning of the Sixteenth Amendment to the Constitution of the United States.

(B) Whenever a distribution by a corporation is, at the election of any of the shareholders (whether exercised before or after the declaration thereof), payable either (i) in its stock or in rights to acquire its stock, of a class which if distributed without election would be exempt from tax under paragraph (A), or (ii) in money or any other property (including its stock or rights to acquire its stock, of a class which if distributed without election would not be exempt from tax under paragraph (A)), then the distribution shall constitute a taxable dividend in the hands of all shareholders, regardless of the medium in which paid.

(6) If a corporation cancels or redeems its stock (whether or not such stock was issued as a stock dividend) at such time and in such manner as to make the distribution and cancellation or redemption in whole or in part essentially equivalent to the distribution of a taxable dividend, the amount so distributed in redemption or cancellation of the stock, to the extent that it represents a distribution of earnings or profits accumulated after February 28, 1913, shall be treated as a taxable dividend.

(7) The distribution heretofore or hereafter made to a distributee by or on behalf of a corporation of its stock or securities or stock or securities in another corporation shall not be considered a distribution of earnings or profits of any corporation:

(A) If no gain to such distributee from the receipts of such stock or securities was recognized under the provisions of the Federal Revenue Act of 1936 or prior Federal revenue acts in effect at the time of the distribution, or

(B) If the distribution was not subject to tax in the hands of such distributee under the Federal Revenue Act of 1936 or prior Federal revenue acts in effect at the time of the distribution because it did not constitute income to him within the meaning of the Sixteenth Amendment to the Constitution of the United States or because exempted to him under Section 115 (f) of the Federal Revenue Act of 1934, or a corresponding provision of a prior Federal revenue act.

As used in this subsection, the term "stock or securities" includes rights to acquire stock or securities.

(8) As used in this subsection the term "amount distributed in partial liquidation" means a distribution by a corporation in complete cancellation or redemption of a part of

its stock, or one of a series of distributions in complete cancellation or redemption of all or a portion of its stock.

(9) If the whole or any part of a dividend is paid to a shareholder in any medium other than money the property received other than money shall be included in gross income at its fair market value at the time as of which it becomes income to the shareholder.

(10) The gain or loss realized from the sale or other disposition (after February 28, 1913) of property by a corporation for the purpose of the computation of earnings and profits of the corporation for any period beginning after February 28, 1913, shall be determined by using as the adjusted basis the adjusted basis (under the law applicable to the year in which the sale or other disposition was made) for determining gain. Gain or loss so realized shall increase or decrease the earnings and profits to, but not beyond, the extent to which such a realized gain or loss was recognized in computing net income under the law applicable to the year in which such sale or disposition was made. Where in determining the adjusted basis used in computing such realized gain or loss the adjustment to the basis differs from the adjustment proper for the purpose of determining earnings or profits, then the latter adjustment shall be used in determining the increase or decrease above provided. For the purposes of this subsection, a loss with respect to which a deduction is disallowed under Section 7(d) of this act or Section 8(d) of the Bank and Corporation Franchise Tax Act shall not be deemed to be recognized.

Where a corporation receives (after February 28, 1913) a distribution from a second corporation which (under the law applicable to the year in which the distribution was made) was not a taxable dividend to the shareholders of the second corporation, the amount of such distribution shall not increase the earnings and profits of the first corporation in the following cases:

(A) No such increase shall be made in respect of the part of such distribution which (under such law) is directly applied in reduction of the basis of the stock in respect of which the distribution was made.

(B) No such increase shall be made if (under such law) the distribution causes the basis of the stock in respect of which the distribution was made to be allocated between such stock and the property received.

For the purposes of this subdivision, the words "law applicable to the year" shall be deemed to refer to this act or, prior to January 1, 1937, the United States Revenue Act in force for the year in which the distribution, sale or other disposition was made.

(11) (A) If any increase or decrease in the earnings or profits for any period beginning after February 28, 1913, with respect to any matter would be different had the adjusted basis of the property involved been determined without regard

to its March 1, 1913, value, then, except as provided in paragraph (B), an increase (properly reflecting such difference) shall be made in that part of the earnings and profits consisting of increase in value of property accrued before March 1, 1913.

(B) If the application of subdivision (10) to a sale or other disposition after February 28, 1913, results in a loss which is to be applied in decrease of earnings and profits for any period beginning after February 28, 1913, then, notwithstanding subdivision (10) and in lieu of the rule provided in paragraph (A) of this subdivision, the amount of such loss so to be applied shall be reduced by the amount, if any, by which the adjusted basis of the property used in determining the loss, exceeds the adjusted basis computed without regard to the value of the property on March 1, 1913, and if such amount so applied in reduction of the decrease exceeds such loss, the excess over such loss shall increase that part of the earnings and profits consisting of increase in value of property accrued before March 1, 1913.

Canceled debts

(d) If the indebtedness of a corporation is canceled or forgiven in whole or in part without payment, the amount so canceled or forgiven shall constitute income to the extent the value of the property (including franchises) of the corporation exceeds its liabilities immediately after the cancellation or forgiveness. The remainder of the amount of indebtedness so canceled or forgiven, if any, shall be applied in reduction of the basis of the assets to the extent the basis thereof exceeds the value thereof immediately after the cancellation or forgiveness, such reduction to be made in accordance with regulations prescribed by the commissioner.

If an indebtedness is not paid by the time an action to enforce payment is barred by limitation, the indebtedness shall be considered canceled or forgiven within the meaning of this subsection unless it can be established that the period of limitation has been extended by a new promise in writing.

Stats. 1943, Ch. 38

SEC. 5. Section 7 of said act is hereby amended to read as follows:

Deductions from gross income

Sec. 7. In computing "net income" the following deductions shall be allowed:

Expenses

(a) All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on business, including a reasonable allowance for salaries or other compensation for personal services actually rendered, and rentals or other payments required to be made as a condition to the continued use or possession for business purposes of property to which the taxpayer has not taken or is not taking title or in which it has no equity.

(1) No deduction shall be allowable under subparagraph (a) to a corporation for any contribution or gift which would be allowable as a deduction under subsection (*l*) were it not for the 5 per centum limitation therein contained and for the

requirement therein that payment must be made within the taxable year.

(2) All the ordinary and necessary expenses paid or incurred during the taxable year for the production or collection of income, or for the management, conservation, or maintenance of property held for the production of income shall be allowed.

Interest (b) Interest paid or accrued during the taxable year on indebtedness of the taxpayer to the extent that such interest exceeds the corporation's income from intangible personal property (other than dividends deductible under the provisions of subdivision (h) of this section and other than dividends from corporations, 50 per centum or more of the outstanding stock of which is owned by the taxpayer) which is exempt from the tax imposed by this act.

Taxes (c) Taxes or licenses paid or accrued during the taxable year, other than taxes paid to the State under this act, and other than taxes on or according to or measured by income or profits paid or accrued within the taxable year imposed by the authority of (1) the Government of the United States or any foreign country, (2) any State, Territory, county, city and county, school district, municipality, or other taxing subdivision of any State or Territory, and other than taxes assessed against local benefits of a kind tending to increase the value of the property assessed, but this shall not exclude the allowance as a deduction of so much of said taxes assessed against local benefits as is properly allocable to maintenance or interest charges.

(1) In the case of a tax imposed by any State, Territory, District, or possession of the United States, or any political subdivision thereof, upon persons engaged in selling tangible personal property at retail, which is measured by the gross sales price or the gross receipts from the sale or which is a stated sum per unit of such property sold, or upon persons engaged in furnishing services at retail, which is measured by the gross receipts for furnishing such services, if the amount of such tax is separately stated, then to the extent that the amount so stated is paid by the purchaser (otherwise than in connection with the purchaser's trade or business) to such person such amount shall be allowed as a deduction in computing the net income of such purchaser as if such amount constituted a tax imposed upon and paid by such purchaser.

Losses (d) Losses sustained during the taxable year and not compensated for by insurance or otherwise, except that such losses may, with the consent of the commissioner, be accounted for as of a different period. In the case of any loss claimed to have been sustained in any sale or other disposition of shares of stock or securities where it appears that within 30 days before or after the date of such sale or other disposition, the taxpayer has acquired (otherwise than by bequest or inheritance) or has entered into a contract or option to acquire substantially identical property and the property so acquired

is held by the taxpayer for any period after such sale or other disposition, no deduction for the loss shall be allowed unless the claim is made by a taxpayer, a dealer in stocks or securities, and with respect to a transaction made in the ordinary course of its business. If such acquisition or the contract or option to acquire is to the extent of part only of substantially identical property, then only a proportionate part of the loss shall be disallowed. Upon the subsequent sale or disposition of shares of stock or securities, in respect of which a loss has been disallowed, the basis for measuring gain or loss in the case of the property so acquired shall be the basis in the case of the stock or securities so sold or disposed of, except that if the repurchase price was in excess of the sale price such basis shall be increased in the amount of the difference, or if the repurchase price was less than the sale price such basis shall be decreased in the amount of the difference.

Worthless debts

(e) Debts which become worthless within the taxable year, or, in the discretion of the commissioner, a reasonable addition to a reserve for bad debts. When satisfied that a debt is recoverable in part only the commissioner may allow such debt as a deduction in an amount not in excess of the amount which becomes worthless in the taxable year; provided, however, that if a debt was actually worthless prior to January 1, 1943, but was not ascertained to be worthless and charged off prior to said date, a deduction may be taken therefor during the first taxable year ending after December 31, 1942; and, provided, that if a portion of a debt is claimed and allowed as a deduction in any year no deduction shall be allowed in any subsequent year for any portion of the debt which in any prior year became worthless, regardless of whether claimed as a deduction in such prior year.

Obsolescence, etc

(f) A reasonable allowance for exhaustion, wear and tear and obsolescence of property used in the trade or business, or of property held for the production of income. The basis on which such allowance is to be computed in respect of any property is the adjusted basis provided in Section 12 (b) for the purpose of determining the gain upon the sale or other disposition of such property. A taxpayer may elect to claim a deduction for amortization of emergency facilities (as defined by Section 124 of the Internal Revenue Code as amended) under regulations prescribed by the commissioner.

Depletion

(g) (1) In the case of mines, oil and gas wells, other natural deposits and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case, such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the commissioner. In any case in which it is ascertained as a result of operations or of development work that the recoverable units are greater or less than the prior estimate thereof, then such prior estimate (but not the basis for depletion) shall be revised and the allowance under this subsection for subsequent taxable years shall be based upon

such revised estimate. In the case of leases the deductions shall be equitably apportioned between the lessor and the lessee.

(2) (A) The basis upon which depletion is to be allowed in respect of any property shall be the adjusted basis provided in Section 12 (b) for the purpose of determining the gain upon the sale or other disposition of such property, except as provided in paragraphs (B), (C) and (D) of this subsection. Basis for depletion allowance

(B) In the case of mines (other than metal, coal, fluorspar, ball and sagger clay, rock asphalt or sulphur mines) discovered by the taxpayer after February 28, 1913, the basis for depletion shall be the fair market value of the property at the date of discovery or within 30 days thereafter, if such mines were not acquired as the result of purchase of a proven tract or lease, and if the fair market value of the property is materially disproportionate to the cost. The depletion allowance under subdivision (1) of this subsection based on discovery value provided in this paragraph shall not exceed 50 per centum of the net income of the taxpayer (computed without allowance for depletion) from the property upon which the discovery was made, except that in no case shall the depletion allowance under subdivision (1) of this subsection be less than it would be if computed without reference to discovery value. Discoveries shall include minerals in commercial quantities contained within a vein or deposit discovered in an existing mine or mining tract by the taxpayer after February 28, 1913, if the vein or deposit thus discovered was not merely the uninterrupted extension of a continuing commercial vein or deposit already known to exist, and if the discovered minerals are of sufficient value and quantity that they could be separately mined and marketed at a profit.

(C) In the case of oil and gas wells the allowance for depletion under subdivision (1) of this subsection shall be 27½ per centum of the gross income from the property during the taxable year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. Such allowance shall not exceed 50 per centum of the net income of the taxpayer (computed without allowance for depletion) from the property, except that in no case shall the depletion allowance under subdivision (1) of this subsection be less than it would be if computed without reference to this paragraph. Oil and gas wells

(D) The allowance for depletion under subdivision (1) of this subsection shall be, in the case of coal mines, 5 per centum, in the case of metal mines, fluorspar, ball and sagger clay or rock asphalt mines, 15 per centum, and, in the case of sulphur mines or deposits, 23 per centum, of the gross income from the property during the taxable year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. Such allowance shall not exceed 50 per centum Coal mines, etc.

of the net income of the taxpayer (computed without allowance for depletion) from the property, except that in no case shall the depletion allowance under subsection (1) of this section be less than it would be if computed without reference to this paragraph.

Dividends taxed to corporat on declaring.

(h) Dividends received during the taxable year from a corporation taxable under this act declared from income which has been taxed under the provisions of this act to the corporation declaring the dividends, and dividends received during the taxable year from a bank or corporation doing business in this State declared out of income which has been included in the measure of the tax imposed by the Bank and Corporation Franchise Tax Act, Statutes 1929, Chapter 13, as amended, upon the bank or corporation declaring the dividends.

Return paid by building and loan associations on money borrowed, etc

(i) In the case of a building and loan association, organized and operating wholly or partly on a mutual plan, the return paid or credited on or apportioned to the withdrawable shares of such association, but not exceeding the return such shares would receive computed at the average rate paid by all such associations in this State, or by such associations in a particular locality, as the Building and Loan Commissioner of this State may determine, on money borrowed or obtained through the issue during the income year of the association of all classes of notes and investment certificates not evidencing any proprietary interest in the association, such rate to be determined by the Building and Loan Commissioner and certified by him to the Franchise Tax Commissioner on or before the first day of March of each year.

Income of cooperative marketing associations

(j) In the case of farmers, fruit growers, or like associations organized and operated in whole or in part on a cooperative or a mutual basis, (1) for the purpose of marketing the products of members or other producers, and turning back to them the proceeds of sales, less the necessary marketing expenses, which may include reasonable reserves, on the basis of either the quantity or the value of the products furnished by them, or (2) for the purpose of purchasing, or producing, supplies and equipment for the use of members or other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses, all income resulting from or arising out of such business activities for or with their members carried on by them or their agents; or when done on a nonprofit basis for or with nonmembers.

Other cooperative associations

(k) In the case of other associations organized and operated in whole or in part on a cooperative or a mutual basis, all income resulting from or arising out of business activities for or with their members, or with nonmembers, done on a nonprofit basis.

Gifts

(*l*) In the case of a corporation, contributions or gifts payment of which is made within the taxable year to or for the use of:

(1) The United States, any State, Territory, or any political subdivision thereof or the District of Columbia, or any

possession of the United States, for exclusively public purposes; or

(2) A corporation, trust, or community chest, fund, or foundation, created or organized in the United States or in any possession thereof or under the law of the United States, or of any State or Territory, or of the District of Columbia, or of any possession of the United States, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or for the prevention of cruelty to children (but in the case of contributions or gifts to a trust, chest, fund, or foundation, payment of which is made within a taxable year beginning after the date of the cessation of hostilities in the present war, as proclaimed by the President, only if such contributions or gifts are to be used within the United States or any of its possessions exclusively for such purposes), no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation; to an amount which does not exceed 5 per centum of the taxpayer's net income as computed without the benefits of this subsection. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the commissioner.

Contributions by employer to stock bonus, etc, plans

(m) (1) If contributions are paid by an employer to or under a stock bonus, pension, profit-sharing, or annuity plan, or if compensation is paid or accrued on account of any employee under a plan deferring the receipt of such compensation, such contributions or compensation shall not be deductible under subsection (a) but shall be deductible, if deductible under subsection (a) without regard to this subsection, under this subsection but only to the following extent:

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(A) In the taxable year when paid, if the contributions are paid into a pension trust, and if such taxable year ends within or with a taxable year of the trust for which the trust is exempt under Section 12 (f) of The Personal Income Tax Act, in an amount determined as follows:

(i) An amount not in excess of 5 per centum of the compensation otherwise paid or accrued during the taxable year to all the employees under the trust, but such amount may be reduced for future years if found by the commissioner upon periodical examinations at not less than five-year intervals to be more than the amount reasonably necessary to provide the remaining unfunded cost of past and current service credits of all employees under the plan, plus

(ii) Any excess over the amount allowable under clause (i) necessary to provide with respect to all of the employees under the trust the remaining unfunded cost of their past and current service credits distributed as a level amount, or a level percentage of compensation, over the remaining future service

of each such employee, as determined under regulations prescribed by the commissioner, but if such remaining unfunded cost with respect to any three individuals is more than 50 per centum of such remaining unfunded cost, the amount of such unfunded cost attributable to such individuals shall be distributed over a period of at least five taxable years, or

(iii) In lieu of the amounts allowable under (i) and (ii) above, an amount equal to the normal cost of the plan, as determined under regulations prescribed by the commissioner, plus, if past service or other supplementary pension or annuity credits are provided by the plan, an amount not in excess of 10 per centum of the cost which would be required to completely fund or purchase such pension or annuity credits as of the date when they are included in the plan, as determined under regulations prescribed by the commissioner, except that in no case shall a deduction be allowed for any amount (other than the normal cost) paid in after such pension or annuity credits are completely funded or purchased.

(iv) Any amount paid in a taxable year in excess of the amount deductible in such year under the foregoing limitations shall be deductible in the succeeding taxable years in order of time to the extent of the difference between the amount paid and deductible in each such succeeding year and the maximum amount deductible for such year in accordance with the foregoing limitations.

(B) In the taxable year when paid, in an amount determined in accordance with subparagraph (A) of this paragraph, if the contributions are paid toward the purchase of retirement annuities and such purchase is a part of a plan which meets the requirements of Section 12 (f) of The Personal Income Tax Act, and if refunds of premiums, if any, are applied within the current taxable year or next succeeding taxable year toward the purchase of such retirement annuities.

(C) In the taxable year when paid, if the contributions are paid into a stock bonus or profit-sharing trust, and if such taxable year ends within or with a taxable year of the trust with respect to which the trust is exempt under Section 12 (f) of The Personal Income Tax Act, in an amount not in excess of 15 per centum of the compensation otherwise paid or accrued during the taxable year to all employees under the stock bonus or profit-sharing plan. If in any taxable year beginning after December 31, 1942, there is paid into the trust, or a similar trust then in effect, amounts less than the amounts deductible under the preceding sentence, the excess, or if no amount is paid, the amounts deductible, shall be carried forward and be deductible when paid in the succeeding taxable years in order of time, but the amount so deductible under this sentence in any such succeeding taxable year shall not exceed 15 per centum of the compensation otherwise paid or accrued during such succeeding taxable year to the beneficiaries under the plan. In addition, any amount paid into

the trust in a taxable year beginning after December 31, 1942, in excess of the amount allowable with respect to such year under the preceding provisions of this subparagraph shall be deductible in the succeeding taxable years in order of time, but the amount so deductible under this sentence in any one such succeeding taxable year together with the amount allowable under the first sentence of this subparagraph shall not exceed 15 per centum of the compensation otherwise paid or accrued during such taxable year to the beneficiaries under the plan. The term "stock bonus or profit-sharing trust," as used in this subparagraph, shall not include any trust designed to provide benefits upon retirement and covering a period of years, if under the plan the amounts to be contributed by the employer can be determined actuarily as provided in subparagraph (A). If the contributions are made to two or more stock bonus or profit-sharing trusts, such trusts shall be considered a single trust for the purposes of applying the limitations in this subparagraph.

(D) In the taxable year when paid, if the plan is not one included in paragraphs (A), (B), or (C), if the employees' rights to or derived from such employer's contribution or such compensation are nonforfeitable at the time the contribution or compensation is paid.

(E) For the purposes of subparagraphs (A), (B), and (C), a taxpayer on the accrual basis shall be deemed to have made a payment on the last day of the year of accrual if the payment is on account of such taxable year and is made within 60 days after the close of the taxable year of accrual.

(F) If amounts are deductible under subparagraphs (A) and (C), or (B) and (C), or (A), (B), and (C), in connection with two or more trusts, or one or more trusts and an annuity plan, the total amount deductible in a taxable year under such trusts and plans shall not exceed 25 per centum of the compensation otherwise paid or accrued during the taxable year to the persons who are the beneficiaries of the trusts or plans In addition, any amount paid into such trust or under such annuity plans in a taxable year beginning after December 31, 1942, in excess of the amount allowable with respect to such year under the preceding provisions of this subparagraph shall be deductible in the succeeding taxable years in order of time, but the amount so deductible under this sentence in any one such succeeding taxable year together with the amount allowable under the first sentence of this subparagraph shall not exceed 30 per centum of the compensation otherwise paid or accrued during such taxable years to the beneficiaries under the trusts or plans. This subparagraph shall not have the effect of reducing the amount otherwise deductible under subparagraphs (A), (B), and (C), if no employee is a beneficiary under more than one trust, or a trust and an annuity plan.

If there is no plan but a method of employer contributions or compensation has the effect of a stock bonus, pension, profit-sharing, or annuity plan, or similar plan deferring the receipt of compensation, this paragraph shall apply as if there were such a plan.

(2) Any deduction allowable under this act (as it read prior to the 1943 amendment) for a taxable year beginning before January 1, 1943, which was apportioned to any taxable year beginning after December 31, 1943, shall be allowed as a deduction for the years to which so apportioned to the extent allowable under this subsection as it then read if it had remained in force with respect to such year.

Amortizable bond premium

(n) In the case of a bondholder, who makes the election in the method and under the conditions prescribed in Section 7 (n) (4), the deduction for amortizable bond premium provided in subsection 7 (n) (1), (2) and (3).

Rules applicable

(1) In the case of any bond, as defined in subsection (3), the following rules shall apply to the amortizable bond premium (determined under subsection (2)) on the bond for any taxable year beginning after December 31, 1942:

(A) In the case of a bond (other than a bond the interest on which is excludible from gross income), the amount of the amortizable bond premium for the taxable year shall be allowed as a deduction.

(B) In the case of any bond the interest on which is excludible from gross income, no deduction shall be allowed for the amortizable bond premium for the taxable year.

(2) (A) For the purposes of paragraph (B), the amount of bond premium, in the case of the holder of any bond, shall be determined with reference to the amount of the basis (for determining loss on sale or exchange) of such bond, and with reference to the amount payable on maturity or on earlier call date, with adjustments proper to reflect unamortized bond premium with respect to the bond, for the period prior to the date as of which subsection (1) becomes applicable with respect to the taxpayer with respect to such bond.

(B) The amortizable bond premium of the taxable year shall be the amount of the bond premium attributable to such year.

(C) The determinations required under paragraphs (A) and (B) shall be made—

(i) In accordance with the method of amortizing bond premium regularly employed by the holder of the bond, if such method is reasonable;

(ii) In all other cases, in accordance with regulations prescribing reasonable methods of amortizing bond premium, prescribed by the commissioner.

"Bond"

(3) As used in this section, the term "bond" means any bond, debenture, note, or certificate or other evidence of indebtedness, issued by any bank or corporation and bearing interest (including any like obligation issued by a government or political subdivision thereof), with interest coupons

or in registered form, but does not include any such obligation which constitutes stock in trade of the taxpayer or any such obligation of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year, or any such obligation held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business.

Election

(4) The amount of the amortizable bond premium for the taxable year shall be allowed as a deduction only if a taxpayer has elected to claim such deduction. Such election shall be made in accordance with such regulations as the commissioner shall prescribe. If such election is made with respect to any bond, it shall also apply to all such bonds held by the taxpayer at the beginning of the first taxable year to which the election applies and to all such bonds thereafter acquired by it, and shall be binding for all subsequent taxable years with respect to all such bonds of the taxpayer, unless, upon application by the taxpayer, the commissioner permits him, subject to such conditions as the commissioner deems necessary, to revoke such election.

New section

SEC. 5 (a). Section 7.1 is hereby added to said act, to read as follows:

Sec. 7.1. (a) For the purposes of this act—

Property lost or destroyed in course of military or naval operations

(1) Property destroyed or seized on or after December 7, 1941, in the course of military or naval operations by the United States or any other country engaged in the present war shall be deemed to have been destroyed or seized on a date chosen by the taxpayer in the manner provided in paragraph (4), which falls between—

(A) The latest date, as established to the satisfaction of the commissioner, on which such property may be considered as not destroyed or seized, and

(B) The earliest date, as established to the satisfaction of the commissioner, on which such property may be considered as having already been destroyed or seized.

For the purposes of this paragraph property within an area which comes under the control of a country at war with the United States after the date war with such country is declared by the United States shall be deemed to have been destroyed or seized in the course of military or naval operations by such country, and the date specified in subparagraph (A) shall not be later than the latest date determined by the commissioner as the date on which such area was under the control of the United States or a country not at war with the United States, and the date specified in subparagraph (B) shall not be later than the earliest date determined by the commissioner as the date on which such area may be considered under the control of the country which is at war with the United States.

(2) Property within any country at war with the United States, or within an area under the control of any such country on the date war with such country was declared by the United States, shall be deemed to have been destroyed or

seized on the date war with such country was declared by the United States.

(3) Any interest in, or with respect to, property described in paragraph (1) or (2) (including any interest represented by a security) which becomes worthless shall be considered to have been destroyed or seized (and the loss therefrom shall be considered a loss from the destruction or seizure) on the date chosen by the taxpayer which falls between the dates specified in paragraph (1), or on the date prescribed in paragraph (2), as the case may be, when the last property (described in the applicable paragraph) to which the interest relates would be deemed destroyed or seized under the applicable paragraph. This paragraph shall apply only if the interest would have become worthless if the property had been destroyed. For the purposes of this paragraph, an interest shall be deemed to have become worthless notwithstanding the fact that such interest has a value if such value is attributable solely to the possibility of recovery of the property, compensation (other than insurance or similar indemnity) on account of its destruction or seizure, or both. Under regulations prescribed by the commissioner, a taxpayer which owns 100 per centum (excluding qualifying shares), of each class of stock of a corporation may elect to determine the worthlessness of its interest, described in this paragraph, in or with respect to the property of the corporation, without regard to the amount of the property of such corporation which would be excluded under subsection (e) (2) (A) in determining the adjusted basis of all the assets of the corporation for the purposes of subsection (e), but such amount shall be treated under subsection (b) (1) as a recovery by the taxpayer in the taxable year with respect to such interest.

Choice of date

(4) The taxpayer's choice of a date under paragraph (1) or (3) shall be effective only if made within such time and in such manner as may be prescribed by regulations prescribed by the commissioner.

(b) In the case of any property or interest in or with respect to property deemed to be destroyed or seized under subsection (a).

Amount of loss

(1) The amount of the loss on account of such property or interest shall be determined with regard to any recoveries with respect thereto in the taxable year but without regard to any possibility of recovering such property or interest, or of receiving any compensation (other than insurance or similar indemnity) on account of such property or interest in the taxable year or in any future taxable year.

(2) The taxpayer may choose to decrease the amount of the loss by all obligations or liabilities of the taxpayer with respect to such property or interest discharged or satisfied out of the property or interest upon its destruction or seizure, if the commissioner is satisfied that such obligations or liabilities are so discharged or satisfied in a subsequent taxable year, or that

the taxpayer is unable to determine whether or not such obligations or liabilities are in fact discharged or satisfied.

No loss shall be deemed to have been sustained upon the destruction or seizure of such property or interest to the extent that it is compensated for by the discharge or satisfaction of obligations and liabilities of the taxpayer out of such property or interest in the taxable year in which such destruction or seizure is deemed to have occurred. The taxpayer's choice under this subsection shall be effective only if made within such time and in such manner as may be prescribed by regulations prescribed by the commissioner.

Recovery

(c) (1) Upon the recovery in the taxable year of any money or property in respect of property considered under subsection (a) as destroyed or seized in any prior taxable year, the amount of such recovery shall be included in gross income to the extent provided in paragraph (2).

Amount of recovery

(2) The amount of the recovery of any money or property in respect of property considered under subsection (a) as destroyed or seized shall be an amount equal to the aggregate of such money and the fair market value of such property, determined as of the date of the recovery. To the extent that such amount plus the aggregate of the amounts of previous such recoveries do not exceed that part of the aggregate of the allowable deductions in prior taxable years on account of the destruction or seizure of property described in subsection (a) which did not result in a reduction of any tax of the taxpayer under this act, such amount shall not be includible in gross income and shall not be deemed gain upon the involuntary conversion of property as a result of its destruction or seizure. To the extent that such amount plus the aggregate of the amounts of previous such recoveries exceed that part of the aggregate of such deductions which did not result in a reduction of any tax of the taxpayer under this act and do not exceed that part of the aggregate of such deductions which did result in a reduction of any tax of the taxpayer under this act, such amount shall be included in gross income but shall not be deemed a gain upon the involuntary conversion of property as a result of its destruction or seizure. To the extent that such amount plus the aggregate of the amounts of previous such recoveries exceed the aggregate of the allowable deductions in prior taxable years on account of the destruction or seizure of property described in subsection (a), such amount shall be considered a gain upon the involuntary conversion of property as a result of its destruction or seizure and shall be recognized or not recognized as provided in Section 11 (f). If for any previous taxable year the taxpayer chooses under subsection (b) to treat any obligations and liabilities as discharged or satisfied out of the property or interest described in subsection (a), and if such obligations and liabilities were not so discharged or satisfied, the amount of such obligations and liabilities treated as discharged or satisfied under subsection (b) shall be considered for the purposes of this section

as a deduction by reason of this section which did not result in a reduction of any tax of the taxpayer under this act. For the purposes of this paragraph an allowable deduction for any taxable year on account of the destruction or seizure of property described in subsection (a) shall, to the extent not allowed in computing the tax of the taxpayer for such taxable year, be considered an allowable deduction which did not result in a reduction of any tax of the taxpayer under this act.

(3) For the purposes of paragraphs (1) and (2), the restoration in whole or in part of the value of any interest described in subsection (a) (3) by reason of any recovery of money or property in respect of property to which such interest related and which was considered under subsection (a) (1) or (2) as destroyed or seized shall be deemed a recovery of property in respect of property considered under subsection (a) as destroyed or seized.

Unadjusted basis of property recovered

(d) The unadjusted basis of property recovered in respect of property considered destroyed or seized under subsection (a) shall be determined under this subsection. Such basis shall be an amount equal to the fair market value of such property, determined as of the date of the recovery, reduced by an amount equal to the excess of the aggregate of such fair market value and the amounts of previous recoveries of money or property in respect of property considered under subsection (a) as destroyed or seized over the aggregate of the allowable deductions in prior taxable years on account of the destruction or seizure of property described in subsection (a), and increased by that portion of the amount of the recovery which under subsection (c) is treated as a recognized gain from the involuntary conversion of property. Upon application of the taxpayer, the aggregate of the bases (determined under the preceding sentence) of any properties recovered in respect of properties considered under subsection (a) as destroyed or seized may be allocated among the properties so recovered in such manner as the commissioner may determine under regulations prescribed by him, and the amounts so allocated to any such property so recovered shall be the unadjusted basis of such property in lieu of the unadjusted basis of such property determined under the preceding sentence.

Corporate property destroyed or seized

(e) (1) If a taxpayer owns not less than 50 per centum of each class of stock of a corporation, if such corporation has property described in subsection (a) (1) or (2) deemed to be destroyed or seized, the adjusted basis for determining loss of which is at least 75 per centum of the adjusted basis for determining loss of all such corporation's property, and if such corporation completely liquidates (by distributing all the assets which it is able to distribute and all its rights to assets which it is not able to distribute, including the right to the recovery of the property described in subsection (a) (1) and (2)) within one year after such property is deemed to be destroyed or seized, or by December 31, 1943, whichever is the later, then that part of the loss by the taxpayer on such

liquidation which would be attributable to the destruction or seizure of such property, as established to the satisfaction of the commissioner, shall be treated for the purposes of this act as a loss by the taxpayer upon the destruction or seizure of the part of the stock or other interest of the taxpayer to which such loss is allocable. Such part of the stock or other interest of the taxpayer shall be treated for the purposes of subsections (b), (c), and (d) as property described in subsection (a) (3).

(2) For the purposes of paragraph (1)—

Adjusted basis

(A) In determining the adjusted basis of all the property of the corporation, there shall be excluded money in the United States, bank deposits, the right to receive money from any person not situated in a country at war with the United States or in a territory under the control of such a country, and obligations issued or guaranteed as to principal or interest by the United States, except that there shall not be excluded any such property which is destroyed or seized as described in subsection (a) within or before the taxable period.

(B) The adjusted basis of property of such corporation shall be determined as of the date immediately preceding the first date on which any property was destroyed or seized, as described in subsection (a), or as of any later date falling within or before the taxable period on the basis of which such determination will produce a greater amount.

(f) The determination as to whether and to what extent an allowable deduction on account of the destruction or seizure of property described in subsection (a) did or did not result in a reduction of any tax of the taxpayer under this act shall be made in accordance with regulations prescribed by the commissioner.

Stats 1943, Ch 38

SEC. 6. Section 8 of said act is hereby amended to read as follows:

Items not deductible

Sec. 8. In computing net income no deduction shall be allowed for:

(a) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property; or for

(b) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made; or for

(c) Premiums paid on any life insurance policy covering the life of any officer or employee, or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under such policy;

(d) Any amount otherwise allowable as a deduction which is allocable to one or more classes of income not included in the measure of the tax imposed by this act.

(1) Any amount paid or accrued on indebtedness incurred or continued to purchase a single premium life insurance or endowment contract. For the purposes of this paragraph,

if substantially all the premiums on a life insurance or endowment contract are paid within a period of four years from the date on which such contract is purchased, such contract shall be considered a single premium life insurance or endowment contract;

(2) Amounts paid or accrued for such taxes and carrying charges as, under regulations prescribed by the commissioner, are chargeable to capital account with respect to property, if the taxpayer elects, in accordance with such regulations, to treat such taxes or charges as so chargeable.

(e) Except in case of distributions in liquidation, losses from sales or exchanges of property directly or indirectly between an individual and a corporation in which such individual owns directly or indirectly more than 50 per centum in value of the outstanding stock. For the purpose of this subdivision an individual shall be considered as owning the stock owned directly or indirectly by his family and the family of an individual shall include only his brothers and sisters (whether by the whole or half blood), spouse, ancestors and lineal descendants.

(f) In computing net income no deduction shall be allowed under Section 7 (a), relating to expenses incurred, or under Section 7 (b), relating to interest accrued:

(1) If such expenses or interest are not paid within the taxable year or within two and one-half months after the close thereof; and

(2) If, by reason of the method of accounting of the person or corporation to whom the payment is to be made, the amount thereof is not, unless paid, includible under the provisions of The Personal Income Tax Act or Bank and Corporation Franchise Tax Act or this act in the gross income of such person or corporation for the year in which or with which the taxable year of the taxpayer ends; and

Stats 1935, p 1090
Stats 1929, p 19

(3) If, at the close of the taxable year of the taxpayer or at any time within two and one-half months thereafter, both the taxpayer and the person to whom the payment is to be made are persons between whom losses would be disallowed under Section 8 (e), or if the corporation to which payment is to be made is owned by, or owns, the taxpayer to the extent of more than 50 per centum in value of the outstanding stock.

The amount of expenses incurred or interest accrued the deduction of which is disallowed under this subsection in the year incurred or accrued, may be deducted in the year paid.

New section

SEC. 7. Section 8.1 is hereby added to said act, to read as follows:

Renegotiated contracts with U S

Sec. 8.1. (a) In the case of a contract with the United States or any agency thereof, or any subcontract thereunder, which is made by the taxpayer, if a renegotiation is made in respect of such contract or subcontract and an amount of excessive profits received or accrued under such contract or subcontract for a taxable year (hereinafter referred to as

"prior taxable year") is eliminated and, in a taxable year ending after December 31, 1941, the taxpayer is required to pay or repay to the United States or any agency thereof the amount of profits eliminated or the amount of profits eliminated is applied as an offset against other amounts due the taxpayer, then the profits so eliminated shall be excluded from gross income for the prior taxable year if they were included in gross income for the prior taxable year. For the purposes of this section— Exclusion from gross income

(1) The term "renegotiation" includes any transaction which is a renegotiation within the meaning of Section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, 77th Cong., 2d Sess.) or such section, as amended, any modification of one or more contracts with the United States or any agency thereof, and any agreement with the United States or any agency thereof in respect of one or more such contracts or subcontracts thereunder. "Renegotiation"

(2) The term "excessive profits" includes any amount which constitutes excessive profits within the meaning assigned to such term by subsection (a) of Section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, 77th Cong., 2d Sess.), as amended by the Revenue Act of 1942, any part of the contract price of a contract with the United States or any agency thereof, any part of the subcontract price of a subcontract under such a contract, and any profits derived from one or more such contracts or subcontracts. "Excessive profits"

(3) The term "subcontract" includes any purchase order or agreement which is a subcontract within the meaning assigned to such term by subsection (a) of Section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, 77th Cong., 2d Sess.), as amended by the Revenue Act of 1942. "Subcontract"

(b) In the case of a cost-plus-a-fixed-fee contract between the United States or any agency thereof and the taxpayer, if an item for which the taxpayer has been reimbursed by the United States or any agency thereof is disallowed as an item of cost chargeable to such contract, and, in a taxable year ending after December 31, 1941, the taxpayer is required to repay the United States or any agency thereof the amount disallowed, or the amount disallowed is applied as an offset against other amounts due the taxpayer, for the purposes of this act the amount so disallowed or so applied as an offset shall be allowed as a deduction in the taxable year in which the reimbursement for such item was received or was accrued to the extent that the taxpayer's taxable net income for the year in which the cost was incurred would have been reduced had no such reimbursement been received or accrued. Cost-plus-a-fixed-fee contract

(c) The amount of the payment, repayment or offset described in paragraph (a) or paragraph (b) shall not constitute a deduction for the year in which paid or incurred. When not deductible

Accounting method

(d) The foregoing provisions of this section shall not apply in respect of any contract if the taxpayer shows to the satisfaction of the commissioner that a different method of accounting for the amount of the payment, repayment, or disallowance clearly reflects income, and in such case the payment, repayment, or disallowance shall be accounted for with respect to the taxable year provided for under such method.

Refund

(e) Any overpayment in tax which results from the application of this section shall be credited or refunded as provided in this act. Notwithstanding the provisions of any statute of limitations, such credit or refund shall be made if claim therefor is filed within four years from the last day prescribed for filing the return or within two years from the date of payment, repayment, or offset described in paragraph (a) or paragraph (b) of this section, whichever is later.

Claim in abatement

(f) If prior to the payment of the last installment of tax for the taxable year the taxpayer becomes entitled to the exclusions or deductions provided in this section for its taxable year, the taxpayer may, under regulations prescribed by the commissioner, file a claim in abatement of any unpaid tax or portion thereof, but not in excess of the reduction in tax resulting from the application of this section.

(g) In any case in which a claim in abatement is filed pursuant to subsection (f), and the commissioner makes such abatement, the tax disclosed by the original return shall, for the purpose of Section 19 of this act, be deemed to be reduced by the amount of the tax so abated.

Stats 1943, Ch 38

SEC. 8. Section 9 of said act is hereby amended to read as follows:

Inventories

Sec 9. (1) Whenever, in the opinion of the commissioner, the use of inventories is necessary clearly to determine the income of any taxpayer, inventory shall be taken by such taxpayer upon such basis as the commissioner may prescribe, conforming as nearly as may be to the best accounting practice and most clearly reflecting the income.

Methods

(2) (A) A taxpayer may use the following method (whether or not such method has been prescribed under subdivision (1)) in inventorying goods specified in the application required under paragraph (B): (1) Inventory them at cost; (2) treat those remaining on hand at the close of the taxable year as being: First, those included in the opening inventory of the taxable year (in the order of acquisition) to the extent thereof, and second, those acquired in the taxable year; and (3) treat those included in the opening inventory of the taxable year in which such method is first used as having been acquired at the same time and determine their cost by the average cost method.

(B) The method described in paragraph (A) may be used (1) only in inventorying goods (required under subdivision (1) to be inventoried) specified in an application to use such method filed at such time and in such manner as the commissioner may prescribe; and (2) only if the taxpayer establishes to the satisfaction of the commissioner that the taxpayer has

used no procedure other than that specified in subparagraphs (2) and (3) of paragraph (A) in inventorying such goods to ascertain the income, profit, or loss of the first taxable year for which the method described in paragraph (A) is to be used, for the purpose of a report or statement covering such taxable year (i) to shareholders, partners, or other proprietors, or to beneficiaries, or (ii) for credit purposes.

(C) The change to, and the use of, such method shall be in accordance with such regulations as the commissioner may prescribe as necessary in order that the use of such method may clearly reflect income.

(D) In determining income for the taxable year preceding the taxable year for which such method is first used, the closing inventory of such preceding year of the goods specified in such application shall be at cost.

Change in method

(E) If a taxpayer, having complied with paragraph (B), uses the method described in paragraph (A) for any taxable year, then such method shall be used in all subsequent taxable years unless with the approval of the commissioner a change to a different method is authorized; or the commissioner determines that the taxpayer has used for any such subsequent taxable year some procedure other than that specified in (2) of paragraph (A) in inventorying the goods specified in the application to ascertain the income, profit, or loss of such subsequent taxable year for the purpose of a report or statement covering such taxable year (i) to shareholders, partners, or other proprietors, or beneficiaries, or (ii) for credit purposes; and requires a change to a method different from that prescribed in paragraph (1) beginning with such subsequent taxable year or any taxable year thereafter.

In either of the above cases, the change to, and the use of, the different method shall be in accordance with such regulations as the commissioner may prescribe as necessary in order that the use of such method may clearly reflect income.

Involuntary liquidation

(3) (A) If, for any taxable year beginning after December 31, 1942, and prior to the termination of the present war as proclaimed by the President of the United States, the closing inventory of a taxpayer inventorying goods under the method provided in this subsection reflects a decrease from the opening inventory of such goods for such year, and if, at the time of the filing of the taxpayer's income tax return for such year, the taxpayer elects to have the provisions of this paragraph apply and so notifies the commissioner, and if, at the time of such election, it is established to the satisfaction of the commissioner, in accordance with such regulations as the commissioner may prescribe, that such decrease is attributable to the involuntary liquidation of such inventory as defined in subparagraph (B), and if the closing inventory of a subsequent taxable year, ending not more than three years after the termination of the present war as proclaimed by the President, reflects a replacement, in whole or in part, of the goods so previously liquidated, the net income of the taxpayer otherwise

Adjustment

determined for the year of such involuntary liquidation shall be adjusted as follows:

(i) Increased by an amount equal to the excess, if any, of the aggregate cost of such goods reflected in the opening inventory of the year of involuntary liquidation over the aggregate replacement cost; or

(ii) Decreased by an amount equal to the excess, if any, of the aggregate replacement cost of such goods over the aggregate cost thereof reflected in the opening inventory of the year of the involuntary liquidation.

The taxes imposed by this act for the year of such liquidation and for all taxable years intervening between such year and the year of replacement shall be redetermined, giving effect to such adjustments. Any increase in such taxes resulting from such adjustments shall be assessed and collected as a deficiency but without interest, and any overpayment so resulting shall be credited or refunded to the taxpayer without interest.

"Involuntary liquidation"

(B) The term "involuntary liquidation," as used in this paragraph, means the sale or other disposition of goods inventoried under the method described in this subsection, either voluntary or involuntary, coupled with a failure on the part of the taxpayer to purchase, manufacture, or otherwise produce and have on hand at the close of the taxable year in which such sale or other disposition occurred such goods as would, if on hand at the close of such taxable year, be subject to the application of the provisions of this subsection, if such failure on the part of the taxpayer is due, directly and exclusively, (i) to enemy capture or control of sources of limited foreign supply; (ii) to shipping or other transportation shortages; (iii) to material shortages resulting from priorities or allocations; (iv) to labor shortages; or (v) to other prevailing war conditions beyond the control of the taxpayer.

Increase

(C) If, in the case of any taxpayer subject to the provisions of subparagraph (A), the closing inventory of the taxpayer for a taxable year, subsequent to the year of involuntary liquidation but prior to the complete replacement of the goods so liquidated, reflects an increase over the opening inventory of such goods for the taxable year, the goods reflecting such increase shall be considered, in the order of their acquisition, as having been acquired in replacement of the goods most recently liquidated (whether or not in a year of involuntary liquidation) and not previously replaced, and if the liquidation was an involuntary liquidation shall be included in the inventory of the taxpayer for the year of replacement at the inventory cost basis of the goods replaced.

Election

(D) An election by the taxpayer to have the provisions of this paragraph apply, once made, shall be irrevocable and shall be binding for the year of the involuntary liquidation and for all determinations for subsequent taxable years in so far as they are related to the year of liquidation or replacement.

Prevented adjustments

(E) If the adjustments specified in subparagraph (A) are, with respect to any taxable year, prevented, on the date of the

filing of the income tax return of the taxpayer for the year of the replacement, or within three years from such date, by any provision or rule of law (other than this subparagraph), such adjustments shall nevertheless be made if, in respect of the taxable year for which the adjustment is sought, a notice of deficiency is mailed or a claim for refund is filed, as the case may be, within three years after the date of the filing of the income tax return for the year of replacement. If, at the time of the mailing of such notice of deficiency or the filing of such claim for refund, the adjustment is so prevented, then the amount of the adjustment authorized by this paragraph shall be limited to the increase or decrease of the tax imposed by this act previously determined for such taxable year which results solely from the effect of subparagraph (A), and such amount shall be assessed and collected, or credited or refunded, in the same manner as if it were a deficiency or an overpayment, as the case may be, for such taxable year and as if, on the date of the filing of the income tax return for the year of the replacement, three years remain before the expiration of the periods of limitation upon assessment or the filing of claim for refund for the taxable year. The tax previously determined shall be ascertained in accordance with rules and regulations prescribed by the commissioner. The amount to be assessed and collected under this paragraph in the same manner as if it were a deficiency or to be credited or refunded in the same manner as if it were an overpayment shall not be diminished by any credit or set-off based upon any item, inclusion, deduction, credit, exemption, gain, or loss, other than one resulting from the effect of subparagraph (A). Such amount, if paid, shall not be recovered by a claim or suit for refund, or suit for erroneous refund based upon any item, inclusion, deduction, credit, exemption, gain, or loss, other than one resulting from the effect of subparagraph (A)

SEC. 9. Section 11 of said act is hereby amended to read as follows: Stats 1943, Ch 38

Sec. 11. (a) Upon the sale or exchange of property the entire amount of the gain or loss, determined under Section 10, shall be recognized, except as hereinafter provided in this section. Recognition of gain or loss

(b) (1) No gain or loss shall be recognized if property held for productive use in trade or business or for investment (not including stock in trade or other property held primarily for sale, nor stocks, bonds, notes, choses in action, certificates of trust or beneficial interest, or other securities or evidences of indebtedness or interest) is exchanged solely for property of a like kind to be held either for productive use in trade or business or for investment.

(2) No gain or loss shall be recognized if common stock in a corporation is exchanged solely for common stock in the same corporation, or if preferred stock in a corporation is exchanged solely for preferred stock in the same corporation.

(3) No gain or loss shall be recognized if stock or securities in a corporation a party to a reorganization are, in pursuance of the plan of reorganization, exchanged solely for stock or securities in such corporation or in another corporation a party to the reorganization.

(4) No gain or loss shall be recognized if a corporation a party to a reorganization exchanges property, in pursuance of the plan of reorganization, solely for stock or securities in another corporation a party to the reorganization.

(5) No gain or loss shall be recognized if property is transferred to a corporation by one or more taxpayers solely in exchange for stock or securities in such corporation, and immediately after the exchange such taxpayer or taxpayers are in control of the corporation; but in the case of an exchange by two or more taxpayers this paragraph shall apply only if the amount of the stock and securities received by each is substantially in proportion to its interest in the property prior to the exchange.

Where the transferee assumes a liability of a transferor, or where the property of a transferor is transferred subject to a liability, then for the purpose only of determining whether the amount of stock or securities received by each of the transferors is in the proportion required by this paragraph, the amount of such liability (if under subsection (k) it is not to be considered as other property or money) shall be considered as stock or securities received by such transferor.

Distribution in complete liquidation

(6) No gain or loss shall be recognized upon the receipt by a corporation of property distributed in complete liquidation of another corporation. For the purposes of this paragraph a distribution shall be considered to be in complete liquidation only if:

(A) The corporation receiving such property was, on the date of the adoption of the plan of liquidation, and has continued to be at all times until the receipt of the property, the owner of stock (in such other corporation) possessing at least 80 per centum of the total combined voting power of all classes of stock entitled to vote and the owner of at least 80 per centum of the total number of shares of all other classes of stock (except nonvoting stock which is limited and preferred as to dividends), and was at no time on or after the date of the adoption of the plan of liquidation and until the receipt of the property the owner of a greater percentage of any class of stock than the percentage of such class owned at the time of the receipt of the property; and

(B) No distribution under the liquidation was made before the first day of the first taxable year of the corporation beginning after December 31, 1935; and either

(C) The distribution is by such other corporation in complete cancellation or redemption of all its stock, and the transfer of all the property occurs within the taxable year; in such case the adoption by the shareholders of the resolution under which is authorized the distribution of all the assets of such corporation in complete cancellation or redemption of all its stock, shall be

considered an adoption of a plan of liquidation, even though no time for the completion of the transfer of the property is specified in such resolution; or

(D) Such distribution is one of a series of distributions by such other corporation in complete cancellation or redemption of all its stock in accordance with a plan of liquidation under which the transfer of all the property under the liquidation is to be completed within three years from the close of the taxable year during which is made the first of the series of distributions under the plan, except that if such transfer is not completed within such period, or if the taxpayer does not continue qualified under subparagraph (A) until the completion of such transfer, no distribution under the plan shall be considered a distribution in complete liquidation.

If such transfer of all the property does not occur within the taxable year the commissioner may require of the taxpayer such bond, or waiver of the statute of limitations on assessment and collection, or both, as he may deem necessary to insure, if the transfer of the property is not completed within such three-year period, or if the taxpayer does not continue qualified under subparagraph (A) until the completion of such transfer, the assessment and collection of all taxes imposed by this act then due or to become due, to the extent attributable to property so received. A distribution otherwise constituting a distribution in complete liquidation within the meaning of this paragraph shall not be considered as not constituting such a distribution merely because it does not constitute a distribution or liquidation within the meaning of the corporate law under which the distribution is made; and for the purposes of this paragraph a transfer of property of such other corporation to the taxpayer shall not be considered as not constituting a distribution (or one of a series of distributions) in complete cancellation or redemption of all the stock of such other corporation, merely because the carrying out of the plan involves (i) the transfer under the plan to the taxpayer by such other corporation of property, not attributable to shares owned by the taxpayer, upon an exchange described in paragraph (4) of this subsection, and (ii) the complete cancellation or redemption under the plan, as a result of exchanges described in paragraph (3) of this subsection, of the shares not owned by the taxpayer.

(7) No gain or loss shall be recognized to a shareholder from a distribution of stocks or securities in liquidation of a corporation made pursuant to an order of the Federal Securities and Exchange Commission under authority vested in it by that act of Congress known as the Public Utility Holding Company Act of 1935 as amended.

(8) No loss shall be recognized if property of a railroad corporation, as defined in Section 77m of the National Bankruptcy Act, as amended, is transferred, after December 31, 1942, in pursuance of an order of the court having jurisdiction of such corporation—

(A) In a receivership proceeding, or

(B) In a proceeding under Section 77 of the National Bankruptcy Act, as amended,

to a railroad corporation, as defined in Section 77m of the National Bankruptcy Act, as amended, organized or made use of to effectuate a plan of reorganization approved by the court in such proceeding. The term "reorganization," as used in this paragraph, shall not be limited by the definition of such term in subsection (g).

Particular exchanges

(c) (1) If an exchange would be within the provisions of subsection (b) (1), (2), (3), or (5) of this section if it were not for the fact that the property received in exchange consists not only of property permitted by such paragraph to be received without the recognition of gain, but also of other property or money, then the gain, if any, to the recipient shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property.

(2) If a distribution made in pursuance of a plan of reorganization is within the provisions of paragraph (1) of this subsection but has the effect of the distribution of a taxable dividend, then there shall be taxed as a dividend to each distributee such an amount of the gain recognized under paragraph (1) as is not in excess of his ratable share of the undistributed earnings and profits of the corporation accumulated after February 28, 1913. The remainder, if any, of the gain recognized under paragraph (1) shall be taxed as a gain from the exchange of property.

(d) If an exchange would be within the provisions of subsection (b) (4) of this section if it were not for the fact that the property received in exchange consists not only of stock or securities permitted by such paragraph to be received without the recognition of gain, but also of other property or money, then:

(1) If the corporation receiving such other property or money distributes it in pursuance of the plan of reorganization, no gain to the corporation shall be recognized from the exchange, but

(2) If the corporation receiving such other property or money does not distribute it in pursuance of the plan of reorganization, the gain, if any, to the corporation shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property so received, which is not so distributed.

(e) If an exchange would be within the provisions of subsection (b) (1) to (5), inclusive, of this section if it were not for the fact that the property received in exchange consists not only of property permitted by such paragraph to be received without the recognition of gain or loss, but also of other property or money, then no loss from the exchange shall be recognized.

(f) If property (as a result of its destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation, or the threat or imminence thereof)

is compulsorily or involuntarily converted into property similar or related in service or use to the property so converted, or into money which is forthwith in good faith, under regulations prescribed by the commissioner, expended in the acquisition of other property similar or related in service or use to the property so converted, or in the acquisition of control of a corporation owning such other property, or in the establishment of a replacement fund, no gain shall be recognized, but loss shall be recognized. If any part of the money is not so expended, the gain, if any, shall be recognized to the extent of the money which is not so expended (regardless of whether such money is received in one or more taxable years and regardless of whether or not the money which is not so expended constitutes gain).

(g) As used in this section and Section 12:

"Reorganization" (1) The term "reorganization" means (A) a statutory merger or consolidation, or (B) the acquisition by one corporation in exchange solely for all or a part of its voting stock: Of at least 80 per centum of the voting stock and at least 80 per centum of the total number of shares of all other classes of stock of another corporation; or of substantially all the properties of another corporation, but in determining whether the exchange is solely for voting stock, the assumption by the acquiring corporation of a liability of the other, or the fact that property acquired is subject to a liability, shall be disregarded, or (C) a transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor or its shareholders or both are in control of the corporation to which the assets are transferred, or (D) a recapitalization, or (E) a mere change in identity, form, or place of organization, however effected.

"Party to a reorganization" (2) The term "a party to a reorganization" includes a corporation resulting from a reorganization and includes both corporations in the case of a reorganization resulting from the acquisition by one corporation of stock or properties of another.

"Control" (h) As used in this section the term "control" means the ownership of stock possessing at least 80 per centum of the total combined voting power of all classes of stock entitled to vote and at least 80 per centum of the total number of shares of all other classes of stock of the corporation.

Corporation created in foreign country (i) In determining the extent to which gain shall be recognized in the case of any of the exchanges (made after the date of the enactment of this act) described in subsection (b) (3), (4), (5), or (6), or described in so much of subsection (c) as refers to subsection (b) (3) or (5), or described in subsection (d), a corporation created or organized in a foreign country shall not be considered as a corporation unless, prior to such exchange, it has been established to the satisfaction of the commissioner that such exchange is not in pursuance of a plan having as one of its principal purposes the avoidance of income taxes or franchise taxes imposed by this State.

Installment obligations

(j) For nonrecognition of gain or loss in the case of installment obligations, see Section 10 (e) (4).

Assumption of taxpayer's liability

(k) Where upon an exchange the taxpayer receives as part of the consideration property which would be permitted by subsection (b) (4) or (5) of this section to be received without the recognition of gain if it were the sole consideration, and as part of the consideration another party to the exchange assumes a liability of the taxpayer or acquires from the taxpayer property subject to a liability, such assumption or acquisition shall not be considered as "other property or money" received by the taxpayer within the meaning of subsection (c), (d) or (e) of this section and shall not prevent the exchange from being within the provisions of subsection (b) (4) or (5); except that if, taking into consideration the nature of the liability and the circumstances in the light of which the arrangement for the assumption or acquisition was made, it appears that the principal purpose of the taxpayer with respect to the assumption or acquisition was a purpose to avoid State tax on the exchange, or, if not such purpose, was not a bona fide business purpose, such assumption or acquisition (in the amount of the liability) shall, for the purposes of this section, be considered as money received by the taxpayer upon the exchange. In any suit or proceeding where the burden is on the taxpayer to prove that such assumption or acquisition is not to be considered as money received by the taxpayer, such burden shall not be considered as sustained unless the taxpayer sustains such burden by the clear preponderance of the evidence.

Burden of proof

Stats 1943, Ch 38

SEC. 10. Section 12 of said act is hereby amended to read as follows:

Basis of property

Sec. 12. (a) The basis of property shall be the cost of such property; except that:

(1) If the property should have been included in the last inventory, the basis shall be the last inventory value thereof.

(2) If the property was acquired by gift after December 31, 1920, the basis shall be the same as it would be in the hands of the donor or the last preceding owner by whom it was not acquired by gift, except that if such basis (adjusted for the period prior to the date of the gift as provided in subsection (b)) is greater than the fair market value of the property at the time of the gift, then for the purpose of determining loss the basis shall be such fair market value. If the facts necessary to determine the basis in the hands of the donor or the last preceding owner are unknown to the donee, the commissioner shall, if possible, obtain such facts from such donor or last preceding owner, or any other person cognizant thereof. If the commissioner finds it impossible to obtain such facts, the basis in the hands of such donor or last preceding owner shall be the fair market value of such property as found by the commissioner as of the date or approximate date at which, according to the best information that the commissioner is able to

obtain, such property was acquired by such donor or last preceding owner.

(3) If the property was acquired after December 31, 1920, by a transfer in trust (other than by a transfer in trust by a gift, bequest or devise) the basis shall be the same as it would be in the hands of the grantor, increased in the amount of gain or decreased in the amount of loss recognized to the grantor upon such transfer under the law applicable to the year in which the transfer was made.

(4) If the property was acquired, after February 28, 1913, upon an exchange described in Section 11 (b) to (e), inclusive, the basis (except as provided in paragraph (12) of this subsection) shall be the same as in the case of the property exchanged, decreased in the amount of any money received by the taxpayer and increased in the amount of gain or decreased in the amount of loss to the taxpayer that was recognized upon such exchange under the law applicable to the year in which the exchange was made. If the property so acquired consisted in part of the type of property permitted by Section 11 (b) to be received without the recognition of gain or loss, and in part of other property, the basis provided in this paragraph shall be allocated between the properties (other than money) received, and for the purpose of the allocation there shall be assigned to such other property an amount equivalent to its fair market value at the date of the exchange. Where as a part of the consideration to the taxpayer another party to the exchange assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability, such assumption or acquisition (in the amount of the liability) shall, for the purposes of this paragraph, be considered as money received by the taxpayer upon the exchange. This paragraph shall not apply to property acquired by a corporation by the issuance of its stock or securities as the consideration in whole or in part for the transfer of the property to it.

(5) If the property was acquired:

(A) After December 31, 1917, and in a taxable year beginning before January 1, 1936, by a corporation in connection with a reorganization, and immediately after the transfer an interest or control in such property of 50 per centum or more remained in the same persons or any of them; or

(B) In a taxable year beginning after December 31, 1935, by a corporation in connection with a reorganization, then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made. This paragraph shall not apply if the property acquired consists of stock or securities in a corporation a party to the reorganization, unless acquired by the issuance of stock or securities of the transferee as the consideration in whole or in part for the transfer.

(6) If the property was acquired after December 31, 1920, by a corporation:

(A) By the issuance of its stock or securities in connection with a transaction described in Section 11 (b) (5) (including, also, cases where part of the consideration for the transfer of such property to the corporation was property or money, in addition to such stock or securities), or

(B) As paid in surplus or as a contribution to capital, then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made.

(7) If the property was acquired, after February 28, 1913, as the result of a compulsory or involuntary conversion described in Section 11 (f), the basis shall be the same as in the case of the property so converted, decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law (applicable to the year in which such conversion was made) determining the taxable status of the gain or loss upon such conversion, and increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under the law applicable to the year in which such conversion was made.

(8) If the property consists of stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility (under Section 7 (d) of this act, relating to wash sales) of the loss from the sale or other disposition of substantially identical stock or securities, then the basis shall be the basis of the stock or securities so sold or disposed of, increased or decreased, as the case may be, by the difference, if any, between the price at which the property was acquired and the price at which such substantially identical stock or securities were sold or otherwise disposed of.

(9) In the case of property acquired by a corporation, during a period of affiliation, from a corporation with which it was affiliated, the basis of such property, after such period of affiliation, shall be determined, in accordance with regulations prescribed by the commissioner, without regard to intercompany transactions in respect of which gain or loss was not recognized. The basis in case of property acquired by a corporation during any period, in the taxable year 1929 or any subsequent taxable year, in respect of which a consolidated return is made by such corporation under Section 141 of the Federal Revenue Act of 1928 or the Federal Revenue Act of 1932 or the Federal Revenue Act of 1934 or the Federal Revenue Act of 1936, or the Federal Revenue Act of 1938, shall be determined in accordance with regulations prescribed under Section 141 of the Federal Revenue Act of 1928 or the Federal Revenue Act of 1932 or the Federal Revenue Act of 1934 or the Federal Revenue Act of 1936 or the Federal Revenue Act

of 1938. The basis in the case of property held by a corporation during any period, in the taxable year 1929 or any subsequent taxable year, in respect of which a consolidated return is made by such corporation under Section 141 of the Federal Revenue Act of 1928 or the Federal Revenue Act of 1932 or the Federal Revenue Act of 1934 or the Federal Revenue Act of 1936, or the Federal Revenue Act of 1938, shall be adjusted in respect of any items relating to such period, in accordance with regulations prescribed under Section 141 of the Federal Revenue Act of 1928 or the Federal Revenue Act of 1932 or the Federal Revenue Act of 1934 or the Federal Revenue Act of 1936, or the Federal Revenue Act of 1938, applicable to such period.

(10) If the property was acquired, after February 28, 1913, in any taxable year beginning prior to January 1, 1934, and the basis thereof, for the purposes of the Federal Revenue Act of 1932 was prescribed by Section 113 (a) (6), (7), or (9) of such act, then for the purposes of this act the basis shall be the same as the basis therein prescribed in the Federal Revenue Act of 1932.

(11) In the case of property acquired before March 1, 1913, if the basis otherwise determined under this subsection, adjusted (for the period prior to March 1, 1913) as provided in subsection (b), is less than the fair market value of the property as of March 1, 1913, then the basis for determining gain shall be such fair market value. In determining the fair market value of stock in a corporation as of March 1, 1913, due regard shall be given to the fair market value of the assets of the corporation as of that date.

(12) If the property was received by a corporation upon a distribution in complete liquidation of another corporation within the meaning of Section 11 (b) (6), then the basis shall be the same as it would be in the hands of the transferor.

(13) If the property was acquired after February 28, 1913, in any taxable year beginning prior to January 1, 1936, and the basis thereof, for the purposes of the Federal Revenue Act of 1934 was prescribed by Section 113 (a) (6), (7), or (8) of such act, then for the purposes of this act the basis shall be the same as the basis therein prescribed in the Federal Revenue Act of 1934.

(14) (A) If the property was acquired by a shareholder in a corporation and consists of rights to acquire stock in such corporation acquired by him after February 28, 1913, in a distribution by such corporation, and (1) the right to acquire such stock was acquired in a taxable year beginning before January 1, 1937 (except as provided in subparagraph (B)), or (2) the right to acquire such stock was acquired in a taxable year beginning after December 31, 1936, and its distribution did not constitute income to the shareholder within the meaning of the Sixteenth Amendment to the Constitution of the United States, then the basis of the stock in respect of which the rights were declared and the right to acquire stock,

respectively, shall, in the shareholder's hands be determined by allocating between the stock and the right to acquire stock the adjusted basis of the stock, such allocation to be made under regulations which shall be prescribed by the commissioner.

(B) If a stock right was acquired prior to January 1, 1937, and it constituted income within the purview of the Sixteenth Amendment to the Constitution of the United States, the basis of the stock in respect of which the rights were declared shall not be affected and the basis of the right shall be its fair market value as of the date of its acquisition.

(C) Where the shareholder acquired the right to acquire such stock in a taxable year beginning before January 1, 1943, and sold the same, and there was included in the gross income for such year of sale the entire amount of the proceeds of such sale, then if before the effective date of the 1943 amendments to this act the taxpayer has not asserted (by claim for a refund or credit or otherwise) that any part of the proceeds of the sale of such rights should be excluded from gross income for the year of its sale, the basis of the stock shall be determined without regard to paragraphs (A) and (B) and no part of the proceeds of the sale of such rights shall ever be excluded from the gross income for the year of such sale.

(15) If the property of a railroad corporation, as defined in Section 77m of the National Bankruptcy Act, as amended, was acquired after December 31, 1942, in pursuance of an order of the court having jurisdiction of such corporation—

(A) In a receivership proceeding, or

(B) In a proceeding under Section 77 of the National Bankruptcy Act, as amended,

and the acquiring corporation is a railroad corporation, as defined in Section 77m of the National Bankruptcy Act, as amended, organized or made use of to effectuate a plan or reorganization approved by the court in such proceeding, the basis shall be the same as it would be in the hands of the railroad corporation whose property was so acquired. The term "reorganization," as used in this paragraph, shall not be limited by the definition of such term in Section 11 (g).

(16) If the property of any street, suburban, or interurban electric railway corporation engaged as a common carrier in the transportation of persons or property in interstate commerce was acquired after December 31, 1942, in pursuance of an order of the court having jurisdiction of such corporation in a proceeding under Section 77B of the National Bankruptcy Act, as amended, and the acquiring corporation is a street, suburban, or interurban electric railway engaged as a common carrier in the transportation of persons or property in interstate commerce, organized or made use of to effectuate a plan of reorganization approved by the court in such proceeding, then, notwithstanding the provisions of Section 270 of Chapter X of the National Bankruptcy Act, as amended, the basis, for any taxable year beginning after December 31, 1942, shall be the same as it would be in the hands of the corporation whose property was so

acquired. The term "reorganization," as used in this paragraph, shall not be limited by the definition of such term in Section 11 (g).

(17) In the case of stocks or securities received by a taxpayer on or after January 1, 1943, under circumstances described in Section 11 (b) (7), the basis of such stocks or securities shall be the same as that of the stocks or securities for the surrender of which they were acquired.

Adjusted basis

(b) The adjusted basis for determining the gain or loss from the sale or other disposition of property, whenever acquired, shall be the basis determined under subsection (a), adjusted as hereinafter provided.

(1) Proper adjustment in respect of the property shall in all cases be made:

(A) For expenditures, receipts, losses, or other items, properly chargeable to capital account, but no such adjustment shall be made for taxes or other carrying charges for which deductions have been taken by the taxpayer in determining net income for the taxable year or prior taxable years;

(B) For exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent sustained prior to January 1, 1937, and for periods thereafter to the extent allowed (but not less than the amount allowable) under this act; provided, however, that if a taxpayer has not claimed an amortization deduction for an emergency facility, an adjustment shall be made only to the extent ordinarily provided under Section 7 (f).

(C) In the case of stock (to the extent not provided for in the foregoing subparagraphs) for the amount of distributions previously made which, under the law applicable to the year in which the distribution was made, either were tax-free or were applicable in reduction of basis (not including distributions made by a corporation, which was classified as a personal service corporation under the provisions of the Federal Revenue Act of 1918 or 1921, out of its earnings or profits which were taxable in accordance with the provisions of Section 218 of the Federal Revenue Act of 1918 or 1921).

(D) In the case of any bond (as defined in Section 7 (n) (3)) the interest on which is wholly exempt from the tax imposed by this act, to the extent of the amortizable bond premium disallowable as a deduction pursuant to Section 7 (n) (1) (B), and in the case of any other bond (as defined in such section) to the extent of the deductions allowable pursuant to Section 7 (n) (1) (A) with respect thereto.

"Substituted basis"

(2) The term "substituted basis" as used in this subsection means a basis determined under any provision of subsection (a) of this section, providing that the basis shall be determined:

(A) By reference to the basis in the hands of a transferor, donor, or grantor, or

(B) By reference to other property held at any time by the person for whom the basis is to be determined.

Whenever it appears that the basis of property in the hands of the taxpayer is a substituted basis, then the adjustments provided in paragraph (1) of this subsection shall be made after first making in respect of such substituted basis proper adjustments of a similar nature in respect of the period during which the property was held by the transferor, donor, or grantor, or during which the other property was held by the person for whom the basis is to be determined. A similar rule shall be applied in the case of a series of substituted bases.

(3) Where in the case of a corporation any amount is excluded from gross income under Section 6 (b) (6) on account of the discharge of indebtedness the whole or a part of the amount so excluded from gross income shall be applied in a reduction of the basis of any property held (whether before or after the time of the discharge) by the taxpayer during any portion of the taxable year in which such discharge occurred. The amount to be so applied (not in excess of the amount so excluded from gross income, reduced by the amount of any deduction disallowed under Section 6 (b) (6)) and the particular properties to which the reduction shall be allocated, shall be determined under regulations (prescribed by the commissioner) in effect at the time of the filing of the consent by the taxpayer referred to in Section 6 (b) (6). The reduction shall be made as of the first day of the taxable year in which the discharge occurred except in the case of property not held by the taxpayer on such first day, in which case it shall take effect as of the time the holding of the taxpayer began.

Leased property

(c) Neither the basis nor the adjusted basis of any portion of real property shall, in the case of the lessor of such property, be increased or diminished on account of income derived by the lessor in respect of such property and excludible from gross income under Section 6 (b) (4). If an amount representing any part of the value of real property attributable to buildings erected or other improvements made by a lessee in respect of such property was included in gross income of the lessor for any taxable year beginning before January 1, 1943, the basis of each portion of such property shall be properly adjusted for the amount so included in gross income.

Stats 1943, Ch 38

SEC. 11. Section 14 of said act is hereby amended to read as follows:

Corporations owned or controlled by same interests

Sec. 14. In the case of two or more corporations or of one or more corporations owned or controlled directly or indirectly by the same interests, the commissioner may permit or require the filing of a combined report and such other information as he deems necessary and is authorized to impose the tax due under this act as though the combined entire net income was that of one corporation, or to distribute, apportion, or allocate the gross income or deductions between or among such corporations, if he determines that such consolidation, distribution, apportionment, or allocation is necessary in order to prevent

evasion of taxes or clearly to reflect the income of any such corporations.

In the case of a corporation doing business within the meaning of this act, whether under agreement or otherwise, in such manner as either directly or indirectly to benefit the members or stockholders of the corporation, or any of them, or any person or persons, directly or indirectly interested in such business, by rendering services of any nature whatsoever, or acquiring or disposing of its products or the goods or commodities in which it deals, at less than a fair price therefor, the commissioner, in order to prevent evasion of taxes or clearly to reflect the income of such corporation, may require a report of such facts as he deems necessary, and may determine the amount which shall be deemed to be the entire net income allocable to this State of the business of such corporation for the calendar or fiscal year, and compute the tax upon such net income. In determining the entire net income the commissioner shall have regard to the fair profits which, but for any agreement, arrangement, or understanding, might be or could have been obtained from dealing in such products, goods or commodities.

In the case of a corporation liable to report under this act owning or controlling, either directly or indirectly, another corporation, or other corporations, and in the case of a corporation liable to report under this act and owned or controlled, either directly or indirectly by another corporation, the commissioner may require a consolidated report showing the combined net income or such other facts as he deems necessary. The commissioner is authorized and empowered, in such manner as he may determine, to assess the tax against either of the corporations whose net income is involved in the report upon the basis of the combined entire net income and such other information as he may possess, or he may adjust the tax in such other manner as he shall determine to be equitable, if he determines it to be necessary in order to prevent evasion of taxes or to clearly reflect the net income earned by said corporation or corporations from business done in this State.

Ownership or control

Direct or indirect ownership or control of more than 50 per centum of the voting stock of the bank or corporation shall constitute ownership or control for the purposes of this section.

Stats 1939, p. 2902

SEC. 12. Section 15 of said act is hereby amended to read as follows:

Accounting period

Sec. 15. The net income shall be computed upon the basis of the taxpayer's annual accounting period, fiscal year or calendar year as the case may be, in accordance with the method of accounting regularly employed in keeping the books of such taxpayer; but if no such method of accounting has been so employed, or if the method employed does not clearly reflect the income, the computation shall be made in accordance with such method as in the opinion of said commissioner does clearly reflect the income. If the taxpayer's annual accounting period is other than a fiscal year, or if the taxpayer has no annual accounting

period or does not keep books, the net income shall be computed on the basis of the calendar year.

Increase in redemption price

If, in the case of a taxpayer owning any noninterest-bearing obligation issued at a discount and redeemable for fixed amounts increasing at stated intervals, the increase in the redemption price of such obligation occurring in the taxable year does not (under the method of accounting used in computing its net income) constitute income to taxpayer in such year, such taxpayer may, at its election made in its return for any taxable year beginning after December 31, 1942, treat such increase as income received in such taxable year. If any such election is made with respect to any such obligation, it shall apply also to all such obligations owned by the taxpayer at the beginning of the first taxable year to which it applies and to all such obligations thereafter acquired by taxpayer and shall be binding for all subsequent taxable years, unless upon application by the taxpayer the commissioner permits taxpayer, subject to such conditions as the commissioner deems necessary, to change to a different method. In the case of any such obligations owned by the taxpayer at the beginning of the first taxable year to which its election applies, the increase in the redemption price of such obligations occurring between the date of acquisition and the first day of such taxable year shall also be treated as income received in such taxable year.

Election

Change in accounting period

If the taxpayer changes its accounting period from fiscal year to calendar year, from calendar year to fiscal year, or from one fiscal year to another, the net income shall, with the approval of the commissioner, be computed on the basis of such new accounting period subject to the following provisions:

(a) If a taxpayer, with the approval of the commissioner, changes the basis of computing net income from fiscal year to calendar year, a separate return shall be made for the period between the close of the last fiscal year for which return was made and the following December 31. If the change is from calendar year to fiscal year, a separate return shall be made for the period between the close of the last calendar year for which return was made and the date designated as the beginning of the fiscal year. If the change is from one fiscal year to another fiscal year a separate return shall be made for the period between the close of the former fiscal year and the date designated as the beginning of the new fiscal year.

(b) Where a separate return is made under paragraph (a) on account of a change in the accounting period then the income shall be computed on the basis of the period for which separate return is made. The due date of the separate return for such period is the fifteenth day of the third month following the close of that period.

Change in law applicable to tax computation

(c) The tax for any period beginning in one calendar year (hereinafter in this section called "first calendar year") and ending in the following calendar year (hereinafter in this

section called "second calendar year") where the law applicable to the computation of taxes for the taxpayers reporting on a calendar year basis differs for the second calendar year from the law applicable to the first calendar year, shall be the sum of (1) the same proportion of a tax for the entire period, determined under the law applicable to the first calendar year and at the rates for such year, which the portion of such period falling within the first calendar year is of the entire period; and (2) the same proportion of a tax for the entire period, determined under the law applicable to the second calendar year and at the rates for such year, which the portion of such period falling within the second calendar year is of the entire period.

Any tax that has been paid under the law applicable to the first calendar year if in excess of the tax imposed by this section shall be refunded or credited to the taxpayer as provided in Section 20. Any tax in addition to that paid under the law applicable to the first calendar year made necessary by this section shall be immediately due and payable upon notice and demand from the commissioner.

SEC. 13. Section 16 of said act is hereby amended to read as follows: Stats 1943, Ch 38

Sec. 16. Every corporation deriving income from sources within this State subject to the tax imposed by this act shall, within two months and 15 days after the close of its taxable year, transmit to the commissioner a return in a form prescribed by him, specifying, for the taxable year, all such facts as he may by rule, or otherwise, require in order to carry out the provisions of this act. Returns should be verified by an executive officer of the corporation. Time for filing returns

Any return filed under the provisions of the Bank and Corporation Franchise Tax Act which discloses the net income for any period shall likewise constitute a return filed for the same period under this act if a return should have been filed under this act.

A reasonable extension of time for filing the return may be granted by the commissioner whenever in his judgment good cause exists. Requests for extensions must be made on or before the due date for filing the return. The commissioner is hereby required to keep a record of each extension and the reason therefor. No such extension or extensions shall aggregate more than six months from the due date for filing the return. Extension

SEC. 14. Section 18 of said act is hereby amended to read as follows: Stats 1943, Ch. 38

Sec. 18. (a) If any taxpayer fails to make and file a return required by this act on or before the due date of the return or the due date as extended by the commissioner, then, unless it is shown that such failure is due to reasonable cause and not due to wilful neglect, 5 per centum of the tax shall be added to the tax for each 30 days or fraction thereof elapsing between the due date of the return and the date on which Interest and additions to tax· Failure to file return

filed, but the total addition shall not exceed 25 per centum of the tax. The amount so added to the tax shall be due and payable upon notice and demand from the commissioner.

If any taxpayer, upon notice and demand by the commissioner, fails or refuses to make and file a return required by this act, the commissioner is authorized to make an estimate of the net income and to compute and levy the amount of the tax due under this act from any available information, and in such case 25 per centum of the tax (in addition to the amounts added under the provisions of the preceding paragraph of this subsection) shall be added to the tax and shall be due and payable upon notice and demand from the commissioner.

If any corporation fails or refuses to furnish any information as requested in writing by the commissioner, the commissioner may add a penalty of 25 per centum of the amount of any additional tax assessed by the commissioner concerning the determination of which such information was required.

(b) If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations but without intent to defraud, 5 per centum of the total amount of the deficiency (in addition to such deficiency and other additions provided in this section) shall be assessed, collected, and paid in the same manner as if it were a deficiency.

If any part of any deficiency is due to fraud with intent to evade tax, then 50 per centum of the total amount of the deficiency (in addition to such deficiency and other additions provided in this section) shall be assessed, collected and paid in the same manner as if it were a deficiency.

Failure to pay tax

(c) If the tax imposed by this act (whether determined by the commissioner or the taxpayer) or any installment or portion thereof is not paid on or before the date prescribed for its payment, there shall be collected as a part of the tax interest upon such unpaid amount at the rate of 6 per centum per year from the date prescribed for its payment until it is paid.

Extension of time

If the time for the payment of the tax or any installment thereof is extended by the commissioner, or if the collection of a jeopardy assessment is stayed under Section 18.1 of this act, there shall be collected as part of such tax interest thereon at the rate of 6 per centum a year from the date upon which such payment should have been made if no extension had been granted or collection had not been stayed until the date the tax is paid.

Interest upon the amount determined as a deficiency shall be assessed and paid at the same time as the deficiency at the rate of 6 per centum per year from the date prescribed for the payment of the tax (or, if the tax is paid in installments, from the date prescribed for the payment of the first installment) to the date the deficiency is assessed; provided, however, if any portion of the deficiency is paid prior to the date it is assessed, interest shall accrue on such portion only to the date paid.

Where a deficiency, or any interest or additional amounts assessed in connection therewith, or any addition to the tax in case of delinquency provided for in subsection (a) of this section, is not paid in full within 10 days from the date of notice and demand from the commissioner, there shall be collected as a part of the tax, interest upon the unpaid amount at the rate of 6 per centum a year from the date of such notice and demand until it is paid.

SEC. 15. Section 18.1 is hereby added to said act, to read as follows: New section

Sec. 18.1. (a) If the commissioner finds that the assessment or the collection of a tax or a deficiency for any year, current or past, will be jeopardized in whole or in part by delay, he may mail or issue notice of such finding to the taxpayer, together with a demand for immediate payment of the tax or the deficiency declared to be in jeopardy (including interest, penalties and additions thereto). In the case of a tax for a current period, the commissioner may declare the taxable period of the taxpayer immediately terminated and shall cause notice of such finding and declaration to be mailed or issued to the taxpayer, together with a demand for immediate payment of the tax based on the period declared terminated, including therein income accrued and deductions incurred up to such date of termination if not otherwise properly includible or deductible in respect of such period, and such tax shall be immediately due and payable whether or not the time otherwise allowed by law for filing the return and paying the tax has expired. Jeopardy assessments

(b) The jeopardy assessments provided for in this section shall be immediately due and payable and proceedings for collection may be commenced at once; provided, that the taxpayer may stay collection and prevent the jeopardy assessment from becoming final by filing, within 10 days after the date of mailing or issuing the notice of jeopardy assessment, a petition for reassessment, accompanied by a bond or other security in such amount as the commissioner may deem necessary, not exceeding double the amount (including interest, penalties, and additions thereto) as to which the stay is desired. The commissioner shall consider such petition for reassessment, and notify the taxpayer of his decision thereon, which decision shall be final. If the taxpayer has so requested in its petition, it shall be the duty of the commissioner to grant said taxpayer, or its authorized representative, an oral hearing. If petition for reassessment, accompanied by bond or other security, is not filed within the 10-day period, the assessment shall become final. Collection. Petition for reassessment. Oral hearing

(c) In any proceedings brought to enforce payment of taxes made due and payable by virtue of the provisions of this section, the finding of the commissioner, made as herein provided, whether made after notice to the taxpayer or not, shall be for all purposes presumptive evidence that the assessment or collection of the tax or the deficiency was in jeopardy. A Finding of commissioner

certificate of the commissioner of the mailing or issuing the notices specified in this section shall be presumptive evidence that such notices were mailed or issued.

Stats 1943, Ch. 38

SEC. 16. Section 19 of said act is hereby amended to read as follows:

Additional tax Notice

Sec. 19. As soon as practicable after the return is filed, the commissioner shall examine it and shall determine the correct amount of the tax. If the commissioner determines that the tax disclosed by the original return is less than the tax disclosed by his examination he shall mail notice or notices to the taxpayer at its post-office address (which must appear on its return) of the additional tax proposed to be assessed against it. Each notice shall set forth the details of the proposed additional assessment and of computing said tax.

Protest

Within 60 days after the mailing of said notice the taxpayer may file with the commissioner a written protest against the levy of the proposed additional tax, as computed by the commissioner, specifying therein the grounds upon which the protest is based. The protest must be under oath.

Hearing, etc

If no such protest is so filed the amount of the tax shall be final upon the expiration of said 60-day period. If a protest is so filed it shall be the duty of the commissioner to reconsider the computation and levy of the tax complained of, and if the taxpayer has so requested in its protest, it shall be the duty of the commissioner to grant said taxpayer, or its authorized representatives, an oral hearing. After consideration of the protest and the evidence adduced in the event of such oral hearing, the commissioner's action upon the protest shall be final upon the expiration of 30 days from the date when he mails to the taxpayer notice of his action, unless within

Appeal

that 30-day period the taxpayer appeals in writing from the action of the commissioner to the State Board of Equalization. The appeal must be addressed and mailed to the State Board of Equalization at Sacramento, and a copy of the appeal addressed and mailed at the same time to the commissioner at Sacramento. Said board shall hear and determine the same and thereafter shall forthwith notify the taxpayer and the commissioner of its determination, and the reasons therefor. Such determination shall be final upon the expiration of 30 days from the time of such determination unless within such 30-day period the taxpayer or the commissioner files a petition for rehearing with said board, in which event the board's determination shall not become final until the expiration of 30 days from the time the board issues its opinion on said petition.

Notice and demand

When a deficiency has been determined and the tax has become final under the provisions of this section, the commissioner shall mail notice and demand to the taxpayer for the payment thereof, and such tax shall be due and payable at the expiration of 10 days from the date of such notice and demand.

Certificate of commissioner

A certificate by the commissioner or of said board, as the case may be, of the mailing of the notices specified in this

section shall be prima facie evidence of the computation and levy of the deficiency in tax and of the giving of said notices.

Limitation

Except in the case of a fraudulent return, every notice of additional tax proposed to be assessed hereunder shall be mailed to the taxpayer within four years after the return was filed and no deficiency shall be assessed or collected with respect to the year for which such return was filed unless such notice is mailed within such period; provided, that in the case of any taxpayer which shall agree with the United States Commissioner of Internal Revenue for an extension (or renewals thereof) of the period for proposing and assessing deficiencies in Federal income tax for any year, the period for mailing notices of proposed deficiency tax pursuant to this section shall (unless otherwise agreed between the commissioner and the taxpayer) be four years after the return was filed or six months after the date of the expiration of the agreed period for assessing deficiencies in Federal income tax, whichever period expires the later. For the purposes of this paragraph a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

Extension of assessment period

Where before the expiration of the time prescribed in this section for the assessment of the tax, the taxpayer has consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

Excess tax due to mathematical error

Any amount of tax in excess of that disclosed by the return, due to a mathematical error, notice of which has been mailed to the taxpayer, shall not be considered a deficiency assessment within the meaning of this section. The taxpayer shall have no right of protest or appeal as herein provided, based on such notice, nor shall such assessment or collection be prohibited by any of the provisions of this section.

Stats 1943, Ch. 38

SEC. 17. Section 20 of said act is hereby amended to read as follows:

Credits and refunds

Sec. 20. If, in the opinion of the commissioner, or the State Board of Equalization, as the case may be, there has been an overpayment of tax, penalty or interest by a taxpayer for any year for any reason, the amount of such overpayment shall be credited against any taxes then due from the taxpayer under this act, and the balance shall be refunded to the taxpayer or its successor through reorganization, merger, or consolidation, or to stockholders upon dissolution. No such credit or refund shall be allowed or made until approved by the State Board of Control. No such credit or refund shall be allowed or made after four years from the last day prescribed for filing the return or after one year from the date of overpayment, whichever period expires the later, unless before the expiration of such period a claim therefor is filed by the taxpayer, or unless before the expiration of such period the commissioner has certified the overpayment to the State

Claim

Extension of time

Board of Control for approval of the refunding or the crediting thereof. If (a) the taxpayer has, within the period prescribed in the preceding sentence, agreed in writing, under the provisions of Section 19, to extend the time within which the commissioner may propose an additional assessment, or (b) if the taxpayer has agreed with the United States Commissioner of Internal Revenue for an extension (or renewals thereof) of the period for proposing and assessing deficiencies in Federal income tax for any year, the period within which a claim for credit or refund may be filed, or credit or refund allowed or made if no claim is filed, shall be the period within which the commissioner may make an assessment under such circumstances, except that the provisions of the preceding sentence shall apply to any claim filed, or credit or refund allowed or made, before the execution of such agreement. Insofar as the claim for credit or refund relates to an overpayment on account of the deductibility, under Section 7(e), of a debt as one which became worthless, or an erroneous inclusion of an amount attributable to the recovery of a bad debt, prior tax or delinquency amount, under Section 6(b) (5) due to an adjustment of a bad debt deduction under Section 7(e), in lieu of the period of limitation prescribed in the second preceding sentence, the period shall be seven years from the date prescribed by law for filing the return for the year with respect to which the claim is made. A refund claim upon which action has become final shall not thereafter be considered a refund claim within the meaning of the foregoing provision except to the extent allowed. Every claim for refund must be in writing under oath and must state the specific grounds upon which the claim is founded.

Disallowance

If the commissioner disallows any claim for refund, he shall notify the taxpayer accordingly. At the expiration of 90 days from the mailing of such notice, the commissioner's action upon the claim shall be final unless, within such 90-day

Appeal

period, the taxpayer appeals in writing from the action of the commissioner to the State Board of Equalization. If the commissioner fails to mail notice of action on any refund claim within six months after the claim was filed, the taxpayer may, prior to mailing of notice of action on the refund claim, consider the claim disallowed and appeal to said board. Appeals must be addressed and mailed to the State Board of Equalization at Sacramento, and a copy of the appeal addressed and mailed at the same time to the commissioner

Hearing and determination

at Sacramento. Said board shall hear and determine the same and thereafter shall forthwith notify the taxpayer and the commissioner of its determination. Such determination shall be final upon the expiration of 30 days from the time of such determination unless within such 30-day period the

Rehearing

taxpayer or the commissioner files a petition for rehearing with said board, in which event the board's determination shall not become final until the expiration of 30 days from the time the board issues its opinion on said petition.

Interest shall be allowed and paid upon any overpayment of any tax, if the overpayment was not made because of an error or mistake on the part of the taxpayer, at the rate of 6 per centum per annum as follows: Interest

(1) In the case of a credit, from the date of the overpayment to the date of the allowance of the credit. Any interest allowed on any credit shall first be credited on any taxes due from the taxpayer under this act.

(2) In the case of a refund, from the date of the overpayment to a date preceding the date of the refund warrant by not more than 30 days, such date to be determined by the commissioner.

Any refund or any portion thereof which is erroneously made, and any credit or any portion thereof which is erroneously allowed, may be recovered, together with interest at the rate of 6 per centum per annum from the date the refund was made or the credit allowed, in an action brought by the commissioner in a court of competent jurisdiction in the County of Sacramento in the name of the people of the State of California, and such actions shall be tried in the County of Sacramento unless the court, with the consent of the Attorney General or the counsel for the commissioner, orders a change of place of trial. The Attorney General or the counsel for the commissioner must prosecute such action and the provisions of the Code of Civil Procedure, relating to service of summons, pleadings, proofs, trials, and appeals are applicable to the proceedings herein provided for. Recovery of erroneous refunds

In the event that a tax has been illegally levied against a taxpayer, the commissioner shall set forth on his records the reasons therefor and thereafter shall authorize the cancellation of such tax. Tax illegally levied

SEC. 18. Section 21 of said act is hereby amended to read as follows: Stats 1943, Ch 38

Sec. 21. If any return required by this act is not made, or if any taxpayer files a false or fraudulent return with intent to evade tax, the commissioner, at any time, may require a return or a supplementary return under oath, or may make an estimate of the net income, from any available information, and may compute the amount of tax, interest and penalties due under this act. All the provisions of this act, not in conflict herewith, relative to delinquent taxes shall be applicable to the tax, interest and penalties computed and levied hereunder A proceeding in court for the collection of the tax, interest and penalties provided for in this section may be begun without assessment at any time. Failure to file return, etc

Upon the adjudication of bankruptcy of any taxpayer in any bankruptcy proceeding or the appointment of a receiver for any taxpayer in any receivership proceeding before any court of the United States or of any State or Territory or of the District of Columbia, any deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) determined by the commissioner in respect of a Bankruptcy

tax imposed by this act upon such taxpayer may be immediately assessed. In such cases the trustee in bankruptcy or receiver shall give notice in writing to the commissioner of the adjudication of bankruptcy or the appointment of the receiver, and the running of the statute of limitations on the making of assessments shall be suspended for the period from the date of adjudication in bankruptcy or the appointment of the receiver to a date 30 days after the date upon which the notice from the trustee or receiver is received by the commissioner; but the suspension under this sentence shall in no case be for a period in excess of two years. Claims for the deficiency and such interest, additional amounts and additions to the tax may be presented, for adjudication in accordance with law, to the court before which the bankruptcy or receivership proceeding is pending, despite the pendency of proceedings for the redetermination of the deficiency in pursuance of a petition to the Board of Equalization but no petition for any such redetermination shall be filed with said board after the adjudication of bankruptcy or the appointment of the receiver. Any portion of the claim allowed in such bankruptcy or receivership proceeding which is unpaid shall be paid by the taxpayer upon notice and demand from the commissioner after determination of such proceeding and may be collected in the manner provided in this act for the collection of delinquent taxes at any time within six years after termination of such proceeding.

Stats. 1943, Ch. 38

SEC. 19. Section 22 of said act is hereby amended to read as follows:

Tax lien

Sec. 22. The taxes imposed by this act and disclosed on the return shall constitute a lien upon the real property of the taxpayer, which lien shall have the same force, effect and priority as a judgment lien and shall attach on the last day of the "taxable year"; provided, that taxes imposed by this act and determined pursuant to the provisions of Sections 18 (a), 19 or 21 shall constitute a lien on all real property of the taxpayer located in any county in which there is filed for records in the office of the county recorder a certificate executed by the commissioner stating that payment of a tax determined under the provisions of Sections 18 (a), 19 or 21 of this act has been demanded and has not been paid, and specifying the amount thereof and the name of the taxpayer, and such lien shall attach at the time the certificate is recorded and shall have the same force, effect and priority as a judgment lien. The lien provided for in this section shall remain until the taxes are paid or the property subject to the lien is sold for the payment thereof; provided, however, that the commissioner may at any time release all or any portion of the property subject to the lien from the lien or subordinate the lien to other liens if he determines that the taxes are sufficiently secured by a lien on other property of the taxpayer or that the release or subordination of the lien will not endanger or jeopardize the collection of such taxes. A certificate by the

Release or subordination

commissioner to the effect that any property has been released from the lien herein provided for or that such lien has been subordinated to other liens shall be conclusive evidence that the property has been released or that the lien has been subordinated as provided in the certificate. No decree of dissolution shall be made and entered by any court, nor shall the county clerk of any county or the Secretary of State file any such decree, or file any other document by which the term of existence of any taxpayer shall be reduced or terminated, nor shall the Secretary of State file any certificate of the surrender by a foreign corporation of its right to do intrastate business in this State until the tax, penalties, and interest shall have been paid or are secured by bond, deposit, or otherwise.

SEC. 20. Section 23 of said act is hereby amended to read as follows: Stats 1943, Ch 38

Sec. 23. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against this State or against any officer thereof to prevent or enjoin the assessment or collection of any tax under this act, but any taxpayer claiming that the tax computed and levied against it pursuant to Sections 18.1 and 19 of this act is void in whole or in part may bring an action against the commissioner for the recovery of the whole or any part of the amount paid. Such action must be filed within four years from the last date prescribed for filing the return or within one year from the date the tax was paid, whichever period expires the later; provided, that no action shall be filed for the recovery of a deficiency assessment unless the taxpayer has made protest to the commissioner of the computation and levy complained of under the provisions of Section 19 hereof. Action to recover tax paid Limitation

Within 90 days after the mailing of the notice of the commissioner's action upon any refund claim, or in case of an appeal to the State Board of Equalization from the disallowance of any refund claim, within 90 days after the mailing of the notice of the board's determination of the appeal, the taxpayer may bring an action against the commissioner on the grounds set forth in such claim for the recovery of the whole or any part of the amount claimed as an overpayment.

If the commissioner fails to mail notice of action on any refund claim within six months after the claim was filed, the taxpayer may, prior to mailing of notice of action on the refund claim, consider the claim disallowed and bring an action against the commissioner on the grounds set forth in such claim for the recovery of the whole or any part of the amount claimed as an overpayment.

Whenever under the provisions of this section an action is commenced against the commissioner, a copy of the complaint and the summons must be served upon the commissioner, or the assistant commissioner. A second copy of the complaint and summons must be furnished to the commissioner, but this requirement shall not be considered jurisdictional. At the Service of papers

time the commissioner demurs or answers, he may demand that the action be tried in the Superior Court of the County of Sacramento, which demand must be granted. The Attorney General or the counsel for the commissioner must defend the action. The provisions of the Code of Civil Procedure, relating to pleadings, proofs, trials, and appeals are applicable to the proceedings herein provided for. A failure to begin such action within the time herein specified shall be a bar against the recovery of such taxes. In any such action the court shall have power to render judgment for plaintiff for any part or portion of the tax, interest, penalties or cost found to be void and so paid by plaintiff upon such assessment.

Interest

In any judgment of any court rendered for any overpayment in respect of any tax imposed by this act, interest shall be allowed at the rate of 6 per centum per annum upon the amount of the overpayment, from the date of the payment or collection thereof to the date of allowance of credit on account of such judgment or to a date preceding the date of the refund warrant by not more than 30 days, such date to be determined by the commissioner.

Substitution

In all actions now pending against the State Treasurer under the provisions of this act, the commissioner shall be substituted for the State Treasurer by the court wherein the action is pending. This substitution shall not in any way affect the rights of the plaintiff in said action.

If judgment is rendered against the commissioner, the amount thereof shall first be credited against any taxes and interest due from the taxpayer under this act and the remainder refunded to the taxpayer or its successor by the State Treasurer on warrant drawn by the Controller.

Stats 1913, Ch 38

SEC. 21. Section 24 of said act is hereby amended to read as follows:

Collection of delinquent taxes

Court action

Sec. 24. (a) At any time within three years after the determination of liability for any tax, penalties, and interest, or any installment thereof, the commissioner may bring an action in a court of competent jurisdiction in the County of Sacramento in the name of the people of the State of California to collect the amount delinquent, together with penalties, and interest, and such action shall be tried in the County of Sacramento unless the court, with the consent of the Attorney General or the counsel for the commissioner, orders a change of place of trial. The Attorney General or the counsel for the commissioner must prosecute such action, and the provisions of the Code of Civil Procedure, relating to service of summons, pleadings, proofs, trials, and appeals are applicable to the proceedings, herein provided for. In such action a writ of attachment may be issued, and no bond or affidavit previous to the issuing of said attachment is required. In such action a certificate by the commissioner showing the delinquency shall be prima facie evidence of the levy of the tax, penalties, and interest, of the delinquency and of compliance by the commissioner and the State Board of Equalization with all the provisions of this act in relation to the computation and levy of the tax.

Certificate of commissioner

(b) At any time within which an action can be brought to collect any delinquent amounts as provided in the preceding paragraph, the commissioner may collect the tax, together with penalties and interest, in the following manner: The commissioner shall seize any personal property, owned by the corporation against whom the tax is assessed, and thereafter sell at public auction such property so seized, or a sufficient portion thereof, to pay the tax due hereunder, together with any interest, and any penalty or penalties imposed hereby for such delinquency, and any and all costs that may have been incurred on account of such seizure and sale. Notice of such intended sale and the time and place thereof, shall be given to such delinquent corporation and to all persons appearing of record to have an interest in such property, in writing at least 10 days before the date set for such sale by inclosing such notice in an envelope addressed to said corporation at its last known place of business in this State if any, and, in the case of any person appearing of record to have an interest in such property, addressed to such person at the last known place of residence, if any, and depositing the same in the United States mail, postage prepaid, and by publication for at least 10 days before the date set for such sale in a newspaper of general circulation published in the county or city and county in which the property seized is to be sold; provided, however, that if there be no newspaper of general circulation in such county or city and county, then by the posting of such notice in three public places in such county or city and county for said 10-day period. The said notice shall contain a description of the property to be sold, together with a statement of the amount of the taxes, interest, penalties and costs, the name of the corporation, and the further statement that, unless such taxes, interest, penalties and costs are paid on or before the time fixed in said notice for such sale, said property, or so much thereof as may be necessary, will be sold in accordance with law and said notice.

Seizure and sale of property

Notice of sale

At any such sale, the property shall be sold by said commissioner or his duly authorized agent in accordance with law and said notice, and the commissioner shall deliver to the purchaser a bill of sale for the property so sold and such bill of sale shall vest title in the purchaser. The unsold portion of any property so seized may be left at the place of sale at the risk of said corporation. If, upon any such sale, the moneys so received shall exceed the amount of all taxes, interest, penalties and costs due the State from such corporation, any such excess shall be returned to the corporation and a receipt therefor obtained; provided, however, that if any person having an interest in or lien upon the property has filed with the commissioner prior to any such sale notice of such interest or lien the commissioner shall withhold any such excess pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction.

Disposition of proceeds of sale, etc

If, for any reason, the receipt of such corporation shall not be available, the commissioner shall deposit such excess moneys with the State Treasurer, as trustee for such owner, subject to the order of such corporation or its successor through reorganization, merger, or consolidation, or its stockholders upon dissolution.

Action in Federal or foreign court

(c) The commissioner may bring an appropriate action (whether in the form of a common law action of debt or indebitatus assumpsit, or a code or other action), in any court of competent jurisdiction in the United States or in a foreign country, in the name of the people of the State of California, to recover the amount of any taxes and interest due under this act. The Attorney General or the counsel for the commissioner of this State must prosecute such action.

Remedies cumulative

(d) It is expressly provided that the foregoing remedies of the State shall be cumulative and that no action taken by the commissioner shall be or be construed to be an election on the part of the State or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy for which provision is made in this act.

Suspension of corporate powers

(e) If any tax, or any portion thereof, together with penalties, and interest thereon, which is due and payable either at the time the return is required to be filed or on or before the fifteenth day of the ninth month following the close of the income year, is not paid on or before 6 o'clock p.m. on the last day of the twelfth month after the close of the income year or if any tax due and payable upon notice and demand from the commissioner, together with penalties and interest thereon, is not paid on or before 6 o'clock p.m. on the last day of the eleventh month following the due date of such tax, except in case of jeopardy or fraud assessments, in which case, if such tax, interest and penalties are not paid within 40 days from the date such tax, penalties and interest are due and payable (unless the bond required by this act is filed to stay the collection of such tax, penalties and interest and such tax, interest and penalties are paid within 60 days after notice by the commissioner on taxpayer's petition for reassessment), the corporate powers, rights and privileges of the delinquent taxpayer shall be suspended and shall be incapable of being exercised in any manner which it is within the power of this State to prohibit; provided, that in any action or suit at law or in equity in which such suspended taxpayer shall seek to prosecute or shall be named as defendant, if such taxpayer has not been notified by the commissioner of its liability for tax, such action shall be continued on motion of the suspended taxpayer for a period of 90 days, or until such time as the tax determined by the commissioner to be due shall be paid, whichever expires or occurs the earlier. The certificate of the commissioner setting forth that the suspended taxpayer has been notified of its liability for tax under this act and that such tax has not been paid, shall constitute prima facie evidence of such facts. The suspension shall be terminated on

payment of the tax, and the certificate of the commissioner that the tax has been paid shall be evidence of the termination of the suspension.

Liability of persons other than the taxpayer

(f) The taxes imposed by this act upon any taxpayer for which any bank, corporation or person other than the taxpayer is liable, at law or in equity, may be assessed against such bank, corporation or person in the same manner as is provided in Section 19 for the assessment of deficiencies and may be assessed at any time within which deficiency assessments may be made against the taxpayer. The provisions of this section and other provisions of this act respecting the collection of such taxes shall apply to the collection of such taxes from such bank, corporation or person to the same extent and with the same force and effect as though such bank, corporation or person were the taxpayer.

Stats 1943, Ch. 38

SEC. 22. Section 25 of said act is hereby amended to read as follows:

Information and withholding at source

Sec. 25. (a) The commissioner may, by regulation, require any bank, corporation or person, including any officer or department of the State or any political subdivision or agency of the State, to withhold from payments of interest (other than interest coupons payable to bearer), dividends, rent, prizes, winnings, and fees, commissions, compensation for personal services, including bonuses, an amount equal to the tax that would be imposed by this act upon such payments if they, together with all similar payments since the beginning of the calendar year, represented net income of the payee and to transmit the amounts withheld to the commissioner at such time as he may designate. Any bank, corporation or person failing to withhold from any payments and transmit to the commissioner any amounts required by the commissioner pursuant to this paragraph to be withheld and transmitted shall be liable for any taxes due from the taxpayer to whom such payments are made for the year in which made to an extent not in excess of the amounts required to be withheld, unless it is shown that such failure was due to reasonable cause.

(b) The commissioner may by notice served personally or by registered mail require any bank, corporation or person, including any officer or department of the State or any political subdivision or agency of the State, to withhold from any payments of any nature to any taxpayer the amount of any tax, interest or penalties due from the taxpayer under this act and to transmit the amount withheld to the commissioner at such times as he may designate. Any bank, corporation or person failing to withhold the tax due from any taxpayer and transmit the same to the commissioner as required by the commissioner pursuant to this paragraph shall be liable for such tax.

(c) Any bank, corporation or person required to withhold and transmit any amount pursuant to this section must comply with such requirement, without resort to any legal or

equitable action in a court of law or equity, and any bank, corporation or person paying to the commissioner any amount required by him to be paid pursuant to subsections (a) and (b) of this section shall not be liable therefor to the bank, corporation or person from which withheld unless the amount withheld is refunded to the withholding agent. The foregoing sentence shall not be construed as a limitation upon the right of said banks, corporation or person to file an action in interpleader when a bona fide dispute has arisen as to priority of lien between the tax levied under this act and that of a Federal taxing agency.

Remedies

(d) Any taxpayer from which a tax has been collected by withholding under this section shall be entitled to the remedies set forth in Sections 20 and 23 of this act; provided, however, that any refund of such tax under Section 20 shall be made to the witholding agent instead of directly to the taxpayer, if requested in writing by the withholding agent at the time the amounts refundable were transmitted to the commissioner.

Stats 1943, Ch. 38

SEC. 23. Section 29 of said act is hereby amended to read as follows:

Unlawful to divulge information

Sec. 29. (a) Except in accordance with proper judicial order in cases or actions instituted for the enforcement of the provisions of this act or for the prosecution of violations of this act and except as otherwise herein provided, it shall be unlawful for the commissioner, any deputy, agent, clerk or other officer or employee, to divulge or make known in any manner the amount of income or any particulars relating to the business affairs of the corporation set forth or disclosed in

Exception

any report or return required under this act; provided, however, that such information may upon request of a committee appointed by either the Assembly or the Senate be furnished to such committee, but it shall be unlawful for such committee or any member, clerk or other officer or employee thereof to divulge or make known in any manner, any particulars of the information so furnished except to law enforcement officers for the purpose of aiding the detection or prosecution of crimes committed in violation of this act.

Publication of statistics

Nothing herein shall be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular reports or returns and the items thereof, or the publication of the percentage of dividends paid by any corporation which is deductible by the recipients thereof under the provisions of this act or the Bank and Corporation Franchise Tax Act, or the inspection by the Attorney General or other legal representative of the State, of the report or return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted to recover any tax or any penalty imposed by this act. Reports and returns shall be preserved for four years and thereafter until the commissioner orders them to be destroyed.

The term "business affairs," as herein used, means the details relative to the business activities of the corporation as disclosed by the return but shall exclude extraneous matters, such as the exact corporate title, corporate number, the date of commencement of business in this State, taxable year adopted, filing date of return, name, date and title of persons signing affidavit to the return, due date of taxes, taxes unpaid, taxpayer's address, private address of officers and directors. 'Business affairs"

(b) Notwithstanding the provisions of subsection (a), the commissioner may permit the Commissioner of Internal Revenue of the United States, or other tax officials of this State or the proper officer of any State imposing an income tax or tax measured by income, or the authorized representative of either such officer, to inspect the tax returns, or may furnish to such officer or his authorized representative an abstract of the return of income of any taxpayer or supply him with information concerning any item of income contained in any return, or disclosed by the report of any investigation of the income or return of income of any taxpayer; but such permission shall be granted or such information furnished to such officer or his representative, only if the statutes of the United States or of such other State, as the case may be, grant substantially similar privileges to the proper officer of this State charged with the administration of this act. Inspection by Federal and other tax agencies

The information furnished or secured pursuant to this subsection shall be used solely for the purposes of administering the tax acts administered by the person or agency obtaining it, and unwarranted disclosures or uses of such information by such person or agency, or the employees or officers thereof, shall be subject to the penalty provisions of this section.

(c) Any violation of the provisions of this section is a misdemeanor, punishable by a fine not exceeding five hundred dollars ($500) or by imprisonment not exceeding six months, or both. Penalties

(d) Whenever under this act or any act heretofore or hereafter enacted, the commissioner is permitted or required to disclose information, or furnish abstracts, or permit access to his records to or by any official, department, bureau, or agency of this State (including its political subdivisions), or any other State, or the United States, he may charge such official, department, bureau, or agency for the reasonable cost of such services. Charge

SEC. 24. If any section, subsection, clause, sentence or phrase of this act which is reasonably separable from the remaining portions of this act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed the remaining portions of this act, irrespective of the fact that any such section, subsection, clause, sentence or phrase of this act be declared unconstitutional. Constitutionality

Tax levy

SEC. 25. (a) This act, inasmuch as it provides for a tax levy for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution take effect immediately. Except as hereinafter provided in subsections (b) to (f), inclusive, the provisions of this act effecting changes in the computation of taxes shall be applied only in the computation of taxes for the taxable years beginning after December 31, 1942, and the remaining provisions of this act shall become effective on the effective date of this act. Provisions effecting changes in the computation of taxes shall include those affecting income, deductions, rates, methods of calculating tax, exclusions, exemptions and credits.

Application of provisions

(b) The provisions of this act adding Section 8.1, subsections 6 (b)(5), 7 (a)(1), 9 (2), 11 (k) and amending subsection 11(b), 11(g), 12(a) (relating to assumption of liability by transferee) shall be retroactive.

(c) The provisions of this act adding Section 7.1 shall be applicable to taxable years ending after December 6, 1941.

(d) The provisions of this act amending subsection 7(f) relating to emergency facilities shall be applicable to taxable years ending after October 6, 1940.

(e) The provisions of this act adding subsection 7(m) shall be applicable to taxable years beginning after December 31, 1942, except that

(1) In the case of a stock bonus, pension, profit-sharing, or annuity plan in effect on or before September 1, 1943,

(A) Such a plan shall not become subject to the requirements of Section 12 (f) (1) (C), (D), (E) and (F) of The Personal Income Tax Act, until the beginning of the first taxable year beginning after December 31, 1943,

(B) Such a plan shall be considered as satisfying the requirements of Section 12 (f) (1) (C), (D), (E) and (F) of The Personal Income Tax Act for the period beginning with the beginning of the first taxable year following December 31, 1943, and ending December 31, 1944, if the plan satisfies such requirements by December 31, 1944,

(C) If the contribution of an employer to such a plan in the employer's taxable year beginning in 1943 exceeds the maximum amount deductible for such year under Section 7(m), the amount deductible in such year shall be not less than the sum of—

(i) The amount paid in such taxable year prior to September 1, 1943, and deductible under Section 7(a), and

(ii) With respect to the amount paid in such taxable year on or after September 1, 1943, that proportion of the amount deductible for the taxable year under Section 7(m), which the number of months after August 31, 1943, in the taxable year bears to 12.

(2) In the case of a stock bonus, pension, profit sharing or annuity plan put into effect after September 1, 1943, such a plan shall be considered as satisfying the requirements of Section 12 (f) (1) (C), (D), (E) and (F) of The Personal Income Tax Act for the period beginning with the date such plan is put

into effect and ending December 31, 1944, if the plan satisfies such requirements by December 31, 1944.

(f) The provisions of this act amending subsection 12(b)(1)(B) shall be applicable to taxable years ending after October 6, 1940.

CHAPTER 352

An act to amend Sections 4, 4a, 5, 6, 8, 9, 11, 12, 13, 14, 16, 17, 20, 21, 24, 25, 25.1, 27, 28, 29, 30, 31, 32 and 35 of, and to add three new sections to be numbered 8.1, 9.1 and 24.1 to, the Bank and Corporation Franchise Tax Act, relating to bank and corporation taxes, and to provide that this act shall take effect immediately.

Stats. 1929, p. 19, amended

[Approved by Governor May 7, 1943. Filed with Secretary of State May 7, 1943.]

In effect immediately

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

SECTION 1. Section 4 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows:

Stats. 1941, p. 2211. See also Stats. 1943, Ch. 984

Sec. 4. (1) Every financial corporation doing business within the limits of this State, taxable under the provisions of Section 16 of Article XIII of the Constitution of this State, shall annually pay to the State for the privilege of exercising its corporate franchises within this State, a tax according to or measured by its net income, to be computed, in the manner hereinafter provided, upon the basis of its net income for the next preceding fiscal or calendar year at the rate provided for in Section 4a hereof.

Tax on financial corporations

(2) Each such financial corporation shall be entitled to an offset against said franchise tax, in the manner hereinafter provided, in the amount of personal property taxes and license fees for the privilege of operating as personal property brokers, or brokers as defined in Chapter 634, Statutes of 1909, as amended, paid to this State or to any county, city and county, city, town or other political subdivision of the State, and licenses for the privilege of operating motor vehicles paid to this State under Chapter 362, Statutes of 1935, as amended; provided, however, that the tax on such financial corporation after the allowance of offset shall not be less than 4 per centum of its net income for the preceding fiscal or calendar year or less than twenty-five dollars ($25).

Offsets

(3) With the exception of financial corporations, every corporation doing business within the limits of this State and not expressly exempted from taxation by the provisions of the Constitution of this State or by this act, shall annually pay to the State, for the privilege of exercising its corporate franchises within this State, a tax according to or measured by its net income, to be computed, in the manner hereinafter provided, at the rate of 4 per centum upon the basis of its net income for the next preceding fiscal or calendar year.

Tax on corporations other than financial

Minimum tax

In any event, each such corporation shall pay annually to the State, for the said privilege, a minimum tax of twenty-five dollars ($25).

Holding corporations

(4) Any corporation organized to hold the stock or bonds of any other corporation or corporations, and not trading in such stock or bonds or other securities held, and engaging in no other activities than the receipt and disbursement of dividends from such stock or interest from such bonds, shall not be considered a corporation doing business in this State for the purposes of this act.

Tax on corporations not otherwise taxed

(5) Every corporation not otherwise taxed in pursuance of this section and not expressly exempted by the provisions of this act or the Constitution of this State shall pay annually to the State a tax of twenty-five dollars ($25).

Exempt corporations

(6) (a) Corporations organized for religious, charitable, social, cemetery, scientific, educational, recreational, literary, fraternal or civic purposes, if their organization or activities are not designed for, and do not result in financial or pecuniary gain or profit to the stockholders or members thereof, shall not be taxed under this act.

(b) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this act, shall not be taxed under this act.

When taxes accrue

(7) Taxes under this section and under Sections 1 and 2 of this act shall accrue on the last day of the "income year," as defined in Section 11 hereof.

Ad valorem taxes and special franchises

Taxes under this section shall be in lieu of all ad valorem taxes and assessments of every kind and nature upon the general corporate franchises of the corporations taxable hereunder but shall not be in lieu of any taxes or assessments upon special franchises owned, held or used by said corporations. All such special franchises shall be assessed annually by the State Board of Equalization (at their actual value) in the same manner as is provided for the assessment of other property to be assessed by said board under Section 14 of Article XIII of the Constitution of this State, and shall be subject to taxation to the same extent and in the same manner as other property so assessed by said board. Said board is hereby authorized and directed to assess said special franchises as of the first Monday in March of 1935 and annually thereafter.

Stats 1943, Ch 37

SEC. 1.1. Section 4a of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows:

Rate of tax

Sec. 4a. The rate of tax on national banking associations and other banks and financial corporations mentioned in Sections 1, 2 and 4 of this act shall be a percentage equal to the percentage of the total amount of net income, allocable to this State, of every corporation taxable under subdivision (3) of Section 4 of this act, for the next preceding calendar year or fiscal years ended during such calendar year, required to be paid to this State as franchise taxes according to or measured

by such net income, and required to be paid to this State or its political subdivisions as personal property taxes during the preceding calendar year or fiscal years ended in such calendar year; provided, however, that said rate of tax shall not exceed 8 per centum. The percentage of the net income of every corporation taxable under subdivision (3) of Section 4 of this act, required to be paid to this State or its political subdivisions in personal property taxes shall be determined by ascertaining the ratio which the total amount of such personal property taxes, less 4 per centum thereof, bears to the total amount of net income of such corporations, allocable to California, increased by the amount of such personal property taxes; provided, however, that if any such corporation sustains a net loss allocable to California the personal property taxes required to be paid by such corporation to this State or its political subdivisions during the preceding calendar year or fiscal years ended during such calendar year shall be considered for the purpose of determining such ratio only to the extent which such personal property taxes exceed such net loss allocable to California.

Net income determination

Net loss

The commissioner, after public hearing and opportunity given to examine the data on which his determination is based, shall determine not later than the thirty-first day of December of each year the average percentage of net income above specified, and, within 30 days after his determination, shall mail notice of his determination and the amount of tax payable on the basis of such determination to all banks and financial corporations affected thereby, which are then classified on his records as banks or financial corporations, but such determination shall not be considered a deficiency assessment within the meaning of Section 25 hereof. The data gathered by the commissioner in determining the rate, referred to herein, shall be made available to the taxpayers affected by such determination at the time and in the manner prescribed by regulations adopted by the commissioner.

Determination and notice of tax

If it be judicially determined that the rate of tax on any bank or corporation is higher than is authorized by law such bank or corporation shall be relieved of liability for any tax imposed by this act only to the extent of the excess beyond that legally authorized.

Higher tax than authorized

SEC. 2. Section 5 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows:

Stats. 1935, p. 1245

Sec. 5. The term "corporation," as herein used, shall include every corporation, other than a bank or banking association, and other than those expressly exempted from the tax by the provisions of this act or the Constitution of the State of California.

"Corporation"

The term "bank," as hereinafter used, shall include national banking associations.

"Bank"

The term "bank" and the term "corporation" as herein used shall include any "bank" or any "corporation" operated by

any receiver, liquidator, referee, trustee or other officers or agents appointed by any court.

"Doing business" The term "doing business," as herein used, means actively engaging in any transaction for the purpose of financial or pecuniary gain or profit.

"Counsel for the commissioner" The term "counsel for the commissioner," as used in Sections 27, 30 and 31 of this act, means attorney or attorneys appointed or employed by the commissioner and acting subject to the approval and under the supervision of the Attorney General.

Stats 1913, Ch 37 SEC. 3. Section 6 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows:

Gross income Sec. 6. (a) The term "gross income," as herein used, includes gains, profits and income derived from business, of whatever kind and in whatever form paid; gains, profits or income from dealings in real or personal property; gains, profits or income received as compensation for services, as interest, rents, commissions, brokerage or other fees, or otherwise received in carrying on such business; all interest received from Federal, State, municipal or other bonds, and, except as hereinafter otherwise provided, all dividends received on stocks.

Exclusions (b) The term "gross income" does not include the following items which shall be exempt from taxation under this act:

(1) Amounts received under life insurance policies and contracts paid by reason of the death of the insured but if such amounts are held by the insurer under an agreement to pay interest thereon, the interest payments shall be included in gross income.

(2) Amounts received (other than amounts paid by reason of the death of the insured) under life insurance, endowment or annuity contracts, either during the term or at maturity or upon surrender of the contract, equal to the total amount of premiums paid thereon. In the case of a transfer for a valuable consideration by assignment or otherwise, of a life insurance, endowment or annuity contract or any interest therein, only the actual value of such consideration and the amount of the premiums and other sums subsequently paid by the transferee shall be excluded from gross income under paragraph (b) (1) of this section. The preceding sentence shall not apply in the case of such a transfer if such contract or interest therein has a basis for determining gain or loss in the hands of a transferee determined in whole or in part by reference to such basis of such contract or interest therein in the hands of the transferor.

(3) Income, other than rent, derived by a lessor of real property upon the termination of a lease, representing the value of such property attributable to buildings erected or other improvements made by the lessee.

(4) Income attributable to the recovery during the income year of a bad debt, prior tax, or delinquency amount, to the extent of the amount of the recovery exclusion with respect to

such debt, tax, or amount. For the purposes of this paragraph:

(A) The term "bad debt" means a debt on account of worthlessness or partial worthlessness of which a deduction was allowed for a prior income year. "Bad debt"

(B) The term "prior tax" means a tax on account of which a deduction or credit was allowed for a prior income year. "Prior tax"

(C) The term "delinquency amount" means an amount paid or accrued on account of which a deduction or credit was allowed for a prior income year and which is attributable to failure to file return with respect to a tax, or pay a tax, within the time required by the law under which the tax is imposed, or to failure to file return with respect to a tax or pay a tax. "Delinquency amount"

(D) The term "recovery exclusion," with respect to a bad debt, prior tax, or delinquency amount, means the amount, determined in accordance with regulations prescribed by the commissioner, of the deductions or credits allowed, on account of such bad debt, prior tax, or delinquency amount, which did not result in a reduction of the taxpayer's tax under this act or the Corporation Income Tax Act, reduced by the amount excludible in previous income years with respect to such debt, tax, or amount under this paragraph. "Recovery exclusion" Stats 1937, p 2184

(5) The amount of any income of a bank or corporation attributable to the discharge, within the income year, of any indebtedness of the taxpayer (or for which the taxpayer is liable) evidenced by a security (as hereinafter in this paragraph defined) if the taxpayer makes and files at the time of filing the return, in such manner as the commissioner by regulation prescribes, its consent to the regulations prescribed under Section 21 (b) (3). In such case the amount of any income of the taxpayer attributable to any unamortized premium (computed as of the first day of the income year in which such discharge occurred) with respect to such indebtedness shall not be included in gross income and the amount of the deduction attributable to any unamortized discount (computed as of the first day of the income year in which such discharge occurred) with respect to such indebtedness shall not be allowed as a deduction. As used in this paragraph the term "security" means any bond, debenture, note, or certificate, or other evidence of indebtedness, issued by any corporation. Discharge of debts

(6) The amount of any income attributable to the discharge, within the income year, of any indebtedness of a railroad corporation, as defined in Section 77m of the National Bankruptcy Act, as amended, to the extent that such income is deemed to have been realized by reason of a modification in or cancellation in whole or in part of such indebtedness pursuant to an order of a court in a receivership proceeding or in a proceeding under Section 77 of the National Bankruptcy Act, as amended. In such case the amount of any income of the taxpayer attributable to any unamortized premium (computed as of the first day of the income year in which such

discharge occurred) with respect to such indebtedness shall not be included in gross income and the amount of the deduction attributable to any unamortized discount (computed as of the first day of the income year in which such discharge occurred) with respect to such indebtedness shall not be allowed as a deduction. Subsection 6 (b) (5) shall not apply with respect to any discharge of indebtedness to which this paragraph applies.

Dividends

(c) (1) The term "dividend" when used in this act means any distribution made by a corporation to its shareholders, whether in money or in other property, out of its earnings or profits accumulated after February 28, 1913, or out of the earnings or profits of the income year (computed as of the close of the income year without diminution by reason of any distributions made during the income year), without regard to the amount of the earnings and profits at the time the distribution was made.

(2) For the purposes of this act every distribution is made out of earnings or profits to the extent thereof, and from the most recently accumulated earnings or profits. Any earnings or profits accumulated, or increase in value of property accrued, before March 1, 1913, may be distributed without being included in the gross income of the recipient, after the earnings and profits accumulated after February 28, 1913, have been distributed, but any such distribution shall be applied against and reduce the adjusted basis of the stock provided in Section 21 (b).

(3) Amounts distributed in complete liquidation of a corporation shall be treated as in full payment in exchange for the stock and amounts distributed in partial liquidation of a corporation shall be treated as in part or full payment in exchange for the stock. The gain or loss to the distributee resulting from such exchange shall be determined under Section 19. In the case of amounts distributed (whether before or after the effective date of this amendment) in partial liquidation (other than a distribution within the provisions of subdivision (7) of this subsection of stock or securities in connection with a reorganization) the part of such distribution which is properly chargeable to capital account shall not be considered a distribution of earnings or profits. In the case of amounts distributed (whether before January 1, 1934, or on or after such date) in partial liquidation (other than a distribution within the provisions of subdivision (7) of this subsection or stock or securities in connection with a reorganization) the part of such distribution which is properly chargeable to capital account shall not be considered a distribution of earnings or profits within the meaning of subdivision (2) of this subsection for the purpose of determining the taxability of subsequent distributions by the corporation.

(4) If any distribution (not in partial or complete liquidation) made by a corporation to its shareholders is not out of increase in value of property accrued before March 1, 1913,

and is not a dividend, then the amount of such distribution shall be applied against and reduce the adjusted basis of the stock provided in Section 21, and if in excess of such basis, such excess shall be included in gross income in the same manner as a gain from the sale or exchange of property.

(5) (A) A distribution made by a corporation to its shareholders in its stock or in rights to acquire its stock shall be treated as a dividend to the extent that it constitutes income to the shareholder within the meaning of the Sixteenth Amendment to the Constitution of the United States.

(B) Whenever a distribution by a corporation is, at the election of any of the shareholders (whether exercised before or after the declaration thereof), payable either (i) in its stock or in rights to acquire its stock, of a class which if distributed without election would not be included in gross income under paragraph (A), or (ii) in money or any other property (including its stock or rights to acquire its stock, of a class which if distributed without election would be included in gross income under paragraph (A)), then the distribution shall constitute a taxable dividend in the hands of all shareholders, regardless of the medium in which paid.

(6) If a corporation cancels or redeems its stock (whether or not such stock was issued as a stock dividend) at such time and in such manner as to make the distribution and cancellation or redemption in whole or in part essentially equivalent to the distribution of a taxable dividend, the amount so distributed in redemption or cancellation of the stock, to the extent that it represents a distribution of earnings or profits accumulated after February 28, 1913, shall be treated as a taxable dividend.

(7) The distribution heretofore or hereafter made to a distributee by or on behalf of a corporation of its stock or securities or stock or securities in another corporation shall not be considered a distribution of earnings or profits of any corporation:

(A) If no gain to such distributee from the receipts of such stock or securities was recognized under the provisions of the Federal Revenue Act of 1936 or prior Federal revenue acts in effect at the time of the distribution, or

(B) If the distribution was not subject to tax in the hands of such distributee under the Federal Revenue Act of 1936 or prior Federal revenue acts in effect at the time of the distribution because it did not constitute income to him within the meaning of the Sixteenth Amendment to the Constitution of the United States or because exempted to him under Section 115 (f) of the Federal Revenue Act of 1934, or a corresponding provision of a prior Federal revenue act.

As used in this subsection, the term "stock or securities" includes rights to acquire stock or securities.

(8) As used in this subsection the term "amount distributed in partial liquidation" means a distribution by a corporation in complete cancellation or redemption of a part

of its stock, or one of a series of distributions in complete cancellation or redemption of all or a portion of its stock.

(9) If the whole or any part of a dividend is paid to a shareholder in any medium other than money the property received other than money shall be included in gross income at its fair market value at the time as of which it becomes income to the shareholder.

(10) The gain or loss realized from the sale or other disposition (after February 28, 1913) of property by a bank or corporation for the purpose of the computation of earnings and profits of the bank or corporation for any period beginning after February 28, 1913, shall be determined by using as the adjusted basis the adjusted basis (under the law applicable to the year in which the sale or other disposition was made) for determining gain. Gain or loss so realized shall increase or decrease the earnings and profits to, but not beyond, the extent to which such a realized gain or loss was recognized in computing net income under the law applicable to the year in which such sale or disposition was made. Where, in determining the adjusted basis used in computing such realized gain or loss, the adjustment to the basis differs from the adjustment proper for the purpose of determining earnings or profits, then the latter adjustment shall be used in determining the increase or decrease above provided. For the purposes of this subsection, a loss with respect to which a deduction is disallowed under Section 8 (d) of this act or Section 7 (d) of the Corporation Income Tax Act shall not be deemed to be recognized.

Where a bank or corporation receives (after February 28, 1913) a distribution from a second bank or corporation which (under the law applicable to the year in which the distribution was made) was not a taxable dividend to the shareholders of the second bank or corporation, the amount of such distribution shall not increase the earnings and profits of the first bank or corporation in the following cases:

(A) No such increase shall be made in respect of the part of such distribution which (under such law) is directly applied in reduction of the basis of the stock in respect of which the distribution was made.

(B) No such increase shall be made if (under such law) the distribution causes the basis of the stock in respect of which the distribution was made to be allocated between such stock and the property received.

For the purposes of this subdivision, the words "law applicable to the year" shall be deemed to refer to this act or, prior to January 1, 1928, the United States Revenue Act in force for the year in which the distribution, sale or other disposition was made.

(11) (A) If any increase or decrease in the earnings or profits for any period beginning after February 28, 1913, with respect to any matter would be different had the adjusted basis of the property involved been determined without regard to its March 1, 1913, value, then, except as provided in paragraph

(B), an increase (properly reflecting such difference) shall be made in that part of the earnings and profits consisting of increase in value of property accrued before March 1, 1913.

(B) If the application of subdivision (10) to a sale or other disposition after February 28, 1913, results in a loss which is to be applied in decrease of earnings and profits for any period beginning after February 28, 1913, then, notwithstanding subdivision (10) and in lieu of the rule provided in paragraph (A) of this subdivision, the amount of such loss so to be applied shall be reduced by the amount, if any, by which the adjusted basis of the property used in determining the loss, exceeds the adjusted basis computed without regard to the value of the property on March 1, 1913, and if such amount so applied in reduction of the decrease exceeds such loss, the excess over such loss shall increase that part of the earnings and profits consisting of increase in value of property accrued before March 1, 1913.

Canceled debts

(d) If the indebtedness of a bank or corporation is canceled or forgiven in whole or in part without payment, the amount so canceled or forgiven shall constitute income to the extent the value of the property (including franchises) of the bank or corporation exceeds its liabilities immediately after the cancellation or forgiveness. The remainder of the amount of indebtedness so canceled or forgiven, if any, shall be applied in reduction of the basis of the assets to the extent the basis thereof exceeds the value thereof immediately after the cancellation or forgiveness, such reduction to be made in accordance with regulations prescribed by the commissioner.

If an indebtedness is not paid by the time an action to enforce payment is barred by limitation, the indebtedness shall be considered canceled or forgiven within the meaning of this subsection unless it can be established that the period of limitation has been extended by a new promise in writing.

Stats 1943, Ch 37

SEC. 4. Section 8 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows:

Deductions from gross income

Sec. 8. In computing "net income" the following deductions shall be allowed:

Business expenses

(a) All the ordinary and necessary expenses paid or incurred during the income year in carrying on business, including a reasonable allowance for salaries or other compensation for personal services actually rendered, and rentals or other payments required to be made as a condition to the continued use or possession for business purposes of property to which the taxpayer has not taken or is not taking title or in which it has no equity.

(1) No deduction shall be allowable under subparagraph (a) to a bank or corporation for any contribution or gift which would be allowable as a deduction under subsection (i) were it not for the 5 per centum limitation therein contained and for the requirement therein that payment must be made within the income year.

Interest on debts

(b) All interest paid or accrued during the income year on indebtedness of the taxpayer to the extent in excess of income of the taxpayer from interest and dividends (other than dividends deductible under the provisions of subdivision (h) of this section and other than dividends from corporations, 50 per centum or more of the outstanding stock of which is owned by the taxpayer), which is not included in the measure of the tax imposed by this act.

Taxes

(c) Taxes or licenses paid or accrued during the income year, other than taxes paid to the State under this act, and other than taxes on or according to or measured by income or profits paid or accrued within the income year imposed by the authority of (1) the Government of the United States or any foreign country, (2) any State, Territory, county, city and county, school district, municipality, or other taxing subdivision of any State or Territory, and other than taxes assessed against local benefits of a kind tending to increase the value of the property assessed, but this shall not exclude the allowance as a deduction of so much of said taxes assessed against local benefits as is properly allocable to maintenance or interest charges.

Sales taxes

(1) In the case of a tax imposed by any State, Territory, district, or possession of the United States, or any political subdivision thereof, upon persons engaged in selling tangible personal property at retail, which is measured by the gross sales price or the gross receipts from the sale or which is a stated sum per unit of such property sold, or upon persons engaged in furnishing services at retail, which is measured by the gross receipts for furnishing such services, if the amount of such tax is separately stated, then to the extent that the amount so stated is paid by the purchaser (otherwise than in connection with the purchaser's trade or business) to such person such amount shall be allowed as a deduction in computing the net income of such purchaser as if such amount constituted a tax imposed upon and paid by such purchaser.

Losses

(d) Losses sustained during the income year and not compensated for by insurance or otherwise, except that such losses may, with the consent of the Franchise Tax Commissioner, hereinafter designated "commissioner," be accounted for as of a different period. In the case of any loss claimed to have been sustained in any sale or other disposition of shares of stock or securities where it appears that within 30 days before or after the date of such sale or other disposition, the taxpayer has acquired (otherwise than by bequest or inheritance) or has entered into a contract or option to acquire substantially identical property and the property so acquired is held by the taxpayer for any period after such sale or other disposition, no deduction for the loss shall be allowed unless the claim is made by a taxpayer, a dealer in stocks or securities, and with respect to a transaction made in the ordinary course of its business. If such acquisition or the contract or option to acquire is to the extent of part only

of substantially identical property, then only a proportionate part of the loss shall be disallowed. Upon the subsequent sale or disposition of shares of stock or securities, in respect of which a loss has been disallowed, the basis for measuring gain or loss in the case of the property so acquired shall be the basis in the case of the stock or securities so sold or disposed of, except that if the repurchase price was in excess of the sale price such basis shall be increased in the amount of the difference, or if the repurchase price was less than the sale price such basis shall be decreased in the amount of the difference.

Worthless debts

(e) Debts which become worthless within the income year, or, in the discretion of the commissioner, a reasonable addition to a reserve for bad debts. When satisfied that a debt is recoverable in part only the commissioner may allow such debt as a deduction in an amount not in excess of the amount which becomes worthless in the income year; provided, however, that if a debt was actually worthless prior to January 1, 1943, but was not ascertained to be worthless and charged off prior to said date, a deduction may be taken therefor during the first income year ending after December 31, 1942; and, provided, that if a portion of a debt is claimed and allowed as a deduction in any year no deduction shall be allowed in any subsequent year for any portion of the debt which in any prior year became worthless, regardless of whether claimed as a deduction in such prior year.

Obsolescence

(f) A reasonable allowance for exhaustion, wear and tear and obsolescence of property used in the trade or business. The basis on which such allowance is to be computed in respect of any property is the adjusted basis provided in Section 21 (b) for the purpose of determining the gain upon the sale or other disposition of such property. A taxpayer may elect to claim a deduction for amortization of emergency facilities (as defined by Section 124 of the Internal Revenue Code as amended) under regulations prescribed by the commissioner.

Depletion

(g) (1) In the case of mines, oil and gas wells, other natural deposits and timber, a reasonable allowance for depletion and for depreciation of improvements according to the peculiar conditions in each case, such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the commissioner. In any case in which it is ascertained as a result of operations or of development work that the recoverable units are greater or less than the prior estimate thereof, then such prior estimate (but not the basis for depletion) shall be revised and the allowance under this subsection for subsequent taxable years shall be based upon such revised estimate. In the case of leases the deductions shall be equitably apportioned between the lessor and the lessee.

Basis

(2) (A) The basis upon which depletion is to be allowed in respect of any property shall be the adjusted basis provided in Section 21 (b) for the purpose of determining the gain upon the sale or other disposition of such property,

except as provided in paragraphs (B), (C), and (D) of this subsection.

Mines

(B) In the case of mines (other than metal, coal, fluorspar, ball and sagger clay, rock asphalt or sulphur mines) discovered by the taxpayer after February 28, 1913, the basis for depletion shall be the fair market value of the property at the date of discovery or within 30 days thereafter, if such mines were not acquired as the result of purchase of a proven tract or lease, and if the fair market value of the property is materially disproportionate to the cost. The depletion allowance under subdivision (1) of this subsection based on discovery value provided in this paragraph shall not exceed 50 per centum of the net income of the taxpayer (computed without allowance for depletion) from the property upon which the discovery was made, except that in no case shall the depletion allowance under subdivision (1) of this subsection be less than it would be if computed without reference to discovery value. Discoveries shall include minerals in commercial quantities contained within a vein or deposit discovered in an existing mine or mining tract by the taxpayer after February 28, 1913, if the vein or deposit thus discovered was not merely the uninterrupted extension of a continuing commercial vein or deposit already known to exist, and if the discovered minerals are of sufficient value and quantity that they could be separately mined and marketed at a profit.

Oil and gas wells

(C) In the case of oil and gas wells the allowance for depletion under subdivision (1) of this subsection shall be 27½ per centum of the gross income from the property during the income year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. Such allowance shall not exceed 50 per centum of the net income of the taxpayer (computed without allowance for depletion) from the property, except that in no case shall the depletion allowance under subdivision (1) of this subsection be less than it would be if computed without reference to this paragraph.

Coal mines, etc

(D) The allowance for depletion under subdivision (1) of this subsection shall be, in the case of coal mines, 5 per centum, in the case of metal mines, fluorspar, ball and sagger clay or rock asphalt mines, 15 per centum, and, in the case of sulphur mines or deposits, 23 per centum, of the gross income from the property during the income year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. Such allowance shall not exceed 50 per centum of the net income of the taxpayer (computed without allowance for depletion) from the property except that in no case shall the depletion allowance under subsection (1) of this section be less than it would be if computed without reference to this paragraph.

Dividends taxed to corporation declaring

(h) Dividends received during the income year declared from income which has been included in the measure of the

tax imposed by this act upon the bank or corporation declaring the dividends, or from income which has been taxed under the provisions of the Corporation Income Tax Act to the corporation declaring the dividends.

Gifts

(i) In the case of a bank or corporation, contributions or gifts payment of which is made within the taxable year to or for the use of:

(1) The United States, any State, Territory, or any political subdivision thereof or the District of Columbia, or any possession of the United States, for exclusively public purposes; or

(2) A corporation, trust, or community chest, fund, or foundation, created or organized in the United States or in any possession thereof or under the law of the United States, or of any State or Territory, or of the District of Columbia, or of any possession of the United States, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or for the prevention of cruelty to children (but in the case of contributions or gifts to a trust, chest, fund, or foundation, payment of which is made within a taxable year beginning after the date of the cessation of hostilities in the present war, as proclaimed by the President, only if such contributions or gifts are to be used within the United States or any of its possessions exclusively for such purposes), no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation; to an amount which does not exceed 5 per centum of the taxpayer's net income as computed without the benefits of this subsection. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the commissioner.

Return paid by building and loan association on money borrowed, etc

(j) In the case of a building and loan association, organized and operating wholly or partly on a mutual plan, the return paid or credited on or apportioned to the withdrawable shares of such association, but not exceeding the return such shares would receive computed at the average rate paid by all such associations in this State, or by such associations in a particular locality, as the Building and Loan Commissioner of this State may determine, on money borrowed or obtained through the issue during the income year of the association of all classes of notes and investment certificates not evidencing any proprietary interest in the association, such rate to be determined by the Building and Loan Commissioner and certified by him to the Franchise Tax Commissioner on or before the first day of March of each year.

Interest paid to depositors by certain banks

(k) In the case of a mutual savings bank, the entire amount of interest paid to depositors possessing no proprietary interest in the institution or in its surplus, and interest on their deposits to members possessing a proprietary interest in the institution or in its surplus at a rate determined by the State Superintendent of Banks to be the going rate of interest upon

savings deposits in the State during the calendar year preceding the taxable year, such rate to be certified by him to the commissioner on or before the first day of March of each year.

Income of cooperative marketing associations

(*l*) In the case of farmers, fruit growers, or like associations organized and operated in whole or in part on a cooperative or mutual basis, (1) for the purpose of marketing the products of members or other producers, and turning back to them the proceeds of sales, less the necessary marketing expenses, which may include reasonable reserves, on the basis of either the quantity or the value of the products furnished by them, or (2) for the purpose of purchasing, or producing, supplies and equipment for the use of members or other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses, all income resulting from or arising out of such business activities for or with their members carried on by them or their agents; or when done on a nonprofit basis for or with nonmembers.

Other cooperative associations

(m) In the case of other associations organized and operated in whole or in part on a cooperative or a mutual basis, all income resulting from or arising out of business activities for or with their members, or with nonmembers, done on a nonprofit basis.

Amortizable bond premium

(n) In the case of a bondholder, who makes the election in the method and under the conditions prescribed in Section 8 (o) (4), the deduction for amortizable bond premium provided in subsection (o).

Rules applicable

(o) (1) In the case of any bond, as defined in subsection (3), the following rules shall apply to the amortizable bond premium (determined under subsection (2)) on the bond for any income year beginning after December 31, 1942.

(A) In the case of a bond, the amount of the amortizable bond premium for the income year shall be allowed as a deduction.

(2) (A) For the purposes of paragraph (B), the amount of bond premium, in the case of the holder of any bond, shall be determined with reference to the amount of the basis (for determining loss on sale or exchange) of such bond, and with reference to the amount payable on maturity or on earlier call date, with adjustments proper to reflect unamortized bond premium with respect to the bond, for the period prior to the date as of which subsection (1) becomes applicable with respect to the taxpayer with respect to such bond.

(B) The amortizable bond premium of the income year shall be the amount of the bond premium attributable to such year.

(C) The determinations required under paragraphs (A) and (B) shall be made—

(i) In accordance with the method of amortizing bond premium regularly employed by the holder of the bond, if such method is reasonable;

(ii) In all other cases, in accordance with regulations prescribing reasonable methods of amortizing bond premium, prescribed by the commissioner.

(3) As used in this section, the term "bond" means any bond, debenture, note, or certificate or other evidence of indebtedness, issued by any corporation and bearing interest (including any like obligation issued by a government or political subdivision thereof), with interest coupons or in registered form, but does not include any such obligation which constitutes stock in trade of the taxpayer or any such obligation of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the income year, or any such obligation held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business. "Bond"

(4) The amount of the amortizable bond premium for the income year shall be allowed as a deduction only if a taxpayer has elected to claim such deduction. Such election shall be made in accordance with such regulations as the commissioner shall prescribe. If such election is made with respect to any bond, it shall also apply to all such bonds held by the taxpayer at the beginning of the first income year to which the election applies and to all such bonds thereafter acquired by it, and shall be binding for all subsequent income years with respect to all such bonds of the taxpayer, unless, upon application by the taxpayer, the commissioner permits him, subject to such conditions as the commissioner deems necessary, to revoke such election. Election

(p) (1) If contributions are paid by an employer to or under a stock bonus, pension, profit-sharing, or annuity plan, or if compensation is paid or accrued on account of any employee under a plan deferring the receipt of such compensation, such contributions or compensation shall not be deductible under subsection (a) but shall be deductible, if deductible under subsection (a) without regard to this subsection, under this subsection but only to the following extent: Contributions by employer to stock bonus, etc., plans

(A) In the income year when paid, if the contributions are paid into a pension trust, and if such income year ends within or with an income year of the trust for which the trust is exempt under Section 12 (f) of the Personal Income Tax Act, in an amount determined as follows: Stats 1943, Ch. 353

(i) An amount not in excess of 5 per centum of the compensation otherwise paid or accrued during the income year to all the employees under the trust, but such amount may be reduced for future years if found by the commissioner upon periodical examinations at not less than five-year intervals to be more than the amount reasonably necessary to provide the remaining unfunded cost of past and current service credits of all employees under the plan, plus

(ii) Any excess over the amount allowable under clause (i) necessary to provide with respect to all of the employees under the trust the remaining unfunded cost of their past and current service credits distributed as a level amount, or a level percentage of compensation, over the remaining future service of each such employee, as determined under regulations prescribed by the commissioner, but if such remaining unfunded

cost with respect to any three individuals is more than 50 per centum of such remaining unfunded cost, the amount of such unfunded cost attributable to such individuals shall be distributed over a period of at least five income years, or

(iii) In lieu of the amounts allowable under (i) and (ii) above, an amount equal to the normal cost of the plan, as determined under regulations prescribed by the commissioner, plus, if past service or other supplementary pension or annuity credits are provided by the plan, an amount not in excess of 10 per centum of the cost which would be required to completely fund or purchase such pension or annuity credits as of the date when they are included in the plan, as determined under regulations prescribed by the commissioner, except that in no case shall a deduction be allowed for any amount (other than the normal cost) paid in after such pension or annuity credits are completely funded or purchased.

(iv) Any amount paid in an income year in excess of the amount deductible in such year under the foregoing limitations shall be deductible in the succeeding income years in order of time to the extent of the difference between the amount paid and deductible in each such succeeding year and the maximum amount deductible for such year in accordance with the foregoing limitations.

(B) In the income year when paid, in an amount determined in accordance with subparagraph (A) of this paragraph, if the contributions are paid toward the purchase of retirement annuities and such purchase is a part of a plan which meets the requirements of Section 12 (f) of the Personal Income Tax Act, and if refunds of premiums, if any, are applied within the current income year or next succeeding income year towards the purchase of such retirement annuities.

(C) In the income year when paid, if the contributions are paid into a stock bonus or profit-sharing trust, and if such income year ends within or with an income year of the trust with respect to which the trust is exempt under Section 12 (f) of the Personal Income Tax Act, in an amount not in excess of 15 per centum of the compensation otherwise paid or accrued during the income year to all employees under the stock bonus or profit-sharing plan. If in any income year beginning after December 31, 1942, there is paid into the trust, or a similar trust then in effect, amounts less than the amounts deductible under the preceding sentence, the excess, or if no amount is paid, the amounts deductible, shall be carried forward and be deductible when paid in the succeeding income years in order of time, but the amount so deductible under this sentence in any such succeeding income year shall not exceed 15 per centum of the compensation otherwise paid or accrued during such succeeding income year to the beneficiaries under the plan. In addition, any amount paid into the trust in an income year beginning after December 31, 1942, in excess of the amount allowable with respect to such year under the preceding provisions of this subparagraph

shall be deductible in the succeeding income years in order of time, but the amount so deductible under this sentence in any one such succeeding income year together with the amount allowable under the first sentence of this subparagraph shall not exceed 15 per centum of the compensation otherwise paid or accrued during such income year to the beneficiaries under the plan. The term "stock bonus or profit-sharing trust," as used in this subparagraph, shall not include any trust designed to provide benefits upon retirement and covering a period of years, if under the plan the amounts to be contributed by the employer can be determined actuarily as provided in subparagraph (A). If the contributions are made to two or more stock bonus or profit-sharing trusts, such trusts shall be considered a single trust for the purposes of applying the limitations in this subparagraph.

(D) In the income year when paid, if the plan is not one included in paragraphs (A), (B), or (C), if the employees' rights to or derived from such employer's contribution or such compensation are nonforfeitable at the time the contribution or compensation is paid.

(E) For the purposes of subparagraphs (A), (B), and (C), a taxpayer on the accrual basis shall be deemed to have made a payment on the last day of the year of accrual if the payment is on account of such income year and is made within 60 days after the close of the income year of accrual.

(F) If amounts are deductible under subparagraphs (A) and (C), or (B) and (C), or (A), (B), and (C), in connection with two or more trusts, or one or more trusts and an annuity plan, the total amount deductible in an income year under such trusts and plans shall not exceed 25 per centum of the compensation otherwise paid or accrued during the income year to the persons who are the beneficiaries of the trusts or plans. In addition, any amount paid into such trust or under such annuity plans in an income year beginning after December 31, 1942, in excess of the amount allowable with respect to such year under the preceding provisions of this subparagraph shall be deductible in the succeeding income years in order of time, but the amount so deductible under this sentence in any one such succeeding income year together with the amount allowable under the first sentence of this subparagraph shall not exceed 30 per centum of the compensation otherwise paid or accrued during such income years to the beneficiaries under the trusts or plans. This subparagraph shall not have the effect of reducing the amount otherwise deductible under subparagraphs (A), (B), and (C), if no employee is a beneficiary under more than one trust, or a trust and an annuity plan. If there is no plan but a method of employer contributions or compensation has the effect of a stock bonus, pension, profit-sharing, or annuity plan, or similar plan deferring the receipt of compensation, this paragraph shall apply as if there were such a plan.

(2) Any deduction allowable under this act (as it read prior to the 1943 amendment) for an income year beginning before January 1, 1943, which was apportioned to any income year beginning after December 31, 1943, shall be allowed as a deduction for the years to which so apportioned to the extent allowable under this subsection as it then read if it had remained in force with respect to such year.

Deductions discriminating against national banking associations

(q) If any deduction provided for in this section is finally adjudged discriminatory against a national banking association contrary to Section 5219 of the Revised Statutes of the United States, or is for any reason finally adjudged invalid, in that event the tax of the favored taxpayer shall be recomputed by the commissioner for the taxable year in question, as of the time of allowance of the deduction, by disallowing the deduction, and any difference between the amount of the tax as recomputed and the amount of the tax as originally computed shall be subject to the provisions hereof relating to original computations.

New section

SEC. 4(a). Section 8.1 is hereby added to the Bank and Corporation Franchise Tax Act, to read as follows:

Property lost or damaged in course of military or naval operations

Sec. 8.1. (a) For the purposes of this act—

(1) Property destroyed or seized on or after December 7, 1941, in the course of military or naval operations by the United States or any other country engaged in the present war shall be deemed to have been destroyed or seized on a date chosen by the taxpayer in the manner provided in paragraph (4), which falls between—

(A) The latest date, as established to the satisfaction of the commissioner, on which such property may be considered as not destroyed or seized, and

(B) The earliest date, as established to the satisfaction of the commissioner, on which such property may be considered as having already been destroyed or seized.

For the purposes of this paragraph property within an area which comes under the control of a country at war with the United States after the date war with such country is declared by the United States shall be deemed to have been destroyed or seized in the course of military or naval operations by such country, and the date specified in subparagraph (A) shall not be later than the latest date determined by the commissioner as the date on which such area was under the control of the United States or a country not at war with the United States, and the date specified in subparagraph (B) shall not be later than the earliest date determined by the commissioner as the date on which such area may be considered under the control of the country which is at war with the United States.

(2) Property within any country at war with the United States, or within an area under the control of any such country on the date war with such country was declared by the United States, shall be deemed to have been destroyed or seized on the date war with such country was declared by the United States.

(3) Any interest in, or with respect to, property described in paragraph (1) or (2) (including any interest represented by a security) which becomes worthless shall be considered to have been destroyed or seized (and the loss therefrom shall be considered a loss from the destruction or seizure) on the date chosen by the taxpayer which falls between the dates specified in paragraph (1), or on the date prescribed in paragraph (2), as the case may be, when the last property (described in the applicable paragraph) to which the interest relates would be deemed destroyed or seized under the applicable paragraph. This paragraph shall apply only if the interest would have become worthless if the property had been destroyed. For the purposes of this paragraph, an interest shall be deemed to have become worthless notwithstanding the fact that such interest has a value if such value is attributable solely to the possibility of recovery of the property, compensation (other than insurance or similar indemnity) on account of its destruction or seizure, or both. Under regulations prescribed by the commissioner, a taxpayer which owns 100 per centum (excluding qualifying shares) of each class of stock of a corporation may elect to determine the worthlessness of its interest, described in this paragraph, in or with respect to the property of the corporation, without regard to the amount of the property of such corporation which would be excluded under subsection (e) (2) (A) in determining the adjusted basis of all the assets of the corporation for the purposes of subsection (e), but such amount shall be treated under subsection (b) (1) as a recovery by the taxpayer in the income year with respect to such interest.

Choice of date

(4) The taxpayer's choice of a date under paragraph (1) or (3) shall be effective only if made within such time and in such manner as may be prescribed by regulations prescribed by the commissioner.

(b) In the case of any property or interest in or with respect to property deemed to be destroyed or seized under subsection (a)—

Amount of loss

(1) The amount of the loss on account of such property or interest shall be determined with regard to any recoveries with respect thereto in the income year but without regard to any possibility of recovering such property or interest, or of receiving any compensation (other than insurance or similar indemnity) on account of such property or interest in the income year or in any future income year.

(2) The taxpayer may choose to decrease the amount of the loss by all obligations or liabilities of the taxpayer with respect to such property or interest discharged or satisfied out of the property or interest upon its destruction or seizure, if the commissioner is satisfied that such obligations or liabilities are so discharged or satisfied in a subsequent income year, or that the taxpayer is unable to determine whether or not such obligations or liabilities are in fact discharged or satisfied.

No loss shall be deemed to have been sustained upon the destruction or seizure of such property or interest to the extent that it is compensated for by the discharge or satisfaction of obligations and liabilities of the taxpayer out of such property or interest in the income year in which such destruction or seizure is deemed to have occurred. The taxpayer's choice under this subsection shall be effective only if made within such time and in such manner as may be prescribed by regulations prescribed by the commissioner.

Recovery

(c) (1) Upon the recovery in the income year of any money or property in respect of property considered under subsection (a) as destroyed or seized in any prior income year, the amount of such recovery shall be included in gross income to the extent provided in paragraph (2).

Amount of recovery

(2) The amount of the recovery of any money or property in respect of property considered under subsection (a) as destroyed or seized shall be an amount equal to the aggregate of such money and the fair market value of such property, determined as of the date of the recovery. To the extent that such amount plus the aggregate of the amounts of previous such recoveries do not exceed that part of the aggregate of the allowable deductions in prior income years on account of the destruction or seizure of property described in subsection (a) which did not result in a reduction of any tax of the taxpayer under this act, such amount shall not be includible in gross income and shall not be deemed gain upon the involuntary conversion of property as a result of its destruction or seizure. To the extent that such amount plus the aggregate of the amounts of previous such recoveries exceed that part of the aggregate of such deductions which did not result in a reduction of any tax of the taxpayer under this act and do not exceed that part of the aggregate of such deductions which did result in a reduction of any tax of the taxpayer under this act, such amount shall be included in gross income but shall not be deemed a gain upon the involuntary conversion of property as a result of its destruction or seizure. To the extent that such amount plus the aggregate of the amounts of previous such recoveries exceed the aggregate of the allowable deductions in prior income years on account of the destruction or seizure of property described in subsection (a), such amount shall be considered a gain upon the involuntary conversion of property as a result of its destruction or seizure and shall be recognized or not recognized as provided in Section 20 (f). If for any previous taxable year the taxpayer chooses under subsection (b) to treat any obligations and liabilities as discharged or satisfied out of the property or interest described in subsection (a), and if such obligations and liabilities were not so discharged or satisfied, the amount of such obligations and liabilities treated as discharged or satisfied under subsection (b) shall be considered for the purposes of this section as a deduction by reason of this section which did not result in a reduction of any tax of the taxpayer under this act. For

the purposes of this paragraph an allowable deduction for any income year on account of the destruction or seizure of property described in subsection (a), shall, to the extent not allowed in computing the tax of the taxpayer for such income year, be considered an allowable deduction which did not result in a reduction of any tax of the taxpayer under this act.

(3) For the purposes of paragraphs (1) and (2), the restoration in whole or in part of the value of any interest described in subsection (a) (3) by reason of any recovery of money or property in respect of property to which such interest related and which was considered under subsection (a) (1) or (2) as destroyed or seized shall be deemed a recovery of property in respect of property considered under subsection (a) as destroyed or seized.

Unadjusted basis of property recovered

(d) The unadjusted basis of property recovered in respect of property considered destroyed or seized under subsection (a) shall be determined under this subsection. Such basis shall be an amount equal to the fair market value of such property, determined as of the date of the recovery, reduced by an amount equal to the excess of the aggregate of such fair market value and the amounts of previous recoveries of money or property in respect of property considered under subsection (a) as destroyed or seized over the aggregate of the allowable deductions in prior income years on account of the destruction or seizure of property described in subsection (a), and increased by that portion of the amount of the recovery which under subsection (c) is treated as a recognized gain from the involuntary conversion of property Upon application of the taxpayer, the aggregate of the bases (determined under the preceding sentence) of any properties recovered in respect of properties considered under subsection (a) as destroyed or seized may be allocated among the properties so recovered in such manner as the commissioner may determine under regulations prescribed by him, and the amount so allocated to any such property so recovered shall be the unadjusted basis of such property in lieu of the unadjusted basis of such property determined under the preceding sentence.

Corporate property destroyed or seized

(e) (1) If a taxpayer owns not less than 50 per centum of each class of stock of a corporation, if such corporation has property described in subsection (a) (1) or (2) deemed to be destroyed or seized, the adjusted basis for determining loss of which is at least 75 per centum of the adjusted basis for determining loss of all such corporation's property, and if such corporation completely liquidates (by distributing all the assets which it is able to distribute and all its rights to assets which it is not able to distribute, including the right to the recovery of the property described in subsection (a) (1) and (2)) within one year after such property is deemed to be destroyed or seized, or by December 31, 1943, whichever is the later, then that part of the loss by the taxpayer on such liquidation which would be attributable to the destruction or seizure of such property, as established to the satisfaction of the

commissioner, shall be treated for the purposes of this act as a loss by the taxpayer upon the destruction or seizure of the part of the stock or other interest of the taxpayer to which such loss is allocable. Such part of the stock or other interest of the taxpayer shall be treated for the purposes of subsections (b), (c), and (d) as property described in subsection (a) (3).

(2) For the purposes of paragraph (1)—

Adjusted basis

(A) In determining the adjusted basis of all the property of the corporation, there shall be excluded money in the United States, bank deposits, the right to receive money from any person not situated in a country at war with the United States or in a territory under the control of such a country, and obligations issued or guaranteed as to principal or interest by the United States, except that there shall not be excluded any such property which is destroyed or seized as described in subsection (a) within or before the taxable period.

(B) The adjusted basis of property of such corporation shall be determined as of the date immediately preceding the first date on which any property was destroyed or seized, as described in subsection (a), or as of any later date falling within or before the taxable period on the basis of which such determination will produce a greater amount.

(f) The determination as to whether and to what extent an allowable deduction on account of the destruction or seizure of property described in subsection (a) did or did not result in a reduction of any tax of the taxpayer under this chapter shall be made in accordance with regulations prescribed by the commissioner.

Stats. 1943, Ch. 37

SEC. 5. Section 9 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows:

Items not deductible

Sec. 9. In computing net income no deduction shall be allowed for:

(a) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property; or for

(b) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made; or for

(c) Premiums paid on any life insurance policy covering the life of any officer or employee, or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under such policy.

(d) Any amount otherwise allowable as a deduction which is allocable to one or more classes of income not included in the measure of the tax imposed by this act.

(1) Any amount paid or accrued on indebtedness incurred or continued to purchase a single premium life insurance or endowment contract. For the purposes of this paragraph, if substantially all the premiums on a life insurance or endowment contract are paid within a period of four years from

the date on which such contract is purchased, such contract shall be considered a single premium life insurance or endowment contract;

(2) Amounts paid or accrued for such taxes and carrying charges as, under regulations prescribed by the commissioner, are chargeable to capital account with respect to property, if the taxpayer elects, in accordance with such regulations, to treat such taxes or charges as so chargeable.

(e) Except in case of distributions in liquidation, losses from sales or exchanges of property directly or indirectly between an individual and a corporation in which such individual owns directly or indirectly more than 50 per centum in value of the outstanding stock. For the purpose of this subdivision an individual shall be considered as owning the stock owned directly or indirectly by his family and the family of an individual shall include only his brothers and sisters (whether by the whole or half blood), spouse, ancestors and lineal descendants.

(f) In computing net income no deduction shall be allowed under Section 8(a), relating to expenses incurred, or under Section 8(b), relating to interest accrued:

(1) If such expenses or interest are not paid within the income year or within two and one-half months after the close thereof; and

(2) If, by reason of the method of accounting of the person or corporation to whom the payment is to be made, the amount thereof is not, unless paid, includible under the provisions of the Personal Income Tax Act, Corporation Income Tax Act or this act in the gross income of such person or corporation for the taxable year in which or with which the income year of the taxpayer ends; and

Stats 1935, p. 1090
Stats. 1937, p 2184

(3) If, at the close of the income year of the taxpayer or at any time within two and one-half months thereafter, both the taxpayer and the person to whom the payment is to be made are persons between whom losses would be disallowed under Section 9(e), or if the corporation to which payment is to be made owns, or is owned by, the taxpayer to the extent of more than 50 per centum in value of the outstanding stock.

The amount of expenses incurred or interest accrued, the deduction of which is disallowed under this subsection in the year incurred or accrued, may be deducted in the year paid.

New section

SEC. 6. Section 9.1 is hereby added to the Bank and Corporation Franchise Tax Act, to read as follows:

Renegotiated contracts with U. S

Sec. 9.1. (a) In the case of a contract with the United States or any agency thereof, or any subcontract thereunder, which is made by the taxpayer, if a renegotiation is made in respect of such contract or subcontract and an amount of excessive profits received or accrued under such contract or subcontract for an income year (hereinafter referred to as "prior income year") is eliminated and, in an income year ending after December 31, 1941, the taxpayer is required to pay or repay to the United States or any agency thereof the

amount of profits eliminated or the amount of profits eliminated is applied as an offset against other amounts due the taxpayer, then the profits so eliminated shall be excluded from gross income for the prior income year if they were included in gross income for the prior income year. For the purposes of this section—

"Renegotiation" (1) The term "renegotiation" includes any transaction which is a renegotiation within the meaning of Section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, 77th Cong., 2d Sess.) or such section, as amended, any modification of one or more contracts with the United States or any agency thereof, and any agreement with the United States or any agency thereof in respect of one or more such contracts or subcontracts thereunder.

"Excessive profits" (2) The term "excessive profits" includes any amount which constitutes excessive profits within the meaning assigned to such term by subsection (a) of Section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, 77th Cong., 2d Sess.), as amended by the Revenue Act of 1942, any part of the contract price of a contract with the United States or any agency thereof, any part of the subcontract price of a subcontract under such a contract, and any profits derived from one or more such contracts, or subcontracts.

"Subcontract" (3) The term "subcontract" includes any purchase order or agreement which is a subcontract within the meaning assigned to such term by subsection (a) of Section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, 77th Cong., 2d Sess.), as amended by the Revenue Act of 1942.

Cost-plus-a-fixed-fee contract (b) In the case of a cost-plus-a-fixed-fee contract between the United States or any agency thereof and the taxpayer, if an item for which the taxpayer has been reimbursed by the United States or any agency thereof is disallowed as an item of cost chargeable to such contract, and, in an income year ending after December 31, 1941, the taxpayer is required to repay the United States or any agency thereof the amount disallowed, or the amount disallowed is applied as an offset against other amounts due the taxpayer, for the purposes of this act the amount so disallowed or so applied as an offset shall be allowed as a deduction in the income year in which the reimbursement for such item was received or was accrued to the extent that the taxpayer's taxable net income for the year in which the cost was incurred would have been reduced had no such reimbursement been received or accrued.

When not deductible (c) The amount of the payment, repayment, or offset described in paragraph (a) or paragraph (b) shall not constitute a deduction for the year in which paid or incurred.

Accounting method (d) The foregoing provisions of this section shall not apply in respect of any contract if the taxpayer shows to the satisfaction of the commissioner that a different method of accounting for the amount of the payment, repayment, or disallowance

clearly reflects income, and in such case the payment, repayment, or disallowance shall be accounted for with respect to the income year provided for under such method.

(e) Any overpayment in tax which results from the application of this section shall be credited or refunded as provided in this act. Notwithstanding the provisions of any statute of limitations, such credit or refund shall be made if claim therefor is filed within four years from the last day prescribed for filing the return or within two years from the date of payment, repayment, or offset described in paragraph (a) or paragraph (b) of this section, whichever is later. Refund

(f) If prior to the payment of the last installment of tax for the taxable year the taxpayer becomes entitled to the exclusions or deductions provided in this section for its income year, the taxpayer may, under regulations prescribed by the commissioner, file a claim in abatement of any unpaid tax or portion thereof, but not in excess of the reduction in tax resulting from the application of this section. Claim in abatement

(g) In any case in which a claim in abatement is filed pursuant to subsection (f) and the commissioner makes such abatement, the tax disclosed by the original return shall, for the purpose of Section 25 of this act, to be deemed to be reduced by the amount of the tax so abated.

SEC. 7. Section 11 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows: Stats 1943, Ch 37

Sec. 11. (a) The term "income year," as herein used, means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net income is computed herein. "Income year" includes, in the case of a return made for a fractional part of a year, the period for which such return is made. "Income year"

(b) The term "taxable year," as herein used, means the calendar year, or the fiscal year ending during such calendar year, for which the tax is payable. A "taxable year" may constitute a period of 12 months or of less duration. "Taxable year"

(c) The term "fiscal year," as herein used, means an accounting period of 12 months or less ending on the last day of any month other than December. "Fiscal year"

(d) The terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed hereunder. "Paid or incurred"

(e) For the purposes of this act, unless otherwise required by the context, the word "State" shall include the Territories of Alaska and Hawaii, the District of Columbia, and the possessions of the United States. "State"

SEC. 8. Section 12 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows: Stats 1939, p 2934

Sec. 12. The net income shall be computed upon the basis of the taxpayer's annual accounting period, fiscal year or calendar year as the case may be, in accordance with the method of accounting regularly employed in keeping the books of such taxpayer; but if no such method of accounting has been Accounting period

so employed, or if the method employed does not clearly reflect the income, the computation shall be made in accordance with such method as in the opinion of said commissioner does clearly reflect the income. If the taxpayer's annual accounting period is other than a fiscal year, or if the taxpayer has no annual accounting period or does not keep books, the net income shall be computed on the basis of the calendar year.

Increase in redemption price

If, in the case of a taxpayer owning any noninterest-bearing obligation issued at a discount and redeemable for fixed amounts increasing at stated intervals, the increase in the redemption price of such obligation occurring in the income year does not (under the method of accounting used in computing its net income) constitute income to taxpayer in such year, such taxpayer may, at its election made in its return for any income year beginning after December 31, 1942, treat such increase as income received in such income year. If any such election is made with respect to any such obligation, it shall apply also to all such obligations owned by the taxpayer at the beginning of the first income year to which it applies and to all such obligations thereafter acquired by taxpayer and shall be binding for all subsequent income years, unless upon application by the taxpayer the commissioner permits taxpayer, subject to such conditions as the commissioner deems necessary, to change to a different method. In the case of any such obligations owned by the taxpayer at the beginning of the first income year to which its election applies, the increase in the redemption price of such obligations occurring between the date of acquisition and the first day of such income year shall also be treated as income received in such income year.

Change in accounting period

If the taxpayer changes his accounting period from fiscal year to calendar year, from calendar year to fiscal year, or from one fiscal year to another, the net income shall, with the approval of the commissioner, be computed on the basis of such new accounting period subject to the following provisions:

(a) If a taxpayer, with the approval of the commissioner, changes the basis of computing net income from fiscal year to calendar year, a separate return shall be made for the period between the close of the last fiscal year for which return was made and the following December 31. If the change is from calendar year to fiscal year, a separate return shall be made for the period between the close of the last calendar year for which return was made and the date designated as the beginning of the fiscal year. If the change is from one fiscal year to another fiscal year a separate return shall be made for the period between the close of the former fiscal year and the date designated as the beginning of the new fiscal year.

(b) Where a separate return is made under paragraph (a) on account of a change in the accounting period then the income shall be computed on the basis of the period for which

separate return is made. The due date of the separate return for such period is the fifteenth day of the third month following the close of that period.

"The short period"

(c) (1) If a separate return is made under paragraph (a) on account of a change in the accounting period, the net income, computed on the basis of the period for which separate return is made (referred to in this subsection as "the short period"), shall be placed on an annual basis by multiplying the amount thereof by 12, and dividing by the number of months in the short period. The commissioner shall compute the amount of a tax on the income placed on such annual basis, and shall allow the offset provided for in Section 26 from such tax. The tax due under this section (which shall not be subject to offset) shall be such part of the tax (less the offset allowed) computed on such annual basis as the number of months in the short period is of 12 months.

(2) If the taxpayer establishes the amount of its net income for the period of 12 months beginning with the first day of the short period, computed as if such 12-month period were an income year, under the law applicable to such year, then the tax for the short period shall be reduced to an amount which is such part of the tax computed on the net income for such 12-month period as the net income computed on the basis of the short period is of the net income for the 12-month period. The taxpayer (other than a taxpayer to which the next sentence applies) shall compute the tax and file his return without the application of this paragraph. If the taxpayer has disposed of substantially all its assets prior to the end of such 12-month period, then in lieu of the net income for such 12-month period there shall be used for the purposes of this paragraph the net income for the 12-month period ending with the last day of the short period. The tax computed under this paragraph shall in no case be less than the tax computed on the net income for the short period without placing such net income on an annual basis. The benefits of this paragraph shall not be allowed unless the taxpayer, at such time as regulations prescribed hereunder require (but not after the time prescribed for the filing of the return for the first income year which ends on or after 12 months after the beginning of the short period), makes application therefor in accordance with such regulations. Such application, in case the return was filed without regard to this paragraph, shall be considered a claim for credit or refund with respect to the amount by which the tax is reduced under this paragraph. The commissioner shall prescribe such regulations as he may deem necessary for the application of this paragraph.

Change in law applicable to tax computation

(d) The tax on any bank or corporation for a period beginning in one calendar year (hereinafter in this section called "first calendar year") and ending in the following calendar year (hereinafter in this section called "second calendar year") where the law applicable to the computation of taxes

for calendar year banks or corporations for the second calendar year is different from the law applicable to computation of taxes for calendar year banks or corporations for the first calendar year, shall be the sum of: (1) The same proportion of a tax for the entire period, determined under the law applicable to the first calendar year and at the rates for such year, which the portion of such period falling within the first year is of the entire period; and (2) the same proportion of a tax for the entire period, determined under the law applicable to the second calendar year and at the rates for such year, which the portion of such period falling within the second calendar year is of the entire period.

Any tax that has been paid under the law applicable to the first calendar year if in excess of the tax imposed by this section shall be refunded or credited to the bank or corporation as provided in Section 27. Any tax in addition to that paid under the law applicable to the first calendar year made necessary by this section shall be immediately due and payable upon notice and demand from the commissioner.

Contract requiring more than year to complete

(e) Where a corporation is engaged in the performance of a contract in this State which will require more than a year to complete, the commissioner may require that the income from the contract be reported on the basis of percentage of completion unless the corporation furnishes bond or other security guaranteeing the payment of a tax measured by the income received on the completion of the contract, even though the corporation is not doing business in this State in the year subsequent to the year of completion.

Stats 1943, Ch 37

SEC. 9. Section 13 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows:

Returns

Sec. 13. (a) Every bank and corporation subject to the tax imposed by this act shall, within two months and 15 days after the close of its income year, transmit to the commissioner a return in a form prescribed by him, specifying, for the income year, all such facts as he may by rule, or otherwise, require in order to carry out the provisions of this act. Any return filed under the provisions of the Corporation Income Tax Act, which discloses the net income for any period, shall likewise constitute a return filed for the same period under this act, if the corporation should have filed a return under this act.

In the event that taxes, interest and penalties have been or shall be assessed against, paid by or collected from a corporation under this act, which assessment, payment or collection should have been made under the Corporation Income Tax Act, such taxes, interest and penalties shall be considered as having been assessed, paid or collected under the Corporation Income Tax Act as of the date or dates they were made.

Prepayment of minimum tax

(b) A corporation which incorporates or organizes under the laws of this State or qualifies to do business in this State, after the effective date of this act, shall thereupon prepay the minimum tax hereunder, which prepayment must

be made before the corporation files with the Secretary of State its articles of incorporation or duly certified copy thereof as the case may be.

Tax for first and second taxable years

(c) If a bank or a corporation commences to do business in this State during its first taxable year its tax for that year shall be adjusted upon the basis of the net income received during that taxable year, at the rate applicable to that year, a credit being allowed for the prepayment of the minimum tax The return for the first taxable year, which shall be filed within two months and 15 days after the close of that year, shall also, in accordance with Sections 23 to 26, inclusive, be the basis for the tax of said bank or corporation for its second taxable year, if its first taxable year is a period of 12 months. In every case in which the first taxable year of a bank or corporation constitutes a period of less than 12 months, or in which a bank or corporation does business for a period of less than 12 months during its first taxable year, said bank or corporation shall pay as a prepayment of the tax for its second taxable year a tax based on the income for the first taxable year computed under the law and at the rate applicable to the second taxable year, the same to be due and payable at the same times and in the same manner as if that amount were the entire amount of its tax for that year; and upon the filing of its tax return within two months and 15 days after the close of its second taxable year it shall pay a tax for said year, at the rate applicable to that year, based upon its net income received during that year, allowing a credit for the prepayment; but in no event shall the tax for the second taxable year be less than the amount of the prepayment for that year, and said return for its second taxable year shall also, in accordance with Sections 23 to 26, inclusive, be the basis for the tax of said bank or corporation for its third taxable year.

Tax when business commenced in year other than of incorporation or qualification

(d) When any bank or corporation commences to do business in this State for the first time in any taxable year other than the year of incorporation or qualification, its tax for that taxable year and for the succeeding taxable year shall be computed in accordance with the provisions of subdivision (c) of this section relative to first and second taxable years, a credit being allowed for any tax payable under subdivision (5) of Section 4 hereof, for the year in which it commences to do business.

Payment of adjusted tax

(e) The adjusted tax, as provided in subdivisions (c) and (d) of this section, for any taxable year in excess of the prepayment for that year, shall be due and payable in one amount on or before the fifteenth day of the third month following the close of that taxable year, or on or before the expiration of the period of extension where an extension has been granted by the commissioner under the provisions of Section 15 of this act, and, if not so paid, interest shall be added thereto in the manner and at the rate or rates provided in Section 24 of this act.

Deferred income

(f) In the case of a bank or corporation taxable in the manner provided in subdivisions (c) and (d) of this section, reporting income from any source on a deferred basis, the commissioner is authorized to distribute or apportion such income, or deductions applicable thereto, if he determines that such distribution or apportionment is necessary in order to prevent avoidance of taxes or clearly to reflect the income of such bank or corporation.

Reorganized banks and corporations

(g) Subsections (c), (d), and (e) of this section shall not apply to a bank or a corporation which commences to do business in this State, pursuant to a reorganization of a bank or corporation as defined in subsection (j) of this section.

Reorganization. Returns and taxes

(h) (1) Where, pursuant to a reorganization, all or a substantial portion of the business or property of a bank or corporation, a party to the reorganization, is transferred to another bank or corporation, a party to the reorganization: (A) The net income of the transferor from the business or property so transferred to any bank or corporation for the taxable year in which the transfer occurs, shall be included in the measure of the tax on the transferee for the taxable year succeeding the taxable year in which the transfer occurs if the taxable year of the transferee in which the transfer occurs ends at the same time as or before the time the taxable year of the transferor in which the transfer occurs ends. Income of the transferor so included in the measure of the tax on the transferee shall be considered the income of the transferee for the purposes of this act.

(B) If the taxable year of the transferee in which the transfer occurs ends after the taxable year of the transferor in which the transfer occurs ends, the transferee shall, within two months and 15 days after the close of the taxable year of the transferor in which the transfer occurs, file a return disclosing the net income of the transferor from the business or property transferred for the taxable year in which the transfer occurs, and pay a tax measured by such income.

(2) If, at the time of any of the transfers referred to in the preceding subdivision (1), the transferor has not become subject to a tax measured by its income for the taxable year preceding the taxable year in which the transfer occurs, the transferee shall within two months and 15 days after the close of the month in which the transfer occurs file a return disclosing the net income of the transferor for such preceding year and pay a tax measured by such income.

(3) Whenever under this subsection the transferee is required to pay a tax measured by the income of the transferor, the rate of tax applicable to the transferee shall apply.

(4) The transferee shall, pursuant to the provisions of Sections 4 and 26 of this act, be entitled to the same offset against any tax imposed on it measured by the income of the transferor for taxes on the business or property transferred as would have been allowed the transferor had the reorganization not occurred.

(i) Where income of the transferor is required to be included in the computation of a tax on the transferee, such income shall not thereafter be included in the measure of a tax on the transferor.

"Reorganization" (j) The term "reorganization" as used in this section means (1) a transfer by a bank or corporation of all or a substantial portion of its business or property to another bank or corporation if immediately after the transfer the transferor or its stockholders or both are in control of the bank or corporation to which the assets are transferred; or (2) a mere change in identity, form or place of organization however effected; or (3) a merger or consolidation; or (4) a distribution in liquidation by a bank or corporation of all or a substantial portion of its business or property to a bank or corporation stockholder. As used in this paragraph the term "control" means the ownership of at least 80 per centum of the voting stock and at least 80 per centum of the total number of shares of all other classes of stock of the bank or corporation.

"Control"

Dissolved banks and corporations (k) Any bank or corporation which is dissolved and any foreign corporation which withdraws from the State during any taxable year shall pay a tax hereunder only for the months of such taxable year which precede the effective date of such dissolution or withdrawal, according to or measured by such proportionate part of the net income of the preceding income year as the number of months of the taxable year prior to the effective date of such dissolution or withdrawal bears to the entire preceding income year; provided, however, that in the case of any bank or corporation which is dissolved, or which withdraws from the State during any taxable year, the offset from the tax for the months of such taxable year prior to the effective date of such dissolution or withdrawal shall not exceed that proportion of the offset computed under Section 26 which the number of said months prior to the effective date of such dissolution or withdrawal bears to the number of months of the preceding income year; and provided further, that the taxes levied under this act shall not be subject to abatement or refund because of the cessation of business or corporate existence of any bank or corporation pursuant to a reorganization, consolidation, or merger In any event, each such corporation shall pay a tax not subject to offset for such period in an amount equal to the minimum tax provided for in Section 4 of this act.

Offset

Abatement or refund

Minimum tax

Bank or corporation discontinuing business (*l*) When a corporation discontinues doing business within the State during any taxable year and does not dissolve or withdraw from the State during that year, and does not resume doing business during the succeeding taxable year, its tax for the year in which it resumes doing business shall be computed upon the basis of the net income for the year in which it discontinued doing business (except where such income has already been included in the measure of a tax imposed by this act), a credit being allowed for any tax payable under subdivision (5) of Section 4 of this act. One-half

the amount of such tax shall be due and payable at the time the corporation resumes doing business, or on or before the fifteenth day of the third month following the close of its income year, whichever is later, and the balance shall be due and payable within six months of the time the corporation resumes doing business, or on or before the fifteenth day of the ninth month following the close of the income year, whichever is later, but, in no event shall the balance of the tax be due and payable later than the close of the taxable year in which it resumes doing business. All the provisions of this act relating to delinquent taxes shall be applicable to such tax if it is not paid on or before its due date.

Revived banks and corporations

(m) The tax of any bank or corporation which has suffered the suspension or forfeiture provided in Section 32 of this act, and which revives in any taxable year other than the taxable year in which suspension or forfeiture occurred, but did not transact business, as defined in Section 5 of this act, during the period of such suspension or forfeiture, shall be computed in the same manner as provided in subdivisions (c) and (d) of this section relative to the computation of taxes of banks and corporations commencing to do business for the first time after incorporation or qualification. Such a bank or corporation shall, in addition to the taxes, penalties, and interest specified in Section 33 of this act, prepay a tax in an amount equal to the minimum tax provided for in Section 4 of this act as a condition precedent to the issuance of a certificate of revivor.

Tax prepayment

Tax not a deficiency

(n) Any tax, imposed pursuant to this section, based on the net income as disclosed by the return, shall not be considered a deficiency assessment within the meaning of Section 25 of this act.

Attaching of liability

(o) The tax liability imposed under this act shall attach whether a bank or corporation has a taxable year of 12 months or of less duration.

Stats. 1943, Ch 37

SEC. 10. Section 14 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows:

Allocation of income or deductions among affiliated banks and corporations

Sec. 14. In the case of two or more corporations or banks or of one or more banks and one or more corporations owned or controlled directly or indirectly by the same interests, the commissioner may permit or require the filing of a combined report and such other information as he deems necessary and is authorized to impose the tax due under this act as though the combined entire net income was that of one corporation, or to distribute, apportion, or allocate the gross income or deductions between or among such corporations or banks, if he determines that such consolidation, distribution, apportionment, or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any such corporations or banks.

In the case of a corporation doing business within the meaning of this act, whether under agreement or otherwise, in such manner as either directly or indirectly to benefit the members or stockholders of the corporation, or any of them,

or any person or persons, directly or indirectly interested in such business, by rendering services of any nature whatsoever, or acquiring or disposing of its products or the goods or commodities in which it deals, at less than a fair price therefor, the commissioner, in order to prevent evasion of taxes or clearly to reflect the income of such corporation, may require a report of such facts as he deems necessary, and may determine the amount which shall be deemed to be the entire net income allocable to this State of the business of such corporation for the calendar or fiscal year, and compute the tax upon such net income. In determining the entire net income the commissioner shall have regard to the fair profits which, but for any agreement, arrangement, or understanding, might be or could have been obtained from dealing in such products, goods or commodities.

Consolidated report

In the case of a corporation liable to report under this act owning or controlling, either directly or indirectly, another corporation, or other corporations, and in the case of a corporation liable to report under this act and owned or controlled, either directly or indirectly, by another corporation, the commissioner may require a consolidated report showing the combined net income or such other facts as he deems necessary.

Assessment of tax

The commissioner is authorized and empowered, in such manner as he may determine, to assess the tax against either of the corporations whose net income is involved in the report upon the basis of the combined entire net income and such other information as he may possess, or he may adjust the tax in such other manner as he shall determine to be equitable if he determines it to be necessary in order to prevent evasion of taxes or to clearly reflect the net income earned by said corporation or corporations from business done in this State.

Direct or indirect ownership or control of more than 50 per centum of the voting stock of the bank or corporation shall constitute ownership or control for the purposes of this section.

Stats 1943, Ch 37

SEC. 11. Section 16 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows:

Computation in absence of return

Sec. 16. If any return required by this act is not made, the commissioner, at any time, may require a return, under oath, or may make an estimate of the net income, from any available information, and may compute and levy the amount of tax, interest and penalties due under this act. All the provisions of this act (not in conflict herewith) relative to delinquent taxes shall be applicable to the tax, interest and penalties computed and levied hereunder. A proceeding in court for the collection of the tax, interest and penalties provided for in this section may be begun without assessment at any time.

Collection

Stats 1943 Ch 37

SEC. 12. Section 17 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows:

Inventories

Sec. 17. (1) Whenever, in the opinion of the commissioner, the use of inventories is necessary clearly to determine

the income of any taxpayer, inventory shall be taken by such taxpayer upon such basis as the commissioner may prescribe, conforming as nearly as may be to the best accounting practice and most clearly reflecting the income.

Methods

(2) (A) A taxpayer may use the following method (whether or not such method has been prescribed under subdivision (1)) in inventorying goods specified in the application required under paragraph (B): (1) Inventory them at cost; (2) Treat those remaining on hand at the close of the income year as being: First, those included in the opening inventory of the income year (in order of acquisition) to the extent thereof, and second, those acquired in the income year; and (3) Treat those included in the opening inventory of the income year in which such method is first used as having been acquired at the same time and determine their cost by the average cost method.

(B) The method described in paragraph (A) may be used (1) only in inventorying goods (required under subdivision (1) to be inventoried) specified in an application to use such method filed at such time and in such manner as the commissioner may prescribe; and (2) only if the taxpayer establishes to the satisfaction of the commissioner that the taxpayer has used no procedure other than that specified in subparagraphs (2) and (3) of paragraph (A) in inventorying such goods to ascertain the income, profit, or loss of the first income year for which the method described in paragraph (A) is to be used, for the purpose of a report or statement covering such income year (i) to shareholders, partners, or other proprietors, or to beneficiaries, or (ii) for credit purposes.

(C) The change to, and the use of, such method shall be in accordance with such regulations as the commissioner may prescribe as necessary in order that the use of such method may clearly reflect income.

(D) In determining income for the income year preceding the income year for which such method is first used, the closing inventory of such preceding year of the goods specified in such application shall be at cost.

Change in method

(E) If a taxpayer, having complied with paragraph (B), uses the method described in paragraph (A) for any income year, then such method shall be used in all subsequent income years unless with the approval of the commissioner a change to a different method is authorized; or the commissioner determines that the taxpayer has used for any such subsequent income year some procedure other than that specified in (2) of paragraph (A) in inventorying the goods specified in the application to ascertain the income, profit, or loss of such subsequent income year for the purpose of a report or statement covering such income year (i) to shareholders, partners, or other proprietors, or beneficiaries, or (ii) for credit purposes; and requires a change to a method different from that prescribed in paragraph (1) beginning with such subsequent income year or any income year thereafter.

In either of the above cases, the change to, and the use of, the different method shall be in accordance with such regulations as the commissioner may prescribe as necessary in order that the use of such method may clearly reflect income.

Involuntary liquidation

(3) (A) If, for any income year beginning after December 31, 1942, and prior to the termination of the present war as proclaimed by the President of the United States, the closing inventory of a taxpayer inventorying goods under the method provided in this subsection reflects a decrease from the opening inventory of such goods for such year, and if, at the time of the filing of the taxpayer's income tax return for such year, the taxpayer elects to have the provisions of this paragraph apply and so notifies the commissioner, and if, at the time of such election, it is established to the satisfaction of the commissioner, in accordance with such regulations as the commissioner may prescribe, that such decrease is attributable to the involuntary liquidation of such inventory as defined in subparagraph (B), and if the closing inventory of a subsequent income year, ending not more than three years after the termination of the present war as proclaimed by the President, reflects a replacement, in whole or in part, of the goods so previously liquidated, the net income of the taxpayer otherwise determined for the year of such involuntary liquidation shall be adjusted as follows:

Adjustment

(i) Increased by an amount equal to the excess, if any, of the aggregate cost of such goods reflected in the opening inventory of the year of involuntary liquidation over the aggregate replacement cost; or

(ii) Decreased by an amount equal to the excess, if any, of the aggregate replacement cost of such goods over the aggregate cost thereof reflected in the opening inventory of the year of the involuntary liquidation.

The taxes imposed by this act for the year of such liquidation and for all income years intervening between such year and the year of replacement shall be redetermined, giving effect to such adjustments. Any increase in such taxes resulting from such adjustments shall be assessed and collected as a deficiency but without interest, and any overpayment so resulting shall be credited or refunded to the taxpayer without interest.

"Involuntary liquidation"

(B) The term "involuntary liquidation," as used in this paragraph, means the sale or other disposition of goods inventoried under the method described in this subsection, either voluntary or involuntary, coupled with a failure on the part of the taxpayer to purchase, manufacture, or otherwise produce and have on hand at the close of the income year in which such sale or other disposition occurred such goods as would, if on hand at the close of such income year, be subject to the application of the provisions of this subsection, if such failure on the part of the taxpayer is due, directly and exclusively, (i) to enemy capture or control of sources of limited foreign supply; (ii) to shipping or other transportation shortages;

(iii) to material shortages resulting from priorities or allocations; (iv) to labor shortages; or (v) to other prevailing war conditions beyond the control of the taxpayer.

Increase

(C) If, in the case of any taxpayer subject to the provisions of subparagraph (A), the closing inventory of the taxpayer for an income year, subsequent to the year of involuntary liquidation but prior to the complete replacement of the goods so liquidated, reflects an increase over the opening inventory of such goods for the income year, the goods reflecting such increase shall be considered, in the order of their acquisition, as having been acquired in replacement of the goods most recently liquidated (whether or not in a year of involuntary liquidation) and not previously replaced, and if the liquidation was an involuntary liquidation shall be included in the inventory of the taxpayer for the year of replacement at the inventory cost basis of the goods replaced.

Election

(D) An election by the taxpayer to have the provisions of this paragraph apply, once made, shall be irrevocable and shall be binding for the year of the involuntary liquidation and for all determinations for subsequent income years in so far as they are related to the year of liquidation or replacement.

Prevented adjustments

(E) If the adjustments specified in subparagraph (A) are, with respect to any income year, prevented, on the date of the filing of the income tax return of the taxpayer for the year of the replacement, or within three years from such date, by any provision or rule of law (other than this subparagraph), such adjustments shall nevertheless be made if, in respect of the income year for which the adjustment is sought, a notice of deficiency is mailed or a claim for refund is filed, as the case may be, within three years after the date of the filing of the income tax return for the year of replacement. If, at the time of the mailing of such notice of deficiency or the filing of such claim for refund, the adjustment is so prevented, then the amount of the adjustment authorized by this paragraph shall be limited to the increase or decrease of the tax imposed by this act previously determined for such income year which results solely from the effect of subparagraph (A), and such amount shall be assessed and collected, or credited or refunded, in the same manner as if it were a deficiency or an overpayment, as the case may be, for such income year and as if, on the date of the filing of the income tax return for the year of the replacement, three years remain before the expiration of the periods of limitation upon assessment or the filing of claim for refund for the income year. The tax previously determined shall be ascertained in accordance with rules and regulations prescribed by the commissioner. The amount to be assessed and collected under this paragraph in the same manner as if it were a deficiency or to be credited or refunded in the same manner as if it were an overpayment shall not be diminished by any credit or set-off based upon any item, inclusion, deduction, credit, exemption, gain, or loss,

other than one resulting from the effect of subparagraph (A). Such amount, if paid, shall not be recovered by a claim or suit for refund, or suit for erroneous refund based upon any item, inclusion, deduction, credit, exemption, gain, or loss, other than one resulting from the effect of subparagraph (A).

SEC. 13. Section 20 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows: Stats 1943, Ch. 37

Sec. 20. (a) Upon the sale or exchange of property the entire amount of the gain or loss, determined under Section 19, shall be recognized, except as hereinafter provided in this section. Recognition of gain or loss

(b) (1) No gain or loss shall be recognized if property held for productive use in trade or business or for investment (not including stock in trade or other property held primarily for sale, nor stocks, bonds, notes, choses in action, certificates of trust or beneficial interest, or other securities or evidences of indebtedness or interest) is exchanged solely for property of a like kind to be held either for productive use in trade or business or for investment.

(2) No gain or loss shall be recognized if common stock in a corporation is exchanged solely for common stock in the same corporation, or if preferred stock in a corporation is exchanged solely for preferred stock in the same corporation.

(3) No gain or loss shall be recognized if stock or securities in a corporation a party to a reorganization are, in pursuance of the plan of reorganization, exchanged solely for stock or securities in such corporation or in another corporation a party to the reorganization.

(4) No gain or loss shall be recognized if a corporation a party to a reorganization exchanges property, in pursuance of the plan of reorganization, solely for stock or securities in another corporation a party to the reorganization.

(5) No gain or loss shall be recognized if property is transferred to a corporation by one or more taxpayers solely in exchange for stock or securities in such corporation, and immediately after the exchange such taxpayer or taxpayers are in control of the corporation; but in the case of an exchange by two or more taxpayers this paragraph shall apply only if the amount of the stock and securities received by each is substantially in proportion to its interest in the property prior to the exchange. Where the transferee assumes a liability of a transferor, or where the property of a transferor is transferred subject to a liability, then for the purpose only of determining whether the amount of stock or securities received by each of the transferors is in the proportion required by this paragraph, the amount of such liability (if under subsection (k) it is not to be considered as other property or money) shall be considered as stock or securities received by such transferor.

(6) No gain or loss shall be recognized upon the receipt by a corporation of property distributed in complete liquidation of another corporation. For the purposes of this paragraph Distributions in complete liquidation

a distribution shall be considered to be in complete liquidation only if:

(A) The corporation receiving such property was, on the date of the adoption of the plan of liquidation, and has continued to be at all times until the receipt of the property, the owner of stock (in such other corporation) possessing at least 80 per centum of the total combined voting power of all classes of stock entitled to vote and the owner of at least 80 per centum of the total number of shares of all other classes of stock (except nonvoting stock which is limited and preferred as to dividends), and was at no time on or after the date of the adoption of the plan of liquidation and until the receipt of the property the owner of a greater percentage of any class of stock than the percentage of such class owned at the time of the receipt of the property; and

(B) No distribution under the liquidation was made before the first day of the first taxable year of the corporation beginning after December 31, 1935; and either

(C) The distribution is by such other corporation in complete cancellation or redemption of all its stock, and the transfer of all the property occurs within the income year; in such case the adoption by the shareholders of the resolution under which is authorized the distribution of all the assets of such corporation in complete cancellation or redemption of all its stock, shall be considered an adoption of a plan of liquidation, even though no time for the completion of the transfer of the property is specified in such resolution; or

(D) Such distribution is one of a series of distributions by such other corporation in complete cancellation or redemption of all its stock in accordance with a plan of liquidation under which the transfer of all the property under the liquidation is to be completed within three years from the close of the taxable year during which is made the first of the series of distributions under the plan, except that if such transfer is not completed within such period, or if the taxpayer does not continue qualified under subparagraph (A) until the completion of such transfer, no distribution under the plan shall be considered a distribution in complete liquidation.

If such transfer of all the property does not occur within the income year the commissioner may require of the taxpayer such bond, or waiver of the statute of limitations on assessment and collection, or both, as he may deem necessary to insure, if the transfer of the property is not completed within such three-year period, or if the taxpayer does not continue qualified under subparagraph (A) until the completion of such transfer, the assessment and collection of all taxes imposed by this act then due or to become due, to the extent attributable to property so received. A distribution otherwise constituting a distribution in complete liquidation within the meaning of this paragraph shall not be considered as not constituting such a distribution merely because it does not constitute a distribution or liquidation within the meaning of

the corporate law under which the distribution is made; and for the purposes of this paragraph a transfer of property of such other corporation to the taxpayer shall not be considered as not constituting a distribution (or one of a series of distributions) in complete cancellation or redemption of all the stock of such other corporation, merely because the carrying out of the plan involves (i) the transfer under the plan to the taxpayer by such other corporation of property, not attributable to shares owned by the taxpayer, upon an exchange described in paragraph (4) of this subsection, and (ii) the complete cancellation or redemption under the plan, as a result of exchanges described in paragraph (3) of this subsection, of the shares not owned by the taxpayer.

(7) No gain or loss shall be recognized to a shareholder from a distribution of stocks or securities in liquidation of a corporation made pursuant to an order of the Federal Securities and Exchange Commission under authority vested in it by that act of Congress known as the Public Utility Holding Company Act of 1935 as amended.

(8) No loss shall be recognized if property of a railroad corporation, as defined in Section 77m of the National Bankruptcy Act, as amended, is transferred, after December 31, 1942, in pursuance of an order of the court having jurisdiction of such corporation—

(A) In a receivership proceeding, or

(B) In a proceeding under Section 77 of the National Bankruptcy Act, as amended,

to a railroad corporation, as defined in Section 77m of the National Bankruptcy Act, as amended, organized or made use of to effectuate a plan of reorganization approved by the court in such proceeding The term "reorganization," as used in this paragraph, shall not be limited by the definition of such term in subsection (g).

(c) (1) If an exchange would be within the provisions of subsection (b) (1), (2), (3), or (5) of this section if it were not for the fact that the property received in exchange consists not only of property permitted by such paragraph to be received without the recognition of gain, but also of other property or money, then the gain, if any, to the recipient shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property. Particular exchanges

(2) If a distribution made in pursuance of a plan of reorganization is within the provisions of paragraph (1) of this subsection but has the effect of the distribution of a taxable dividend, then there shall be treated as a dividend to each distributee such an amount of the gain recognized under paragraph (1) as is not in excess of his ratable share of the undistributed earnings and profits of the corporation accumulated after February 28, 1913. The remainder, if any, of the gain recognized under paragraph (1) shall be treated as a gain from the exchange of property.

(d) If an exchange would be within the provisions of subsection (b) (4) of this section if it were not for the fact that the property received in exchange consists not only of stock or securities permitted by such paragraph to be received without the recognition of gain, but also of other property or money, then:

(1) If the corporation receiving such other property or money distributes it in pursuance of the plan of reorganization, no gain to the corporation shall be recognized from the exchange, but

(2) If the corporation receiving such other property or money does not distribute it in pursuance of the plan of reorganization, the gain, if any, to the corporation shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property so received, which is not so distributed.

(e) If an exchange would be within the provisions of subsection (b) (1) to (5), inclusive, of this section if it were not for the fact that the property received in exchange consists not only of property permitted by such paragraph to be received without the recognition of gain or loss, but also of other property or money, then no loss from the exchange shall be recognized.

(f) If property (as a result of its destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation, or the threat or imminence thereof) is compulsorily or involuntarily converted into property similar or related in service or use to the property so converted, or into money which is forthwith in good faith, under regulations prescribed by the commissioner, expended in the acquisition of other property similar or related in service or use to the property so converted, or in the acquisition of control of a corporation owning such other property, or in the establishment of a replacement fund, no gain shall be recognized, but loss shall be recognized. If any part of the money is not so expended, the gain, if any, shall be recognized to the extent of the money which is not so expended (regardless of whether such money is received in one or more income years and regardless of whether or not the money which is not so expended constitutes gain).

(g) As used in this section and Section 21:

"Reorganization" (1) The term "reorganization" means (A) a statutory merger or consolidation, or (B) the acquisition by one corporation in exchange solely for all or a part of its voting stock: of at least 80 per centum of the voting stock and at least 80 per centum of the total number of shares of all other classes of stock of another corporation; or of substantially all the properties of another corporation, but in determining whether the exchange is solely for voting stock, the assumption by the acquiring corporation of a liability of another, or the fact that property acquired is subject to a liability, shall be disregarded, or (C) a transfer by a corporation of all or a part of its assets to another corporation if immediately after

the transfer the transferor or its shareholders or both are in control of the corporation to which the assets are transferred, or (D) a recapitalization, or (E) a mere change in identity, form, or place of organization, however effected.

"Party to a reorganization"

(2) The term "a party to a reorganization" includes a corporation resulting from a reorganization and includes both corporations in the case of a reorganization resulting from the acquisition by one corporation of stock or properties of another.

"Control"

(h) As used in this section the term "control" means the ownership of stock possessing at least 80 per centum of the total combined voting power of all classes of stock entitled to vote and at least 80 per centum of the total number of shares of all other classes of stock of the corporation.

Corporation created in foreign country

(i) In determining the extent to which gain shall be recognized in the case of any of the exchanges (made after the date of the enactment of this act) described in subsection (b) (3), (4), (5), or (6), or described in so much of subsection (c) as refers to subsection (b) (3) or (5), or described in subsection (d), a corporation created or organized in a foreign country shall not be considered as a corporation unless, prior to such exchange, it has been established to the satisfaction of the commissioner that such exchange is not in pursuance of a plan having as one of its principal purposes the avoidance of income taxes or franchise taxes imposed by this State.

Installment obligations

(j) For nonrecognition of gain or loss in the case of installment obligations, see Section 19 (e) (4).

Assumption of taxpayer's liability

(k) Where, upon an exchange, the taxpayer receives as part of the consideration property which would be permitted by subsection (b) (4) or (5) of this section to be received without the recognition of gain if it were the sole consideration, and as part of the consideration another party to the exchange assumes a liability of the taxpayer or acquires from the taxpayer property subject to a liability, such assumption or acquisition shall not be considered as "other property or money" received by the taxpayer within the meaning of subsection (c), (d) or (e) of this section and shall not prevent the exchange from being within the provisions of subsection (b) (4) or (5); except that if, taking into consideration the nature of the liability and the circumstances in the light of which the arrangement for the assumption or acquisition was made, it appears that the principal purpose of the taxpayer with respect to the assumption or acquisition was a purpose to avoid State tax on the exchange, or, if not such purpose, was not a bona fide business purpose, such assumption or acquisition (in the amount of the liability) shall, for the purposes of this section, be considered as money received by the taxpayer upon the exchange. In any suit or proceeding where the burden is on the taxpayer to prove that such assumption or acquisition is not to be considered as money received by the taxpayer, such burden shall not be considered as sustained

Burden of proof

unless the taxpayer sustains such burden by the clear preponderance of the evidence.

Stats 1943, Ch. 37

SEC. 14. Section 21 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows:

Basis of property

Sec. 21. (a) The basis of property shall be the cost of such property; except that:

(1) If the property should have been included in the last inventory, the basis shall be the last inventory value thereof.

(2) If the property was acquired by gift after December 31, 1920, the basis shall be the same as it would be in the hands of the donor or the last preceding owner by whom it was not acquired by gift, except that if such basis (adjusted for the period prior to the date of the gift as provided in subsection (b)) is greater than the fair market value of the property at the time of the gift, then for the purpose of determining loss the basis shall be such fair market value. If the facts necessary to determine the basis in the hands of the donor or the last preceding owner are unknown to the donee, the commissioner shall, if possible, obtain such facts from such donor or last preceding owner, or any other person cognizant thereof. If the commissioner finds it impossible to obtain such facts, the basis in the hands of such donor or last preceding owner shall be the fair market value of such property as found by the commissioner as of the date or approximate date at which, according to the best information that the commissioner is able to obtain, such property was acquired by such donor or last preceding owner.

(3) If the property was acquired after December 31, 1920, by a transfer in trust (other than by a transfer in trust by a gift, bequest or devise) the basis shall be the same as it would be in the hands of the grantor, increased in the amount of gain or decreased in the amount of loss recognized to the grantor upon such transfer under the law applicable to the year in which the transfer was made.

(4) If the property was acquired, after February 28, 1913, upon an exchange described in Section 20 (b) to (e), inclusive, the basis (except as provided in paragraph (12) of this subsection) shall be the same as in the case of the property exchanged, decreased in the amount of any money received by the taxpayer and increased in the amount of gain or decreased in the amount of loss to the taxpayer that was recognized upon such exchange under the law applicable to the year in which the exchange was made. If the property so acquired consisted in part of the type of property permitted by Section 20 (b) to be received without the recognition of gain or loss, and in part of other property, the basis provided in this paragraph shall be allocated between the properties (other than money) received, and for the purpose of the allocation there shall be assigned to such other property an amount equivalent to its fair market value at the date of the exchange.

Where, as part of the consideration to the taxpayer, another party to the exchange assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability, such assumption or acquisition (in the amount of the liability) shall, for the purposes of this paragraph, be considered as money received by the taxpayer upon the exchange. This paragraph shall not apply to property acquired by a corporation by the issuance of its stock or securities as the consideration in whole or in part for the transfer of the property to it.

(5) If the property was acquired:

(A) After December 31, 1917, and in an income year beginning before January 1, 1936, by a corporation in connection with a reorganization, and immediately after the transfer an interest or control in such property of 50 per centum or more remained in the same persons or any of them, or

(B) In an income year beginning after December 31, 1935, by a corporation in connection with a reorganization, then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made. This paragraph shall not apply if the property acquired consists of stock or securities in a corporation a party to the reorganization, unless acquired by the issuance of stock or securities of the transferee as the consideration in whole or in part for the transfer.

(6) If the property was acquired after December 31, 1920, by a corporation:

(A) By the issuance of its stock or securities in connection with a transaction described in Section 20 (b) (5) of this act or Section 9.2 (b) (4) of the Personal Income Tax Act or Section 11 (b) (5) of the Corporation Income Tax Act (including, also, cases where part of the consideration for the transfer of such property to the corporation was property or money, in addition to such stock or securities), or

(B) As paid-in surplus or as a contribution to capital, then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made.

(7) If the property was acquired, after February 28, 1913, as the result of a compulsory or involuntary conversion described in Section 20 (f), the basis shall be the same as in the case of the property so converted, decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law (applicable to the year in which such conversion was made) determining the taxable status of the gain or loss upon such conversion, and increased in the amount of gain or decreased in the

amount of loss to the taxpayer recognized upon such conversion under the law applicable to the year in which such conversion was made.

(8) If the property consists of stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility (under Section 8 (d) of this act, relating to wash sales) of the loss from the sale or other disposition of substantially identical stock or securities, then the basis shall be the basis of the stock or securities so sold or disposed of, increased or decreased, as the case may be, by the difference, if any, between the price at which the property was acquired and the price at which such substantially identical stock or securities were sold or otherwise disposed of.

(9) In the case of property acquired by a corporation, during a period of affiliation, from a corporation with which it was affiliated, the basis of such property, after such period of affiliation, shall be determined, in accordance with regulations prescribed by the commissioner without regard to intercompany transactions in respect of which gain or loss was not recognized. The basis in case of property acquired by a corporation during any period, in the taxable year 1929 or any subsequent taxable year, in respect of which a consolidated return is made by such corporation under Section 13½ of this act or Section 141 of the Federal Revenue Act of 1928 or the Federal Revenue Act of 1932 or the Federal Revenue Act of 1934 or the Federal Revenue Act of 1936, shall be determined in accordance with regulations prescribed under Section 13½ of this act or Section 141 of the Federal Revenue Act of 1928 or the Federal Revenue Act of 1932 or the Federal Revenue Act of 1934 or the Federal Revenue Act of 1936. The basis in the case of property held by a corporation during any period, in the taxable year 1929 or any subsequent taxable year, in respect of which a consolidated return is made by such corporation under Section 13½ of this act or Section 141 of the Federal Revenue Act of 1928 or the Federal Revenue Act of 1932 or the Federal Revenue Act of 1934 or the Federal Revenue Act of 1936, shall be adjusted in respect of any items relating to such period, in accordance with regulations prescribed under Section 13½ of this act or Section 141 of the Federal Revenue Act of 1928 or the Federal Revenue Act of 1932 or the Federal Revenue Act of 1934 or the Federal Revenue Act of 1936, applicable to such period.

(10) If the property was acquired, after February 28, 1913, in any income year beginning prior to January 1, 1934, and the basis thereof, for the purposes of the Revenue Act of 1932 was prescribed by Section 113 (a) (6), (7), or (9) of such act, then for the purposes of this act the basis shall be the same as the basis therein prescribed in the Revenue Act of 1932.

(11) In the case of property acquired before March 1, 1913, if the basis otherwise determined under this subsection, adjusted (for the period prior to March 1, 1913) as provided

in subsection (b), is less than the fair market value of the property as of March 1, 1913, then the basis for determining gain shall be such fair market value. In determining the fair market value of stock in a corporation as of March 1, 1913, due regard shall be given to the fair market value of the assets of the corporation as of that date.

(12) If the property was received by a corporation upon a distribution in complete liquidation of another corporation within the meaning of Section 20 (b) (6), then the basis shall be the same as it would be in the hands of the transferor.

(13) Whenever a corporation has realized gain or loss upon the receipt after January 1, 1928, at a time when it was subject to a tax under this act measured by income, of all or substantially all of the business or property of a corporation over which it exercised control within the meaning of subsection 20 (h), and such gain or loss actually was not taken into account in the computation of taxes imposed by this act, the basis of the property or business acquired shall be the same as it was in the hands of the transferor.

(14) If the property was acquired after February 28, 1913, in any income year beginning prior to January 1, 1937, and the basis thereof, for the purposes of the Federal Revenue Act of 1934 was prescribed by Section 113 (a) (6), (7), or (8) of such act, then for the purposes of this act the basis shall be the same as the basis therein prescribed in the Federal Revenue Act of 1934.

(15) (A) If the property was acquired by a shareholder in a corporation and consists of rights to acquire stock in such corporation acquired by him after February 28, 1913, in a distribution by such corporation, and (1) the right to acquire such stock was acquired in an income year beginning before January 1, 1937 (except as provided in subparagraph (B)), or (2) the right to acquire such stock was acquired in an income year beginning after December 31, 1936, and its distribution did not constitute income to the shareholder within the meaning of the Sixteenth Amendment to the Constitution of the United States, then the basis of the stock in respect of which the rights were declared and the right to acquire stock, respectively, shall, in the shareholder's hands be determined by allocating between the stock and the right to acquire stock the adjusted basis of the stock, such allocation to be made under regulations which shall be prescribed by the commissioner.

(B) If a stock right was acquired prior to January 1, 1928, and it constituted income within the purview of the Sixteenth Amendment to the Constitution of the United States, the basis of the stock in respect of which the rights were declared shall not be affected and the basis of the right shall be its fair market value as of the date of its acquisition.

(C) Where the shareholder acquired the right to acquire such stock in an income year beginning before January 1, 1943, and sold the same, and there was included in the gross income for such year of sale the entire amount of the proceeds

of such sale, then if before the effective date of the 1943 amendments to this act the taxpayer has not asserted (by claim for a refund or credit or otherwise) that any part of the proceeds of the sale of such rights should be excluded from gross income for the year of its sale, the basis of the stock shall be determined without regard to paragraphs (A) and (B), and no part of the proceeds of the sale of such rights shall ever be excluded from the gross income for the year of such sale.

(16) If the property of a railroad corporation, as defined in Section 77m of the National Bankruptcy Act, as amended, was acquired after December 31, 1942, in pursuance of an order of the court having jurisdiction of such corporation—

(A) In a receivership proceeding, or

(B) In a proceeding under Section 77 of the National Bankruptcy Act, as amended,

and the acquiring corporation is a railroad corporation, as defined in Section 77m of the National Bankruptcy Act, as amended, organized or made use of to effectuate a plan or reorganization approved by the court in such proceeding, the basis shall be the same as it would be in the hands of the railroad corporation whose property was so acquired. The term "reorganization," as used in this paragraph, shall not be limited by the definition of such term in Section 20 (g).

(17) If the property of any street, suburban, or interurban electric railway corporation engaged as a common carrier in the transportation of persons or property in interstate commerce was acquired after December 31, 1942, in pursuance of an order of the court having jurisdiction of such corporation in a proceeding under Section 77B of the National Bankruptcy Act, as amended, and the acquiring corporation is a street, suburban, or interurban electric railway engaged as a common carrier in the transportation of persons or property in interstate commerce, organized or made use of to effectuate a plan of reorganization approved by the court in such proceeding, then, notwithstanding the provisions of Section 270 of Chapter X of the National Bankruptcy Act, as amended, the basis, for any income year beginning after December 31, 1942, shall be the same as it would be in the hands of the corporation whose property was so acquired. The term "reorganization," as used in this paragraph, shall not be limited by the definition of such term in Section 20 (g).

(18) In the case of stocks or securities received by a taxpayer on or after January 1, 1943, under circumstances described in Section 20 (b) (7), the basis of such stocks or securities shall be the same as that of the stocks or securities for the surrender of which they were acquired.

Adjusted basis

(b) The adjusted basis for determining the gain or loss from the sale or other disposition of property, whenever acquired, shall be the basis determined under subsection (a), adjusted as hereinafter provided.

(1) Proper adjustment in respect of the property shall in all cases be made—

(A) For expenditures, receipts, losses, or other items properly chargeable to capital account, but no such adjustment shall be made for taxes or other carrying charges for which deductions have been taken by the taxpayer in determining net income for the income year or prior income years;

(B) For exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent sustained prior to January 1, 1928, and to the extent allowed (but not less than the amount allowable) under this act, except that no deduction shall be made for (1) amounts in excess of the amount which would have been allowable had depreciation not been computed on the basis of January 1, 1928, value; (2) amounts in excess of the adjustments required by Section 113 (b) (1) (B) of the Federal Revenue Act of 1938 for depletion prior to January 1, 1932; provided, however, that if a taxpayer has not claimed an amortization deduction for an emergency facility, an adjustment shall be made only to the extent ordinarily provided under Section 8 (f).

(C) In the case of stock (to the extent not provided for in the foregoing subparagraphs) for the amount of distributions previously made which, under the law applicable to the year in which the distribution was made, either were tax-free or were applicable in reduction of basis (not including distributions made by a corporation, which was classified as a personal service corporation under the provisions of the Federal Revenue Act of 1918 or 1921, out of its earnings or profits which were taxable in accordance with the provisions of Section 218 of the Federal Revenue Act of 1918 or 1921).

(D) In the case of any bond (as defined in Section 8 (o) (3)) to the extent of the deductions allowable pursuant to Section 8 (o) (1) (A) with respect thereto.

"Substituted basis"

(2) The term "substituted basis" as used in this subsection means a basis determined under any provision of subsection (a) of this section providing that the basis shall be determined:

(A) By reference to the basis in the hands of a transferor, donor, or grantor, or

(B) By reference to other property held at any time by the person for whom the basis is to be determined.

Whenever it appears that the basis of property in the hands of the taxpayer is a substituted basis, then the adjustments provided in paragraph (1) of this subsection shall be made after first making in respect of such substituted basis proper adjustments of a similar nature in respect of the period during which the property was held by the transferor, donor, or grantor, or during which the other property was held by the person for whom the basis is to be determined. A similar rule shall be applied in the case of a series of substituted bases.

(3) Where in the case of a bank or corporation any amount is excluded from gross income under Section 6 (b) (5) on account of the discharge of indebtedness the whole or a part of

the amount so excluded from gross income shall be applied in a reduction of the basis of any property held (whether before or after the time of the discharge) by the taxpayer during any portion of the income year in which such discharge occurred. The amount tc be so applied (not in excess of the amount so excluded from gross income, reduced by the amount of any deduction disallowed under Section 6 (b) (5)) and the particular properties to which the reduction shall be allocated, shall be determined under regulations (prescribed by the commissioner) in effect at the time of the filing of the consent by the taxpayer referred to in Section 6 (b) (5). The reduction shall be made as of the first day of the income year in which the discharge occurred except in the case of property not held by the taxpayer on such first day, in which case it shall take effect as of the time the holding of the taxpayer began.

Leased property

(c) Neither the basis nor the adjusted basis of any portion of real property shall, in the case of the lessor of such property, be increased or diminished on account of income derived by the lessor in respect of such property and excludible from gross income under Section 6 (b) (3). If an amount representing any part of the value of real property attributable to buildings erected or other improvements made by a lessee in respect of such property was included in gross income of the lessor for any income year beginning before January 1, 1942, the basis of each portion of such property shall be properly adjusted for the amount so included in gross income.

Stats 1943, Ch 37

SEC. 15. Section 24 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows:

Interest and additions to tax Failure to file return

Sec. 24. (a) If any taxpayer fails to make and file a return required by this act on or before the due date of the return or the due date as extended by the commissioner, then, unless it is shown that such failure is due to reasonable cause and not due to wilful neglect, 5 per centum of the tax shall be added to the tax for each 30 days or fraction thereof elapsing between the due date of the return and the date on which filed, but the total addition shall not exceed 25 per centum of the tax. The amount so added to the tax shall be due and payable upon notice and demand from the commissioner.

If any taxpayer, upon notice and demand by the commissioner, fails or refuses to make and file a return required by this act, the commissioner is authorized to make an estimate of the net income and to compute and levy the amount of the tax due under this act from any available information, and in such case 25 per centum of the tax (in addition to the amounts added under the provisions of the preceding paragraph of this subsection) shall be added to the tax and shall be due and payable upon notice and demand from the commissioner.

If any bank or corporation fails or refuses to furnish any information as requested in writing by the commissioner, the commissioner may add a penalty of 25 per centum of the

amount of any additional tax assessed by the commissioner concerning the determination of which such information was required.

(b) If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations but without intent to defraud, 5 per centum of the total amount of the deficiency (in addition to such deficiency and other additions provided in this section) shall be assessed, collected and paid in the same manner as if it were a deficiency.

If any part of any deficiency is due to fraud with intent to evade tax, then 50 per centum of the total amount of the deficiency (in addition to such deficiency and other additions provided in this section) shall be assessed, collected and paid in the same manner as if it were a deficiency.

Failure to pay tax

(c) If the tax imposed by this act (whether determined by the commissioner or the taxpayer) or any installment or portion thereof is not paid on or before the date prescribed for its payment, there shall be collected as a part of the tax interest upon such unpaid amount at the rate of 6 per centum per year from the date prescribed for its payment until it is paid.

Extension of time

If the time for the payment of the tax or any installment thereof is extended by the commissioner, or if collection of a jeopardy assessment is stayed under Section 24.1 of this act, there shall be collected as part of such tax interest thereon at the rate of 6 per centum a year from the date upon which such payment should have been made if no extension had been granted or collection had not been stayed until the date the tax is paid.

Interest upon the amount determined as a deficiency shall be assessed and paid at the same time as the deficiency at the rate of 6 per centum per year from the date prescribed for the payment of the tax (or, if the tax is paid in installments, from the date prescribed for the payment of the first installment) to the date the deficiency is assessed; provided, however, if any portion of the deficiency is paid prior to the date it is assessed, interest shall accrue on such portion only to the date paid.

Where a deficiency, or any interest or additional amounts assessed in connection therewith, or any addition to the tax in case of delinquency provided for in subsection (a) of this section, is not paid in full within 10 days from the date of notice and demand from the commissioner, there shall be collected as a part of the tax, interest upon the unpaid amount at the rate of 6 per centum a year from the date of such notice and demand until it is paid.

Credit for overpayment

(d) When the correction of an erroneous inclusion or deduction of an item in the computation of income of any year results in an overpayment for one year and a deficiency for another year, the overpayment, if the period within which credit for the overpayment may be allowed has not expired, shall be credited on the deficiency, if the period within

which the deficiency may be proposed has not expired, and the balance, if any, shall be credited or refunded as provided in Section 27. No interest shall be assessed on such portion of the deficiency as is extinguished by the credit for the period of time subsequent to the date the overpayment was made.

Notwithstanding the provisions of Section 27, no interest shall in any case be allowed on any overpayment to the extent credited on deficiencies pursuant to the provisions of this section.

New section

SEC. 16. Section 24.1 is hereby added to the Bank and Corporation Franchise Tax Act:

Jeopardy assessment

Sec. 24.1. (a) If the commissioner finds that the assessment or the collection of a tax or a deficiency for any year, current or past, will be jeopardized in whole or in part by delay, he may mail or issue notice of such finding to the taxpayer, together with a demand for immediate payment of the tax or the deficiency declared to be in jeopardy (including interest, penalties and additions thereto). In the case of a tax for a current period, the commissioner may declare the income period of the taxpayer immediately terminated and shall cause notice of such finding and declaration to be mailed or issued to the taxpayer, together with a demand for immediate payment of the tax based on the period declared terminated, including therein income accrued and deductions incurred up to such date of termination if not otherwise properly includible or deductible in respect of such period, and such tax shall be immediately due and payable whether or not the time otherwise allowed by law for filing the return and paying the tax has expired.

Collection

(b) The jeopardy assessments provided for in this section shall be immediately due and payable and proceedings for collection may be commenced at once; provided, that the taxpayer may stay collection and prevent the jeopardy assessment from becoming final by filing, within 10 days after the date of mailing or issuing the notice of jeopardy assessment, a petition for reassessment, accompanied by a bond or other security in such amount as the commissioner may deem necessary, not exceeding double the amount (including interest, penalties, and additions thereto) as to which the stay is desired. The commissioner shall consider such petition for reassessment, and notify the taxpayer of his decision thereon, which decision shall be final. If the taxpayer has so requested in its petition, it shall be the duty of the commissioner to grant said taxpayer, or its authorized representative, an oral hearing. If petition for reassessment, accompanied by bond or other security, is not filed within the 10-day period, the assessment shall become final.

Petition for reassessment

Oral hearing

Finding of commissioner

(c) In any proceedings brought to enforce payment of taxes made due and payable by virtue of the provisions of this section, the finding of the commissioner, made as herein provided, whether made after notice to the taxpayer or not, shall be for all purposes presumptive evidence that the assessment

or collection of the tax or the deficiency was in jeopardy. A certificate of the commissioner of the mailing or issuing the notices specified in this section shall be presumptive evidence that such notices were mailed or issued.

SEC. 17. Section 25 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows: Stats. 1943, Ch 37

Sec. 25. As soon as practicable after the return is filed, the commissioner shall examine it and shall determine the correct amount of the tax. If the commissioner determines that the tax disclosed by the original return is less than the tax disclosed by his examination he shall mail notice or notices to the taxpayer at its post-office address (which must appear on its return) of the additional tax proposed to be assessed against it. Each notice shall set forth the details of the proposed additional assessment and of computing said tax. Additional tax. Notice

Within 60 days after the mailing of said notice the taxpayer may file with the commissioner a written protest against the levy of the proposed additional tax, as computed by the commissioner, specifying therein the grounds upon which the protest is based. The protest must be under oath. Protest

If no such protest is so filed the amount of the tax shall be final upon the expiration of said 60-day period. If a protest is so filed it shall be the duty of the commissioner to reconsider the computation and levy of the tax complained of, and if the taxpayer has so requested in its protest, it shall be the duty of the commissioner to grant said taxpayer, or its authorized representatives, an oral hearing. After consideration of the protest and the evidence adduced in the event of such oral hearing, the commissioner's action upon the protest shall be final upon the expiration of 30 days from the date when he mails to the taxpayer notice of his action, unless within that 30-day period the taxpayer appeals in writing from the action of the commissioner to the State Board of Equalization. The appeal must be addressed and mailed to the State Board of Equalization at Sacramento, and a copy of the appeal addressed and mailed at the same time to the commissioner at Sacramento. Said board shall hear and determine the same and thereafter shall forthwith notify the taxpayer and the commissioner of its determination, and the reasons therefor. Such determination shall be final upon the expiration of 30 days from the time of such determination unless within such 30-day period the taxpayer or the commissioner files a petition for rehearing with said board, in which event the board's determination shall not become final until the expiration of 30 days from the time the board issues its opinion on said petition. Hearing, etc. Appeal

When a deficiency has been determined and the tax has become final under the provisions of this section, the commissioner shall mail notice and demand to the taxpayer for the payment thereof, and such tax shall be due and payable at the expiration of 10 days from the date of such notice and demand. Notice and demand

Certificate of commissioner

A certificate by the commissioner or of said board, as the case may be, of the mailing of the notices specified in this section shall be prima facie evidence of the computation and levy of the deficiency in tax and of the giving of said notices.

Limitation

Except in the case of a fraudulent return, every notice of additional tax proposed to be assessed hereunder shall be mailed to the taxpayer within four years after the return was filed and no deficiency shall be assessed or collected with respect to the year for which such return was filed unless such notice is mailed within such period; provided, that in the case of any taxpayer which shall agree with the United States Commissioner of Internal Revenue for an extension (or renewals thereof) of the period for proposing and assessing deficiencies in Federal income tax for any year, the period for mailing notices of proposed deficiency tax pursuant to this section shall (unless otherwise agreed between the commissioner and the taxpayer) be four years after the return was filed or six months after the date of the expiration of the agreed period for assessing deficiencies in Federal income tax, whichever period expires the later. For the purposes of this paragraph a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

Extension of assessment period

Where, before the expiration of the time prescribed in this section for the assessment of the tax, the taxpayer has consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

Excess tax due to mathematical error

Any amount of tax in excess of that disclosed by the return, due to a mathematical error, notice of which has been mailed to the taxpayer, shall not be considered a deficiency assessment within the meaning of this section. The taxpayer shall have no right of protest or appeal as herein provided, based on such notice, nor shall such assessment or collection be prohibited by any of the provisions of this section.

Bankruptcy of taxpayer

Upon the adjudication of bankruptcy of any taxpayer in any bankruptcy proceeding or the appointment of a receiver for any taxpayer in any receivership proceeding before any court of the United States or of any State or Territory or of the District of Columbia, any deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) determined by the commissioner in respect of a tax imposed by this act upon such taxpayer may be immediately assessed. In such cases the trustee in bankruptcy or receiver shall give notice in writing to the commissioner of the adjudication of bankruptcy or the appointment of the receiver, and the running of the statute of limitations on the making of assessments shall be suspended for the period from the date of adjudication in bankruptcy or the appointment of the receiver to a date 30 days after the date upon which the notice from the trustee or receiver is received by the commissioner;

but the suspension under this sentence shall in no case be for a period in excess of two years. Claims for the deficiency and such interest, additional amounts and additions to the tax may be presented, for adjudication in accordance with law, to the court before which the bankruptcy or receivership proceeding is pending, despite the pendency of proceedings for the redetermination of the deficiency in pursuance of a petition to the State Board of Equalization but no petition for any such redetermination shall be filed with said board after the adjudication of bankruptcy or the appointment of the receiver. Any portion of the claim allowed in such bankruptcy or receivership proceeding which is unpaid shall be paid by the taxpayer upon notice and demand from the commissioner after determination of such proceeding and may be collected in the manner provided in this act for the collection of delinquent taxes at any time within six years after termination of such proceeding.

SEC. 18. Section 25.1 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows: Stats 1943, Ch 37

Sec. 25.1. (a) The commissioner may, by regulation, require any bank, corporation or person including any officer or department of the State or any political subdivision or agency of the State to withhold from payments of interest (other than interest coupons payable to bearer), dividends, rent, prizes, winnings, and compensation for personal services, including bonuses, a percentage equal to the rate of tax measured by income imposed by this act on the payee and to transmit the amounts withheld to the commissioner at such time as he may designate. Any bank, corporation or person failing to withhold from any payments and transmit to the commissioner any amounts required by the commissioner pursuant to this paragraph to be withheld and transmitted shall be liable for any taxes due from the taxpayer to which such payments are made for the year in which made to an extent not in excess of the amounts required to be withheld, unless it is shown that such failure was due to reasonable cause. Withholding and payment at source

(b) The commissioner may by notice served personally or by registered mail require any bank, corporation or person, including any officer or department of the State or any political subdivision or agency of the State, to withhold from any payments of any nature to any taxpayer the amount of any tax, interest or penalties due from the taxpayer under this act and to transmit the amount withheld to the commissioner at such times as he may designate. Any bank, corporation or person failing to withhold the tax due from any taxpayer and transmit the same to the commissioner as required by the commissioner pursuant to this paragraph shall be liable for such tax.

(c) Any bank, corporation or person required to withhold and transmit any amount pursuant to this section must comply with such requirement without resort to any legal or equitable action in a court of law or equity, and any bank,

corporation or person paying to the commissioner any amount required by him to be paid pursuant to subsections (a) and (b) of this section shall not be liable therefor to the taxpayer from which withheld unless the amount withheld is refunded to the withholding agent. The foregoing sentence shall not be construed as a limitation upon the right of said bank, corporation or person to file an action in interpleader when a bona fide dispute has arisen as to priority of lien between the tax levied under this act and that of a Federal taxing agency.

(d) Any taxpayer from which a tax has been collected by withholding under this section shall be entitled to the remedies set forth in Sections 27 and 30 of this act; provided, however, that any refund of such tax under Section 27 shall be made to the withholding agent instead of directly to the taxpayer, if requested in writing by the withholding agent at the time the amounts refundable were transmitted to the commissioner.

Stats 1943, Ch 37

SEC. 19. Section 27 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows:

Credits and refunds

Sec. 27. If, in the opinion of the commissioner, or the State Board of Equalization, as the case may be, there has been an overpayment of tax, penalty or interest by a taxpayer for any year for any reason, the amount of such overpayment shall be credited against any taxes then due from the taxpayer under this act, and the balance shall be refunded to the taxpayer or its successor through reorganization, merger, or consolidation, or to stockholders upon dissolution. No such credit or refund shall be allowed or made until approved by the State Board of Control. No such credit or refund shall be allowed or made after four years from the last day prescribed for filing the return or after one year from the date of the overpayment, whichever period expires the later, unless before the expiration of such period a claim therefor is filed by the taxpayer, or unless before the expiration of such period the commissioner has certified the overpayment to the State Board of Control for approval of the refunding or the crediting thereof. If (a), the taxpayer has, within the period prescribed in the preceding sentence, agreed in writing, under the provisions of Section 25, to extend the time within which the commissioner may propose an additional assessment, or (b) if the taxpayer has agreed with the United States Commissioner of Internal Revenue for an extension (or renewals thereof) of the period for proposing and assessing deficiencies in Federal income tax for any year, the period within which a claim for credit or refund may be filed, or credit or refund allowed or made if no claim is filed, shall be the period within which the commissioner may make an assessment under such circumstances, except that the provisions of the preceding sentence shall apply to any claim filed, or credit or refund allowed or made, before the execution of such agreements. Insofar as the claim for credit or refund relates to an overpayment on account of the deductibility under Section

Claim

Extension agreement

8 (e) of a debt as one which became worthless, or an erroneous inclusion of an amount attributable to the recovery of a bad debt, prior tax or delinquency amount under Section 6 (b) (4), due to an adjustment of a bad debt deduction under Section 8 (e), in lieu of the period of limitation prescribed in the second preceding sentence, the period shall be seven years from the date prescribed by law for filing the return for the year with respect to which the claim is made. A refund claim upon which action has become final shall not thereafter be considered a refund claim within the meaning of the foregoing provision except to the extent allowed. Every claim for refund must be in writing under oath and must state the specific grounds upon which the claim is founded.

Disallowance

If the commissioner disallows any claim for refund, he shall notify the taxpayer accordingly. At the expiration of 90 days from the mailing of such notice, the commissioner's action upon the claim shall be final unless within such 90-day period, the taxpayer appeals in writing from the action of the commissioner to the State Board of Equalization. If the commissioner fails to mail notice of action on any refund claim within six months after the claim was filed, the taxpayer may, prior to mailing of notice of action on the refund claim, consider the claim disallowed and appeal to said board. Appeals must be addressed and mailed to the State Board of Equalization at Sacramento, and a copy of the appeal addressed and mailed at the same time to the commissioner at Sacramento.

Appeal

Hearing and determination

Said board shall hear and determine the same and thereafter shall forthwith notify the taxpayer and the commissioner of its determination. Such determination shall be final upon the expiration of 30 days from the time of such determination unless within such 30-day period the taxpayer or the commissioner files a petition for rehearing with said board, in which event the board's determination shall not become final until the expiration of 30 days from the time the board issues its opinion on said petition.

Rehearing

Interest

Interest shall be allowed and paid upon any overpayment of any tax, if the overpayment was not made because of an error or mistake on the part of the taxpayer, at the rate of 6 per centum per annum as follows:

(1) In the case of a credit, from the date of the overpayment to the date of the allowance of the credit. Any interest allowed on any credit shall first be credited on any taxes due from the taxpayer under this act.

(2) In the case of a refund, from the date of the overpayment to a date preceding the date of the refund warrant by not more than 30 days, such date to be determined by the commissioner.

Recovery of erroneous refunds

Any refund or any portion thereof which is erroneously made, and any credit or any portion thereof which is erroneously allowed, may be recovered, together with interest at the rate of 6 per centum per annum from the date the refund was made or the credit allowed, in an action brought by the

commissioner in a court of competent jurisdiction in the County of Sacramento in the name of the people of the State of California, and such actions shall be tried in the County of Sacramento, unless the court, with the consent of the Attorney General or the counsel for the commissioner, orders a change of place of trial. The Attorney General or the counsel for the commissioner must prosecute such action, and the provisions of the Code of Civil Procedure, relating to service of summons, pleadings, proofs, trials, and appeals are applicable to the proceedings herein provided for.

Tax illegally levied

In the event that a tax has been illegally levied against a taxpayer, the commissioner shall set forth on his records the reasons therefor and thereafter shall authorize the cancellation of such tax.

Stats 1943, Ch 37

SEC. 20. Section 28 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows:

Failure to file return, etc.

Sec. 28. If any taxpayer files a false or fraudulent return, or fails or neglects to file a return, with intent to evade tax, the commissioner, at any time, may require a return, or a supplementary return, under oath, or may make an estimate of the net income from any available information, and may compute and levy the amount of tax, interest and penalties due under this act. All the provisions of this act (not in conflict herewith) relative to delinquent taxes shall be applicable to the tax, interest and penalties computed hereunder. A proceeding in court for the collection of the tax, interest and penalties provided for in this section may be begun without assessment at any time.

Stats. 1943, Ch 37

SEC. 21. Section 29 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows:

Tax lien

Sec. 29. (a) The taxes imposed by this act and disclosed on the return shall constitute a lien upon the real property of the taxpayer, which lien shall have the same force, effect and priority as a judgment lien and shall attach on the last day of the "income year," except that in the case of a bank or corporation incorporated under the laws of this State or a foreign bank or corporation qualified to do business within the limits of this State, after the effective date of this amendment, the lien of taxes for the first taxable year of such a bank or corporation shall attach at the time of such incorporation or qualification. The taxes imposed by this act and determined pursuant to Sections 16, 25 or 28 shall constitute a lien upon all real property of the taxpayer located in any county in which there is filed for record in the office of the county recorder a certificate executed by the commissioner stating that payment of a tax determined under the provisions of Sections 16, 25 or 28 of this act has been demanded and has not been paid and specifying the amount thereof and the name of the taxpayer, and such lien shall attach at the time the certificate is recorded and shall have the same force, effect and priority as a judgment lien. The lien provided for in this section shall remain until the taxes are paid or the property

subject to the lien is sold for the payment thereof, or until the lien is released or otherwise extinguished. The commissioner may at any time release all or any portion of the property subject to the lien from the lien or subordinate the lien to other liens if he determines that the taxes are sufficiently secured by a lien on other property of the taxpayer or that the release or subordination of the lien will not endanger or jeopardize the collection of such taxes. A certificate by the commissioner to the effect that any property has been released from the lien herein provided for or that such lien has been subordinated to other liens shall be conclusive evidence that the property has been released or that the lien has been subordinated as provided in the certificate. Release or subordination

(b) No decree of dissolution shall be made and entered by any court, nor shall the county clerk of any county or the Secretary of State file any such decree, or file any other document by which the term of existence of any taxpayer shall be reduced or terminated, nor shall the Secretary of State file any certificate of the surrender by a foreign corporation of its right to do intrastate business in this State unless the taxpayer obtains from the commissioner and files with said court, county clerk or Secretary of State as the case may be, a certificate to the effect the commissioner is satisfied from the available evidence that all taxes imposed by this act have been paid or are secured by bond, deposit or otherwise. Within 30 days after receiving a request for a certificate, the commissioner shall either issue the certificate or notify the person requesting the certificate of the amount of tax that must be paid or the amount of bond, deposit or other security that must be furnished as a condition of issuing the certificate. The issuance of the certificate shall not relieve the taxpayer or any individual, bank, or corporation from liability for any taxes, penalties, or interest imposed by this act. Certificate of tax, payment, etc

SEC. 22. Section 30 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows: Stats 1943, Ch 37

Sec. 30. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against this State or against any officer thereof to prevent or enjoin the assessment or collection of any tax under this act but any taxpayer claiming that the tax computed and levied against it pursuant to Sections 24.1 and 25 of this act is void in whole or in part may bring an action against the commissioner for the recovery of the whole or any part of the amount paid. Such action must be filed within four years from the last date prescribed for filing the return or within one year from the date the tax was paid, whichever period expires the later; provided, that no action shall be filed for the recovery of a deficiency assessment unless the taxpayer has made protest to the commissioner of the computation and levy complained of under the provisions of Section 25 hereof. Action to recover tax paid

Limitation

Within 90 days after the mailing of the notice of the commissioner's action upon any refund claim, or in case of an appeal to the State Board of Equalization from the disallowance of any refund claim, within 90 days after the mailing of the notice of the board's determination of the appeal, the taxpayer may bring an action against the commissioner on the grounds set forth in such claim for the recovery of the whole or any part of the amount claimed as an overpayment.

If the commissioner fails to mail notice of action on any refund claim within six months after the claim was filed, the taxpayer may, prior to mailing of notice of action on the refund claim, consider the claim disallowed and bring an action against the commissioner on the grounds set forth in such claim for the recovery of the whole or any part of the amount claimed as an overpayment.

Service of papers

Whenever under the provisions of this section an action is commenced against the commissioner, a copy of the complaint and the summons must be served upon the commissioner or assistant commissioner. A second copy of the complaint and summons must be furnished to the commissioner, but this requirement shall not be considered jurisdictional. At the time the commissioner demurs or answers, he may demand that the action be tried in the Superior Court of the County of Sacramento, which demand must be granted. The Attorney General or the counsel for the commissioner must defend the action. The provisions of the Code of Civil Procedure, relating to pleadings, proofs, trials, and appeals are applicable to the proceedings herein provided for. A failure to begin such action within the time herein specified shall be a bar against the recovery of such taxes. In any such action the court shall have power to render judgment for plaintiff for any part or portion of the tax, interest, penalties or cost found to be void and so paid by plaintiff upon such assessment.

Substitution

In all actions now pending against the State Treasurer under the provisions of this act, the commissioner shall be substituted for the State Treasurer by the court wherein the action is pending. This substitution shall not in any way affect the rights of the plaintiff in said action.

If judgment is rendered against the commissioner, the amount thereof shall first be credited against any taxes and interest due from the taxpayer under this act and the remainder refunded to the taxpayer or its successor by the State Treasurer on warrant drawn by the Controller.

Interest

In any judgment of any court rendered for any overpayment in respect of any tax imposed by this act, interest shall be allowed at the rate of 6 per centum per annum upon the amount of the overpayment, from the date of the payment or collection thereof to the date of allowance of credit on account of such judgment or to a date preceding the date of the refund warrant by not more than 30 days, such date to be determined by the commissioner.

SEC. 23. Section 31 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows: Stats 1939, p 2934

Sec. 31. At any time within three years after the determination of liability for any tax, penalties, and interest, or any installment thereof, the commissioner may bring an action in a court of competent jurisdiction in the County of Sacramento in the name of the people of the State of California to collect the amount delinquent, together with penalties, and interest, and such action shall be tried in the County of Sacramento unless the court, with the consent of the Attorney General or the counsel for the commissioner, orders a change of place of trial. The Attorney General or the counsel for the commissioner must prosecute such action, and the provisions of the Code of Civil Procedure, relating to service of summons, pleadings, proofs, trials, and appeals are applicable to the proceedings, herein provided for. In such action a writ of attachment may be issued, and no bond or affidavit previous to the issuing of said attachment is required. In such action a certificate by the commissioner showing the delinquency shall be prima facie evidence of the levy of the tax, penalties, and interest, of the delinquency and of compliance by the commissioner and the State Board of Equalization with all the provisions of this act in relation to the computation and levy of the tax. Collection of delinquent taxes. Court action. Certificate of commissioner

At any time within which an action can be brought to collect any delinquent amounts as provided in the preceding paragraph, the commissioner may collect the tax, together with penalties and interest, in the following manner: The commissioner shall seize any personal property owned by the bank or corporation against whom the tax is assessed, and thereafter sell at public auction such property so seized, or a sufficient portion thereof, to pay the tax due hereunder, together with any interest, and any penalty or penalties imposed hereby for such delinquency, and any and all costs that may have been incurred on account of such seizure and sale. Notice of such intended sale and the time and place thereof, shall be given to such delinquent bank or corporation and to all persons appearing of record to have an interest in such property, in writing at least 10 days before the date set for such sale by inclosing such notice in an envelope addressed to said bank or corporation at its last known place of business in this State if any, and, in the case of any person appearing of record to have an interest in such property, addressed to such person at the last known place of residence, if any, and depositing the same in the United States mail, postage prepaid, and by publication for at least 10 days before the date set for such sale in a newspaper of general circulation published in the county or city and county in which the property seized is to be sold; provided, however, that if there be no newspaper of general circulation in such county or city and county, then by the posting of such notice in three public places in such county or city and county for said 10-day period. The said Seizure and sale of property. Notice of sale

notice shall contain a description of the property to be sold, together with a statement of the amount of the taxes, nterest, penalties and costs, the name of the bank or corporation, and the further statement that, unless such taxes, interest, penalties and costs are paid on or before the time fixed in said notice for such sale, said property, or so much thereof as may be necessary, will be sold in accordance with law and said notice.

Liability of person other than taxpayer

The taxes imposed by this act upon any taxpayer for which any bank, corporation or person other than the taxpayer is liable, at law or in equity, may be assessed against such bank, corporation or person in the same manner as is provided in Section 25 for the assessment of deficiencies and may be assessed at any time within which deficiency assessments may be made against the taxpayer. The provisions of this section and other provisions of this act respecting the collection of taxes shall apply to the collection of such taxes from such bank, corporation or person to the same extent and with the same force and effect as though such bank, corporation or person were the taxpayer.

Disposition of proceeds of sale, etc.

At any such sale, the property shall be sold by said commissioner or his duly authorized agent in accordance with law and said notice, and the commissioner shall deliver to the purchaser a bill of sale for the property so sold and such bill of sale shall vest title in the purchaser. The unsold portion of any property so seized may be left at the place of sale at the risk of said bank or corporation. If, upon any such sale, the moneys so received shall exceed the amount of all taxes, interest, penalties and costs due the State from such bank or corporation, any such excess shall be returned to the bank or corporation and a receipt therefor obtained; provided, however, that if any person having an interest in or lien upon the property has filed with the commissioner prior to any such sale notice of such interest or lien the commissioner shall withhold any such excess pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction.

If, for any reason, the receipt of such bank or corporation shall not be available, the commissioner shall deposit such excess moneys with the State Treasurer, as trustee for such owner, subject to the order of such bank or corporation or its successor through reorganization, merger, or consolidation, or its stockholders upon dissolution.

Action in Federal or foreign court

The commissioner may bring an appropriate action (whether in the form of a common law action of debt or indebitatus assumpsit, or a code or other action), in any court of competent jurisdiction in the United States or in a foreign country, in the name of the people of the State of California, to recover the amount of any taxes and interest due under this act. The Attorney General of this State, or the counsel for the commissioner must prosecute such action.

Remedies cumulative

It is expressly provided that the foregoing remedies of the State shall be cumulative and that no action taken by the com-

missioner shall be or be construed to be an election on the part of the State or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy for which provision is made in this act.

SEC. 24. Section 32 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows: Stats 1943, Ch 37

Sec. 32. (a) If any tax, or any portion thereof, together with penalties, and interest thereon, which is due and payable either at the time the return is required to be filed or on or before the fifteenth day of the ninth month following the close of the income year, is not paid on or before six o'clock p.m. on the last day of the twelfth month after the close of the income year or if any tax due and payable upon notice and demand from the commissioner, together with penalties and interest thereon, is not paid on or before six o'clock p.m. on the last day of the eleventh month following the due date of such tax, except in case of jeopardy or fraud assessments, in which case, if such tax, interest and penalties are not paid within 40 days from the date such tax, penalties and interest are due and payable (unless the bond required by this act is filed to stay the collection of such tax, penalties and interest and such tax, interest and penalties are paid within 60 days after notice by the commissioner on taxpayer's petition for reassessment), the corporate powers, rights and privileges of the delinquent taxpayer, if it be a domestic bank or corporation, shall be suspended and shall be incapable of being exercised for any purpose or in any manner except for the purpose of amending the articles of incorporation to set forth a new name; if the delinquent taxpayer be a foreign bank or corporation the right to exercise its corporate powers, rights and privileges in this State shall be forfeited. Suspension of corporate powers

(b) The commissioner shall transmit the name of each such bank or corporation to the Secretary of State, and the suspension or forfeiture herein provided for shall thereupon become effective and the certificate of the Secretary of State shall be prima facie evidence of such suspension or forfeiture.

(c) Any person who attempts or purports to exercise any of the rights, privileges or powers of any such domestic bank or corporation, except as hereinabove permitted, or who transacts or attempts to transact any intrastate business in the State in behalf of any such foreign bank or corporation shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than two hundred fifty dollars ($250) and not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not less than 50 days or more than 500 days, or by both such fine and imprisonment. The jurisdiction of such offense shall be held to be in any county in which any part of such attempted exercise of such powers, or any part of such transaction of business occurred, and the district attorney of the county must prosecute such offense. In addition to the penal provisions in this paragraph, any bank or corporation which transacts business Penalty for transacting business

during the period of suspension or forfeiture shall be subject to tax under the provisions of this act.

Contract: (d) Every contract made in violation of this section is hereby declared to be voidable, at the instance of any party other than the taxpayer.

Stats 1913, Ch 37 SEC. 25. Section 35 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows:

Unlawful to divulge information Sec. 35. (a) Except in accordance with proper judicial order in cases or actions instituted for the enforcement of the provisions of this act or for the prosecution of violations of this act and except as otherwise herein provided, it shall be unlawful for the commissioner, any deputy, agent, clerk or other officer or employee, to divulge or make known in any manner the amount of income or any particulars relating to the business affairs of the bank or corporation set forth or disclosed in any report or return required under this act;

Exception provided, however, that such information may upon request of a committee appointed by either the Assembly or the Senate be furnished to such committee, but it shall be unlawful for such committee or any member, clerk or other officer or employee thereof to divulge or make known in any manner any particulars of the information so furnished except to law enforcement officers for the purpose of aiding the detection or prosecution of crimes committed in violation of this

Publication of statistics, etc. act. Nothing herein shall be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular reports or returns and the items thereof, or the publication of the percentage of dividends paid by any bank or corporation which is deductible by the recipients thereof under the provisions of this act or the Corporation Income Tax Act, or the inspection by the Attorney General or other legal representatives of the State, of the report or return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted to recover any tax or any

Preservation of returns penalty imposed by this act. Reports and returns shall be preserved for four years and thereafter until the commissioner orders them to be destroyed.

"Business affairs" The term "business affairs," as herein used, means the details relative to the business activities of the corporation as disclosed by the return but shall exclude extraneous matters, such as the exact corporate title, corporate number, the date of commencement of business in this State, taxable year adopted, filing date of return, name, date and title of persons signing affidavit to the return, due date of taxes, taxes unpaid, taxpayer's address, private address of officers and directors.

Penalty (b) Any offense against this section shall be a misdemeanor.

Inspection by Federal and other tax agencies (c) Notwithstanding the provisions of subsection (a), the commissioner may permit the Commissioner of Internal Revenue of the United States, or other tax officials of this State, or the proper officer of any State imposing an income tax or tax measured by income, or the authorized representative of either

such officer, to inspect the returns of any bank or corporation, or may furnish to such officer or his authorized representative an abstract of the return of income of any taxpayer or supply him with information concerning any item of income contained in any return, or disclosed by the report of any investigation of the income or return of income of any taxpayer; but such permission shall be granted or such information furnished to such officer or his representative, only if the statutes of the United States or of such other State, as the case may be, grant substantially similar privileges to the proper officer of this State charged with the administration of this act. The information furnished or secured pursuant to this subsection shall be used solely for the purposes of administering the tax acts administered by the person or agency obtaining it, and unwarranted disclosures or uses of such information by such person or agency, or the employees or officers thereof, shall be subject to the penalty provisions of this section.

Charge

(d) Whenever under this act, or any act heretofore or hereafter enacted, the commissioner is permitted or required to disclose information, or furnish abstracts, or permit access to his records to, or by any official, department, bureau, or agency of this State (including its political subdivisions), or any other State, or the United States, he may charge such official, department, bureau or agency for the reasonable cost of such services.

Constitutionality

SEC. 26. If any section, subsection, clause, sentence or phrase of this act which is reasonably separable from the remaining portions of this act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed the remaining portions of this act, irrespective of the fact that any such section, subsection, clause, sentence or phrase of this act be declared unconstitutional.

Tax levy

SEC. 27. (a) This act, inasmuch as it provides for a tax levy for the usual current expenses of the State, shall under the provisions of Section 1 of Article IV of the Constitution, take effect immediately. Except as hereinafter provided in subsection (b), (c), (d) and (e), the provisions of this act effecting changes in the computation of taxes shall be applied only in the computation of taxes measured by income for income years beginning after December 31, 1942, and the remaining provisions of this act shall become effective on the effective date of this act. Provisions effecting changes in the computation of taxes shall include those affecting income, deductions, rates, methods of calculating tax, exclusions, exemptions and credits.

Application of provisions

(b) The provisions of this act adding Sections 6 (b) (4) and 9.1, subsections 8 (a) (1), 17 (2), 20 (k), and amending subsections 21 (a) (relating to assumption of liability by a transferee), 20 (b) and 20 (g) of the Bank and Corporation Franchise Tax Act shall be retroactive.

(c) The provisions of this act adding subsections 8.1 of the Bank and Corporation Franchise Tax Act shall be applicable in the computation of income for income years ending after December 6, 1941.

(d) The provisions of this act amending subsection 8 (f) and 21 (b) (1) (B) of the Bank and Corporation Franchise Tax Act shall be applicable in computation of income for income years ending after October 6, 1940.

(e) The provisions of this act adding subsection 8 (p) (1) shall be applicable only in the computation of income for income years beginning after December 31, 1942, except that

(1) In the case of a stock bonus, pension, profit-sharing, or annuity plan in effect on or before September 1, 1943,

(A) Such a plan shall not become subject to the requirements of Section 12 (f) (1) (C) (D) (E) (F) of The Personal Income Tax Act until the beginning of the first income year beginning after December 31, 1943,

(B) Such a plan shall be considered as satisfying the requirements of Section 12 (f) (1) (C) (D) (E) (F) of The Personal Income Tax Act for the period beginning with the beginning of the first income year following December 31, 1943, and ending December 31, 1944, if the plan satisfies such requirements by December 31, 1944,

(C) If the contribution of an employer to such a plan in the employer's income year beginning in 1943 exceeds the maximum amount deductible for such year under Section 8 (p) (1), the amount deductible in such year shall be not less than the sum of—

(i) The amount paid in such income year prior to September 1, 1943, and deductible under Section 8 (a),

(ii) With respect to the amount paid in such income year on or after September 1, 1943, that proportion of the amount which the number of months after August 31, 1943, in the income year bears to 12.

(2) In the case of a stock bonus, pension, profit-sharing or annuity plan put into effect after September 1, 1943, such a plan shall be considered as satisfying the requirements of Section 12 (f) (1) (C) (D) (E) and (F) of The Personal Income Tax Act for the period beginning with the date such plan is put into effect and ending December 31, 1944, if the plan satisfies such requirements by December 31, 1944.

CHAPTER 353

An act to amend Sections 2, 7, 7.1, 8, 9, 9.2, 9.3, 9.4, 9.5, 10, 12, 13, 16, 19 and 20 of, and to add four new sections to be numbered 7.2, 8.1, 8.3 and 34.2 to, The Personal Income Tax Act and to repeal Sections 17054, 17155, 17303, 17818, 17819, 17820 and 18156 of, and to amend Sections 17126, 17127, 17154, 17159, 17211, 17213, 17310, 17311, 17313, 17316, 17351, 17503, 17506, 17560, 17562, 17563, 17672, 17673, 17711, 17713, 17743, 17744, 17782, 17783, 17813, 17817, 17952, 18133, 18135, 18431, 18596, and 19061 of, and to add Chapter 3.5 consisting of Sections 17250 to 17257, inclusive, to Part 10 of Division 2 of, and Article 1.5, consisting of Sections 17324 to 17324.16, inclusive, to Chapter 4 of Part 10 of Division 2 of, and Article 1.7, consisting of Sections 17325 to 17350, inclusive, to Chapter 4 of Part 10 of Division 2 of, and Article 1.5, consisting of Sections 17507 to 17516, inclusive, to Chapter 5 of Part 10 of Division 2 of, and Article 4, consisting of Sections 18470 to 18479, inclusive, to Chapter 10 of Part 10 of Division 2 of, and Sections 17019.3, 17019.5, 17019.7, 17055, 17056, 17057, 17104, 17105, 17106, 17107, 17125.3, 17125.5, 17125.7, 17131, 17132, 17133, 17134, 17135, 17136, 17163.5, 17302.5, 17305.5, 17317.5, 17318.05, 17318.1, 17318.2, 17318.3, 17318.4, 17318.5, 17318.7, 17319, 17319.3, 17319 5, 17320, 17320.3, 17320.5, 17320.7, 17321, 17321 3, 17321.5, 17321.7, 17322, 17322.3, 17322.5, 17322.7, 17322.9, 17322.11, 17357, 17560.3, 17560.5, 17560.7, 17560.9, 17567, 17568, 17569, 17716.5, 17721, 17722, 17723, 17724, 17784.5, 17787, 18156, 18157, 18158, 18159, 18160, 18161, 18162, 18163, 18164, 18172.3, 18172.5, 18172.7, 19053.3, 19053.5, and 19053.7 to, the Revenue and Taxation Code, relating to taxes upon the incomes of individuals, estates and trusts and to provide that this act shall take effect immediately.

Stats 1935, p 1090, amended

Stats. 1939, p 1274, amended

[Approved by Governor May 7, 1943. Filed with Secretary of State May 7, 1943.]

In effect immediately

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

SECTION 1. Section 2 of The Personal Income Tax Act is hereby amended as follows:

Stats 1941, p 3220 See also Stats 1943, Ch 659

Sec. 2. For the purposes of this act and unless otherwise required by the context—

Definitions

(a) The word "commissioner" as used in this act and the word "commissioner" as used in the "Revenue Act of 1936," when any part of that act is incorporated herein by reference, mean the Bank and Corporation Franchise Tax Commissioner

(b) The word "taxpayer" includes any individual, fiduciary, estate, or trust subject to the tax imposed by this act.

(c) The word "individual" means a natural person.

(d) The word "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person,

whether individual or corporate, acting in any fiduciary capacity for any person, estate or trust.

(e) The word "person" includes individuals, fiduciaries, partnerships and corporations.

(f) The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this act, a trust or estate or a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture, or organization.

(g) The word "corporation" includes joint-stock companies or associations, insurance companies, business trusts or so-called "Massachusetts trusts."

(h) The words "taxable year" mean the calendar year or the fiscal year, upon the basis of which the net income is computed under this act; if no fiscal year has been established they mean the calendar year.

"Taxable year" includes, in the case of a return made for a fractional part of a year under the provisions of this act or under regulations prescribed by the commissioner, the period for which such return is made.

(i) The words "fiscal year" mean an accounting period of 12 months ending on the last day of any month other than December.

(j) The words "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed under this act

(k) Every natural person who is in the State of California for other than a temporary or transitory purpose is a resident and every natural person domiciled within this State is a resident unless he is a resident within the meaning of that term as herein defined of some other State, Territory or country. A natural person who is domiciled outside of this State is not a resident despite the fact that he is in this State for other than a temporary or transitory purpose if he was incompetent at the time he came into this State, and this fact is evidenced by a legal adjudication of incompetency either before or after he came into this State, and has remained incompetent during his sojourn in this State. Every natural person who spends in the aggregate more than nine months of the taxable year within the State or maintains a permanent place of abode within this State shall be presumed to be a resident. The presumption may be overcome by satisfactory evidence that such person is in the State for a temporary or transitory purpose. Any natural person who is or shall become a resident of this State shall continue to be a resident even though temporarily absent from the State. Every natural person other than a resident is a nonresident.

(*l*) The words "foreign country" mean any jurisdiction other than one embraced within the United States. The words "United States," when used in a geographical sense, include

the States, the Territories of Alaska and Hawaii, the District of Columbia and the possessions of the United States. The word "State" shall include the Territories of Alaska and Hawaii, the District of Columbia, and the possessions of the United States.

(m) The words "Revenue Act of 1936" mean the act of Congress of the United States, approved June 22, 1936, and known and cited as the "Revenue Act of 1936."

(n) The words "trade or business" include the performance of the functions of a public office.

(o) The words "State board" mean the State Board of Equalization.

(p) As used in Sections 7 (k), 8 (o), 10 (b), and 12 (j), if the husband and wife therein referred to are divorced, wherever appropriate to the meaning of such sections, the term "wife" shall be read "former wife" and the term "husband" shall be read "former husband"; and, if the payments described in such sections are made by or on behalf of the wife or former wife to the husband or former husband instead of vice versa, wherever appropriate to the meaning of such sections, the term "husband" shall be read "wife" and the term "wife" shall be read "husband."

(q) The term "military or naval forces of the United States" includes the Marine Corps, the Coast Guard, the Army Nurse Corps, Female, the Women's Army Auxiliary Corps, the Navy Nurse Corps, Female, and the Women's Reserve branch of the Naval Reserve.

(r) The term "counsel for the commissioner," as used in Sections 20, 21 and 30 of this act and the term "Franchise Tax Counsel" as used in Section 28 of this act, mean attorney or attorneys appointed or employed by the commissioner and acting subject to the approval and under the supervision of the Attorney General.

SEC. 2. Section 7 of The Personal Income Tax Act is hereby amended as follows: Stats 1941, p 3042 See also Stats 1943, Ch. 659

Sec. 7. (a) Gross income includes gains, profits, and income derived from salaries, wages, or compensation for personal service, of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce, or sales, or dealings in property, whether real or personal growing out of the ownership or use of or interest in such property; also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatever, and includes any salary, wages or compensation of any officer or employee of this State, or any political subdivision, district or municipality thereof, and any compensation of officers and employees of the United States or agencies or instrumentalities thereof to the extent the collection of State taxes thereon is not prohibited by the terms of the "Public Salary Tax Act of 1939," (it being hereby declared to be the policy of this State to comply with the provisions of said Gross income

act) and all other gains, profits and income which the State may now or hereafter constitutionally tax.

Exclusions: (b) The following items shall not be included in gross income and shall be exempt from taxation under this act:

Life insurance: (1) Amounts received under a life insurance contract paid by reason of the death of the insured, whether in a single sum or otherwise (but if such amounts are held by the insurer under an agreement to pay interest thereon, the interest payments shall be included in gross income);

(2) Amounts received (other than amounts paid by reason of the death of the insured and interest payments on such amounts and other than amounts received as annuities) under a life insurance or endowment contract, but if such amounts (when added to amounts received before the taxable year under such contract) exceed the aggregate premiums or consideration paid (whether or not paid during the taxable year) then the excess shall be included in gross income. Amounts received as an annuity under an annuity or endowment contract shall be included in gross income; except that there shall be excluded from gross income the excess of the amount received in the taxable year over an amount equal to 3 per centum of the aggregate premiums or consideration paid for such annuity (whether or not paid during such year), until the aggregate amount excluded from gross income under this act in respect of such annuity increased by the amount which would have been excluded from gross income in respect of such annuity had this act been in effect continuously from and after the date at which payments under such annuity were first received equals the aggregate premiums or consideration paid for such annuity. In the case of a transfer for a valuable consideration, by assignment or otherwise, of a life insurance, endowment, or annuity contract, or any interest therein, only the actual value of such consideration and the amount of the premiums and other sums subsequently paid by the transferee shall be exempt from taxation under paragraph (1) or this paragraph. This subparagraph and paragraph (1) shall not apply with respect to so much of a payment under a life insurance, endowment, or annuity contract, or any interest therein, as, under Section 7 (k), is includible in gross income.

Annuity contract: If an annuity contract is purchased by an employer for an employee under a plan with respect to which the employer's contribution is deductible under Section 8(m), or if an annuity contract is purchased for an employee by an employer exempt under Section 4 (6) of the Bank and Corporation Franchise Tax Act, or Section 4 of the Corporation Income Tax Act, the employee shall include in his income the amounts received under such contract for the year received except that if the employee paid any of the consideration for the annuity, the annuity shall be included in his income as provided in subparagraph (2) of this paragraph, the consideration for such annuity being considered the amount contributed by the

employee. In all other cases, if the employee's rights under the contract are nonforfeitable except for failure to pay future premiums, the amount contributed by the employer for such annuity contract on or after such rights become nonforfeitable shall be included in the income of the employee in the year in which the amount is contributed, which amount together with any amounts contributed by the employee shall constitute the consideration paid for the annuity contract in determining the amount of the annuity required to be included in the income of the employee under subparagraph (2) of this paragraph.

Gifts

(3) The value of property acquired by gift, bequest, devise, or inheritance. There shall not be excluded from gross income under this paragraph, the income from such property, or, in case the gift, bequest, devise, or inheritance is of income from property, the amount of such income. For the purposes of this paragraph, if, under the terms of the gift, bequest, devise, or inheritance, payment, crediting, or distribution thereof is to be made at intervals, to the extent that it is paid or credited or to be distributed out of income from property, it shall be considered a gift, bequest, devise, or inheritance of income from property;

Accident insurance, etc.

(4) Except in the case of amounts attributable to (and not in excess of) deductions allowed under Section 8 (q) in any prior taxable year, amounts received, through accident or health insurance or under workmen's compensation acts, as compensation for personal injuries or sickness, plus the amount of any damages received whether by suit or agreement on account of such injuries or sickness, and amounts received as a pension, annuity, or similar allowance for personal injuries or sickness resulting from active service in the armed forces of any country;

Rental of minister's home

(5) The rental value of a dwelling house and appurtenances thereof furnished to a minister of the gospel as part of his compensation;

Compensation of foreign country official

(6) Wages, fees, or salary of an employee of a foreign country (including a consular or other officer, or a nondiplomatic representative) received as compensation for official services to such country:

(A) If such employee is not a citizen of the United States; and

(B) If the services are of a character similar to those performed by employees of the United States in foreign countries; and

(C) If the foreign country and political subdivisions thereof do not tax the wages, fees or salaries of employees of the United States performing similar services in such foreign country.

Nontaxable income

(7) Income which this State is prohibited from taxing under the Constitution or laws of the United States of America or under the Constitution of this State.

Value of lessee's improvements

(8) Income, other than rent, derived by a lessor of real property upon the termination of a lease, representing the

value of such property attributable to buildings erected or other improvements made by the lessee.

Bad debts

(9) Income attributable to the recovery during the taxable year of a bad debt, prior tax, or delinquency amount, to the extent of the amount of the recovery exclusion with respect to such debt, tax, or amount. For the purposes of this paragraph:

"Bad debt"

(A) The term "bad debt" means a debt on account of worthlessness or partial worthlessness of which a deduction was allowed for a prior taxable year.

"Prior tax"

(B) The term "prior tax" means a tax on account of which a deduction or credit was allowed for a prior taxable year.

"Delinquency amount"

(C) The term "delinquency amount" means an amount paid or accrued on account of which a deduction or credit was allowed for a prior taxable year and which is attributable to failure to file return with respect to a tax, or pay a tax, within the time required by the law under which the tax is imposed, or to failure to file return with respect to a tax or pay a tax.

"Recovery exclusion"

(D) The term "recovery exclusion," with respect to a bad debt, prior tax, or delinquency amount, means the amount, determined in accordance with regulations prescribed by the commissioner, of the deductions or credits allowed, on account of such bad debt, prior tax, or delinquency amount, which did not result in a reduction of the taxpayer's tax under this act, reduced by the amount excludible in previous taxable years with respect to such debt, tax, or amount under this paragraph.

Inventories

(c) (1) Whenever in the opinion of the commissioner the use of inventories is necessary in order clearly to determine the income of any taxpayer, inventories shall be taken by such taxpayer upon such basis as the commissioner may prescribe as conforming as nearly as may be to the best accounting practice in the trade or business and as most clearly reflecting the income.

Methods

(2) (A) A taxpayer may use the following method (whether or not such method has been prescribed under subdivision (1)) in inventorying goods specified in the application required under paragraph (B): (1) Inventory them at cost; (2) Treat those remaining on hand at the close of the taxable year as being: First, those included in the opening inventory of the taxable year (in the order of acquisition) to the extent thereof, and second, those acquired in the taxable year; and (3) Treat those included in the opening inventory of the taxable year in which such method is first used as having been acquired at the same time and determine their cost by the average cost method.

(B) The method described in paragraph (A) may be used (1) only in inventorying goods (required under subdivision (1) to be inventoried) specified in an application to use such method filed at such time and in such manner as the commissioner may prescribe; and (2) only if the taxpayer establishes

to the satisfaction of the commissioner that the taxpayer has used no procedure other than that specified in (2) and (3) of paragraph (A) in inventorying to ascertain the income, profit, or loss of the first taxable year for which the method described in paragraph (A) is to be used, for the purpose of a report or statement covering such taxable year (i) to shareholders, partners, or other proprietors, or to beneficiaries, or (ii) for credit purposes.

(C) The change to, and the use of, such method shall be in accordance with such regulations as the commissioner may prescribe as necessary in order that the use of such method may clearly reflect income.

(D) In determining income for the taxable year preceding the taxable year for which such method is first used, the closing inventory of such preceding year of the goods specified in such application shall be at cost.

Change in method

(E) If a taxpayer, having complied with paragraph (B), uses the method described in paragraph (A) for any taxable year, then such method shall be used in all subsequent taxable years unless with the approval of the commissioner a change to a different method is authorized; or the commissioner determines that the taxpayer has used for any such subsequent taxable year some procedure other than that specified in (2) of paragraph (A) in inventorying the goods specified in the application to ascertain the income, profit, or loss of such subsequent taxable year for the purpose of a report or statement covering such taxable year (i) to shareholders, partners, or other proprietors, or beneficiaries, or (ii) for credit purposes, and requires a change to a method different from that prescribed in paragraph (A) beginning with such subsequent taxable year or any taxable year thereafter. In either of the above cases, the change to, and the use of, the different method shall be in accordance with such regulations as the commissioner may prescribe as necessary in order that the use of such method may clearly reflect income.

Inventory liquidation

(F) (i) If, for any taxable year beginning after December 31, 1942, and prior to the termination of the present war as proclaimed by the President of the United States, the closing inventory of a taxpayer inventorying goods under the method provided in this subsection reflects a decrease from the opening inventory of such goods for such year, and if, at the time of the filing of the taxpayer's income tax return for such year, the taxpayer elects to have the provisions of this paragraph apply and so notifies the commissioner, and if, at the time of such election, it is established to the satisfaction of the commissioner, in accordance with such regulations as the commissioner may prescribe, that such decrease is attributable to the involuntary liquidation of such inventory as defined in subparagraph (ii), and if the closing inventory of a subsequent taxable year, ending not more than three years after the termination of the present war as proclaimed by the President of the United States, reflects a replacement, in whole or in

part, of the goods so previously liquidated, the net income of the taxpayer otherwise determined for the year of such involuntary liquidation shall be adjusted as follows:

Adjustment

Increased by an amount equal to the excess, if any, of the aggregate cost of such goods reflected in the opening inventory of the year of involuntary liquidation over the aggregate replacement cost; or

Decreased by an amount equal to the excess, if any, of the aggregate replacement cost of such goods over the aggregate cost thereof reflected in the opening inventory of the year of the involuntary liquidation.

The taxes imposed by this act for the year of such liquidation and for all taxable years intervening between such year and the year of replacement shall be redetermined, giving effect to such adjustments. Any increase in such taxes resulting from such adjustments shall be assessed and collected as a deficiency but without interest, and any overpayment so resulting shall be credited or refunded to the taxpayer without interest.

"Involuntary liquidation"

(ii) The term "involuntary liquidation," as used in this paragraph, means the sale or other disposition of goods inventoried under the method described in this subsection, either voluntary or involuntary, coupled with a failure on the part of the taxpayer to purchase, manufacture, or otherwise produce and have on hand at the close of the taxable year in which such sale or other disposition occurred such goods as would, if on hand at the close of such taxable year, be subject to the application of the provisions of this subsection, if such failure on the part of the taxpayer is due, directly and exclusively, to enemy capture or control of sources of limited foreign supply; to shipping or other transportation shortages; to material shortages resulting from priorities or allocations; to labor shortages; or to other prevailing war conditions beyond the control of the taxpayer.

Increase

(iii) If, in the case of any taxpayer subject to the provisions of subparagraph (i), the closing inventory of the taxpayer for a taxable year, subsequent to the year of involuntary liquidation but prior to the complete replacement of the goods so liquidated, reflects an increase over the opening inventory of such goods for the taxable year, the goods reflecting such increase shall be considered, in the order of their acquisition, as having been acquired in replacement of the goods most recently liquidated (whether or not in a year of involuntary liquidation) and not previously replaced, and if the liquidation was an involuntary liquidation shall be included in the inventory of the taxpayer for the year of replacement at the inventory cost basis of the goods replaced.

Election

(iv) An election by the taxpayer to have the provisions of this paragraph apply, once made, shall be irrevocable and shall be binding for the year of the involuntary liquidation

and for all determinations for subsequent taxable years insofar as they are related to the year of liquidation or replacement.

(v) If the adjustments specified in subparagraph (i) are, with respect to any taxable year, prevented, on the date of the filing of the income tax return of the taxpayer for the year of the replacement, or within three years from such date, by any provision or rule of law (other than this subparagraph), such adjustments shall nevertheless be made if, in respect of the taxable year for which the adjustment is sought, a notice of proposed additional assessment is mailed or a claim for refund is filed, as the case may be, within three years after the date of the filing of the income tax return for the year of replacement. If, at the time of the mailing of such notice of proposed additional assessment or the filing of such claim for refund, the adjustment is so prevented, then the amount of the adjustment authorized by this paragraph shall be limited to the increase or decrease of the tax imposed by this act previously determined for such taxable year which results solely from the effect of subparagraph (i), and such amount shall be assessed and collected, or credited or refunded, in the same manner as if it were a deficiency or an overpayment, as the case may be, for such taxable year and as if, on the date of the filing of the income tax return for the year of the replacement, three years remain before the expiration of the periods of limitation upon assessment or the filing of claim for refund for the taxable year. The tax previously determined shall be ascertained in accordance with rules and regulations prescribed by the commissioner. The amount to be assessed and collected under this paragraph in the same manner as if it were a deficiency or to be credited or refunded in the same manner as if it were an overpayment shall not be diminished by any credit or set-off based upon any item, inclusion, deduction, credit, exemption, gain, or loss, other than one resulting from the effect of subparagraph (i). Such amount, if paid, shall not be recovered by a claim or suit for refund, or suit for erroneous refund based upon any item, inclusion, deduction, credit, exemption, gain, or loss, other than one resulting from the effect of subparagraph (i). Prevented adjustments

(d) In the case of a sale or other disposition of property, the gain or loss shall be computed as provided in Sections 9.1, 9.2 and 9.3 of this act. Gain or loss on sale

(e) In the case of sales or exchanges of capital assets, the gain shall be taken into account in computing net income to the extent provided in Section 9.4 of this act. Gain on sale of capital assets

(f) In the case of taxpayers other than residents the gross income includes only the gross income from sources within this State. Gross income from sources within and without this State shall be allocated and apportioned under rules and regulations to be prescribed by the commissioner. Gross income of non-residents

Income of nonresidents from stocks, bonds, notes, or other intangible personal property shall not be considered income

from sources within this State unless the property has acquired a business situs in this State, except that if a nonresident buys or sells such property in this State or places orders with brokers in this State to buy or sell such property so regularly, systematically, and continuously as to constitute doing business in this State, the profit or gain derived from such activity is income from sources within this State irrespective of the situs of the property.

Income of estates and trusts distributed or distributable to nonresident beneficiaries is income from sources within this State only if distributed or distributable out of income of the estate or trust derived from sources within this State. For the purposes of this subparagraph, the nonresident beneficiary shall be deemed to be the owner of intangible personal property from which the income of the estate or trust is derived.

Dividends

(g) (1) The term "dividend" when used in this act means any distribution made by a corporation to its shareholders, whether in money or in other property, out of its earnings or profits accumulated after February 28, 1913, or out of the earnings or profits of the taxable year (computed as of the close of the taxable year without diminution by reason of any distributions made during the taxable year), without regard to the amount of the earnings and profits at the time the distribution was made.

(2) For the purposes of this act every distribution is made out of earnings or profits to the extent thereof, and from the most recently accumulated earnings or profits. Any earnings or profits accumulated, or increase in value of property accrued, before March 1, 1913, may be distributed exempt from tax, after the earnings and profits accumulated after February 28, 1913, have been distributed, but any such tax-free distribution shall be applied against and reduce the adjusted basis of the stock provided in Section 9.3 (b).

(3) Amounts distributed in complete liquidation of a corporation shall be treated as in full payment in exchange for the stock and amounts distributed in partial liquidation of a corporation shall be treated as in part or full payment in exchange for the stock. The gain or loss to the distributee resulting from such exchange shall be determined under Section 9.1, and shall be recognized only to the extent provided in Section 9.2. In the case of amounts distributed (whether before or after the effective date of this amendment) in partial liquidation (other than a distribution within the provisions of subdivision (7) of this subsection of stock or securities in connection with a reorganization) the part of such distribution which is properly chargeable to capital account shall not be considered a distribution of earnings or profits. In the case of amounts distributed (whether before January 1, 1934, or on or after such date) in partial liquidation (other than a distribution within the provisions of subdivision (7) of this subsection of stock or securities in connection with a reorganization) the part of such distribution which is properly chargeable to capital account shall not be considered a distribution of earnings or

profits within the meaning of subdivision (2) of this subsection for the purpose of determining the taxability of subsequent distributions by the corporation.

(4) If any distribution (not in partial or complete liquidation) made by a corporation to its shareholders is not out of increase in value of property accrued before March 1, 1913, and is not a dividend, then the amount of such distribution shall be applied against and reduce the adjusted basis of the stock provided in Section 9.3 (b) of this act, and if in excess of such basis, such excess shall be taxable in the same manner as a gain from the sale or exchange of property.

(5) (A) A distribution made by a corporation to its shareholders in its stock or in rights to acquire its stock shall be treated as a dividend to the extent that it constitutes income to the shareholder within the meaning of the Sixteenth Amendment to the Constitution of the United States.

(B) Whenever a distribution by a corporation is, at the election of any of the shareholders (whether exercised before or after the declaration thereof), payable either (i) in its stock or in rights to acquire its stock, of a class which if distributed without election would be exempt from tax under paragraph (A), or (ii) in money or any other property (including its stock or rights to acquire its stock, of a class which if distributed without election would not be exempt from tax under paragraph (A)), then the distribution shall constitute a taxable dividend in the hands of all shareholders, regardless of the medium in which paid.

(6) If a corporation cancels or redeems its stock (whether or not such stock was issued as a stock dividend) at such time and in such manner as to make the distribution and cancellation or redemption in whole or in part essentially equivalent to the distribution of a taxable dividend, the amount so distributed in redemption or cancellation of the stock, to the extent that it represents a distribution of earnings or profits accumulated after February 28, 1913, shall be treated as a taxable dividend.

(7) The distribution heretofore or hereafter made to a distributee by or on behalf of a corporation of its stock or securities or stock or securities in another corporation shall not be considered a distribution of earnings or profits of any corporation:

(A) If no gain to such distributee from the receipts of such stock or securities was recognized under the provisions of the Federal Revenue Act of 1936 or prior Federal revenue acts in effect at the time of the distribution, or

(B) If the distribution was not subject to tax in the hands of such distributee under the Federal Revenue Act of 1936 or prior Federal revenue acts in effect at the time of the distribution because it did not constitute income to him within the meaning of the Sixteenth Amendment to the Constitution of the United States or because exempted to him under Section 115 (f) of the Federal Revenue Act of 1934, or a corresponding provision of a prior Federal revenue act.

As used in this subsection, the term "stock or securities" includes rights to acquire stock or securities.

(8) As used in this subsection the term "amount distributed in partial liquidation" means a distribution by a corporation in complete cancellation or redemption of a part of its stock, or one of a series of distributions in complete cancellation or redemption of all or a portion of its stock.

(9) If the whole or any part of a dividend is paid to a shareholder in any medium other than money the property received other than money shall be included in gross income at its fair market value at the time as of which it becomes income to the shareholder.

(10) The gain or loss realized from the sale or other disposition (after February 28, 1913) of property by a corporation for the purpose of the computation of earnings and profits of the corporation for any period beginning after February 28, 1913, shall be determined by using as the adjusted basis the adjusted basis (under the law applicable to the year in which the sale or other disposition was made) for determining gain. Gain or loss so realized shall increase or decrease the earnings and profits to, but not beyond, the extent to which such a realized gain or loss was recognized in computing net income under the law applicable to the year in which such sale or disposition was made. Where in determining the adjusted basis used in computing such realized gain or loss the adjustment to the basis differs from the adjustment proper for the purpose of determining earnings or profits, then the latter adjustment shall be used in determining the increase or decrease above provided. For the purposes of this subsection, a loss with respect to which a deduction is disallowed under Section 8(d) of the Bank and Corporation Franchise Tax Act or Section 7(d) of the Corporation Income Tax Act shall not be deemed to be recognized.

Where a corporation receives (after February 28, 1913) a distribution from a second corporation which (under the law applicable to the year in which the distribution was made) was not a taxable dividend to the shareholders of the second corporation, the amount of such distribution shall not increase the earnings and profits of the first corporation in the following cases:

(A) No such increase shall be made in respect of the part of such distribution which (under such law) is directly applied in reduction of the basis of the stock in respect of which the distribution was made.

(B) No such increase shall be made if (under such law) the distribution causes the basis of the stock in respect of which the distribution was made to be allocated between such stock and the property received.

For the purposes of this subdivision, the words "law applicable to the year" shall be deemed to refer to the State act or the United States Revenue Act in force for the year in which the sale or other disposition was made.

(11) (A) If any increase or decrease in the earnings or profits for any period beginning after February 28, 1913, with respect to any matter would be different had the adjusted basis of the property involved been determined without regard to its March 1, 1913, value, then, except as provided in paragraph (B), an increase (properly reflecting such difference) shall be made in that part of the earnings and profits consisting of increase in value of property accrued before March 1, 1913.

(B) If the application of subdivision (10) to a sale or other disposition after February 28, 1913, results in a loss which is to be applied in decrease of earnings and profits for any period beginning after February 28, 1913, then, notwithstanding subdivision (10) and in lieu of the rule provided in paragraph (A) of this subdivision, the amount of such loss so to be applied shall be reduced by the amount, if any, by which the adjusted basis of the property used in determining the loss, exceeds the adjusted basis computed without regard to the value of the property on March 1, 1913, and if such amount so applied in reduction of the decrease exceeds such loss, the excess over such loss shall increase that part of the earnings and profits consisting of increase in value of property accrued before March 1, 1913.

Canceled debts

(h) If the indebtedness of a taxpayer is canceled or forgiven in whole or in part without payment, the amount so canceled or forgiven shall constitute income to the extent the value of the property of the taxpayer exceeds his liabilities immediately after the cancellation or forgiveness. The remainder of the amount of indebtedness so canceled or forgiven, if any, shall be applied in reduction of the basis of the assets to the extent the basis thereof exceeds the value thereof immediately after the cancellation or forgiveness, such reduction to be made in accordance with regulations prescribed by the commissioner.

If an indebtedness is not paid by the time an action to enforce payment is barred by limitation, the indebtedness shall be considered canceled or forgiven within the meaning of this subsection unless it can be established that the period of limitation has been extended by a new promise in writing.

Excess value on purchase or exchange

(i) Where property is acquired in a transaction purporting to be a purchase or an exchange (including transactions described in Section 9.2, relating to the nonrecognition of gain, but excluding foreclosures or repossessions of properties held for security), and the value thereof is substantially in excess of the value of the money or property surrendered or agreed to be surrendered as a condition of such acquisition, the excess value shall be considered ordinary income taxable under the provisions of this act, unless it can be established (a) that the sole consideration for the acquisition of the property was the money or property surrendered or agreed to be surrendered, or (b) that the excess value was a gift, or (c)

that for some other reason the excess value does not constitute income or the gain represented thereby is not recognized.

(j) The repeal in 1937 of Sections 2 (o) and 34 of The Personal Income Tax Act of 1935 shall not be construed to sanction double taxation of income.

Divorce or separation

(k) In the case of a wife who is divorced or legally separated from her husband under a decree of divorce or of separate maintenance, periodic payments (whether or not made at regular intervals) received subsequent to such decree in discharge of, or attributable to property transferred (in trust or otherwise) in discharge of, a legal obligation which, because of the marital or family relationship, is imposed upon or incurred by such husband under such decree or under a written instrument incident to such divorce or separation shall be includible in the gross income of such wife, and such amounts received as are attributable to property so transferred shall not be includible in the gross income of such husband. This subsection shall not apply to that part of any such periodic payment which the terms of the decree or written instrument fix, in terms of an amount of money or a portion of the payment, as a sum which is payable for the support of minor children of such husband. In case any such periodic payment is less than the amount specified in the decree or written instrument, for the purpose of applying the preceding sentence, such payment, to the extent of such sum payable for such support, shall be considered a payment for such support. Installment payments discharging a part of an obligation the principal sum of which is, in terms of money or property, specified in the decree or instrument shall not be considered periodic payments for the purposes of this subsection; except that an installment payment shall be considered a periodic payment for the purposes of this subsection if such principal sum, by the terms of the decree or instrument, may be or is to be paid within a period ending more than 10 years from the date of such decree or instrument, but only to the extent that such installment payment for the taxable year of the wife (or if more than one such installment payment for such taxable year is received during such taxable year, the aggregate of such installment payments) does not exceed 10 per centum of such principal sum. For the purposes of the preceding sentence, the portion of a payment of the principal sum which is allocable to a period after the taxable year of the wife in which it is received shall be considered an installment payment for the taxable year in which it is received.

Stats 1941, p 471
See also Stats 1943, Ch 659

SEC. 3. Section 7.1 of The Personal Income Tax Act is hereby amended to read as follows:

Compensation covering 3 or more years period

Sec. 7.1. (a) If at least 80 per centum of the total compensation for personal services covering a period of 36 calendar months or more (from the beginning to the completion of such services) is received or accrued in one taxable year by an individual or a partnership, the tax attributable to any

part thereof which is included in the gross income of any individual shall not be greater than the aggregate of the taxes attributable to such part had it been included in the gross income of such individual ratably over that part of the period which precedes the date of such receipt or accrual.

Compensation for artistic work or invention

(b) For the purposes of this subsection, the term "artistic work or invention," in the case of an individual, means a literary, musical, or artistic composition of such individual or a patent or copyright covering an invention of or a literary, musical, or artistic composition of such individual, the work on which by such individual covered a period of 36 calendar months or more from the beginning to the completion of such composition or invention. If, in the taxable year, the gross income of any individual from a particular artistic work or invention by him is not less than 80 per centum of the gross income in respect of such artistic work or invention in the taxable year plus the gross income therefrom in previous taxable years and the 12 months immediately succeeding the close of the taxable year, the tax attributable to the part of such gross income of the taxable year which is not taxable as a gain from the sale or exchange of a capital asset held for more than one year shall not be greater than the aggregate of the taxes attributable to such part had it been received ratably over that part of the period preceding the close of the taxable year but not more than 36 calendar months.

(c) For the purposes of this section a fractional part of a month shall be disregarded unless it amounts to more than half a month in which case it shall be considered as a month.

New section See also Stats 1943, Ch 659

SEC. 4. Section 7.2 is hereby added to The Personal Income Tax Act, as follows:

Gross income in respect of a decedent

Sec. 7.2. (a) (1) The amount of all items of gross income in respect of a decedent which are not properly includible in respect of the taxable period in which falls the date of his death or a prior period shall be included in the gross income, for the taxable year when received, of:

(A) The estate of the decedent, if the right to receive the amount is acquired by the decedent's estate from the decedent;

(B) The person who, by reason of the death of the decedent, acquires the right to receive the amount, if the right to receive the amount is not acquired by the decedent's estate from the decedent; or

(C) The person who acquires from the decedent the right to receive the amount by bequest, devise, or inheritance, if the amount is received after a distribution by the decedent's estate of such right.

(2) If a right, described in paragraph (1), to receive an amount is transferred by the estate of the decedent or a person who receives such right by reason of the death of the decedent or by bequest, devise, or inheritance from the decedent, there shall be included in the gross income of the estate or such person, as the case may be, for the taxable period in which the transfer occurs, the fair market value of such right

at the time of such transfer plus the amount by which any consideration for the transfer exceeds such fair market value. For the purposes of this paragraph, the term "transfer" includes sale, exchange, or other disposition, but does not include a transfer to a person pursuant to the right of such person to receive such amount by reason of the death of the decedent or by bequest, devise, or inheritance from the decedent.

(3) The right, described in paragraph (1), to receive an amount shall be treated, in the hands of the estate of the decedent or any person who acquired such right by reason of the death of the decedent, or by bequest, devise, or inheritance from the decedent, as if it had been acquired by the estate or such person in the transaction by which the decedent acquired such right; and the amount includible in gross income under paragraph (1) or (2) shall be considered in the hands of the estate or such person to have the character which it would have had in the hands of the decedent if the decedent had lived and received such amount.

Deductions in respect of a decedent

(b) The amount of any deduction specified in Section 8 (a), (b), (c), or (j) (relating to deductions for expenses, interest, taxes, and depletion), in respect of a decedent which is not properly allowable to the decedent in respect of the taxable period in which falls the date of his death, or a prior period, shall be allowed:

(1) In the case of a deduction specified in Section 8 (a), (b), or (c) in the taxable year when paid—

(A) To the estate of the decedent; except that

(B) If the estate of the decedent is not liable to discharge the obligation to which the deduction relates, to the person who, by reason of the death of the decedent or by bequest, devise, or inheritance acquires, subject to such obligation, from the decedent an interest in property of the decedent.

(2) In the case of the deduction specified in Section 8 (j), to the person described in subsection (a) (1) (A), (B), or (C) who, in the manner described therein, receives the income to which the deduction relates, in the taxable year when such income is received.

(c) (1) A person who includes an amount in gross income under subsection (a) shall be allowed, for the same taxable year, as a deduction an amount which bears the same ratio to the California inheritance tax attributable to the net value for estate tax purposes of all the items described in subsection (a) (1) as the value for inheritance tax purposes of the items of gross income or portions thereof in respect of which such person included the amount in gross income (or the amount included in gross income, whichever is lower) bears to the value for inheritance tax purposes of all the items described in subsection (a) (1).

(2) For the purposes of paragraph (1):

(A) The term "inheritance tax" means the tax imposed upon the beneficiary of the decedent under the California Inheritance Tax Act.

(B) The net value for inheritance tax purposes of all the items described in subsection (a) (1) shall be the excess of the value for inheritance tax purposes of all the items described in subsection (a) (1) over the deductions from the gross estate in respect of claims which represent the deductions described in subsection (b).

(C) The inheritance tax attributable to such net value shall be an amount equal to the excess of the inheritance tax over the inheritance tax computed without including in the gross estate such net value.

SEC. 5. Section 8 of The Personal Income Tax Act is hereby amended to read as follows: Stats 1943, Ch 26

See also Stats 1943, Ch 659

Sec. 8. In computing net income there shall be allowed as deductions:

Deductions from gross income:

(a) (1) (A) All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered; traveling expenses (including the entire amount expended for meals and lodging) while away from home in the pursuit of a trade or business; and rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity. Business expenses

In the case of any taxpayer the deductions permitted by this subsection shall not be allowed if, and to the extent that they are connected with the production of income not taxable under this act, and proper apportionment and allocation of such deductions with respect to taxable and nontaxable income shall be determined under rules and regulations to be prescribed by the commissioner.

(B) No deduction shall be allowable under subparagraph (A) for any contribution or gift which would be allowable as a deduction under Subsection 8 (*l*) were it not for the 15 per centum limitation therein contained and for the requirement therein that payment must be made within the taxable year.

(2) All the ordinary and necessary expenses paid or incurred during the taxable year for the production or collection of income, or for the management, conservation, or maintenance of property held for the production of income. Collection of income

(b) All interest paid or accrued within the taxable year on indebtedness of the taxpayer; provided, however, in the case of any taxpayer the deduction permitted by this subdivision shall not be allowed if, and to the extent that such deduction is connected with income not taxable under this act; and provided further, no such deduction shall be allowed Interest on debts

or taken for interest paid or accrued within the taxable year on indebtedness incurred or continued to purchase or carry obligations, the interest upon which is wholly exempt from taxes imposed by this act. The proper apportionment and allocation of such deductions with respect to taxable and nontaxable income shall be determined under rules and regulations to be prescribed by the commissioner.

Taxes or licenses

(c) Taxes or licenses paid or accrued during the taxable year, other than taxes paid or accrued to the State under this act, and other than taxes on or according to or measured by income or profits paid or accrued within the taxable year imposed by the authority of (1) the Government of the United States or any foreign country, (2) any State, Territory, county, city and county, school district, municipality or other taxing subdivision of any State or Territory, and other than estate, inheritance, legacy, succession and gift taxes, and other than taxes computed as an addition to, or as a percentage of taxes which are not deductible hereunder and other than taxes assessed against local benefits of a kind tending to increase the value of the property assessed, but this shall not exclude the allowance as a deduction of so much of said taxes assessed against local benefits as is properly allocable to maintenance or interest charges. Taxes or licenses paid or accrued to this State or its political subdivisions which are deductible under the provisions of this subsection shall be deductible by nonresidents even though not connected with income from sources within this State.

(1) In the case of a tax imposed by any State, Territory, district, or possession of the United States, or any political subdivision thereof, upon persons engaged in selling tangible personal property at retail, which is measured by the gross sales price or the gross receipts from the sale or which is a stated sum per unit of such property sold, or upon persons engaged in furnishing services at retail, which is measured by the gross receipts for furnishing such services, if the amount of such tax is separately stated, then to the extent that the amount so stated is paid by the purchaser (otherwise than in connection with the purchaser's trade or business) to such person such amount shall be allowed as a deduction in computing the net income of such purchaser as if such amount constituted a tax imposed upon and paid by such purchaser.

Losses

(d) Losses sustained during the taxable year and not compensated for by insurance or otherwise:

(1) If incurred in trade or business; or

(2) If incurred in any transaction entered into for profit, though not connected with the trade or business; or

(3) Of property not connected with the trade or business, if the loss arises from fires, storms, shipwreck, or other casualty, or from theft.

The basis for determining the amount of deduction for losses sustained, to be allowed under this subsection shall be the adjusted basis provided in Section 9.3 (b) of this act for

determining the loss from the sale or other disposition of property.

(e) Losses from wagering transactions shall be allowed only to the extent of the gains from such transactions. Wagering losses

(f) (1) Debts which become worthless within the taxable year (or in the discretion of the commissioner a reasonable addition to a reserve for bad debts) and when satisfied that a debt is recoverable only in part, the commissioner may allow such debt as a deduction, in an amount not in excess of the amount which becomes worthless in the taxable year; provided, however, that if a debt was actually worthless prior to January 1, 1943, but was not ascertained to be worthless and charged off prior to said date, a deduction may be taken therefor during the first taxable year ending after December 31, 1942; and, provided, that if a portion of a debt is claimed and allowed as a deduction in any year no deduction shall be allowed in any subsequent year for any portion of the debt which in any prior year became worthless, regardless of whether or not claimed as a deduction in such prior year. This paragraph shall not apply with respect to a debt evidenced by a security as defined in paragraph (3) of this subsection. Worthless debts

(2) If any securities (as defined in paragraph (3) of this subsection) become worthless within the taxable year and are capital assets, the loss resulting shall be considered as a loss from the sale or exchange, on the last day of such taxable year, of capital assets.

(3) As used in this subsection, the term "securities" means bonds, debentures, notes, or certificates, or other evidences of indebtedness, issued by any corporation (including those issued by a government or political subdivision thereof) with interest coupons or in registered form.

(g) In the case of any loss claimed to have been sustained from any sale or other disposition of shares of stock or securities where it appears that, within a period beginning 30 days before the date of such sale or disposition and ending 30 days after such date, the taxpayer has acquired (by purchase or by an exchange upon which the entire amount of gain or loss was recognized by law) or has entered into a contract or option so to acquire, substantially identical stock or securities, then no deduction for the loss shall be allowed. If the amount of stock or securities acquired (or covered by the contract or option to acquire) is less than the amount of stock or securities sold or otherwise disposed of, then the particular shares of stock or securities the loss from the sale or other disposition of which is not deductible shall be determined under rules and regulations prescribed by the commissioner. Loss from disposition of securities

If the amount of stock or securities acquired (or covered by the contract or option to acquire) is not less than the amount of stock or securities sold or otherwise disposed of, then the particular shares of stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the

nondeductibility of the loss shall be determined under the rules and regulations prescribed by the commissioner.

Loss from sale or exchange of capital assets

(h) (1) Losses from sales or exchanges of capital assets shall be allowed only to the extent provided in Section 9.4 of this act.

(2) If any securities (as defined in paragraph (3) of this subsection) become worthless during the taxable year and are capital assets, the loss resulting therefrom shall, for the purposes of this act, be considered as a loss from the sale or exchange, on the last day of the taxable year, of capital assets.

(3) As used in this subsection, the term "securities" means (A) shares of stock in a corporation, and (B) rights to subscribe for or to receive such shares.

Obsolescence, etc

(i) A reasonable allowance for the exhaustion, wear and tear of property used in the trade or business, or of property held for the production of net income, including a reasonable allowance for obsolescence. A taxpayer may elect to claim a deduction for amortization of emergency facilities (as defined by Section 124 of the Internal Revenue Code as amended) under regulations prescribed by the commissioner. In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust the allowable deduction shall be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each.

Depletion

(j) In the case of mines, oil and gas wells, other natural deposits, and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case; such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the commissioner. In any case in which it is ascertained as a result of operations or of development work that the recoverable units are greater or less than the prior estimate thereof, then such prior estimate (but not the basis for depletion) shall be revised and the allowance under this subsection for subsequent taxable years shall be based upon such revised estimate. In the case of leases the deductions shall be equitably apportioned between the lessor and the lessee. In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust the allowable deduction shall be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each The percentage of depletion allowable under this subsection

shall be computed in accordance with the provisions of Section 9.5 (b) (3) and (4) of this act.

(k) The basis upon which depletion, exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be as provided in Section 9.5 of this act.

(*l*) In the case of an individual, contributions or gifts payment of which is made within the taxable year to or for the use of: Gifts

(1) The United States, any State, Territory or any political subdivision thereof, or the District of Columbia, for exclusively public purposes;

(2) A corporation, or trust, or community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation;

(3) The special fund for vocational rehabilitation authorized by Section 12 of the World War Veterans' Act, 1924;

(4) Posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units, or societies are organized in the United States or any of its possessions, and if no part of their net earnings inures to the benefit of any private shareholder or individual; or

(5) A fraternal society, order, or association; operating under the lodge system, but only if such contributions or gifts are to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.

The deductions under this subsection shall be allowed to an amount which in all the above cases combined does not exceed 15 per centum of the taxpayer's net income as computed without the benefit of this subsection or of subsection (q). Such contributions or gifts shall be allowed as deductions only if verified under rules and regulations prescribed by the commissioner. Limitation

In the case of an individual if in the taxable year and in each of the 10 preceding taxable years the amount of the contributions or gifts described in this subsection plus the amount of income, war profits, or excess profits taxes paid during such year in respect of preceding taxable years, exceeds 90 per centum of the taxpayer's net income for each such year, as computed without the benefit of this subsection then the 15 per centum limit imposed herein shall not be applicable.

In the case of a taxpayer other than a resident the deductions under this subsection shall be allowed only as to contributions or gifts to corporations or associations incorporated by or organized under the laws of this State or to the vocational

rehabilitation fund above mentioned or to this State or any political subdivision thereof for exclusively public purposes.

Contributions by employer to stock bonus, etc., plans

(m) (1) If contributions are paid by an employer to or under a stock bonus, pension, profit-sharing, or annuity plan, or if compensation is paid or accrued on account of any employee under a plan deferring the receipt of such compensation, such contributions or compensation shall not be deductible under subsection (a) but shall be deductible, if deductible under subsection (a) without regard to this subsection, under this subsection but only to the following extent:

(A) In the taxable year when paid, if the contributions are paid into a pension trust, and if such taxable year ends within or with a taxable year of the trust for which the trust is exempt under Section 12 (f), in an amount determined as follows:

(i) An amount not in excess of 5 per centum of the compensation otherwise paid or accrued during the taxable year to all the employees under the trust, but such amount may be reduced for future years if found by the commissioner upon periodical examinations at not less than five-year intervals to be more than the amount reasonably necessary to provide the remaining unfunded cost of past and current service credits of all employees under the plan, plus

(ii) Any excess over the amount allowable under clause (i) necessary to provide with respect to all of the employees under the trust the remaining unfunded cost of their past and current service credits distributed as a level amount, or a level percentage of compensation, over the remaining future service of each such employee, as determined under regulations prescribed by the commissioner, but if such remaining unfunded cost with respect to any three individuals is more than 50 per centum of such remaining unfunded cost, the amount of such unfunded cost attributable to such individuals shall be distributed over a period of at least five taxable years, or

(iii) In lieu of the amounts allowable under (i) and (ii) above, an amount equal to the normal cost of the plan, as determined under regulations prescribed by the commissioner, plus, if past service or other supplementary pension or annuity credits are provided by the plan, an amount not in excess of 10 per centum of the cost which would be required to completely fund or purchase such pension or annuity credits as of the date when they are included in the plan, as determined under regulations prescribed by the commissioner, except that in no case shall a deduction be allowed for any amount (other than the normal cost) paid in after such pension or annuity credits are completely funded or purchased.

(iv) Any amount paid in a taxable year in excess of the amount deductible in such year under the foregoing limitations shall be deductible in the succeeding taxable years in order of time to the extent of the difference between the amount paid and deductible in each such succeeding year and

the maximum amount deductible for such year in accordance with the foregoing limitations.

(B) In the taxable year when paid, in an amount determined in accordance with subparagraph (A) of this paragraph, if the contributions are paid toward the purchase of retirement annuities and such purchase is a part of a plan which meets the requirements of Section 12 (f) (1) (C) (D) (E) (F), and if refunds of premiums, if any, are applied within the current taxable year or next succeeding taxable year toward the purchase of such retirement annuities.

(C) In the taxable year when paid, if the contributions are paid into a stock bonus or profit-sharing trust, and if such taxable year ends within or with a taxable year of the trust with respect to which the trust is exempt under Section 12 (f), in an amount not in excess of 15 per centum of the compensation otherwise paid or accrued during the taxable year to all employees under the stock bonus or profit-sharing plan. If in any taxable year beginning after December 31, 1942, there is paid into the trust, or a similar trust then in effect, amounts less than the amounts deductible under the preceding sentence, the excess, or if no amount is paid, the amounts deductible, shall be carried forward and be deductible when paid in the succeeding taxable years in order of time, but the amount so deductible under this sentence in any such succeeding taxable year shall not exceed 15 per centum of the compensation otherwise paid or accrued during such succeeding taxable year to the beneficiaries under the plan. In addition, any amount paid into the trust in a taxable year beginning after December 31, 1942, in excess of the amount allowable with respect to such year under the preceding provisions of this subparagraph shall be deductible in the succeeding taxable years in order of time, but the amount so deductible under this sentence in any one such succeeding taxable year together with the amount allowable under the first sentence of this subparagraph shall not exceed 15 per centum of the compensation otherwise paid or accrued during such taxable year to the beneficiaries under the plan. The term "stock bonus or profit-sharing trust," as used in this subparagraph, shall not include any trust designed to provide benefits upon retirement and covering a period of years, if under the plan the amounts to be contributed by the employer can be determined actuarily as provided in subparagraph (A). If the contributions are made to two or more stock bonus or profit-sharing trusts, such trusts shall be considered a single trust for the purposes of applying the limitations in this subparagraph.

(D) In the taxable year when paid, if the plan is not one included in paragraphs (A), (B), or (C), if the employees' rights to or derived from such employer's contribution or such compensation are nonforfeitable at the time the contribution or compensation is paid.

(E) For the purposes of subparagraphs (A), (B), and (C), a taxpayer on the accrual basis shall be deemed to have made

a payment on the last day of the year of accrual if the payment is on account of such taxable year and is made within 60 days after the close of the taxable year of accrual.

(F) If amounts are deductible under subparagraphs (A) and (C), or (B) and (C), or (A), (B), and (C), in connection with two or more trusts, or one or more trusts and an annuity plan, the total amount deductible in a taxable year under such trusts and plans shall not exceed 25 per centum of the compensation otherwise paid or accrued during the taxable year to the persons who are the beneficiaries of the trusts or plans. In addition, any amount paid into such trust or under such annuity plans in a taxable year beginning after December 31, 1942, in excess of the amount allowable with respect to such year under the preceding provisions of this subparagraph shall be deductible in the succeeding taxable years in order of time, but the amount so deductible under this sentence in any one such succeeding taxable year together with the amount allowable under the first sentence of this subparagraph shall not exceed 30 per centum of the compensation otherwise paid or accrued during such taxable years to the beneficiaries under the trusts or plans. This subparagraph shall not have the effect of reducing the amount otherwise deductible under subparagraphs (A), (B), and (C), if no employee is a beneficiary under more than one trust, or a trust and an annuity plan.

If there is no plan but a method of employer contributions or compensation has the effect of a stock bonus, pension, profit-sharing, or annuity plan, or similar plan deferring the receipt of compensation, this paragraph shall apply as if there were such a plan.

(2) Any deduction allowable under this subsection (as it read prior to the 1943 amendment) for a taxable year beginning before January 1, 1943, which was apportioned to any taxable year beginning after December 31, 1942, shall be allowed as a deduction for the years to which so apportioned to the extent allowable under this subsection as it then read if it had remained in force with respect to such year.

Nonresident taxpayer

(n) In the case of a taxpayer other than a resident the deductions allowed by this section shall unless otherwise provided in this section be allowed only if and to the extent that they are connected with the income arising from sources within this State and taxable under this act to a nonresident taxpayer, and the proper apportionment and allocation of the deductions with respect to sources of income within and without the State shall be determined under rules and regulations to be prescribed by the commissioner.

Gross income of husband

(o) In the case of a husband described in Section 7 (k), amounts includible under Section 7 (k) in the gross income of his wife, payment of which is made within the husband's taxable year. If the amount of any such payment is, under Section 7 (k) or Section 12 (j), stated to be not includible in such husband's gross income, no deduction shall be allowed with respect to such payment under this subsection.

(p) In the case of a bondholder, the deduction for amortizable bond premium provided in subsections (1), (2) and (3). Amortizable bond premium

(1) In the case of any bond, as defined in subsection (3), the following rules shall apply to the amortizable bond premium (determined under subsection (2)) on the bond for any taxable year beginning after December 31, 1942.

(A) In the case of a bond (other than a bond the interest on which is excludible from gross income), the amount of the amortizable bond premium for the taxable year shall be allowed as a deduction.

(B) In the case of any bond the interest on which is excludible from gross income, no deduction shall be allowed for the amortizable bond premium for the taxable year.

(2) (A) For the purposes of paragraph (B), the amount of bond premium, in the case of the holder of any bond, shall be determined with reference to the amount of the basis (for determining loss on sale or exchange) of such bond, and with reference to the amount payable on maturity or on earlier call date, with adjustments proper to reflect unamortized bond premium with respect to the bond, for the period prior to the date as of which subsection (1) becomes applicable with respect to the taxpayer with respect to such bond.

(B) The amortizable bond premium of the taxable year shall be the amount of the bond premium attributable to such year.

(C) The determinations required under paragraphs (A) and (B) shall be made—

(i) In accordance with the method of amortizing bond premium regularly employed by the holder of the bond, if such method is reasonable;

(ii) In all other cases, in accordance with regulations prescribing reasonable methods of amortizing bond premium, prescribed by the commissioner.

(3) As used in this section, the term "bond" means any bond, debenture, note, or certificate or other evidence of indebtedness, issued by any corporation and bearing interest (including any like obligation issued by a government or political subdivision thereof), with interest coupons or in registered form, but does not include any such obligation which constitutes stock in trade of the taxpayer or any such obligation of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year, or any such obligation held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business. "Bond"

(4) The amount of the amortizable bond premium for the taxable year shall be allowed as a deduction only if a taxpayer has elected to claim such deduction Such election shall be made in accordance with such regulations as the commissioner shall prescribe. If such election is made with respect to any bond, it shall also apply to all such bonds held by the taxpayer at the beginning of the first taxable year to which the election applies and to all such bonds thereafter acquired by it, and shall be binding for all subsequent taxable years with respect Election

to all such bonds of the taxpayer, unless, upon application by the taxpayer, the commissioner permits him, subject to such conditions as the commissioner deems necessary, to revoke such election.

Medical expenses

(q) Except as limited under paragraph (1) or (2), expenses paid during the taxable year, not compensated for by insurance or otherwise, for medical care of the taxpayer, his spouse, or a dependent of the taxpayer as specified in Section 10 (b). The term "medical care," as used in this subsection, shall include amounts paid for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body (including amounts paid for accident or health insurance).

Extent of deduction

(1) A husband and wife who file a joint return may deduct only such expenses as exceed 5 per centum of the aggregate net income of such husband and wife, computed without the benefit of this subsection, and the maximum deduction for the taxable year shall be not in excess of two thousand five hundred dollars ($2,500) in the case of such husband and wife.

(2) An individual who files a separate return may deduct only such expenses as exceed 5 per centum of the net income of the taxpayer, computed without the benefit of this subsection, and the maximum deduction for the taxable year shall be not in excess of two thousand five hundred dollars ($2,500) in the case of the head of a family, and not in excess of one thousand two hundred fifty dollars ($1,250) in the case of all other such individuals.

Tenant-stockholder

(r) (1) In the case of a tenant-stockholder (as defined in paragraph (2)), amounts, not otherwise deductible, paid or accrued to a cooperative apartment corporation within the taxable year, if such amounts represent that proportion of the real estate taxes on the apartment building and the land on which it is situated, allowable as deductions under subsection (c), paid or incurred by the corporation, or of the interest paid or incurred by the corporation on its indebtedness contracted in the acquisition, construction, alteration, rehabilitation, or maintenance of such apartment building or in the acquisition of the land on which the building is located, which the stock of the corporation owned by the tenant-stockholder is of the total outstanding stock of the corporation, including that held by the corporation.

(2) For the purposes of this subsection—

"Cooperative apartment corporation"

(A) The term "cooperative apartment corporation" means a corporation—

(i) Having one and only one class of stock outstanding,

(ii) All of the stockholders of which are entitled, solely by reason of their ownership of stock in the corporation, to occupy for dwelling purposes apartments in a building owned or leased by such corporation, and who are not entitled, either conditionally or unconditionally, except upon a complete or partial liquidation of the corporation, to receive any distribution not out of earnings and profits of the corporation, and

(iii) Eighty per centum or more of the gross income of which for the taxable year in which the taxes and interest described in paragraph (1) are paid or incurred is derived from tenant-stockholders.

(B) The term "tenant-stockholder" means an individual who is a stockholder in a cooperative apartment corporation, and whose stock is fully paid-up in an amount not less than an amount shown to the satisfaction of the commissioner as bearing a reasonable relationship to the portion of the value of the corporation's equity in the building and the land on which it is situated which is attributable to the apartment which such individual is entitled to occupy. "Tenant-stockholder"

(s) (1) In the case of a person described in Section 7.2(b), the amount of the deductions in respect of a decedent to the extent allowed by such subsection. Deductions in respect of decedent

(2) In the case of a person described in Section 7.2(b), the amount of the deductions in respect of a decedent to the extent allowed by Section 7.2(c).

SEC. 6. Section 8.1 is hereby added to The Personal Income Tax Act, to read as follows: New section See also Stats 1943, Ch 659

Sec. 8.1. (a) In the case of a contract with the United States or any agency thereof, or any subcontract thereunder, which is made by the taxpayer, if a renegotiation is made in respect of such contract or subcontract and an amount of excessive profits received or accrued under such contract or subcontract for a taxable year (hereinafter referred to as "prior taxable year") is eliminated and, in a taxable year ending after December 31, 1941, the taxpayer is required to pay or repay to the United States or any agency thereof the amount of profits eliminated or the amount of profits eliminated is applied as an offset against other amounts due the taxpayer, then the profits so eliminated shall be excluded from gross income for the prior taxable year if they were included in gross income for the prior taxable year. For the purposes of this section— Renegotiation contracts with U S

(1) The term "renegotiation" includes any transaction which is a renegotiation within the meaning of Section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, 77th Cong., 2d Sess.) or such section, as amended, any modification of one or more contracts with the United States or any agency thereof, and any agreement with the United States or any agency thereof in respect of one or more such contracts or subcontracts thereunder. "Renegotiation"

(2) The term "excessive profits" includes any amount which constitutes excessive profits within the meaning assigned to such term by subsection (a) of Section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, 77th Cong., 2d Sess.), as amended by the Revenue Act of 1942, any part of the contract price of a contract with the United States or any agency thereof, any part of the subcontract price of a subcontract under such a contract, and any profits derived from one or more such contracts or subcontracts. "Excessive profits"

"Subcontract"

(3) The term "subcontract" includes any purchase order or agreement which is a subcontract within the meaning assigned to such term by subsection (a) of Section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, 77th Cong., 2d Sess.), as amended by the Revenue Act of 1942.

Cost-plus-a-fixed-fee contract

(b) In the case of a cost-plus-a-fixed-fee contract between the United States or any agency thereof and the taxpayer, if an item for which the taxpayer has been reimbursed by the United States or any agency thereof is disallowed as an item of cost chargeable to such contract, and, in a taxable year ending after December 31, 1941, the taxpayer is required to repay the United States or any agency thereof the amount disallowed, or the amount disallowed is applied as an offset against other amounts due the taxpayer, for the purposes of this act the amount so disallowed or so applied as an offset shall be allowed as a deduction in the taxable year in which the reimbursement for such item was received or was accrued to the extent that the taxpayer's taxable net income for the year in which the cost was incurred would have been reduced had no such reimbursement been received or accrued.

When not deductible

(c) The amount of the payment, repayment, or offset described in paragraph (a) or paragraph (b) shall not constitute a deduction for the year in which paid or incurred.

Accounting method

(d) The foregoing provisions of this section shall not apply in respect of any contract if the taxpayer shows to the satisfaction of the commissioner that a different method of accounting for the amount of the payment, repayment, or disallowance clearly reflects income, and in such case the payment, repayment, or disallowance shall be accounted for with respect to the taxable year provided for under such method.

Refund

(e) Any overpayment in tax which results from the application of this section shall be credited or refunded as provided in this act. Notwithstanding the provisions of any statute of limitations, such credit or refund shall be made if claim therefor is filed within four years from the last day prescribed for filing the return or within two years from the date of payment, repayment, or offset described in paragraph (a) or paragraph (b) of this section, whichever is later.

Installment payments

(f) If prior to the payment of the last installment of tax for the taxable year the taxpayer becomes entitled to the exclusions or deductions provided in this section for his taxable year, the taxpayer may, under regulations prescribed by the commissioner, file a claim in abatement of any unpaid tax or portion thereof, but not in excess of the reduction in tax resulting from the application of this section.

Claim in abatement

(g) In any case in which a claim in abatement is filed pursuant to subsection (f), and the commissioner makes such abatement, the tax disclosed by the original return shall, for the purpose of Section 19 of this act, be deemed to be reduced by the amount of the tax so abated.

SEC. 6 (a). Section 8.3 is hereby added to The Personal Income Tax Act, to read as follows: New section See also Stats 1943, Ch 659

Sec. 8.3. (a) For the purposes of this act—

Property lost or destroyed in course of military or naval operations

(1) Property destroyed or seized on or after December 7, 1941, in the course of military or naval operations by the United States or any other country engaged in the present war shall be deemed to have been destroyed or seized on a date chosen by the taxpayer in the manner provided in paragraph (4), which falls between—

(A) The latest date, as established to the satisfaction of the commissioner, on which such property may be considered as not destroyed or seized, and

(B) The earliest date, as established to the satisfaction of the commissioner, on which such property may be considered as having already been destroyed or seized.

For the purposes of this paragraph property within an area which comes under the control of a country at war with the United States after the date war with such country is declared by the United States shall be deemed to have been destroyed or seized in the course of military or naval operations by such country, and the date specified in subparagraph (A) shall not be later than the latest date determined by the commissioner as the date on which such area was under the control of the United States or a country not at war with the United States, and the date specified in subparagraph (B) shall not be later than the earliest date determined by the commissioner as the date on which such area may be considered under the control of the country which is at war with the United States.

(2) Property within any country at war with the United States, or within an area under the control of any such country on the date war with such country was declared by the United States, shall be deemed to have been destroyed or seized on the date war with such country was declared by the United States.

(3) Any interest in, or with respect to, property described in paragraph (1) or (2) (including any interest represented by a security as defined in Section 8 (h) (3) or Section 8 (f) (3)) which becomes worthless shall be considered to have been destroyed or seized (and the loss therefrom shall be considered a loss from the destruction or seizure) on the date chosen by the taxpayer which falls between the dates specified in paragraph (1), or on the date prescribed in paragraph (2), as the case may be, when the last property (described in the applicable paragraph) to which the interest relates would be deemed destroyed or seized under the applicable paragraph. This paragraph shall apply only if the interest would have become worthless if the property had been destroyed. For the purposes of this paragraph, an interest shall be deemed to have become worthless notwithstanding the fact that such interest has a value if such value is attributable solely to the possibility of recovery of the property, compensation (other than insurance or similar indemnity) on account of its destruction or seizure, or both. Section 8 (f) (2) and (h) (2) shall

not apply to any interest which under this paragraph is considered to have been destroyed or seized. Under regulations prescribed by the commissioner, a taxpayer who owns 100 per centum (excluding qualifying shares) of each class of stock of a corporation may elect to determine the worthlessness of his interest, described in this paragraph, in or with respect to the property of the corporation, without regard to the amount of the property of such corporation which would be excluded under subsection (e) (2) (A) in determining the adjusted basis of all the assets of the corporation for the purposes of subsection (e), but such amount shall be treated under subsection (b) (1) as a recovery by the taxpayer in the taxable year with respect to such interest.

Choice of date

(4) The taxpayer's choice of a date under paragraph (1) or (3) shall be effective only if made within such time and in such manner as may be prescribed by regulations prescribed by the commissioner.

Amount of loss

(b) In the case of any property or interest in or with respect to property deemed to be destroyed or seized under subsection (a)—

(1) The amount of the loss on account of such property or interest shall be determined with regard to any recoveries with respect thereto in the taxable year but without regard to any possibility of recovering such property or interest, or of receiving any compensation (other than insurance or similar indemnity) on account of such property or interest in the taxable year or in any future taxable year.

(2) The taxpayer may choose to decrease the amount of the loss by all obligations or liabilities of the taxpayer with respect to such property or interest discharged or satisfied out of the property or interest upon its destruction or seizure, if the commissioner is satisfied that such obligations or liabilities are so discharged or satisfied in a subsequent taxable year, or that the taxpayer is unable to determine whether or not such obligations or liabilities are in fact discharged or satisfied.

No loss shall be deemed to have been sustained upon the destruction or seizure of such property or interest to the extent that it is compensated for by the discharge or satisfaction of obligations and liabilities of the taxpayer out of such property or interest in the taxable year in which such destruction or seizure is deemed to have occurred. The taxpayer's choice under this subsection shall be effective only if made within such time and in such manner as may be prescribed by regulations prescribed by the commissioner.

Recovery

(c) (1) Upon the recovery in the taxable year of any money or property in respect of property considered under subsection (a) as destroyed or seized in any prior taxable year, the amount of such recovery shall be included in gross income to the extent provided in paragraph (2).

Amount of recovery

(2) The amount of the recovery of any money or property in respect of property considered under subsection (a) as destroyed or seized shall be an amount equal to the aggregate

of such money and the fair market value of such property, determined as of the date of the recovery. To the extent that such amount plus the aggregate of the amounts of previous such recoveries do not exceed that part of the aggregate of the allowable deductions in prior taxable years on account of the destruction or seizure of property described in subsection (a) which did not result in a reduction of any tax of the taxpayer under this act, such amount shall not be includible in gross income and shall not be deemed gain upon the involuntary conversion of property as a result of its destruction or seizure. To the extent that such amount plus the aggregate of the amounts of previous such recoveries exceed that part of the aggregate of such deductions which did not result in a reduction of any tax of the taxpayer under this act and do not exceed that part of the aggregate of such deductions which did result in a reduction of any tax of the taxpayer under this act, such amount shall be included in gross income but shall not be deemed a gain upon the involuntary conversion of property as a result of its destruction or seizure. To the extent that such amount plus the aggregate of the amounts of previous such recoveries exceed the aggregate of the allowable deductions in prior taxable years on account of the destruction or seizure of property described in subsection (a), such amount shall be considered a gain upon the involuntary conversion of property as a result of its destruction or seizure and shall be recognized or not recognized as provided in Section 9.2 (e). If for any previous taxable year the taxpayer chooses under subsection (b) to treat any obligations and liabilities as discharged or satisfied out of the property or interest described in subsection (a), and if such obligations and liabilities were not so discharged or satisfied, the amount of such obligations and liabilities treated as discharged or satisfied under subsection (b) shall be considered for the purposes of this section as a deduction by reason of this section which did not result in a reduction of any tax of the taxpayer under this act. For the purposes of this paragraph an allowable deduction for any taxable year on account of the destruction or seizure of property described in subsection (a) shall, to the extent not allowed in computing the tax of the taxpayer for such taxable year, be considered an allowable deduction which did not result in a reduction of any tax of the taxpayer under this act.

(3) For the purposes of paragraphs (1) and (2), the restoration in whole or in part of the value of any interest described in subsection (a) (3) by reason of any recovery of money or property in respect of property to which such interest related and which was considered under subsection (a) (1) or (2) as destroyed or seized shall be deemed a recovery of property in respect of property considered under subsection (a) as destroyed or seized.

Unadjusted basis of property recovered

(d) The unadjusted basis of property recovered in respect of property considered destroyed or seized under subsection (a) shall be determined under this subsection. Such basis

shall be an amount equal to the fair market value of such property, determined as of the date of the recovery, reduced by an amount equal to the excess of the aggregate of such fair market value and the amounts of previous recoveries of money or property in respect of property considered under subsection (a) as destroyed or seized over the aggregate of the allowable deductions in prior taxable years on account of the destruction or seizure of property described in subsection (a), and increased by that portion of the amount of the recovery which under subsection (c) is treated as a recognized gain from the involuntary conversion of property. Upon application of the taxpayer, the aggregate of the bases (determined under the preceding sentence) of any properties recovered in respect of properties considered under subsection (a) as destroyed or seized may be allocated among the properties so recovered in such manner as the commissioner may determine under regulations prescribed by him, and the amounts so allocated to any such property so recovered shall be the unadjusted basis of such property in lieu of the unadjusted basis of such property determined under the preceding sentence.

Corporate property destroyed or seized

(e) (1) If a taxpayer owns not less than 50 per centum of each class of stock of a corporation, if such corporation has property described in subsection (a) (1) or (2) deemed to be destroyed or seized, the adjusted basis for determining loss of which is at least 75 per centum of the adjusted basis for determining loss of all such corporation's property, and if such corporation completely liquidates (by distributing all the assets which it is able to distribute and all its rights to assets which it is not able to distribute, including the right to the recovery of the property described in subsection (a) (1) and (2)) within one year after such property is deemed to be destroyed or seized, or by December 31, 1943, whichever is the later, then that part of the loss by the taxpayer on such liquidation which would be attributable to the destruction or seizure of such property, as established to the satisfaction of the commissioner, shall be treated for the purposes of this act as a loss by the taxpayer upon the destruction or seizure of the part of the stock or other interest of the taxpayer to which such loss is allocable. Such part of the stock or other interest of the taxpayer shall be treated for the purposes of subsections (b), (c), and (d) as property described in subsection (a) (3).

(2) For the purposes of paragraph (1)—

Adjusted basis

(A) In determining the adjusted basis of all the property of the corporation, there shall be excluded money in the United States, bank deposits, the right to receive money from any person not situated in a country at war with the United States or in a territory under the control of such a country, and obligations issued or guaranteed as to principal or interest by the United States, except that there shall not be excluded any such property which is destroyed or seized as described in subsection (a) within or before the taxable period.

(B) The adjusted basis of property of such corporation shall be determined as of the date immediately preceding the first date on which any property was destroyed or seized, as described in subsection (a), or as of any later date falling within or before the taxable period on the basis of which such determination will produce a greater amount.

(f) The determination as to whether and to what extent an allowable deduction on account of the destruction or seizure of property described in subsection (a) did or did not result in a reduction of any tax of the taxpayer under this act shall be made in accordance with regulations prescribed by the commissioner.

SEC. 7. Section 9 of The Personal Income Tax Act is hereby amended as follows: Stats 1939, p 2528 See also Stats 1943, Ch 659

Sec. 9. (a) In computing net income no deduction shall in any case be allowed in respect of: Items not deductible

(1) Personal, living, or family expenses, except extraordinary medical expenses deductible under Section 8 (q); Living expenses

(2) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate; Improvements

(3) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made; Restoration of property

(4) Premiums paid on any life insurance policy covering the life of any officer or employee, or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under such policy; Life insurance premiums

(5) Any amount otherwise allowable as a deduction which is allocable to one or more classes of income (whether or not any amount of income of that class or classes is received or accrued) wholly exempt from the taxes imposed by this act; Amount allocable to exempt income

(6) Any amount paid or accrued on indebtedness incurred or continued to purchase a single premium life insurance or endowment contract. For the purposes of this paragraph, if substantially all the premiums on a life insurance or endowment contract are paid within a period of four years from the date on which such contract is purchased, such contract shall be considered a single premium life insurance or endowment contract; or Payments on single premium policies

(7) Amounts paid or accrued for such taxes and carrying charges as, under regulations prescribed by the commissioner, are chargeable to capital account with respect to property, if the taxpayer elects, in accordance with such regulations, to treat such taxes or charges as so chargeable. Taxes chargeable to capital account

(b) (1) In computing net income no deduction shall in any case be allowed in respect of losses from sales or exchanges of property, directly or indirectly: Losses from sales or exchanges

(A) Between members of a family, as defined in paragraph (2) (D);

(B) Except in the case of distributions in liquidation, between an individual and a corporation more than 50 per centum in value of the outstanding stock of which is owned, directly or indirectly, by or for such individual;

(C) Between a partnership and a member thereof, between partnerships where more than 50 per centum of the partnership interests in each are owned by the same persons, and between a partnership and a corporation 50 per centum of the stock of which is owned or controlled by the partnership or members thereof;

(D) Between a grantor and a fiduciary of any trust;

(E) Between the fiduciary of a trust and the fiduciary of another trust, if the same person is a grantor with respect to each trust; or

(F) Between a fiduciary of a trust and a beneficiary of such trust.

(2) For the purposes of determining, in applying paragraph (1), the ownership of stock:

(A) Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust, shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries;

(B) An individual shall be considered as owning the stock or the partnership interest owned, directly or indirectly, by or for his family;

(C) An individual owning (otherwise than by the application of subparagraph (B)) any stock in a corporation shall be considered as owning the stock owned, directly or indirectly, by or for his partner;

(D) The family of an individual shall include only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants; and

(E) Stock constructively owned by a person by reason of the application of subparagraph (A) shall, for the purpose of applying subparagraph (A), (B), or (C), be treated as actually owned by such person, but stock constructively owned by an individual by reason of the application of subparagraph (B) or (C) shall not be treated as owned by him for the purpose of again applying either of such subparagraphs in order to make another the constructive owner of such stock.

Certain expenses and interest

(c) In computing net income no deduction shall be allowed under Section 8 (a), relating to expenses incurred, or under Section 8 (b), relating to interest accrued:

(1) If such expenses or interest are not paid within the taxable year or within two and one-half months after the close thereof; and

(2) If, by reason of the method of accounting of the person to whom the payment is to be made, the amount thereof is not, unless paid, includible in the gross income of such person for the taxable year in which or with which the taxable year of the taxpayer ends; and

(3) If, at the close of the taxable year of the taxpayer or at any time within two and one-half months thereafter, both the taxpayer and the person to whom the payment is to be made are persons between whom losses would be disallowed under Section 9 (b).

The amount of expenses incurred or interest accrued the deduction of which is disallowed under this subsection in the year incurred or accrued, may be deducted in the year paid.

Payments to life tenants, etc.

(d) Amounts paid under the laws of any State, Territory, District of Columbia, possession of the United States, or foreign country as income to the holder of a life or terminable interest acquired by gift, bequest, or inheritance shall not be reduced or diminished by any deduction for shrinkage (by whatever name called) in the value of such interest due to the lapse of time, nor by any deduction allowed by this act (except the deductions provided for in subsections (i) and (j) of Section 8) for the purpose of computing the net income of an estate or trust but not allowed under the laws of such State, Territory, District of Columbia, possession of the United States, or foreign country for the purpose of computing the income to which such holder is entitled.

Tax-free covenant bonds

(e) The obligor of a covenant bond shall not be allowed a deduction for the payment of the tax imposed by this act, or any other tax pursuant to the tax-free covenant clause, nor shall such tax be included in the gross income of the obligee.

Stats 1941, p. 3042

SEC. 8. Section 9.2 of The Personal Income Tax Act is hereby amended as follows:

See also Stats 1943, Ch 659

Recognition of gain or loss

Sec. 9.2. (a) Upon the sale or exchange of property the entire amount of the gain or loss, determined under Section 9.1, shall be recognized, except as hereinafter provided in this section.

(b) (1) No gain or loss shall be recognized if property held for productive use in trade or business or for investment (not including stock in trade or other property held primarily for sale, nor stocks, bonds, notes, choses in action, certificates of trust or beneficial interest, or other securities or evidences of indebtedness or interest) is exchanged solely for property of a like kind to be held either for productive use in trade or business or for investment.

(2) No gain or loss shall be recognized if common stock in a corporation is exchanged solely for common stock in the same corporation, or if preferred stock in a corporation is exchanged solely for preferred stock in the same corporation.

(3) No gain or loss shall be recognized if stock or securities in a corporation a party to a reorganization are, in pursuance of the plan of reorganization, exchanged solely for stock or securities in such corporation or in another corporation a party to the reorganization.

(4) No gain or loss shall be recognized if property is transferred to a corporation by one or more persons solely in exchange for stock or securities in such corporation, and immediately after the exchange such person or persons are in

control of the corporation; but in the case of an exchange by two or more persons this paragraph shall apply only if the amount of the stock and securities received by each is substantially in proportion to his interest in the property prior to the exchange. Where the transferee assumes a liability of a transferor, or where the property of a transferor is transferred subject to a liability, then for the purpose only of determining whether the amount of stock or securities received by each of the transferors is in the proportion required by this paragraph, the amount of such liability (if under subsection (i) it is not to be considered as "other property or money") shall be considered as stock or securities received by such transferor.

(5) No gain or loss shall be recognized to a shareholder from a distribution of stocks or securities in liquidation of a corporation made pursuant to an order of the Federal Securities and Exchange Commission under authority vested in it by that act of Congress known as the Public Utility Holding Company Act of 1935, as amended.

Particular exchanges

(c) (1) If an exchange would be within the provisions of subsection (b) (1), (2), (3), or (4) of this section if it were not for the fact that the property received in exchange consists not only of property permitted by such paragraph to be received without the recognition of gain, but also of other property or money, then the gain, if any, to the recipient shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property.

(2) If a distribution made in pursuance of a plan of reorganization is within the provisions of paragraph (1) of this subsection but has the effect of the distribution of a taxable dividend, then there shall be taxed as a dividend to each distributee such an amount of the gain recognized under paragraph (1) as is not in excess of his ratable share of the undistributed earnings and profits of the corporation accumulated after February 28, 1913. The remainder, if any, of the gain recognized under paragraph (1) shall be taxed as a gain from the exchange of property.

(d) If an exchange would be within the provisions of subsection (b) (1) to (4), inclusive, of this section if it were not for the fact that the property received in exchange consists not only of property permitted by such paragraph to be received without the recognition of gain or loss, but also of other property or money, then no loss from the exchange shall be recognized.

(e) If property (as a result of its destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation, or the threat or imminence thereof) is compulsorily or involuntarily converted into property similar or related in service or use to the property so converted, or into money which is forthwith in good faith, under regulations prescribed by the commissioner, expended in the acquisition of other property similar or related in

service or use to the property so converted, or in the acquisition of control of a corporation owning such other property, or in the establishment of a replacement fund, no gain shall be recognized, but loss shall be recognized. If any part of the money is not so expended, the gain, if any, shall be recognized to the extent of the money which is not so expended (regardless of whether such money is received in one or more taxable years and regardless of whether or not the money which is not so expended constitutes gain).

(f) As used in this section and Section 9.3:

"Reorganization" (1) The term "reorganization" means (A) a statutory merger or consolidation, or (B) the acquisition by one corporation in exchange solely for all or a part of its voting stock: Of at least 80 per centum of the voting stock and at least 80 per centum of the total number of shares of all other classes of stock of another corporation; or of substantially all the properties of another corporation, but in determining whether the exchange is solely for voting stock the assumption by the acquiring corporation of a liability of the other, or the fact that property acquired is subject to a liability, shall be disregarded, or (C) a transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor or its shareholders or both are in control of the corporation to which the assets are transferred, or (D) a recapitalization, or (E) a mere change in identity, form, or place of organization, however effected.

"Party to a reorganization" (2) The term "a party to a reorganization" includes a corporation resulting from a reorganization and includes both corporations in the case of a reorganization resulting from the acquisition by one corporation of stock or properties of another.

"Control" (g) As used in this section the term "control" means the ownership of stock possessing at least 80 per centum of the total combined voting power of all classes of stock entitled to vote and at least 80 per centum of the total number of shares of all other classes of stock of the corporation.

Corporation created in foreign country (h) In determining the extent to which gain shall be recognized in the case of any of the exchanges (made after the date of the enactment of this act) described in subsection (b) (3) or (4), or described in so much of subsection (c) as refers to subsection (b) (3) or (4), or described in subsection (d), a corporation created or organized in a foreign country shall not be considered as a corporation unless, prior to such exchange, it has been established to the satisfaction of the commissioner that such exchange is not in pursuance of a plan having as one of its principal purposes the avoidance of income or franchise taxes.

Assumption of taxpayer's liability (i) Where upon an exchange the taxpayer receives as part of the consideration property which would be permitted by subsection (b) (4) of this section to be received without the recognition of gain if it were the sole consideration, and as part of the consideration another party to the exchange

assumes a liability of the taxpayer or acquires from the taxpayer property subject to a liability, such assumption or acquisition shall not be considered as "other property or money" received by the taxpayer within the meaning of subsections (c) and (d) of this section and shall not prevent the exchange from being within the provisions of subsection (b) (2) except that if, taking into consideration the nature of the liability and the circumstances in the light of which the arrangement for the assumption or acquisition was made, it appears that the principal purpose of the taxpayer with respect to the assumption or acquisition was a purpose to avoid State tax on the exchange, or, if not such purpose, was not a bona fide business purpose, such assumption or acquisition (in the amount of the liability) shall, for the purposes of this section, be considered as money received by the taxpayer upon the exchange. In any suit or proceeding where the burden is on the taxpayer to prove that such assumption or acquisition is not to be considered as money received by the taxpayer, such burden shall not be considered as sustained unless the taxpayer sustains such burden by the clear preponderance of the evidence.

Stats 1941, p 3042

SEC. 9. Section 9.3 of The Personal Income Tax Act is hereby amended as follows:

See also Stats 1943, Ch 659

Sec. 9.3. (a) The basis of property shall be the cost of such property; except that:

Basis of property

(1) If the property should have been included in the last inventory, the basis shall be the last inventory value thereof.

(2) If the property was acquired by gift after December 31, 1920, the basis shall be the same as it would be in the hands of the donor or the last preceding owner by whom it was not acquired by gift, except that if such basis (adjusted for the period prior to the date of gift as provided in subsection (b)) is greater than the fair market value of the property at the time of the gift, then, for the purpose of determining loss, the basis shall be such fair market value. If the facts necessary to determine the basis in the hands of the donor or the last preceding owner are unknown to the donee, the commissioner shall, if possible, obtain such facts from such donor or last preceding owner, or any other person cognizant thereof. If the commissioner finds it impossible to obtain such facts, the basis in the hands of such donor or last preceding owner shall be the fair market value of such property as found by the commissioner as of the date or approximate date at which, according to the best information that the commissioner is able to obtain, such property was acquired by such donor or last preceding owner.

(3) If the property was acquired after December 31, 1920, by a transfer in trust (other than by a transfer in trust by a gift, bequest or devise) the basis shall be the same as it would be in the hands of the grantor, increased in the amount of gain or decreased in the amount of loss recognized to the grantor

upon such transfer under the law applicable to the year in which the transfer was made.

(4) If the property was acquired by gift or transfer in trust on or before December 31, 1920, the basis shall be the fair market value of such property at the time of such acquisition.

(5) If the property was acquired by bequest, devise, or inheritance, or by the decedent's estate from the decedent, the basis shall be the fair market value of such property at the time of such acquisition. In the case of property transferred in trust to pay the income for life to or upon the order or direction of the grantor, with the right reserved to the grantor at all times prior to his death to revoke the trust, the basis of such property in the hands of the persons entitled under the terms of the trust instrument to the property after the grantor's death shall, after such death, be the same as if the trust instrument had been a will executed on the day of the grantor's death. For the purpose of this paragraph property passing without full and adequate consideration under a general power of appointment exercised by will shall be deemed to be property passing from the individual exercising such power by bequest or devise.

(6) If the property was acquired, after February 28, 1913, upon an exchange described in Section 9.2 (b) to (d), inclusive, the basis shall be the same as in the case of the property exchanged, decreased in the amount of any money received by the taxpayer and increased in the amount of gain or decreased in the amount of loss to the taxpayer that was recognized upon such exchange under the law applicable to the year in which the exchange was made. If the property so acquired consisted in part of the type of property permitted by Section 9.2 (b) to be received without the recognition of gain or loss, and in part of other property, the basis provided in this paragraph shall be allocated between the properties (other than money) received, and for the purpose of the allocation there shall be assigned to such other property an amount equivalent to its fair market value at the date of the exchange. Where, as part of the consideration to the taxpayer, another party to the exchange assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability, such assumption or acquisition (in the amount of the liability) shall, for the purposes of this paragraph, be considered as money received by the taxpayer upon the exchange.

(7) If the property was acquired, after February 28, 1913, as the result of a compulsory or involuntary conversion described in Section 9.2 (e), the basis shall be the same as in the case of the property so converted, decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law (applicable to the year in which such conversion was made) determining the taxable status of the gain or loss upon such conversion, and increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under

the law applicable to the year in which such conversion was made.

(8) If the property consists of stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility (under Section 8 (g) of this act, relating to wash sales) of the loss from the sale or other disposition of substantially identical stock or securities, then the basis shall be the basis of the stock or securities so sold or disposed of, increased or decreased, as the case may be, by the difference, if any, between the price at which the property was acquired and the price at which such substantially identical stock or securities were sold or otherwise disposed of.

(9) If the property was acquired after February 28, 1913, in any taxable year beginning prior to January 1, 1934, and the basis thereof, for the purposes of the Federal Revenue Act of 1932 was prescribed by Section 113 (a) (6), (7), or (9) of such act, then for the purposes of this act the basis shall be the same as the basis therein prescribed in the Federal Revenue Act of 1932.

(10) If the property was acquired after February 28, 1913, by a partnership and the basis is not otherwise determined under any other paragraph of this subsection, then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made. If the property was distributed in kind by a partnership to any partner, the basis of such property in the hands of the partner shall be such part of the basis in his hands of his partnership interest as is properly allocable to such property.

(11) In the case of property acquired before March 1, 1913, if the basis otherwise determined under this subsection, adjusted (for the period prior to March 1, 1913) as provided in subsection (b), is less than the fair market value of the property as of March 1, 1913, then the basis for determining gain shall be such fair market value. In determining the fair market value of stock in a corporation as of March 1, 1913, due regard shall be given to the fair market value of the assets of the corporation as of that date.

(12) If the property was acquired after February 28, 1913, in any taxable year beginning prior to January 1, 1936, and the basis thereof, for the purposes of the Federal Revenue Act of 1934 was prescribed by Section 113 (a) (6), (7), or (8) of such act, then for the purposes of this act the basis shall be the same as the basis therein prescribed in the Federal Revenue Act of 1934.

(13) In the case of stocks or securities received by a taxpayer on or after January 1, 1939, under circumstances described in Section 9.2 (b) (5) the basis of such stocks or securities shall be the same as that of the stocks or securities for the surrender of which they were acquired.

(14) (A) If the property was acquired by a shareholder in a corporation and consists of rights to acquire stock in such corporation acquired by him after February 28, 1913, in a distribution by such corporation, and (1) the right to acquire such stock was acquired in a taxable year beginning before January 1, 1937 (except as provided in subparagraph (B)), or (2) the right to acquire such stock was acquired in a taxable year beginning after December 31, 1936, and its distribution did not constitute income to the shareholder within the meaning of the Sixteenth Amendment to the Constitution of the United States, then the basis of the stock in respect of which the rights were declared and the right to acquire stock, respectively, shall, in the shareholder's hands be determined by allocating between the stock and the right to acquire stock the adjusted basis of the stock, such allocation to be made under regulations which shall be prescribed by the commissioner.

(B) If a stock right was acquired prior to January 1, 1935, and it constituted income within the purview of the Sixteenth Amendment to the Constitution of the United States, the basis of the stock in respect of which the rights were declared shall not be affected and the basis of the right shall be its fair market value as of the date of its acquisition.

(C) Where the shareholder acquired the right to acquire such stock in a taxable year beginning before January 1, 1941, and sold the same, and there was included in the gross income for such year of sale the entire amount of the proceeds of such sale, then if before the effective date of the 1941 amendments to this act the taxpayer has not asserted (by claim for a refund or credit or otherwise) that any part of the proceeds of the sale of such rights should be excluded from gross income for the year of its sale, the basis of the stock shall be determined without regard to paragraphs (A) and (B), and no part of the proceeds of the sale of such rights shall ever be excluded from the gross income for the year of such sale.

Adjusted basis

(b) The adjusted basis for determining the gain or loss from the sale or other disposition of property, whenever acquired, shall be the basis determined under subsection (a), adjusted as hereinafter provided.

(1) Proper adjustment in respect of the property shall in all cases be made:

(A) For expenditures, receipts, losses, or other items, properly chargeable to capital account, but no such adjustment shall be made for taxes or other carrying charges for which deductions have been taken by the taxpayer in determining net income for the taxable year or prior taxable years;

(B) For exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent sustained prior to January 1, 1935, and for periods thereafter to the extent allowed (but not less than the amount allowable) under this act; provided, however, that if a taxpayer has not claimed an amortization deduction for an emergency facility, an adjustment shall be made only to the extent ordinarily provided under Section 8 (i);

(C) In the case of stock (to the extent not provided for in the foregoing subparagraphs) for the amount of distributions previously made which, under the law applicable to the year in which the distribution was made, either were tax-free or were applicable in reduction of basis (not including distributions made by a corporation, which was classified as a personal service corporation under the provisions of the Federal Revenue Act of 1918 or 1921, out of its earnings or profits which were taxable in accordance with the provisions of Section 218 of the Federal Revenue Act of 1918 or 1921);

(D) In the case of any bond (as defined in Section 8(p)(3)) the interest on which is wholly exempt from the tax imposed by this act, to the extent of the amortizable bond premium disallowable as a deduction pursuant to Section 8(p)(1)(B), and in the case of any other bond (as defined in such section) to the extent of the deductions allowable pursuant to Section 8(p)(1)(A) with respect thereto.

"Substituted basis"

(2) The term "substituted basis" as used in this subsection means a basis determined under any provision of subsection (a) of this section; providing, that the basis shall be determined:

(A) By reference to the basis in the hands of a transferor, donor, or grantor, or

(B) By reference to other property held at any time by the person for whom the basis is to be determined.

Whenever it appears that the basis of property in the hands of the taxpayer is a substituted basis, then the adjustments provided in paragraph (1) of this subsection shall be made after first making in respect of such substituted basis proper adjustments of a similar nature in respect of the period during which the property was held by the transferor, donor, or grantor, or during which the other property was held by the person for whom the basis is to be determined. A similar rule shall be applied in the case of a series of substituted bases.

Leased property

(c) Neither the basis nor the adjusted basis of any portion of real property shall, in the case of the lessor of such property, be increased or diminished on account of income derived by the lessor in respect of such property and excludible from gross income under Section 7 (b) (8). If an amount representing any part of the value of real property attributable to buildings erected or other improvements made by a lessee in respect of such property was included in gross income of the lessor for any taxable year beginning before January 1, 1943, the basis of each portion of such property shall be properly adjusted for the amount so included in gross income.

Stats 1939, p 2528
See also Stats 1943, Ch 659

SEC. 10. Section 9.4 of The Personal Income Tax Act is hereby amended as follows:

Percentage of gain or loss considered in tax computation

Sec. 9.4. (a) In the case of any taxpayer, only the following percentages of the gain or loss recognized upon the sale or exchange of a capital asset shall be taken into account in computing net income:

One hundred per centum if the capital asset has been held for not more than one year;

Eighty per centum if the capital asset has been held for more than one year but not for more than two years;

Sixty per centum if the capital asset has been held for more than two years but not for more than five years;

Forty per centum if the capital asset has been held for more than five years but not for more than 10 years;

Thirty per centum if the capital asset has been held for more than 10 years.

"Capital assets"

(b) The term "capital assets" means property held by the taxpayer (whether or not connected with his trade or business), but does not include stock in trade of the taxpayer or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business, or property used in the trade or business of a character which is subject to the allowance for depreciation provided in Section 8 (i), or real property used in the trade or business of the taxpayer.

(c) For the purposes of subsection (a):

Determination of period for which property held

(1) In determining the period for which the taxpayer has held property received on an exchange there shall be included the period for which he held the property exchanged, if under the provisions of Section 9.3, the property received has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in his hands as the property exchanged. For the purposes of this subsection, an involuntary conversion described in Section 9.2 (e) shall be considered an exchange of the property converted for the property acquired.

(2) In determining the period for which the taxpayer has held property however acquired there shall be included the period for which such property was held by any other person, if under the provisions of Section 9.3, such property has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in his hands as it would have in the hands of such other person.

(3) In determining the period for which the taxpayer has held stock or securities received upon a distribution where no gain was recognized to the distributee under the provisions of Section 112 (g) of the Federal Revenue Act of 1928 or the Federal Revenue Act of 1932, there shall be included the period for which he held the stock or securities in the distributing corporation prior to the receipt of the stock or securities upon such distribution.

(4) In determining the period for which the taxpayer has held stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility (under Section 8 (g) of this act, relating to wash sales)

of the loss from the sale or other disposition of substantially identical stock or securities, there shall be included the period for which he held the stock or securities the loss from the sale or other disposition of which was not deductible.

(5) In determining the period for which the taxpayer has held stock or securities acquired from a corporation by the exercise of rights to acquire such stock or securities, there shall be included only the period beginning with the date upon which the right to acquire was exercised.

Loss allowance

(d) Losses from sales or exchanges of capital assets shall be allowed only to the extent of two thousand dollars ($2,000) plus the gains from such sales or exchanges.

(e) For the purposes of this act:

Short sales

(1) Gains or losses from short sales of property shall be considered as gains or losses from sales or exchanges of capital assets; and

Failure to exercise option

(2) Gains or losses attributable to the failure to exercise privileges or options to buy or sell property shall be considered as gains or losses from sales or exchanges of capital assets held for one year or less.

Amounts received on obligation retirement

(f) For the purposes of this act, amounts received by the holder upon the retirement of bonds, debentures, notes, or certificates or other evidences of indebtedness issued by any corporation (including those issued by a government or political subdivision thereof), with interest coupons or in registered form, shall be considered as amounts received in exchange therefor.

Property used in trade or business

(g) (1) For the purposes of this subsection, the term "property used in the trade or business" means property used in the trade or business, of a character which is subject to the allowance for depreciation provided in Section 8 (i), and real property used in the trade or business, which is not

(A) Property of a kind which would properly be includible in the inventory of the taxpayer if on hand at the close of the taxable year, or

(B) Property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business.

(2) If, during the taxable year, the recognized gains upon sales or exchanges of property used in the trade or business, plus the recognized gains from the compulsory or involuntary conversion (as a result of destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation or the threat or imminence thereof) of property used in the trade or business and capital assets into other property or money, exceed the recognized losses from such sales, exchanges, and conversions, such gains and losses shall be considered as gains and losses from sales or exchanges of capital assets If such gains do not exceed such losses, such gains and losses shall not be considered as gains and losses

from sales or exchanges of capital assets. For the purposes of this paragraph:

(A) In determining under this paragraph whether gains exceed losses, the gains and losses described therein shall be included only if and to the extent taken into account in computing net income, except that subsections (b) and (d) shall not apply.

(B) Losses upon the destruction, in whole or in part, theft or seizure, or requisition or condemnation of property used in the trade or business of capital assets shall be considered losses from a compulsory or involuntary conversion.

SEC. 11. Section 9.5 of The Personal Income Tax Act is hereby amended as follows: Stats 1939, p 2528 See also Stats 1943, Ch 659

Sec. 9.5. (a) The basis upon which exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be the adjusted basis provided in Section 9.3 (b) for the purpose of determining the gain upon the sale or other disposition of such property. Basis for exhaustion allowance

(b) (1) The basis upon which depletion is to be allowed in respect of any property shall be the adjusted basis provided in Section 9.3 (b) for the purpose of determining the gain upon the sale or other disposition of such property, except as provided in paragraphs (2), (3), and (4) of this subsection. Basis for depletion allowance

(2) In the case of mines (other than metal, coal, fluorspar, ball and sagger clay, rock asphalt or sulphur mines), discovered by the taxpayer after February 28, 1913, the basis for depletion shall be the fair market value of the property at the date of discovery or within 30 days thereafter, if such mines were not acquired as the result of purchase of a proven tract or lease, and if the fair market value of the property is materially disproportionate to the cost. The depletion allowance under Section 8 (j) based on discovery value provided in this paragraph shall not exceed 50 per centum of the net income of the taxpayer (computed without allowance for depletion) from the property upon which the discovery was made, except that in no case shall the depletion allowance under Section 8 (j) be less than it would be if computed without reference to discovery value. Discoveries shall include minerals in commercial quantities contained within a vein or deposit discovered in an existing mine or mining tract by the taxpayer after February 28, 1913, if the vein or deposit thus discovered was not merely the uninterrupted extension of a continuing commercial vein or deposit already known to exist, and if the discovered minerals are of sufficient value and quantity that they could be separately mined and marketed at a profit. Mines discovered after February 28, 1913

(3) In the case of oil and gas wells the allowance for depletion under Section 8 (j) shall be 27½ per centum of the gross income from the property during the taxable year, excluding Oil and gas wells

from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. Such allowance shall not exceed 50 per centum of the net income of the taxpayer (computed without allowance for depletion) from the property, except that in no case shall the depletion allowance under Section 8 (j) be less than it would be if computed without reference to this paragraph.

Coal mines

(4) The allowance for depletion under Section 8 (j) shall be, in the case of coal mines, 5 per centum, in the case of metal, fluorspar, ball and sagger clay or rock asphalt mines, 15 per centum, and, in the case of sulphur mines or deposits, 23 per centum, of the gross income from the property during the taxable year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. Such allowance shall not exceed 50 per centum of the net income of the taxpayer (computed without allowance for depletion) from the property, except in no case shall the depletion allowance under Section 8 (j) be less than it would be if computed without reference to this subsection.

Stats 1939, p 2528

SEC. 12. Section 10 of The Personal Income Tax Act is hereby amended as follows:

See also Stats 1943, Chs 354 and 659

Sec. 10. There shall be allowed for the purpose of the tax herein imposed:

Credits against net income Personal exemption

(a) In the case of a single person, a personal exemption of one thousand dollars ($1,000); or in case of the head of a family or a married person living with husband or wife, a personal exemption of two thousand five hundred dollars ($2,500). A husband and wife living together shall receive but one personal exemption. The amount of such personal exemption shall be two thousand five hundred dollars ($2,500). If such husband and wife make separate returns, the personal exemption may be taken by either or divided between them;

Credits for dependents

(b) Four hundred dollars ($400) for each person (other than husband or wife living with the taxpayer) dependent upon and receiving his chief support from the taxpayer if such dependent person is under 18 years of age or is incapable of self-support because mentally or physically defective; however, a payment to a wife, which is includible under Section 7(k) or Section 12(j) in the gross income of such wife shall not be considered a payment by her husband for the support of any dependent;

(1) If the taxpayer would not occupy the status of head of a family except by reason of there being one or more dependents for whom he would be entitled to credit under subsection (b), the credit under such subsection shall be disallowed with respect to one of such dependents.

Estates and trusts

(c) In the case of an estate an exemption of one thousand dollars ($1,000); in the case of a trust an exemption of one hundred dollars ($100);

Change of status

(d) If the status of the taxpayer, in so far as it affects the personal exemption or credit for dependents changes during

the taxable year, the personal exemption and credit shall be apportioned, under such rules and regulations as are prescribed by the commissioner, in accordance with the number of months before and after such change. For the purpose of such apportionment a fractional part of a month shall be disregarded unless it amounts to more than half a month, in which case it shall be considered as a month.

SEC. 13. Section 12 of The Personal Income Tax Act is hereby amended as follows: Stats 1941, p 3042

Sec. 12. (a) The taxes imposed by this act upon individuals shall apply to, and be imposed upon, the income of estates or of any kind of property held in trust (other than so-called Massachusetts trusts), including: Tax on income of estates and trusts

(1) Income accumulated in trust for the benefit of unborn or unascertained persons or persons with contingent interests, and income accumulated or held for future distribution under the terms of the will or trust;

(2) Income which is to be distributed currently by the fiduciary to the beneficiaries, and income collected by a guardian of an infant which is to be held or distributed as the court may direct;

(3) Income received by estates of deceased persons during the period of administration or settlement of the estate; and

(4) Income which, in the discretion of the fiduciary, may be either distributed to the beneficiaries or accumulated.

(b) For the purposes of this section the word "settlor" shall mean and include every creator of a trust and every decedent and where in this section the settlor is spoken of as a resident or a nonresident the same shall be taken to include a decedent who upon his or her death is a resident or a nonresident as the case may be.

(c) Except as otherwise provided in subsections (d), (g) and (h) of this section, the income of an estate or trust shall be taxable to the estate or trust. The tax shall apply to the entire net income if, in the case of an estate, the decedent was a resident, regardless of the residence of the fiduciary or beneficiary, and in the case of trusts, if the fiduciary or beneficiary is a resident, regardless of the residence of the settlor. To whom taxable

Where the taxability of income under this subsection depends on the residence of the fiduciary and there are two or more fiduciaries for the trust, the income taxable under this subsection shall be apportioned according to the number of fiduciaries resident in this State, such apportionment being determined according to rules and regulations prescribed by the commissioner.

Where the taxability of income under this subsection depends on the residence of the beneficiary and there are two or more beneficiaries for the trust, the income taxable under this subsection shall be apportioned according to the number and interest of beneficiaries resident in this State, such apportionment being determined according to rules and regulations prescribed by the commissioner.

Taxes on income of an estate or trust which is taxable to the estate or trust shall be a charge upon the estate or trust and shall be paid by the fiduciary.

If, for any reason, the taxes imposed on income of a trust which is taxable to the trust because the fiduciary or beneficiary is a resident of this State are unpaid when due and remain unpaid when such income is distributable to the beneficiaries, or in case such income is distributable to the beneficiaries before the taxes are due, if such taxes are unpaid when due, such income shall be taxable to the beneficiaries when distributable to them except that in the case of nonresident beneficiaries such income shall be taxable only to the extent provided in subsection (f) of Section 7 of this act.

Computation of net income

(d) The net income of the estate or trust shall be computed in the same manner and on the same basis as in the case of an individual, except that:

(1) There shall be allowed as a deduction (in lieu of the deduction for charitable, etc., contributions authorized by subsection (*l*) of Section 8), any part of the gross income, without limitation, which pursuant to the terms of the will or deed creating the trust, is during the taxable year paid or permanently set aside for the purposes and in the manner specified in subsection (*l*) of Section 8 or is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, or for the establishment, acquisition, maintenance or operation of a public cemetery not operated for profit;

(2) There shall be allowed as an additional deduction in computing the net income of the estate or trust the amount of the income of the estate or trust for its taxable year which is to be distributed currently by the fiduciary to the legatees, heirs or beneficiaries, but the amount so allowed as a deduction shall be included in computing the net income of the legatees, heirs or beneficiaries whether distributed to them or not. For the purpose of this paragraph amounts currently distributable to beneficiaries are distributable out of income of the estate or trust for the taxable year if there is income of the estate or trust for the taxable year out of which such distributions may be made and if, under the terms of the will or trust instrument, the distributions may be made out of such income, regardless of the fact that the will or trust instrument provides that the distributions may be made out of the corpus of the estate or trust. Any amount allowed as a deduction under this paragraph shall not be allowed as a deduction under paragraph (3) of this subsection in the same or any succeeding taxable year. In the case of the income of a beneficiary, not a resident, derived through such an estate or trust, such income will be taxable only to the extent provided in subsection (f) of Section 7 of this act;

(3) In the case of income received by estates of deceased persons during the period of administration or settlement of the estate, and in the case of income which, in the discretion of

the fiduciary, may be either distributed to the beneficiary or accumulated, there shall be allowed as an additional deduction in computing the net income of the estate or trust the amount of the income of the estate or trust for its taxable year, which is properly paid or credited during such year to any legatee, heir, or beneficiary, but the amount so allowed as a deduction shall be included in computing the net income of the legatee, heir, or beneficiary. In such cases the income of the legatee, heir, or beneficiary, not a resident, shall be taxable only to the extent provided in subsection (f) of Section 7 of this act.

(e) If the taxable year of a legatee, heir, or beneficiary is different from that of the estate or trust, the amount which he is required, under subsection (d) (2) of this section, to include in computing his net income, shall be based upon the income of the estate or trust for any taxable year of the estate or trust ending within or with his taxable year.

Employer's stock bonus, etc., plan

(f) (1) A trust forming part of a stock bonus, pension, or profit-sharing plan of an employer for the exclusive benefit of his employees or their beneficiaries shall not be taxable under this section and no other provision of this section shall apply with respect to such trust or to its beneficiary—

(A) If contributions are made to the trust by such employer, or employees, or both, for the purpose of distributing to such employees or their beneficiaries the corpus and income of the fund accumulated by the trust in accordance with such plan;

(B) If under the trust instrument it is impossible, at any time prior to the satisfaction of all liabilities with respect to employees and their beneficiaries under the trust, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, purposes other than for the exclusive benefit of his employees or their beneficiaries;

(C) If the trust, or two or more trusts, or the trust or trusts and annuity plan or plans are designated by the employer as constituting parts of a plan intended to qualify under this subsection which benefits either—

(i) 70 per centum or more of all the employees, or 80 per centum or more of all the employees who are eligible to benefit under the plan if 70 per centum or more of all the employees are eligible to benefit under the plan, excluding in each case employees who have been employed not more than a minimum period prescribed by the plan, not exceeding five years, employees whose customary employment is for not more than 20 hours in any one week, and employees whose customary employment is for not more than five months in any calendar year, or

(ii) Such employees as qualify under a classification set up by the employer and found by the commissioner not to be discriminatory in favor of employees who are officers, shareholders, persons whose principal duties consist in supervising the work of other employees, or highly compensated employees; and

(D) If the contributions or benefits provided under the plan do not discriminate in favor of employees who are officers, shareholders, persons whose principal duties consist in supervising the work of other employees, or highly compensated employees.

(E) A classification shall not be considered discriminatory within the meaning of paragraphs (C) (ii) or (D) of this subsection merely because it excludes employees the whole of whose remuneration constitutes "wages" under Section 1426 (a) (1) of the Internal Revenue Code (relating to the Federal Insurance Contributions Act) or the California Unemployment Insurance Act or merely because it is limited to salaried or clerical employees. Neither shall a plan be considered discriminatory within the meaning of such provisions merely because the contributions or benefits of or on behalf of the employees under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of such employees, or merely because the contributions or benefits based on that part of an employee's remuneration which is excluded from "wages" by Section 1426 (a) (1) of the Internal Revenue Code or the California Unemployment Insurance Act differ from the contributions or benefits based on employee's remuneration not so excluded, or differ because of any retirement benefits created under State or Federal law.

(F) A plan shall be considered as meeting the requirements of paragraph (C) of this subsection during the whole of any taxable year of the plan if on one day in each quarter it satisfied such requirements.

(2) The amount actually distributed or made available to any distributee by any such trust shall be taxable to him, in the year in which so distributed or made available, under Section 7 (b) (2) as if it were an annuity the consideration for which is the amount contributed by the employee, except that if the total distributions payable with respect to any employee are paid to the distributee within one taxable year of the distributee on account of the employee's separation from the service, the amount of such distribution to the extent exceeding the amounts contributed by the employee, shall be considered a gain from the sale or exchange of a capital asset.

(3) Contributions to a trust made by an employer during a taxable year of the employer which ends within or with a taxable year of the trust for which the trust is not exempt under Section 12 (f) (1) shall be included in the gross income of an employee for the taxable year in which the contribution is made to the trust in the case of an employee whose beneficial interest in such contribution is nonforfeitable at the time the contribution is made.

Revesting of corpus in trustor

(g) Where the title to any part of the corpus of the trust may at any time revest in the grantor without the consent of any person having a substantial adverse interest in any part of the corpus or the income therefrom, and the revesting is not contingent upon the death of all the beneficiaries, then

the income of such part of the trust shall be included in computing the net income of the grantor if the grantor is a resident. If the grantor is a nonresident, such income shall be included in computing his income only to the extent derived from sources within this State; the balance of such income shall be taxable either to the trust or to the beneficiaries in accordance with the provisions of subsections (c) and (d) of this section.

Use of trust income for trustor's benefit

(h) Where any part of the income of a trust:

(1) Is, or in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income may be held or accumulated for future distribution to the grantor; or

(2) May, in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income, be distributed to the grantor; or

(3) Is, or in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income may be, applied to the payment of premiums upon policies of insurance on the life of the grantor (except policies of insurance irrevocably payable for the purposes and in the manner specified in subsection (*l*) of Section 8, relating to the so-called "charitable contribution" deduction); then such part of the income of the trust shall be included in computing the net income of the grantor if the grantor is a resident. If the grantor is a nonresident, such income shall be included in computing his income only to the extent derived from sources within this State; the balance of such income shall be taxable either to the trust or to the beneficiaries in accordance with the provisions of subsections (c) and (d) of this section.

(i) As used in subsections (g) and (h) of this section the term "in the discretion of the grantor," means "in the discretion of the grantor, either alone or in conjunction with any person not having a substantial adverse interest in the disposition of the part of the income in question."

Inclusion in gross income of divorced or separated wife

(j) (1) There shall be included in the gross income of a wife who is divorced or legally separated under a decree of divorce or of separate maintenance the amount of the income of any trust which such wife is entitled to receive and which, except for the provisions of this section, would be includible in the gross income of her husband, and such amount shall not, despite Section 12 (g), Section 12 (h), or any other provision of this act, be includible in the gross income of such husband. This subsection shall not apply to that part of any such income of the trust which the terms of the decree or trust instrument fix, in terms of an amount of money or a portion of such income, as a sum which is payable for the support of minor children of such husband. In case such income is less than the amount specified in the decree or instrument, for the purpose of applying the preceding sentence, such income, to

the extent of such sum payable for such support, shall be considered a payment for such support.

(2) For the purposes of computing the net income of the estate or trust and the net income of the wife described in Section 7 (k) or subsection (1) of this section, such wife shall be considered as the beneficiary specified in this section. A periodic payment under Section 7 (k) to any part of which the provisions of this section are applicable shall be included in the gross income of the beneficiary in the taxable year in which under this section such part is required to be included.

Stats 1943, Ch 25
See also Stats 1943, Ch 659

SEC. 14. Section 13 of The Personal Income Tax Act is hereby amended as follows:

Time and place for filing returns

Sec. 13. (a) Returns required by Section 4 shall be under oath; all other returns required by this act shall contain, or be verified by, a written declaration that they are made under the penalties of perjury. Such returns shall be in such form as the commissioner may from time to time prescribe, and shall be filed with the commissioner, at his main office or at any branch office which he may establish. The commissioner shall cause to be prepared blank forms for the said returns and shall cause them to be distributed throughout the State and to be furnished upon application, but failure to receive or secure the form shall not relieve any taxpayer from the obligation of making any return herein required.

(b) Any individual who wilfully makes and subscribes a return which he does not believe to be true and correct as to every material matter, shall be guilty of a felony, and upon conviction thereof, shall be subject to the penalties prescribed for perjury by the Penal Code of this State.

(c) Returns made on the basis of the calendar year shall be filed on or before the fifteenth day of April following the close of the calendar year. Returns made on the basis of a fiscal year shall be filed on or before the fifteenth day of the fourth month following the close of the fiscal year.

(d) The commissioner, under such rules and regulations as he shall prescribe, may grant a reasonable extension of time for filing the return and/or for payment of the tax, or any installment thereof, disclosed by the return, due or to become due within the period of the extension, whenever in his judgment good cause exists therefor, and he shall keep a record of every such extension. No such extension or extensions shall aggregate more than six months from the due date provided in subsection (c) of this section.

Stats 1941, p 3042
See also Stats 1943, Ch 659

SEC. 15. Section 16 of The Personal Income Tax Act is hereby amended as follows:

Computation of tax
Accounting period

Sec. 16 (a) The net income shall be computed upon the basis of the taxpayer's annual accounting period (fiscal year or calendar year, as the case may be) in accordance with the method of accounting regularly employed in keeping the books of such taxpayer; but if no such method of accounting has been so employed, or if the method employed does not clearly

reflect the income, the computation shall be made in accordance with such method as in the opinion of the commissioner does clearly reflect the income. If the taxpayer's annual accounting period is other than a fiscal year as defined in Section 2 (i) or if the taxpayer has no annual accounting period or does not keep books, the net income shall be computed on the basis of the calendar year.

Change in accounting period

(b) If a taxpayer, with the approval of the commissioner, changes the basis of computing net income from fiscal year to calendar year a separate return shall be made for the period between the close of the last fiscal year for which return was made and the following December 31st. If the change is from calendar year to the fiscal year, a separate return shall be made for the period between the close of the last calendar year for which return was made and the date designated as the close of the fiscal year. If the change is from one fiscal year to another fiscal year a separate return shall be made for the period between the close of the former fiscal year and the date designated as the close of the new fiscal year.

(1) Where a separate return is made under subsection (b) of this section on account of a change in the accounting period, and in all other cases where a separate return is required or permitted, by regulations prescribed by the commissioner, to be made for a fractional part of a year, then the income shall be computed on the basis of the period for which separate return is made.

"Short period"

(2) If a separate return is made under subsection (b) of this section, on account of a change in the accounting period, the net income, computed on the basis of the period for which separate return is made (referred to in this subsection as the "short period"), shall be placed on an annual basis by multiplying the amount thereof by 12 and dividing by the number of months in the short period. The tax shall be such part of the tax computed on such annual basis as the number of months in the short period is of 12 months.

(3) If the taxpayer establishes the amount of his net income for the period of 12 months beginning with the first day of the short period, computed as if such 12-month period were a taxable year, under the law applicable to such year, then the tax for the short period shall be reduced to an amount which is such part of the tax computed on the net income for such 12-month period as the net income computed on the basis of the short period is of the net income for the 12-month period. The taxpayer (other than a taxpayer to which the next sentence applies) shall compute the tax and file his return without the application of this subsection. If the taxpayer was not in existence at the end of the 12-month period, then in lieu of the net income for such 12-month period there shall be used for the purposes of this subsection the net income for the 12-month period ending with the last day of the short period. The tax computed under this subsection shall in no case be less than the tax computed on the net income for the

short period without placing such net income on an annual basis. The benefits of this subsection shall not be allowed unless the taxpayer, at such time as regulations prescribed hereunder require (but not after the time prescribed for the filing of the return for the first taxable year which ends on or after 12 months after the beginning of the short period), makes application therefor in accordance with such regulations. Such application, in case the return was filed without regard to this subsection, shall be considered a claim for credit or refund with respect to the amount by which the tax is reduced under this subsection. The commissioner shall prescribe such regulations as he may deem necessary for the application of this subsection.

Return for fractional part of year

(c) In the case of a return made for a fractional part of a year, except a return made under subsection (b), on account of a change in the accounting period, the personal exemption and the credit for dependents shall be reduced respectively to amounts which bear the same ratio to the full credits provided as the number of months in the period for which return is made bears to 12 months.

Includible gross income

(d) The amount of all items of gross income shall be included in the gross income for the taxable year in which received by the taxpayer, unless, under the methods of accounting permitted under subsection (a) of this section, any such amounts are to be properly accounted for as of a different period. In the case of the death of the taxpayer, whose net income is computed upon the basis of the accrual method of accounting, amounts (except amounts includible in computing a partner's net income under Section 22) accrued only by reason of the death of the taxpayer shall not be included in computing net income for the period in which falls the date of the taxpayer's death.

Taking of deductions and credits

(e) The deductions and credits provided for in this act shall be taken for the taxable year in which "paid or accrued" or "paid or incurred," dependent upon the method of accounting upon the basis of which the net income is computed, unless in order clearly to reflect the income the deductions or credits should be taken as of a different period. In the case of the death of a taxpayer, whose net income is computed upon the basis of the accrual method of accounting, amounts (except amounts includible in computing a partner's net income under Section 22) accrued as deductions and credits only by reason of the death of the taxpayer shall not be allowed in computing net income for the period in which falls the date of the taxpayer's death.

Change in law applicable to tax computation

(f) The tax for any period beginning in one calendar year (hereinafter in this section called "first calendar year") and ending in the following calendar year (hereinafter in this section called "second calendar year") where the law applicable to the computation of taxes for taxpayers reporting on a calendar year basis differs for the second calendar year from the law applicable to the first calendar year, shall be the sum

of: (1) the same proportion of a tax for the entire period, determined under the law applicable to the first calendar year and at the rates for such year, which the portion of such period falling within the first calendar year is of the entire period; and (2) the same proportion of a tax for the entire period, determined under the law applicable to the second calendar year and at the rates for such year, which the portion of such period falling within the second calendar year is of the entire period.

Any tax that has been paid under the law applicable to the first calendar year if in excess of the tax imposed by this section shall be refunded or credited to the taxpayer as provided in Section 20. Any tax in addition to that paid under the law applicable to the first calendar year made necessary by this section shall be immediately due and payable upon notice and demand from the commissioner.

Change in status of taxpayer

(g) When the status of a taxpayer changes from resident to nonresident, or from nonresident to resident, there shall be included in determining income from sources within or without this State, as the case may be, income and deductions accrued prior to the change of status even though not otherwise includible in respect of the period prior to such change, but the taxation or deduction of items accrued prior to the change of status shall not be affected by the change.

Fractional part of year

(h) In the case of a taxpayer not in existence during the whole of an annual accounting period ending on the last day of a month, or, if the taxpayer has no such annual accounting period or does not keep books, during the whole of a calendar year, the return shall be made for the fractional part of the year during which the taxpayer was in existence.

Increase in redemption price

(i) If, in the case of a taxpayer owning any noninterest-bearing obligation issued at a discount and redeemable for fixed amounts increasing at stated intervals, the increase in the redemption price of such obligation occurring in the taxable year does not (under the method of accounting used in computing his net income) constitute income to him in such year, such taxpayer may, at his election made in his return for any taxable year beginning after December 31, 1942, treat such increase as income received in such taxable year. If any such election is made with respect to any such obligation, it shall apply also to all such obligations owned by the taxpayer at the beginning of the first taxable year to which it applies and to all such obligations thereafter acquired by him and shall be binding for all subsequent taxable years, unless upon application by the taxpayer the commissioner permits him, subject to such conditions as the commissioner deems necessary, to change to a different method. In the case of any such obligations owned by the taxpayer at the beginning of the first taxable year to which his election applies, the increase in the redemption price of such obligations occurring between the date of acquisition and the first day of such taxable year shall also be treated as income received in such taxable year.

Stats 1941, p 3042
See also Stats 1943, Ch 659

SEC. 16. Section 19 of The Personal Income Tax Act is hereby amended to read as follows:

Deficiency tax Notice

Sec. 19. As soon as practicable after the return is filed, the commissioner shall examine it and shall determine the correct amount of the tax. If the commissioner determines that the tax disclosed by the original return is less than the tax disclosed by his examination he shall mail notice or notices to the taxpayer of the deficiency proposed to be assessed. Each notice shall set forth the details and computation of such deficiency.

In the case of a joint return filed by husband and wife, such notice of deficiency may be a single joint notice, except that if the commissioner has been notified by either spouse that separate residences have been established, then, in lieu of the single joint notice, duplicate originals of the joint notice shall be sent by mail to each spouse.

Protest

Within 60 days after mailing of said notice the taxpayer may file with the commissioner a written protest against the levy of the proposed deficiency, specifying therein the grounds upon which the protest is based. The protest must be under oath.

If no such protest is so filed the amount of the deficiency shall be final upon the expiration of said 60-day period. If a protest is so filed it shall be the duty of the commissioner to reconsider the computation and levy of the deficiency complained of, and, if the taxpayer has so requested in his protest, it shall be the duty of the commissioner to grant said taxpayer, or his authorized representatives, an oral hearing.

Hearing

Appeal

The commissioner's action upon the protest shall be final upon the expiration of 30 days from the date when he mails notice of his action to the taxpayer, unless within that 30-day period the taxpayer appeals in writing from the action of the commissioner to the State board. The appeal must be addressed and mailed to the State Board of Equalization at Sacramento, California, and a copy of the appeal addressed and mailed at the same time to the commissioner at Sacramento, California. Said board shall hear and determine the same and thereafter shall forthwith notify the taxpayer and the commissioner of its determination, and the reasons therefor. Such determination shall be final upon the expiration of 30 days from the time of such determination unless within such 30-day period, the taxpayer or the commissioner files a petition for rehearing with said board in which event the board's determination shall become final upon the expiration of 30 days from the time the board issues its opinion on said petition.

Notice and demand

When a deficiency has been determined and the tax has become final under the provisions of this section, the commissioner shall mail notice and demand to the taxpayer for the payment thereof, and such tax shall be due and payable at the expiration of 10 days from the date of such notice and demand, unless the taxpayer has elected to pay the tax in installments, in which case the deficiency shall be prorated to the three installments.

Except as provided in Section 18 (relating to jeopardy assessments), that part of the deficiency so prorated to any installment, the date for payment of which has not arrived, shall be collected at the same time as, and as part of, such installment. That part of the deficiency so prorated to any installment the date for payment of which has arrived shall be due and payable at the expiration of 10 days from the date of such notice.

Certificate of commissioner

A certificate by the commissioner or of said board, as the case may be, of the mailing of the notices specified in this section shall be prima facie evidence of the computation and levy of the deficiency in tax and of the giving of said notices.

Time for mailing notice

Except in the case of a fraudulent return, every notice of a proposed deficiency tax shall be mailed to the taxpayer within four years after the return was filed and no deficiency shall be assessed or collected with respect to the year for which such return was filed unless such notice is mailed within such period; provided that, in the case of any taxpayer who shall agree with the United States Commissioner of Internal Revenue for an extension (or renewals thereof) of the period for proposing and assessing deficiencies in Federal income taxes for any year, the period for mailing notices of proposed deficiency tax pursuant to this section shall be four years after the return was filed or six months after the date of the expiration of the agreed period for assessing deficiencies in Federal income tax, whichever period expires the later. For the purposes of this paragraph a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

Extension of assessment period

Where before the expiration of the time prescribed in this section for the assessment of the tax, the taxpayer has consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

Any amount of tax in excess of that disclosed by the return, due to a mathematical error, notice of which has been mailed to the taxpayer, shall not be considered a deficiency assessment within the meaning of this section. The taxpayer shall have no right of protest or appeal as herein provided, based on such notice, nor shall such assessment or collection be prohibited by any of the provisions of this section.

Stats 1941, p 3042

SEC. 17. Section 20 of The Personal Income Tax Act is hereby amended to read as follows:

See also Stats 1943, Ch 659

Credits and refunds

Sec. 20. If, in the opinion of the commissioner, or the State board, as the case may be, there has been an overpayment of tax, penalty or interest by a taxpayer for any year for any reason, the amount of such overpayment shall be credited against any taxes then due from the taxpayer under this act, and the balance refunded to the taxpayer. No such credit or refund shall be allowed or made until approved by the State Board of Control. No such credit or refund shall be allowed

Claim

or made after four years from the last day prescribed for filing the return or after one year from the date of the overpayment, whichever period expires the later, unless before the expiration of such period a claim therefor is filed by the taxpayer, or unless before the expiration of such period the commissioner has certified the overpayment to the State Board of Control for approval of the refunding or the crediting thereof.

Extension agreement

If (a) the taxpayer has, within the period prescribed in the preceding sentence, agreed in writing, under the provisions of Section 19, to extend the time within which the commissioner may propose an additional assessment, or (b) if the taxpayer has agreed with the United States Commissioner of Internal Revenue for an extension (or renewals thereof) of the period for proposing and assessing deficiencies in Federal income tax for any year, the period within which a claim for credit or refund may be filed, or credit or refund allowed or made if no claim is filed, shall be the period within which the commissioner may make an assessment under such circumstances, except that the provisions of the preceding sentence shall apply to any claim filed, or credit or refund allowed or made, before the execution of such agreements. Insofar as the claim for credit or refund relates to an overpayment on account of the deductibility, under Section 8 (f) (1), of a debt as one which became worthless, or a loss from worthlessness of a security under Section 8 (f) (2), or Section 8 (h) (2), or an erroneous inclusion of an amount attributable to the recovery of a bad debt, prior tax or delinquency amount, under Section 7 (b) (9) due to an adjustment of a bad debt deduction under Section 8 (f) (1), or a loss deduction from worthlessness of a security under Section 8 (f) (2), or Section 8 (h) (2), in lieu of the period of limitation prescribed in the second preceding sentence, the period shall be seven years from the date prescribed by law for filing the return for the year with respect to which the claim is made. A refund claim upon which action has become final shall not thereafter be considered a refund claim within the meaning of the foregoing provision except to the extent allowed. Every claim for refund must be in writing under oath and must state the specific grounds upon which the claim is founded.

Disallowance

If the commissioner disallows any claim for refund, he shall notify the taxpayer accordingly. At the expiration of 90 days from the mailing of such notice, the commissioner's action upon the claim shall be final unless within such 90-day period,

Appeal

the taxpayer appeals in writing from the action of the commissioner to the State Board of Equalization. If the commissioner fails to mail notice of action on any refund claim within six months after the claim was filed, the taxpayer may, prior to mailing of notice of action on the refund claim, consider the claim disallowed and appeal to said board. Appeals must be addressed to the State Board of Equalization at Sacramento, California, and a copy of the appeal addressed and mailed at the same time to the commissioner at Sacramento.

California. Said board shall hear and determine the same and thereafter shall forthwith notify the taxpayer and the commissioner of its determination. Such determination shall be final upon the expiration of 30 days from the time of such determination unless within such 30-day period, the taxpayer or the commissioner files a petition for rehearing with said board in which event the board's determination shall become final upon the expiration of 30 days from the time the board issues its opinion on said petition. Hearing and determination. Rehearing.

Interest shall be allowed and paid upon any overpayment of any tax, if the overpayment was not made because of an error or mistake on the part of the taxpayer, at the rate of 6 per centum per annum as follows: Interest.

(1) In the case of a credit, from the date of the overpayment to the date of the allowance of the credit. Any interest allowed on any credit shall first be credited on any taxes due from the taxpayer under this act.

(2) In the case of a refund, from the date of the overpayment to a date preceding the date of the refund warrant by not more than 30 days, such date to be determined by the commissioner.

Any refund or any portion thereof which is erroneously made, and any credit or any portion thereof which is erroneously allowed, may be recovered, together with interest at the rate of 6 per centum per annum from the date the refund was made or the credit allowed, in an action brought by the commissioner in a court of competent jurisdiction in the County of Sacramento in the name of the people of the State of California, and such action shall be tried in the County of Sacramento unless the court with the consent of the prosecutor, orders a change of place of trial. The Attorney General or the counsel for the commissioner must prosecute such action, and the provisions of the Code of Civil Procedure, relating to service of summons, pleadings, proofs, trials, and appeals are applicable to the proceedings herein provided for. Recovery of erroneous refund.

In the event that a tax has been illegally levied against a taxpayer, the commissioner shall set forth on his records the reasons therefor and thereafter shall authorize the cancellation of such tax.

SEC. 18. Section 34.2 is hereby added to The Personal Income Tax Act. New section. See also Stats 1943, Ch 659.

Sec. 34.2. (a) The period of time after December 6, 1941, during which an individual is continuously outside the Americas (if such period is longer than 90 days), and the next 90 days thereafter, shall be disregarded in determining, under this act, in respect of any tax liability (including any interest, penalty, additional amount, or addition to the tax) of such individual— Disregard of period outside Americas.

(1) Whether any of the following acts was performed within the time prescribed therefor:

(A) Filing any return of income tax (except income tax withheld at source);

(B) Payment of any income tax (except income tax withheld at source);

(C) Filing an appeal with the State Board of Equalization;

(D) Allowance of a credit or refund of any tax;

(E) Filing a claim for credit or refund of any tax;

(F) Bringing a suit upon any such claim for credit or refund;

(G) Assessment of any tax;

(H) Giving or making any notice or demand, for the payment of any tax, or with respect to any liability in respect of any tax;

(I) Collection, by the commissioner or the collector, by distraint or otherwise, of the amount of any liability in respect of any tax;

(J) Bringing suit by the State of California, or any officer on its behalf, in respect of any liability in respect of any tax; and

(K) Any other act required or permitted under this act.

(2) The amount of any credit or refund (including interest).

(b) In any case to which subsection (a) does not apply in which it is determined by the commissioner, under regulations prescribed by him, that—

(1) By reason of an individual being outside the Americas, or

(2) By reason of any locality (within or without the Americas) being an area of enemy action or being an area under the control of the enemy, as determined by the commissioner, or

(3) By reason of an individual in the military or naval forces of the United States being outside the States of the Union and the District of Columbia, it is impossible or impracticable to perform any one or more of the acts specified in subsection (a), then in determining, under this act whether such act was performed within the time prescribed therefor, in respect of any tax liability (including any interest, penalty, additional amount, or addition to tax) affected by the failure to perform such act within such time, and in determining the amount of any credit or refund (including interest) affected by such failure, there shall be disregarded such period after December 6, 1941, as may be prescribed by such regulations.

Limit on extension

(c) The period of time disregarded under this section shall not extend beyond whichever of the following dates is the earlier:

(1) The fifteenth day of the third month following the month in which the present war with Germany, Italy, and Japan is terminated, as proclaimed by the President of the United States; or

(2) In the case of an individual with respect to whom a period of time is disregarded under this section, the fifteenth day of the third month following the month in which an executor, administrator, or a conservator of the estate of such individual qualifies.

(d) (1) Notwithstanding the provisions of subsection (a) or (b), any action or proceeding authorized by Section 18 (regardless of the taxable year for which the tax arose), Sections 26 or 27 (b), as well as any other action or proceeding authorized by law in connection therewith, may be taken, begun, or prosecuted. In any other case in which the commissioner determines that collection of the amount of any assessment would be jeopardized by delay, the provisions of subsections (a) and (b) shall not operate to stay collection of such amount by distraint or otherwise as authorized by law. There shall be excluded from any amount assessed or collected pursuant to this paragraph the amount of interest, penalty, additional amount, and addition to the tax, if any, in respect of the period disregarded under subsection (a) or (b). In any case to which this paragraph relates, if the commissioner is required to give any notice to or make any demand upon any person, such requirement shall be deemed to be satisfied if the notice or demand is prepared and signed, in any case in which the address of such person last known to the commissioner is in an area for which United States post offices under instructions of the Postmaster General are not, by reason of the war, accepting mail for delivery at the time the notice or demand is signed. In such case the notice or demand shall be deemed to have been given or made upon the date it is signed. Jeopardy collection

(2) The assessment or collection of any tax or of any liability under this act, or any action in connection therewith, may be made, taken, begun, or prosecuted in accordance with law, without regard to the provisions of subsection (a) or (b), unless prior to such assessment, collection, action, or proceeding it is ascertained that the person concerned is entitled to the benefits of subsection (a) or (b).

(3) This section shall not operate to extend the time for performing any act specified in subsection (a) (1) (G), (H), (I), or (J) if such time under the law in force prior to the date of enactment of this section expired prior to such date.

(e) For purposes of this section—

(1) The term "Americas" means North, Central, and South America (including the West Indies but not Greenland), and the Hawaiian Islands. "Americas"

(2) For the purpose of determining whether any act specified in subsection (a) (1) (G), (H), (I), or (J) was performed within the time prescribed therefor, if any period of time is disregarded under this section by reason of any individual being outside the Americas or within an area of enemy action or control, such individual shall not, if he returns to the Americas or leaves such area after the date of enactment of this section, be deemed to have returned to the Americas or ceased to be within such area before the date upon which the commissioner receives from such individual a notice thereof in such form as the commissioner shall by regulations prescribe. A similar rule shall be applied in the case of a member of the military or naval forces of the United States with respect to

whom a period of time is disregarded under this section by reason of being outside the States of the Union and the District of Columbia.

(3) For the purpose of determining whether any act specified in subsection (a) (1) (G), (H), (I), or (J) was performed within the time prescribed therefor, the month in which an executor, administrator, or conservator qualifies, if he qualifies after the date of enactment of this section, shall be deemed to be the month in which the commissioner receives from him a notice thereof in such form as the commissioner shall by regulations prescribe.

Constitutionality

SEC. 19. If any section, subsection, clause, sentence or phrase of this act which is reasonably separable from the remaining portions of this act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed the remaining portions of this act, irrespective of the fact that any such section, subsection, clause, sentence or phrase of this act be declared unconstitutional.

New section
See also Stats 1943, Ch 659
"Husband and wife"

SEC. 19. Section 17019.3 is added to the Revenue and Taxation Code, to read:

17019.3. As used in this part, if the husband and wife therein referred to are divorced, wherever appropriate to the meaning of this part, the term "wife" shall be read "former wife" and the term "husband" shall be read "former husband." If the payments described in this part are made by or on behalf of the wife or former wife to the husband or former husband instead of vice versa, wherever appropriate to the meaning of this part, the term "husband" shall be read "wife" and the term "wife" shall be read "husband."

New section
See also Stats 1943, Ch 659
"Military or naval forces"

SEC. 20. Section 17019.5 is added to said code, to read:

17019.5. The term "military or naval forces of the United States" includes the Marine Corps, the Coast Guard, the Army Nurse Corps, Female, the Women's Army Auxiliary Corps, the Navy Nurse Corps, Female, and the Women's Reserve branch of the Naval Reserve.

New section
See also Stats 1943, Ch 659
"Counsel"

SEC. 20.5. Section 17019.7 is added to said code, to read:

17019.7. The terms "counsel for the commissioner," and "Franchise Tax Counsel" as used in this part, means attorney or attorneys appointed or employed by the commissioner and acting subject to the approval and under the supervision of the Attorney General.

Stats 1943, Ch 659

SEC. 21. Section 17054 of said code is repealed.

New section
See also Stats 1943, Ch 659
Compensation covering 3 or more years period

SEC. 22. Section 17054 is added to said code, to read:

17054. In the case of compensation (a) received for personal services rendered by an individual or a partnership, and covering a period of 36 calendar months or more from the beginning to the completion of such services, (b) all or at least 80 per cent of which is received or accrued in one taxable year, the tax attributable to any part thereof which is included in the gross income of any individual shall not be greater than the aggregate of the taxes attributable to such part had it been

included in the gross income of such individual ratably over that part of the period which precedes the date of such receipt or accrual.

SEC. 23. Section 17055 is added to said code, to read:

New section
See also Stats 1943, Ch 659
"Artistic work or invention"

17055. As used in Section 17056, "artistic work or invention," in the case of an individual, means (a) a literary, musical, or artistic composition of that individual or, (b) a patent or copyright covering an invention of or a literary, musical, or artistic composition of that individual, (c) the work on which by that individual covered a period of 36 calendar months or more from the beginning to the completion of such composition or invention.

SEC. 24. Section 17056 is added to said code, to read:

New section
See also Stats 1943, Ch 659
Compensation for artistic work or invention

17056. If, in the taxable year, the gross income of any individual from a particular artistic work or invention by him is not less than 80 per cent of the gross income in respect of the artistic work or invention in the taxable year plus the gross income therefrom in previous taxable years and the 12 months immediately succeeding the close of the taxable year, the tax attributable to the part of such gross income of the taxable year which is not taxable as a gain from the sale or exchange of a capital asset held for more than one year shall not be greater than the aggregate of the taxes attributable to the part had it been received ratably over that part of the period preceding the close of the taxable year but not more than 36 calendar months.

SEC. 25. Section 17057 is added to said code, to read:

New section
See also Stats 1943, Ch 659
Fractional part of month

17057. For the purposes of Sections 17054, 17055 and 17056, a fractional part of a month shall be disregarded unless it amounts to more than half a month in which case it shall be considered as a month.

SEC 26. Section 17104 is added to said code, to read:

New section
See also Stats 1943, Ch 659
Payments under divorce decree, etc

17104. In the case of a wife who is divorced or legally separated from her husband under a decree of divorce or of separate maintenance, periodic payments (whether or not made at regular intervals) received subsequent to such decree in discharge of, or attributable to property transferred (in trust or otherwise) in discharge of, a legal obligation which, because of the marital or family relationship, is imposed upon or incurred by such husband under such decree or under a written instrument incident to such divorce or separation shall be includible in the gross income of such wife. Such amounts received as are attributable to property so transferred shall not be includible in the gross income of such husband.

SEC. 27. Section 17105 is added to said code, to read:

New section
See also Stats 1943, Ch 659
Support of minor children

17105. Section 17104 shall not apply to that part of any periodic payment which the terms of the decree or written instrument fix, in terms of an amount of money or a portion of the payment, as a sum which is payable for the support of minor children of the husband. In case any periodic payment

is less than the amount specified in the decree or written instrument, that payment, to the extent of the sum payable for support, shall be considered a payment for such support.

New section See also Stats 1943, Ch 659 Installment payments

SEC. 28. Section 17106 is added to said code, to read:

17106. Installment payments discharging a part of an obligation the principal sum of which is in terms of money or property, specified in the decree or instrument shall not be considered periodic payments for the purposes of Sections 17104 and 17105.

New section See also Stats 1943, Ch 659 Installment as periodic payment

SEC. 29. Section 17107 is added to said code, to read:

17107. An installment payment shall be considered a periodic payment for the purposes of Sections 17104 and 17105 if the principal sum, by the terms of the decree or instrument, may be or is to be paid within a period ending more than 10 years from the date of such decree or instrument. But it shall be considered a periodic payment only to the extent that the installment payment for the taxable year of the wife (or if more than one installment payment for the taxable year is received during the taxable year, the aggregate of these installment payments) does not exceed 10 per cent of the principal sum. The portion of a payment of the principal sum which is allocable to a period after the taxable year of the wife in which it is received shall be considered an installment payment for the taxable year in which it is received.

New section See also Stats 1943, Ch 659 Life insurance contract, etc

SEC. 30. Section 17125.3 is added to said code, to read:

17125.3. Sections 17122, 17123, 17124, and 17125 shall not apply with respect to so much of a payment under a life insurance, endowment, or annuity contract, or any interest therein, as is includible in gross income under Sections 17104, 17105, 17106 and 17107.

New section See also Stats 1943, Ch 659 Annuity contract

SEC. 31. Section 17125.5 is added to said code, to read:

17125.5. If an annuity contract is purchased by an employer for an employee under a plan with respect to which the employer's contribution is deductible under Article 1.5 of Chapter 4 of this part, or if an annuity contract is purchased for an employee by an employer exempt under Section 4 (6) of the Bank and Corporation Franchise Tax Act, or Section 4 of the Corporation Income Tax Act, the employee shall include in his income the amounts received under such contract for the year received. If the employee paid any of the consideration for the annuity, the annuity shall be included in his income as provided in Sections 17123, 17124 and 17125. The consideration for the annuity is the amount contributed by the employee.

New section See also Stats 1943, Ch 659 Nonforfeitable rights

SEC. 32. Section 17125.7 is added to said code, to read:

17125.7. Except as provided in Section 17125.5, if the employee's rights under the contract are nonforfeitable other than for failure to pay future premiums, the amount contributed by the employer for such annuity contract on or after such rights become nonforfeitable shall be included in the income of the employee in the year in which the amount is contributed.

This amount, together with any amounts contributed by the employee, shall constitute the consideration paid for the annuity contract in determining the amount of the annuity required to be included in the income of the employee under Sections 17123, 17124 and 17125.

Stats 1943, Ch 659

SEC. 33. Section 17126 of said code is amended to read:

Gifts

17126. Gross income also does not include the value of property acquired by gift, bequest, devise, or inheritance. There shall not be excluded from gross income under this section, the income from such property, or, in case the gift, bequest, devise, or inheritance is of income from property, the amount of income. For the purposes of this section, if, under the terms of the gift, bequest, devise, or inheritance, payment, crediting, or distribution thereof is to be made at intervals, to the extent that it is paid or credited or to be distributed out of income from property, it shall be considered a gift, bequest, devise, or inheritance of income from property.

Stats 1943, Ch 659

SEC. 34. Section 17127 of said code is amended to read:

Accident or health insurance

17127. Except in the case of amounts attributable to, and not in excess of, deductions allowed under Sections 17319, 17319.3, and 17319.5 gross income also does not include amounts received, through accident or health insurance or under workmen's compensation acts, as compensation for personal injuries or sickness, plus the amount of any damages received whether by suit or agreement on account of such injuries or sickness.

Gross income also does not include amounts received as a pension, annuity or similar allowance for personal injuries or sickness resulting from active service in the armed forces of any country.

New section

See also Stats 1943, Ch 659

SEC. 35. Section 17131 is added to said code, to read:

Improvements on leased property

17131. Gross income also does not include income, other than rent, derived by a lessor of real property upon the termination of a lease, representing the value of such property attributable to buildings erected or other improvements made by the lessee.

New section

See also Stats 1943, Ch 659

SEC. 36. Section 17132 is added to said code, to read:

Recovery of bad debt, etc

17132. Gross income also does not include income attributable to the recovery during the taxable year of a bad debt, prior tax, or delinquency amount, to the extent of the amount of the recovery exclusion with respect to that debt, tax, or amount.

New section

See also Stats 1943, Ch 659

SEC. 37. Section 17133 is added to said code, to read:

"Bad debt"

17133. As used in Section 17132 "bad debt" means a debt on account of worthlessness or partial worthlessness of which a deduction was allowed for a prior taxable year.

New section

See also Stats 1943, Ch 659

SEC. 38. Section 17134 is added to said code, to read:

"Prior tax"

17134. As used in Section 17132, "prior tax" means a tax on account of which a deduction or credit was allowed for a prior taxable year.

New section
See also Stats 1943, Ch 659
"Delinquency amount"

SEC. 39. Section 17135 is added to said code, to read:

17135. As used in Section 17132, "delinquency amount" means an amount paid or accrued on account of which a deduction or credit was allowed for a prior taxable year and which is attributable to failure to file return with respect to a tax, or pay a tax, within the time required by the law under which the tax is imposed, or to failure to file return with respect to a tax or pay a tax.

New section
See also Stats 1943, Ch 659
"Recovery exclusion"

SEC. 40. Section 17136 is added to said code, to read:

17136. As used in Section 17132, "recovery exclusion," with respect to a bad debt, prior tax, or delinquency amount, means the amount, determined in accordance with regulations prescribed by the commissioner, of the deductions or credits allowed, on account of such bad debt, prior tax, or delinquency amount, which did not result in a reduction of the taxpayer's tax under this part, reduced by the amount excludible in previous taxable years with respect to such debt, tax or amount under this section.

Stats 1943, Ch 659
Amounts distributed in corporate liquidation

SEC. 41. Section 17154 of said code is amended to read:

17154. Amounts distributed in complete liquidation of a corporation shall be treated as in full payment in exchange for the stock, and amounts distributed in partial liquidation of a corporation shall be treated as in part or full payment in exchange for the stock. The gain or loss to the distributee resulting from the exchange shall be determined under Article 1 of Chapter 6 of this part and shall be recognized only to the extent provided in Article 2 of that chapter.

Stats 1943, Ch 659

SEC. 41.5. Section 17155 of said code is repealed.

Stats 1943, Ch 659
Stock distribution

SEC. 41.7. Section 17159 of said code is amended to read:

17159. A distribution made by a corporation to its shareholders in its stock or in rights to acquire its stock shall be treated as a dividend to the extent that it constitutes income to the shareholder within the meaning of the Sixteenth Amendment to the Constitution of the United States.

New section
See also Stats 1943, Ch 659
Deduction disallowed
Stats. 1943, Ch 352
Stats 1943, Ch 351

SEC. 42. Section 17163.5 is added to said code, to read:

17163.5. For the purposes of Section 17163, a loss with respect to which a deduction is disallowed under Section 8 (d) of the Bank and Corporation Franchise Tax Act or Section 7(d) of the Corporation Income Tax Act shall not be deemed to be recognized.

Stats 1943, Ch 659
Sources, within State

SEC. 43. Section 17211 of said code is amended to read:

17211. In the case of nonresident taxpayers the gross income includes only the gross income from sources within this State.

Stats 1943, Ch 659
Nonresident beneficiaries of trust

SEC. 44. Section 17213 of said code is amended to read:

17213 Income of estates and trusts distributed or distributable to nonresident beneficiaries is income from sources within this State only if distributed or distributable out of income of the estate or trust derived from sources within this State. For the purposes of this section, the nonresident beneficiary shall be deemed to be the owner of intangible per-

sonal property from which the income of the estate or trust is derived.

SEC. 45. Chapter 3 5, comprising Sections 17250 to 17257, inclusive, is added to Part 10, Division 2 of said code, to read: New chapter See also Stats 1943, Ch 659

CHAPTER 3.5. GROSS INCOME AND DEDUCTIONS IN RESPECT OF DECEDENTS

17250. The amount of all items of gross income in respect of a decedent which are not properly includible in respect of the taxable period in which falls the date of his death or a prior period shall be included in the gross income, for the taxable year when received, of: Gross income included in year when received

(a) The estate of the decedent, if the right to receive the amount is acquired by the decedent's estate from the decedent;

(b) The person who, by reason of the death of the decedent, acquires the right to receive the amount, if the right to receive the amount is not acquired by the decedent's estate from the decedent; or

(c) The person who acquires from the decedent the right to receive the amount by bequest, devise, or inheritance, if the amount is received after a distribution by the decedent's estate of such right.

17251. If a right, described in Section 17250, to receive an amount is transferred by the estate of the decedent or a person who receives such right by reason of the death of the decedent or by bequest, devise, or inheritance from the decedent, there shall be included in the gross income of the estate or person, as the case may be, for the taxable period in which the transfer occurs, the fair market value of the right at the time of such transfer plus the amount by which any consideration for the transfer exceeds the fair market value. Tax on transfer of right to receive sum in decedent's estate

17252. As used in Section 17251, "transfer" includes sale, exchange, or other disposition, but does not include a transfer to a person pursuant to the right of that person to receive such amount by reason of the death of the decedent or by bequest, devise, or inheritance from the decedent. "Transfer"

17253. The right, described in Section 17250, to receive an amount shall be treated, in the hands of the estate of the decedent or any person who acquired such right by reason of the death of the decedent, or by bequest, devise, or inheritance from the decedent, as if it had been acquired by the estate or person in the transaction by which the decedent acquired that right. The amount includible in gross income under Sections 17250 and 17251 shall be considered in the hands of the estate or person to have the character which it would have had in the hands of the decedent if the decedent had lived and received that amount. Character of right

17254. The amount of any deduction specified in Sections 17301, 17304, and 17305 (relating to deductions for expenses, Deduction allowable

interest and taxes), in respect of a decedent which is not properly allowable to the decedent in respect of the taxable period in which falls the date of his death, or a prior period, shall be allowed in the taxable year when paid to the estate of decedent. But if the estate of the decedent is not liable to discharge the obligation to which the deduction relates, the amount of the deduction shall be allowed to the person who, by reason of the death of the decedent or by bequest, devise, or inheritance acquires, subject to that obligation, from the decedent an interest in property of the decedent.

Deduction for depletion

17255. The amount of any deduction specified in Section 17314 (relating to deduction for depletion), in respect of a decedent which is not properly allowable to the decedent in respect of the taxable period in which falls the date of his death, or a prior period, shall be allowed to the person described in Section 17250 who, in the manner described therein, receives the income to which the deduction relates, in the taxable year when the income is received.

Amount of deduction

17256. A person who includes an amount in gross income under Sections 17250 and 17251 shall be allowed, for the same taxable year, as a deduction an amount which bears the same ratio to the California inheritance tax attributable to the net value for estate tax purposes of all the items described in Section 17250 as the value for inheritance tax purposes of the items of gross income or portions thereof in respect of which that person included the amount in gross income (or the amount included in gross income, whichever is lower) bears to the value for inheritance tax purposes of all the items described in Section 17250.

"Inheritance tax" Stats 1935, p 1266

17257. As used in Section 17256, the term "inheritance tax" means the tax imposed upon the beneficiary of the decedent under the California Inheritance Tax Act. The net value for inheritance tax purposes of all the items described in Section 17250 shall be the excess of the value for inheritance tax purposes of all the items described in Section 17250 over the deductions from the gross estate in respect of claims which represent the deductions described in Sections 17254 and 17255. The inheritance tax attributable to the net value shall be an amount equal to the excess of the inheritance tax over the inheritance tax computed without including in the gross estate the net value.

New section See also Stats 1943, Ch 659 Expenses for production or collection of income

SEC. 46. Section 17302.5 is added to said code, to read:

17302.5. In computing net income there shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year for the production or collection of income, or for the management, conservation, or maintenance of property held for the production of income.

Stats 1943, Ch 659

SEC. 46.5. Section 17303 of said code is repealed.

New section See also Stats 1943, Ch 659 Sales tax

SEC. 47. Section 17305.5 is added to said code, to read:

17305.5. In computing net income there shall be allowed as a deduction any tax imposed by any State, Territory, dis-

trict or possession of the United States, or any political subdivision thereof, upon persons:

(a) Engaged in selling tangible personal property at retail, which is measured by the gross sales price or the gross receipts from the sale, or which is a stated sum per unit of such property sold; or

(b) Engaged in furnishing services at retail, which is measured by the gross receipts for furnishing such services, if the amount of the tax is separately stated, then to the extent that the amount so stated is paid by the purchaser (otherwise than in connection with the purchaser's trade or business) to that person the amount shall be allowed as a deduction in computing the net income of the purchaser as if the amount constituted a tax imposed upon and paid by the purchaser.

SEC. 48. Section 17310 of said code is amended to read: Stats 1943, Ch 659

17310. In computing net income there shall be allowed as a deduction debts which become worthless within the taxable year or, in the discretion of the commissioner, a reasonable addition to a reserve for bad debts. When satisfied that a debt is recoverable only in part, the commissioner may allow the debt as a deduction in an amount not in excess of the amount which becomes worthless in the taxable year. If a debt was actually worthless prior to January 1, 1943, but was not ascertained to be worthless and charged off prior to that date, a deduction may be taken therefor during the first taxable year ending after December 31, 1942, in any prior year becomes worthless, regardless of whether or not claimed as a deduction in any prior year. This section does not apply to a debt evidenced by a security as defined in Section 17312. Worthless debts

SEC. 49. Section 17311 of said code is amended to read: Stats 1943, Ch 659

17311. If any securities, as defined in Section 17312, become worthless within the taxable year and are capital assets, the loss resulting shall be considered as a loss from the sale or exchange, on the last day of the taxable year, of capital assets Worthless capital assets

SEC. 50. Section 17313 of said code is amended to read: Stats 1943, Ch 659

17313. In computing net income there shall be allowed as a deduction a reasonable allowance for the exhaustion, wear and tear of property used in the trade or business or of property held for the production of net income, including a reasonable allowance for obsolescence. A taxpayer may elect to claim a deduction for amortization of emergency facilities, as defined by Section 124 of the Internal Revenue Code as amended, under regulations prescribed by the commissioner. In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust the allowable deduction shall be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the instrument creating the Obsolescence, etc

trust, or, in the absence of such provisions, on the basis of the trust income allocable to each.

Stats 1943, Ch. 659
Contributions or gifts

SEC. 51. Section 17316 of said code is amended to read:

17316. Deductions for contributions or gifts shall be allowed to an amount which in all the cases listed in Section 17315 combined does not exceed 15 per cent of the taxpayer's net income as computed without the benefit of that section or of Sections 17319, 17319.3 and 17319.5. The contributions or gifts shall be allowed as deductions only if verified under rules and regulations prescribed by the commissioner.

New section
See also Stats 1943, Ch 659
Amounts included in wife's gross income

SEC. 52. Section 17317.5 is added to said code, to read:

17317.5. In computing net income there shall be allowed as a deduction, in the case of a husband described in Sections 17104, 17105 and 17106, amounts includible under those sections in the gross income of his wife, payment of which is made within the husband's taxable year. If the amount of any payment is, under these sections or under Sections 18172.3 and 18172.5 stated not to be includible in the husband's gross income, no deduction shall be allowed with respect to that payment under this section.

New section
See also Stats 1943, Ch 659
Amortizable bond premium

SEC. 53. Section 17318.05 is added to said code, to read:

17318.05. In computing net income there shall be allowed as a deduction, in the case of a bondholder, the deduction for amortizable bond premium provided in Sections 17318.1 to 17318.5, inclusive.

New section
See also Stats 1943, Ch 659
Amount deductible

SEC. 54. Section 17318.1 is added to said code, to read:

17318.1. In the case of any bond, as defined in Section 17318.5, the following rules shall apply to the amortizable bond premium on the bond for any taxable year beginning after December 31, 1942:

(a) In the case of a bond (other than a bond the interest on which is excludible from gross income), the amount of the amortizable bond premium for the taxable year shall be allowed as a deduction.

(b) In the case of any bond the interest on which is excludible from gross income, no deduction shall be allowed for the amortizable bond premium for the taxable year.

New section
See also Stats 1943, Ch 659
Amount of premium

SEC. 55. Section 17318.2 is added to said code, to read:

17318.2. For the purposes of Section 17318.3, the amount of bond premium in the case of the holder of any bond, shall be determined with reference to the amount of the basis (for determining loss on sale or exchange) of the bond, and with reference to the amount payable on maturity or on earlier call date, with adjustments proper to reflect unamortized bond premium with respect to the bond, for the period prior to the date as of which Section 17318.1 becomes applicable with respect to the taxpayer with respect to such bond.

New section
See also Stats 1943, Ch 659
Premium in taxable year

SEC. 56. Section 17318.3 is added to said code, to read:

17318.3. The amortizable bond premium of the taxable year shall be the amount of the bond premium attributable to that year.

SEC. 57. Section 17318.4 is added to said code, to read: New section See also Stats 1943, Ch 659

17318.4. The determinations required under Sections 17318, 17318.1, 17318.2 and 17318.3 shall be made:

Method of amortizing bond premiums

(a) In accordance with the method of amortizing bond premiums regularly employed by the holder of the bond, if that method is reasonable;

(b) In all other cases, in accordance with regulations prescribing reasonable methods of amortizing bond premiums, prescribed by the commissioner.

SEC. 58. Section 17318.5 is added to said code, to read: New section See also Stats 1943, Ch 659

17318.5. As used in Sections 17318.05 to 17318.4, the term "bond" means any bond, debenture, note, or certificate or other evidence of indebtedness, issued by any corporation and bearing interest including any like obligation issued by a government or political subdivision thereof), with interest coupons or in registered form, but does not include any obligation which constitutes stock in trade of the taxpayer or any obligation of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year, or any obligation held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business.

"Bond"

SEC. 58.5. Section 17318.7 is added to said code, to read: New section See also Stats 1943, Ch 659

17318.7. The amount of the amortizable bond premium for the taxable year shall be allowed as a deduction only if a taxpayer has elected to claim a deduction. The election shall be made in accordance with such regulations as the commissioner shall prescribe. If an election is made with respect to any bond, it shall also apply to all such bonds held by the taxpayer at the beginning of the first taxable year to which the election applies and to all bonds thereafter acquired by him, and shall be binding for all subsequent taxable years with respect to all bonds of the taxpayer, unless, upon application by the taxpayer, the commissioner permits him, subject to such conditions as the commissioner deems necessary, to revoke the election.

Election

SEC. 59. Section 17319 is added to said code, to read: New section See also Stats 1943 Ch 659

17319. In computing net income, there should be allowed as a deduction, except as limited under Sections 17319.3 and 17319.5, expenses paid during the taxable year, not compensated for by insurance or otherwise, for medical care of the taxpayer, his spouse, or a dependent of the taxpayer specified in Section 17952. The term "medical care," shall include amounts paid for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body (including amounts paid for accident or health insurance).

Medical expenses

SEC. 60. Section 17319.3 is added to said code, to read: New section See also Stats 1943, Ch 659

17319.3. A husband and wife who file a joint return may deduct only those expenses as exceed 5 per cent of the aggregate net income of the husband and wife, computed without the benefit of this section, and the maximum deduction for

Limits on deduction Joint return

the taxable year shall be not in excess of two thousand five hundred dollars ($2,500) in the case of husband and wife.

New section See also Stats. 1943, Ch. 659 Individual return

SEC. 61. Section 17319.5 is added to said code, to read:

17319.5. An individual who files a separate return may deduct only those expenses as exceed 5 per cent of the net income of the taxpayer, computed without the benefit of this section, and the maximum deduction for the taxable year shall be not in excess of two thousand five hundred dollars ($2,500) in the case of the head of a family, and not in excess of one thousand two hundred fifty dollars ($1,250) in the case of all other individuals.

New section See also Stats. 1943, Ch. 659 Amounts paid to cooperative apartment corporations

SEC. 62. Section 17320 is added to said code, to read:

17320. In computing net income, there shall be allowed as a deduction in the case of a tenant-stockholder, amounts, not otherwise deductible, paid or accrued to a cooperative apartment corporation within the taxable year, if those amounts represent that proportion of the real estate taxes on the apartment building and the land on which it is situated, allowable as deductions under Section 17305, paid or incurred by the corporation, or of the interest paid or incurred by the corporation on its indebtedness contracted in the acquisition, construction, alteration, rehabilitation, or maintenance of the apartment building or in the acquisition of the land on which the building is located, which the stock of the corporation owned by the tenant-stockholder is of the total outstanding stock of the corporation, including that held by the corporation.

New section See also Stats. 1943, Ch. 659 "Cooperative apartment corporation"

SEC. 63. Section 17320.3 is added to said code, to read:

17320.3. As used in Section 17320 "cooperative apartment corporation" means a corporation—

(a) Having one and only one class of stock outstanding;

(b) All of the stockholders of which are entitled, solely by reason of their ownership of stock in the corporation, to occupy for dwelling purposes apartments in a building owned or leased by such corporation, and who are not entitled, either conditionally or unconditionally, except upon a complete or partial liquidation of the corporation, to receive any distribution not out of earnings and profits of the corporation, and

(c) Eighty per cent or more of the gross income of which for the taxable year in which the taxes and interest described in Section 17320 are paid or incurred, is derived from tenant-stockholders.

New section See also Stats. 1943, Ch. 659 "Tenant-stockholder"

SEC. 64. Section 17320.5 is added to said code, to read:

17320.5. As used in Section 17320, "tenant-stockholder" means an individual who is a stockholder in a cooperative apartment corporation, and whose stock is fully paid-up in an amount not less than an amount shown to the satisfaction of the commissioner as bearing a reasonable relationship to the portion of the value of the corporation's equity in the building and the land on which it is situated, which is attrib-

utable to the apartment which such individual is entitled to occupy.

New section See also Stats 1943, Ch 659

SEC. 65. Section 17320.7 is added to said code, to read:

Deduction in respect of decedent

17320.7. In computing net income, there shall be allowed as a deduction in the case of a person described in Sections 17254 and 17255, the amount of the deductions in respect of a decedent to the extent allowed by those sections, and Section 17256.

New section See also Stats 1943, Ch 659

SEC. 66. Section 17321 is added to said code, to read:

Contract with United States

17321. In the case of a contract with the United States or any agency thereof, or any subcontract thereunder, which is made by the taxpayer:

(a) If a renegotiation is made in respect of that contract or subcontract and an amount of excessive profits received or accrued under the contract or subcontract for a taxable year (hereinafter referred to as "prior taxable year") is eliminated, and

(b) In a taxable year ending after December 31, 1941, the taxpayer is required to pay or repay to the United States or any agency thereof the amount of profits eliminated, or

(c) The amount of profits eliminated is applied as an offset against other amounts due the taxpayer,

Then the profits so eliminated shall be excluded from gross income for the prior taxable year if they were included in gross income for the prior taxable year.

New section See also Stats 1943, Ch 659

SEC. 67. Section 17321.3 is added to said code, to read:

"Renegotiation"

17321.3. As used in Section 17321, "renegotiation" includes:

(a) Any transaction which is a renegotiation within the meaning of Section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, Seventy-seventh Congress, Second Session) or that section, as amended;

(b) Any modification of one or more contracts with the United States or any agency thereof; and

(c) Any agreement with the United States or any agency thereof in respect of one or more such contracts or subcontracts thereunder.

New section See also Stats 1943, Ch 659

SEC. 68. Section 17321.5 is added to said code, to read:

"Excessive profits"

17321.5. As used in Section 17321, "excessive profits" includes:

(a) Any amount which constitutes excessive profits within the meaning assigned to that term by subsection (a) of Section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, Seventy-seventh Congress, Second Session), as amended by the Revenue Act of 1942;

(b) Any part of the contract price of a contract with the United States or any agency thereof;

(c) Any part of the subcontract price of a subcontract under a contract; and

(d) Any profits derived from one or more contracts or subcontracts.

New section See also Stats 1943, Ch 659 "Subcontract"

SEC. 69. Section 17321.7 is added to said code, to read:

17321.7. As used in Section 17321, "subcontract" includes any purchase order or agreement which is a subcontract within the meaning assigned to that term by subsection (a) of Section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, Seventy-seventh Congress, Second Session), as amended by the Revenue Act of 1942.

New section See also Stats 1943, Ch 659 Cost-plus-a-fixed-fee contract

SEC. 70. Section 17322 is added to said code, to read:

17322. In the case of a cost-plus-a-fixed-fee contract between the United States or any agency thereof and the taxpayer, if an item for which the taxpayer has been reimbursed by the United States or any agency thereof is disallowed as an item of cost chargeable to that contract, and, in a taxable year ending after December 31, 1941, the taxpayer is required to repay the United States or any agency thereof the amount disallowed, or the amount disallowed is applied as an offset against other amounts due the taxpayer, for the purposes of this part the amount so disallowed or so applied as an offset shall be allowed as a deduction in the taxable year in which the reimbursement for the item was received or was accrued to the extent that the taxpayer's taxable net income for the year in which the cost was incurred would have been reduced had no reimbursement been received or accrued.

New section See also Stats 1943, Ch 659 Payment, offset, etc

SEC. 71. Section 17322.3 is added to said code, to read:

17322.3. The amount of the payment, repayment, or offset described in Section 17321 and 17322 shall not constitute a deduction for the year in which paid or incurred.

New section See also Stats 1943, Ch 659 Method of accounting

SEC. 72. Section 17322.5 is added to said code, to read:

17322.5. Sections 17321 to 17322.2, inclusive, shall not apply in respect of any contract if the taxpayer shows to the satisfaction of the commissioner that a different method of accounting for the amount of the payment, repayment, or disallowance clearly reflects income, and in such case the payment, repayment, or disallowance shall be accounted for with respect to the taxable year provided for under that method.

New section See also Stats 1943, Ch. 659 Refund

SEC. 73. Section 17322.7 is added to said code, to read:

17322.7. Any overpayment in tax which results from the application of Sections 17321 to 17322.5, inclusive, shall be credited or refunded as provided in this part. Notwithstanding the provisions of any statute of limitations, credit or refund shall be made if claim therefor is filed within four years from the last day prescribed for filing the return or within two years from the date of payment, repayment, or offset described in Sections 17321 to 17322.5, inclusive, whichever is later.

New section See also Stats 1943, Ch 659 Claim in abatement

SEC. 74. Section 17322.9 is added to said code, to read:

17322.9. If prior to the payment of the last installment of tax for the taxable year the taxpayer becomes entitled to the exclusions or deductions provided in Sections 17321 to 17322.5, inclusive, for its taxable year, the taxpayer may, under regulation prescribed by the commissioner, file a claim in abatement of any unpaid tax or portion thereof, but not in excess of the

reduction in tax resulting from the application of these sections.

New section See also Stats 1943, Ch 659 Reduction of tax

SEC. 75. Section 17332.11 is added to said code, to read:

17332.11. In any case in which a claim in abatement is filed pursuant to Section 17322.9, and the commissioner makes an abatement, the tax disclosed by the original return shall, for the purpose of Article 2 of Chapter 11 of this part, be deemed to be reduced by the amount of the tax abated.

New article See also Stats 1943, Ch. 659

SEC. 76. Article 1.5, comprising Sections 17324 to 17324.16, inclusive, is added to Chapter 4, Part 10, Division 2, of said code, to read:

Article 1.5. Plans Deferring Receipt of Compensation

Employer's stock bonus, etc, plans

17324. In computing net income, if contributions are paid by an employer to or under a stock bonus, pension, profit-sharing, or annuity plan, or if compensation is paid or accrued on account of any employee under a plan deferring the receipt of the compensation, contributions or compensation shall not be deductible under Section 17301 but shall be deductible, if deductible under Section 17301 without regard to this article, under this article but only to the extent allowed under Sections 17324 1, 17324.2, 17324.3, and 17324.4.

Deduction of contributions

17324.1. There shall be a deduction allowed in the taxable year when paid of contributions paid into a pension trust.

Amount deductible

17324.2. If the taxable year ends within or with a taxable year of the trust for which the trust is exempt under Article 3 of Chapter 8, the amount deductible is:

(a) An amount not in excess of 5 per cent of the compensation otherwise paid or accrued during the taxable year to all the employees under the trust, but the amount may be reduced for future years if found by the commissioner upon periodical examinations at not less than five-year intervals to be more than the amount reasonably necessary to provide the remaining unfunded cost of past and current service credits of all employees under the plan, plus

(b) Any excess over the amount allowable under (a) necessary to provide with respect to all of the employees under the trust the remaining unfunded cost of their past and current service credits distributed as a level amount or a level percentage of compensation, over the remaining future service of each such employee, as determined under regulations prescribed by the commissioner. However, if the remaining unfunded cost with respect to any three individuals is more than 50 per cent of the remaining unfunded cost, the amount of the unfunded cost attributable to such individuals shall be distributed over a period of at least five taxable years.

In lieu deduction

17324.3. In lieu of the amounts allowable under Section 17324.2, the amount deductible may be

(a) An amount equal to the normal cost of the plan, as determined under regulations prescribed by the commissioner, plus

(b) If past service or other supplementary pension or annuity credits are provided by the plan, an amount not in excess of 10 per cent of the cost which would be required to completely fund or purchase the pension or annuity credits as of the date when they are included in the plan, as determined under regulations prescribed by the commissioner, except that in no case shall a deduction be allowed for any amount (other than the normal cost) paid in after such pension or annuity credits are completely funded or purchased.

Deduction in later years

17324.4. Any amount paid in a taxable year in excess of the amount deductible in that year under Sections 17324.2 and 17324.3 shall be deductible in the succeeding taxable years in order of time to the extent of the difference between the amount paid and deductible in each succeeding year and the maximum amount deductible for that year.

Retirement annuities

17324.5. A deduction shall be allowed in the taxable year when paid, in an amount determined in accordance with this article, if the contributions are paid toward the purchase of retirement annuities and that purchase is a part of a plan which meets the requirements of Sections 18159, 18160, 18161, and 18162 and if refunds of premiums, if any, are applied within the current taxable year or next succeeding taxable year toward the purchase of these retirement annuities.

Stock bonus or profit-sharing trust

17324.6. A deduction shall be allowed in the taxable year when paid, if the contributions are paid into a stock bonus or profit-sharing trust, and if the taxable year ends within or with a taxable year of the trust with respect to which the trust is exempt under Article 3 of Chapter 8 in an amount not in excess of 15 per cent of the compensation otherwise paid or accrued during the taxable year to all employees under the stock bonus or profit-sharing plan.

Carry-over

17324.7. If in any taxable year beginning after December 31, 1942, there is paid into the trust, or a similar trust then in effect, amounts less than the amounts deductible under Section 17324.6, the excess, or if no amount is paid, the amounts deductible, shall be carried forward and be deductible when paid in the succeeding taxable years in order of time, but the amount so deductible under this section in any succeeding taxable year shall not exceed 15 per centum of the compensation otherwise paid or accrued during that succeeding taxable year to the beneficiaries under the plan.

Same

17324.8. In addition, any amount paid into the trust in a taxable year beginning after December 31, 1942, in excess of the amount allowable with respect to that year under Sections 17324.6 and 17324.7 shall be deductible in the succeeding taxable years in order of time, but the amount so deductible under this section in any one succeeding taxable year together with the amount allowable under Section 17324.6 shall not exceed 15 per centum of the compensation otherwise paid or accrued during the taxable year to the beneficiaries under the plan.

Trusts excluded

17324.9. As used in this article "stock bonus or profit-sharing trust," shall not include any trust designed to provide

benefits upon retirement and covering a period of years, if under the plan the amounts to be contributed by the employer can be determined actuarily. If the contributions are made to two or more stock bonus or profit-sharing trusts, these trusts shall be considered a single trust for the purposes of applying the limitations in Sections 17324.6, 17324.7, and 17324 8.

Nonforfeitable rights

17324.10. There shall be allowed a deduction in the taxable year when paid, if the plan is not one included in the preceding sections of this article, if the employees' rights to or derived from the employer's contribution or compensation are nonforfeitable at the time the contribution or compensation is paid.

Accrual basis

17324.11. For the purposes of the preceding sections in this article, except Section 17324.10, a taxpayer on the accrual basis shall be deemed to have made a payment on the last day of the year of accrual if the payment is on account of the taxable year and is made within 60 days after the close of the taxable year of accrual.

Total amount deductible

17324 12. If amounts are deductible under any of the preceding sections in this article except Sections 17324.10 and 17324 11, in connection with two or more trusts, or one or more trusts and an annuity plan, the total amount deductible in a taxable year under these trusts and plans shall not exceed 25 per cent of the compensation otherwise paid or accrued during the taxable year to the persons who are the beneficiaries of the trusts or plans.

Amounts paid after December 31, 1942

17324.13. In addition, any amount paid into a trust or under annuity plans in a taxable year beginning after December 31, 1942, in excess of the amount allowable with respect to such year under Section 17324.12, shall be deductible in the succeeding taxable years in order of time. The amount deductible under this section in any one succeeding taxable year together with the amount allowable under Section 17324.12 shall not exceed 30 per cent of the compensation otherwise paid or accrued during the taxable years to the beneficiaries under the trusts or plans.

Beneficiary under two or more trusts, etc

17324 14. Sections 17324.11, 17324.12, and 17324.13 shall not have the effect of reducing the amount otherwise deductible under the preceding sections of this article, except Section 17324.10 and 17324.11, if no employee is a beneficiary under more than one trust, or a trust and an annuity plan.

Where no plan

17324.15. If there is no plan, but a method of employer contributions or compensation has the effect of a stock bonus, pension, profit-sharing, or annuity plan, or similar plan deferring the receipt of compensation, this article shall apply as if there were a plan.

Apportionment

17324.16. Any deduction allowable under Section 17303 (as it read prior to its repeal in 1943) for a taxable year beginning before January 1, 1943, which was apportioned to any taxable year beginning after December 31, 1942, shall be allowed as a deduction for the years to which so apportioned

to the extent allowable under this article as it then read if it had remained in force with respect to that year.

New article See also Stats 1943, Ch 659

SEC. 77. Article 1.7, comprising Sections 17325 to 17350, inclusive, is added to Chapter 4, Part 10, Division 2 of said code, to read:

Article 1.7. War Losses

War losses

17325. In computing net income there shall be allowed as a deduction losses sustained during the taxable year and not compensated for by insurance or otherwise of property destroyed or seized on or after December 7, 1941, in the course of military or naval operations by the United States or any other country engaged in the present war.

Date deemed destroyed

17326. Property described in Section 17325 shall be deemed to have been destroyed or seized on a date chosen by the taxpayer in the manner provided in Section 17333, which falls between:

(a) The latest date, as established to the satisfaction of the commissioner, on which that property may be considered as not destroyed or seized, and

(b) The earliest date, as established to the satisfaction of the commissioner, on which that property may be considered as having already been destroyed or seized.

Same

17327. For the purposes of this article property within an area which comes under the control of a country at war with the United States after the date war with such country is declared by the United States shall be deemed to have been destroyed or seized in the course of military or naval operations by that country.

Same

17328. The date specified in Section 17326 (a) shall not be later than the latest date determined by the commissioner as the date on which that area was under the control of the United States or a country not at war with the United States, and the date specified in Section 17326 (b) shall not be later than the earliest date determined by the commissioner as the date on which that area may be considered under the control of the country which is at war with the United States.

Same

17329. Property within any country at war with the United States, or within an area under the control of that country on the date war with that country was declared by the United States, shall be deemed to have been destroyed or seized on the date war with that country was declared by the United States.

Worthless securities

17330. Any interest in, or with respect to, property described in Sections 17325, 17326, 17327 and 17329, including any interest represented by a security as defined in Section 17307 or Section 17312, which becomes worthless shall be considered to have been destroyed or seized, and the loss therefrom shall be considered a loss from the destruction or seizure. The destruction or seizure shall be deemed to occur on the date chosen by the taxpayer which falls between the dates specified in Section 17326, or on the date prescribed in Sections 17327 and 17328, as the case may be, when the last property described

in the applicable section to which the interest relates would be deemed destroyed or seized under the applicable section.

Possibility of recovery

17331. Section 17330 shall apply only if the interest would have become worthless if the property had been destroyed. For the purposes of this section, an interest shall be deemed to have become worthless notwithstanding the fact that the interest has a value if that value is attributable solely to the possibility of recovery of the property, compensation (other than insurance or similar indemnity) on account of its destruction or seizure, or both. Sections 17311 and 17307 shall not apply to any interest which under this section is considered to have been destroyed or seized.

Election as to worthlessness

17332. Under regulations prescribed by the commissioner, a taxpayer who owns 100 per cent, excluding qualifying shares, of each class of stock of a corporation may elect to determine the worthlessness of his interest, described in Section 17331, in or with respect to the property of the corporation, without regard to the amount of the property of that corporation which would be excluded under Section 17349 in determining the adjusted basis of all the assets of the corporation for the purposes of Sections 17348, 17349 and 17349 5, but that amount shall be treated under Section 17334 as a recovery by the taxpayer in the taxable year with respect to such interest.

Regulations

17333. The taxpayer's choice of a date under Sections 17326 and 17330 shall be effective only if made within the time and in the manner as may be prescribed by regulations prescribed by the commissioner.

Recovery in taxable year

17334. In the case of any property or interest in or with respect to property deemed to be destroyed or seized under this article, the amount of the loss on account of that property or interest shall be determined with regard to any recoveries with respect thereto in the taxable year but without regard to any possibility of recovering that property or interest, or of receiving any compensation (other than insurance or similar indemnity) on account of that property or interest in the taxable year or in any future taxable year.

Liabilities discharged

17335. In the case of any property or interest in or with respect to property deemed to be destroyed or seized under this article, the taxpayer may choose to decrease the amount of the loss by all obligations or liabilities of the taxpayer with respect to that property or interest discharged or satisfied out of the property or interest upon its destruction or seizure, if the commissioner is satisfied that those obligations or liabilities are so discharged or satisfied in a subsequent taxable year, or that the taxpayer is unable to determine whether or not those obligations or liabilities are in fact discharged or satisfied.

Same

17336. No loss shall be deemed to have been sustained upon the destruction or seizure of the property or interest to the extent that it is compensated for by the discharge or satisfaction of obligations and liabilities of the taxpayer out of the property or interest in the taxable year in which the destruction or seizure is deemed to have occurred. The taxpayer's

choice under this article shall be effective only if made within the time and in the manner as may be prescribed by regulations prescribed by the commissioner.

Recovery as gross income

17337. Upon the recovery in the taxable year of any money or property in respect of property considered under this article as destroyed or seized in any prior taxable year, the amount of the recovery shall be included in gross income to the extent provided in Section 17338.

Recovery amount

17338. The amount of the recovery of any money or property in respect of property considered under this article as destroyed or seized shall be an amount equal to the aggregate of the money and the fair market value of the property, determined as of the date of the recovery.

Exclusion from gross income, etc

17339. To the extent that this amount plus the aggregate of the amounts of previous recoveries do not exceed that part of the aggregate of the allowable deductions in prior taxable years on account of the destruction or seizure of property described in this article which did not result in a reduction of any tax of the taxpayer under this part, this amount shall not be includible in gross income and shall not be deemed gain upon the involuntary conversion of property as a result of its destruction or seizure.

Inclusion in gross income

17340 To the extent that this amount plus the aggregate of the amounts of previous recoveries exceed that part of the aggregate of the deductions which did not result in a reduction of any tax of the taxpayer under this part and do not exceed that part of the aggregate of the deductions which did result in a reduction of any tax of the taxpayer under this part, this amount shall be included in gross income but shall not be deemed a gain upon the involuntary conversion of property as a result of its destruction or seizure.

Gain

17341. To the extent that this amount plus the aggregate of the amounts of previous recoveries exceed the aggregate of the allowable deductions in prior taxable years on account of the destruction or seizure of property described in this article, the amount shall be considered a gain upon the involuntary conversion of property as a result of its destruction or seizure and shall be recognized or not recognized as provided in Section 17672.

Liabilities treated as discharged

17342. If for any previous taxable year the taxpayer chooses under Sections 17334, 17335 and 17336 to treat any obligations and liabilities as discharged or satisfied out of the property or interest described in Sections 17330, 17331 and 17332, and if such obligations and liabilities were not so discharged or satisfied, the amount of such obligations and liabilities treated as discharged or satisfied under Sections 17334, 17335, and 17336 shall be considered for the purposes of this article as a deduction by reason of this article which did not result in a reduction of any tax of the taxpayer under this part.

Deduction disallowed

17343. For the purposes of Sections 17338, 17339, 17340, 17341, and 17342, an allowable deduction for any taxable year

on account of the destruction or seizure of property described in this article shall, to the extent not allowed in computing the tax of the taxpayer for the taxable year, be considered an allowable deduction which did not result in a reduction of any tax of the taxpayer under this part.

Restoration of value

17344. For the purposes of Sections 17337 to 17343, inclusive, the restoration in whole or in part of the value of any interest described in Sections 17330, 17331 and 17332 by reason of any recovery of money or property in respect of property to which the interest related and which was considered under Sections 17326 and 17327 as destroyed or seized shall be deemed a recovery of property in respect of property considered as destroyed or seized.

Unadjusted basis Determination

17345. The unadjusted basis of property recovered in respect of property considered destroyed or seized under this article shall be determined under Sections 17346 and 17347.

Amount

17346. The unadjusted basis shall be an amount equal to the fair market value of that property, determined as of the date of the recovery, reduced by an amount equal to the excess of the aggregate of the fair market value and the amounts of previous recoveries of money or property in respect of property considered under this article as destroyed or seized over the aggregate of the allowable deductions in prior taxable years on account of the destruction or seizure of property described in this article and increased by that portion of the amount of the recovery which under Section 17341 is treated as a recognized gain from the involuntary conversion of property.

Allocation to property recovered

17347. Upon application of the taxpayer, the aggregate of the bases, determined under Section 17346, of any properties recovered, in respect of properties considered under this article as destroyed or seized may be allocated among the properties so recovered in such manner as the commissioner may determine under regulations prescribed by him, and the amounts so allocated to any property so recovered shall be the unadjusted basis of the property in lieu of the unadjusted basis of the property determined under Section 17346.

Corporate liquidation

17348. If: (a) A taxpayer owns not less than 50 per cent of each class of stock of a corporation; and

(b) That corporation has property described under this article as destroyed or seized; and

(c) The adjusted basis for determining loss of that property is at least 75 per cent of the adjusted basis for determining loss of all the property of that corporation; and

(d) That corporation completely liquidates within one year after that property is deemed to be destroyed or seized, or by December 31, 1943, whichever is later; and

(e) The liquidation is accomplished by distributing all the assets which it is able to distribute and all its rights to assets which it is not able to distribute, including the right to the recovery of the property described in Sections 17326 to 17329, inclusive;

Then that part of the loss by the taxpayer on the liquidation which would be attributable to the destruction or seizure of the property, as established to the satisfaction of the commissioner, shall be treated for the purposes of this part as a loss by the taxpayer upon the destruction or seizure of the part of the stock or other interest of the taxpayer to which such loss is allocable. That part of the stock or other interest of the taxpayer shall be treated for the purposes of this article as property described in Sections 17330, 17331 and 17332.

Adjusted basis of corporate property

17349. In determining the adjusted basis of all the property of the corporation, there shall be excluded money in the United States, bank deposits, the right to receive money from any person not situated in a country at war with the United States or in a territory under the control of that country, and obligations issued or guaranteed as to principal or interest by the United States, except that there shall not be excluded any property which is destroyed or seized as described in this article within or before the taxable period.

Date determinable

17349.5. The adjusted basis of property of the corporation shall be determined as of the date immediately preceding the first date on which any property was destroyed or seized, as described in this article, or as of any later date falling within or before the taxable period on the basis of which the determination will produce a greater amount.

Determination of allowable deduction

17350. The determination as to whether and to what extent an allowable deduction on account of the destruction or seizure of property described in this article did or did not result in a reduction of any tax of the taxpayer under this chapter shall be made in accordance with regulations prescribed by the commissioner.

Stats. 1943, Ch. 656 Items not deductible

SEC. 78. Section 17351 of said code is amended to read:

17351. In computing net income no deduction shall in any case be allowed in respect of:

(a) Personal, living, or family expenses, except extraordinary medical expenses deductible under Sections 17319, 17319.3 and 17319.5.

(b) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate.

(c) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made.

(d) Premiums paid on any life insurance policy covering the life of any officer or employee, or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under the policy.

(e) Any amount otherwise allowable as a deduction which is allocable to one or more classes of income (whether or not any amount of income of that class or classes is received or accrued) wholly exempt from the taxes imposed by this part.

(f) Any amount paid or accrued on indebtedness incurred or continued to purchase a single premium life insurance or endowment contract. For the purposes of this subsection, if substantially all the premiums on a life insurance or endowment contract are paid within a period of four years from the date of which such contract is purchased, such contract shall be considered a single premium life insurance or endowment contract; or

(g) Amounts paid or accrued for such taxes and carrying charges as, under regulations prescribed by the commissioner, are chargeable to capital account with respect to property, if the taxpayer elects, in accordance with such regulations, to treat those taxes or charges as so chargeable.

New section
See also Stats 1943, Ch 659
Deduction not allowable Contribution or gift

SEC. 79. Section 17357 is added to said code, to read:

17357. In computing net income no deduction shall be allowed under Section 17301 for any contribution or gift which would be allowable as a deduction under Sections 17315 and 17316 were it not for the 15 per cent limitation therein contained and for the requirement therein that payment must be made within the taxable year.

Stats 1943, Ch 659
Limitation on Section 17502

SEC. 80. Section 17503 of said code is amended to read:

17503. The method described in Section 17502 may be used

(a) Only in inventorying goods (required under Section 17501 to be inventoried) specified in an application to use such method filed at such time and in such manner as the commissioner may prescribe; and

(b) Only if the taxpayer establishes to the satisfaction of the commissioner that the taxpayer has used no procedure other than that specified in subdivisions (b) and (c) of Section 17502 in inventorying to ascertain the income, profit, or loss of the first taxable year for which the method described in Section 17502 is to be used, for the purpose of a report or statement covering the taxable year to shareholders, partners, or other proprietors, or to beneficiaries, or for credit purposes.

Stats 1943, Ch 659
Change of method

SEC. 81. Section 17506 of said code is amended to read:

17506. If a taxpayer, having complied with Section 17503, uses the method described for any taxable year, that method shall be used in all subsequent taxable years unless

(a) With the approval of the commissioner a change to a different method is authorized; or

(b) The commissioner determines that the taxpayer has used for any such subsequent taxable year some procedure other than that specified in subdivision (b) of Section 17502 in inventorying the goods specified in the application to ascertain the income, profit, or loss of such subsequent taxable year for the purpose of a report or statement covering such taxable year to shareholders, partners, or other proprietors, or beneficiaries, or for credit purposes, and requires a change to a method different from that prescribed in Section 17502 beginning with such subsequent taxable year or any taxable year thereafter.

In either of the above cases, the change to, and the use of, the different method shall be in accordance with such regulations as the commissioner may prescribe as necessary in order that the use of such method may clearly reflect income.

New article See also Stats. 1943, Ch. 659

SEC. 82. Article 1.5, comprising Sections 17507 to 17516, inclusive, is added to Chapter 5 of Part 10 of Division 2 of said code, to read:

Article 1.5. Involuntary Liquidation Due to War Conditions

"Involuntary liquidation"

17507. As used in this article, "involuntary liquidation," means the sale or other disposition of goods inventoried under the method described in Article 1, either voluntary or involuntary, coupled with a failure on the part of the taxpayer to purchase, manufacture, or otherwise produce and have on hand at the close of the taxable year in which a sale or other disposition occurred such goods as would, if on hand at the close of such taxable year, be subject to the provisions of Article 1, if such failure on the part of the taxpayer is due, directly and exclusively:

(a) To enemy capture or control of sources of limited foreign supply;

(b) To shipping or other transportation shortages;

(c) To material shortages resulting from priorities or allocations;

(d) To labor shortages;

(e) To other prevailing war conditions, beyond the control of the taxpayer.

Adjustments of net income

17508. The net income of the taxpayer otherwise determined for the year of involuntary liquidation shall be adjusted according to the provisions of Sections 17509 and 17510:

(a) If, for any taxable year beginning after December 31, 1942, and prior to the termination of the present war as proclaimed by the President of the United States, the closing inventory of a taxpayer inventorying goods under the method provided in this section reflects a decrease from the opening inventory of goods for this year; and

(b) If, at the time of the filing of the taxpayer's income tax return for such year, the taxpayer elects to have the provisions of this section apply and so notifies the commissioner; and

(c) If, at the time of such election, it is established to the satisfaction of the commissioner, in accordance with rules and regulations prescribed by the commissioner, that such decrease is attributable to the involuntary liquidation of the inventory as defined in Section 17511; and

(d) If the closing inventory of a subsequent taxable year, ending not more than three years after the termination of the present war as proclaimed by the President of the United States, reflects a replacement, in whole or in part, of the goods so previously liquidated.

17509. The taxpayer's net income shall be adjusted as follows: Increase or decrease of adjustment

(a) Increased by an amount equal to the excess, if any, of the aggregate cost of such goods reflected in the opening inventory of the year of involuntary liquidation over the aggregate replacement cost; or

(b) Decreased by an amount equal to the excess, if any, of the aggregate replacement cost of such goods over the aggregate cost thereof reflected in the opening inventory of the year of the involuntary liquidation.

17510. The taxes imposed by this part for the year of such liquidation and for all taxable years intervening between that year and the year of replacement shall be redetermined, giving effect to adjustments provided for in Section 17508. Any increase in taxes resulting from these adjustments shall be assessed and collected as a deficiency but without interest, and any overpayment so resulting shall be credited or refunded to the taxpayer without interest. Redetermination of imposed taxes

17511. If, in the case of any taxpayer subject to the provisions of Section 17508, the closing inventory of the taxpayer for a taxable year, subsequent to the year of involuntary liquidation but prior to the complete replacement of the goods so liquidated, reflects an increase over the opening inventory of the goods for the taxable year, the goods reflecting such increase shall be considered, in the order of their acquisition, as having been acquired in replacement of the goods most recently liquidated (whether or not in a year of involuntary liquidation) and not previously replaced. If the liquidation was an involuntary liquidation, the goods reflecting the increase shall be included in the inventory of the taxpayer for the year of replacement at the inventory cost basis of the goods replaced. Increase over opening inventory

17512. An election by the taxpayer to have the provisions of this article apply, once made, shall be irrevocable and shall be binding for the year of the involuntary liquidation and for all determinations for subsequent taxable years insofar as they are related to the year of liquidation or replacement. Election irrevocable

17513. If the adjustments specified in Section 17509 are, with respect to any taxable year, prevented, on the date of the filing of the income tax return of the taxpayer for the year of the replacement, or within three years from such date, by any provision or rule of law (other than this article), such adjustments shall nevertheless be made if, in respect of the taxable year for which the adjustment is sought, a notice of proposed additional assessment is mailed or a claim for refund is filed, as the case may be, within three years after the date of the filing of the income tax return for the year of replacement. When adjustments prevented by other law

17514. If, at the time of the mailing of the notice of proposed additional assessment or the filing of the claim for refund, the adjustment is so prevented, then the amount of the adjustment authorized by this article shall be limited to Same Limitation of adjustment

the increase or decrease of the tax imposed by this part previously determined for the taxable year which results solely from the effect of Section 17508. The tax previously determined shall be ascertained in accordance with rules and regulations prescribed by the commissioner.

Assessment and collection of adjustment

17515. The amount of the adjustment shall be assessed and collected, or credited or refunded, in the same manner as if it were a deficiency or an overpayment, as the case may be, for such taxable year and as if, on the date of the filing of the income tax return for the year of the replacement, three years remain before the expiration of the periods of limitation upon assessment or the filing of claim for refund for the taxable year.

Credit, etc., against adjustment

17516. The amount of the adjustment shall not be diminished by any credit or set-off based upon any item, inclusion, deduction, credit, exemption, gain, or loss, other than one resulting from the effect of Section 17508. The amount, if paid, shall not be recovered by a claim or suit for refund, or suit for erroneous refund based upon any item, inclusion, deduction, credit, exemption, gain, or loss, other than one resulting from the effect of Section 17508.

Stats 1943, Ch 659

SEC. 83. Section 17560 of said code is amended to read:

Separate return for "short period"

17560. If a separate return is made on account of a change in the accounting period, the net income, computed on the basis of the period for which the separate return is made, hereafter referred to as the "short period," shall be placed on an annual basis by multiplying the amount thereof by 12 and dividing by the number of months in the short period. The tax shall be such part of the tax computed on such annual basis as the number of months in the short period is of 12 months.

New section See also Stats 1943, Ch 659

SEC. 84. Section 17560.3 is added to said code, to read:

Reduction of short period tax

17560.3. If the taxpayer establishes the amount of his net income for the period of 12 months beginning with the first day of the short period, computed as if the 12-month period were a taxable year, under the law applicable to that year, then the tax for the short period shall be reduced to an amount which is that part of the tax computed on the net income for the 12-month period as the net income computed on the basis of the short period is of the net income for the 12-month period.

New section See also Stats 1943, Ch 659

SEC. 85. Section 17560.5 is added to said code, to read:

Computation and filing of return

17560.5. The taxpayer (other than a taxpayer to which the next sentence applies) shall compute the tax and file his return without the application of Section 17560.3. If the taxpayer was not in existence at the end of the 12-month period, then in lieu of the net income for the 12-month period there shall be used for the purposes of Section 17560.3 the net income for the 12-month period ending with the last day of the short period.

SEC. 86. Section 17560.7 is added to said code, to read: New section

17560.7. The tax computed under Section 17560 shall in no case be less than the tax computed on the net income for the short period without placing the net income on an annual basis. The benefits of Section 17560 shall not be allowed unless the taxpayer makes application therefor in accordance with and at such time as regulations prescribed hereunder require, but not after the time prescribed for the filing of the return for the first taxable year which ends on or after 12 months after the beginning of the short period. See also Stats 1943, Ch 659 Minimum "short period" tax Limitation on benefits

SEC. 87. Section 17560.9 is added to said code, to read: New section

17560.9. The application, in case the return was filed without regard to Section 17560.3, shall be considered a claim for credit or refund with respect to the amount by which the tax is reduced under Section 17560.3. The commissioner shall prescribe such regulations as he may deem necessary. See also Stats 1943, Ch 659 Credit for reduction of short period tax

SEC. 88. Section 17562 of said code is amended to read: Stats 1943, Ch 659

17562. The amount of all items of gross income shall be included in the gross income for the taxable year in which received by the taxpayer unless under the methods of accounting permitted under Section 17556 any such items are to be properly accounted for as of a different period. In the case of the death of a taxpayer, whose net income is computed upon the basis of the accrual method of accounting, amounts (except amounts includible in computing a partner's net income under Chapter 9 of this part) accrued only by reason of the death of the taxpayer shall not be included in computing net income for the period in which falls the date of the taxpayer's death. Inclusion of gross income items

SEC. 89. Section 17563 of said code is amended to read: Stats 1943, Ch 659

17563. The deductions and credits provided for in this part shall be taken for the taxable year in which "paid or accrued" or "paid or incurred," dependent upon the method of accounting upon the basis of which the net income is computed, unless in order clearly to reflect the income the deductions or credits should be taken as of a different period. In the case of the death of a taxpayer whose net income is computed upon the basis of the accrual method of accounting, amounts except amounts includible in computing a partner's net income under Chapter 9, accrued as deductions and credits only by reason of the death of the taxpayer shall not be allowed in computing net income for the period in which falls the date of the taxpayer's death. Deductions and credits

SEC. 90. Section 17567 is added to said code, to read: New section

17567. In the case of a taxpayer not in existence during the whole of an annual accounting period ending on the last day of a month, or, if the taxpayer has no annual accounting period or does not keep books during the whole of a calendar year, the return shall be made for the fractional part of the year during which the taxpayer was in existence. See also Stats 1943, Ch 659 Return for fractional part

New section
See also Stats 1943, Ch 659
Election

SEC. 91. Section 17568 is added to said code, to read:

17568. If, in the case of a taxpayer owning any noninterest-bearing obligation issued at a discount and redeemable for fixed amounts increasing at stated intervals, the increase in the redemption price of the obligation occurring in the taxable year does not (under the method of accounting used in computing his net income) constitute income to him in that year, the taxpayer may, at his election made in his return for any taxable year beginning after December 31, 1942, treat the increase as income received in such taxable year.

New section
See also Stats 1943, Ch 659
Application of election

SEC. 92. Section 17569 is added to said code, to read:

17569. If any election is made as provided in Section 17568 with respect to any obligation, it shall apply also to all obligations owned by the taxpayer at the beginning of the first taxable year to which it applies and to all obligations thereafter acquired by him and shall be binding for all subsequent taxable years, unless upon application by the taxpayer, the commissioner permits him, subject to such conditions as the commissioner deems necessary, to change to a different method. In the case of any obligations owned by the taxpayer at the beginning of the first taxable year to which his election applies, the increase in the redemption price of obligations occurring between the date of acquisition and the first day of the taxable year shall also be treated as income received in the taxable year.

Stats 1943, Ch 659
Recognition of loss

SEC. 93. Section 17672 of said code is amended to read:

17672. No gain shall be recognized, but loss shall be recognized, if property, as a result of its destruction in whole or in part, theft, or seizure, or an exercise of the power of requisition or condemnation, or the threat or imminence thereof, is compulsorily or involuntarily converted into property similar or related in service or use to the property so converted, or into money which is forthwith in good faith, under regulations prescribed by the commissioner, expended in the acquisition of other property similar or related in service or use to the property so converted, or in the acquisition of control of a corporation owning such other property, or in the establishment of a replacement fund.

If any part of the money is not so expended, the gain, if any, shall be recognized to the extent of the money which is not so expended (regardless of whether the money is received in one or more taxable years and regardless of whether or not the money which is not so expended constitutes gain).

Stats 1943, Ch 659
Gain or loss not recognized

SEC. 94. Section 17673 of said code is amended to read:

17673. No gain or loss shall be recognized to a shareholder from a distribution of stocks or securities in liquidation of a corporation made pursuant to an order of the Federal Securities and Exchange Commission under authority vested in it by the Public Utility Holding Company Act of 1935, as amended.

Stats 1943, Ch. 659
"Capital assets"

SEC. 95. Section 17711 of said code is amended to read:

17711. "Capital assets" means property held by the taxpayer (whether or not connected with his trade or business),

but does not include stock in trade of the taxpayer or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business, or property used in the trade or business of a character which is subject to the allowance for depreciation provided in Section 17313, or real property used in the trade or business of the taxpayer.

Stats. 1943, Ch. 659

SEC. 96. Section 17713 of said code is amended to read:

Exchanged property

17713. In determining the period for which the taxpayer has held property received on an exchange, there shall be included the period for which he held the property exchanged, if under Articles 4 or 5 of this chapter, the property received has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in his hands as the property exchanged. For the purposes of this section, an involuntary conversion described in Section 17672 shall be considered an exchange of the property converted for the property acquired.

New section

See also Stats. 1943, Ch. 659

SEC. 97. Section 17716.5 is added to said code, to read:

Period of stockholding

17716.5. In determining the period for which the taxpayer has held stock or securities acquired from a corporation by the exercise of rights to acquire the stock or securities, there shall be included only the period beginning with the date upon which the right to acquire was exercised.

New section

See also Stats. 1943, Ch. 659

SEC. 97.3. Section 17721 is added to said code, to read:

"Property used in the trade or business"

17721. For the purposes of this section and Section 17722, the term "property used in the trade or business" means property used in the trade or business, of a character which is subject to the allowance for depreciation provided in Section 17313, and real property used in the trade or business, which is not

(a) Property of a kind which would properly be includible in the inventory of the taxpayer if on hand at the close of the taxable year, or

(b) Property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business

New section

See also Stats. 1943, Ch. 659

SEC. 97.5. Section 17722 is added to said code, to read:

Recognized gains and losses

17722. If, during the taxable year, the recognized gains upon sales or exchanges of property used in the trade or business, plus the recognized gains from the compulsory or involuntary conversion, as a result of destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation or the threat or imminence thereof, of property used in the trade or business and capital assets into other property or money, exceed the recognized losses from the sales, exchanges, and conversions, the gains and losses shall be considered as gains and losses from sales or exchanges of capital assets. If the gains do not exceed the losses, the gains and losses shall not be considered as gains and losses from sales or exchanges of capital assets.

New section
See also Stats 1943 Ch 659
Determination of gains over losses

SEC. 97.7. Section 17723 is added to said code, to read:

17723. In determining whether gains exceed losses, the gains and losses described therein shall be included only if and to the extent taken into account in computing net income except that Sections 17711 and 17717 shall not apply.

New section
See also Stats 1943, Ch 659
Losses upon destruction

SEC. 97.8. Section 17724 is added to said code, to read:

17724. Losses upon the destruction, in whole or in part, theft or seizure, or requisition or condemnation of property used in the trade or business of capital assets shall be considered losses from a compulsory or involuntary conversion.

Stats 1943 Ch 659
Gifts of property

SEC. 98. Section 17743 of said code is amended to read:

17743. If the property was acquired by gift after December 31, 1920, the basis shall be the same as it would be in the hands of the donor or the last preceding owner by whom it was not acquired by gift, except that if such basis (adjusted for the period prior to the date of gift as provided in Article 5 of this chapter) is greater than the fair market value of the property at the time of the gift, then, for the purpose of determining loss, the basis shall be the fair market value.

Stats 1943, Ch 659
Transfer in trust

SEC. 99. Section 17744 of said code is amended to read:

17744. If the property was acquired after December 31, 1920, by a transfer in trust (other than by a transfer in trust by a gift, bequest or devise) the basis shall be the same as it would be in the hands of the grantor, increased in the amount of gain or decreased in the amount of loss recognized to the grantor upon such transfer under the law applicable to the year in which the transfer was made.

Stats 1943, Ch 659
Adjustment for expenditures, etc

SEC. 100 Section 17782 of said code is amended to read:

17782. Proper adjustment in respect of the property shall in all cases be made for expenditures, receipts, losses, or other items, properly chargeable to capital account, but no such adjustment shall be made for taxes or other carrying charges for which deductions have been taken by the taxpayer in determining net income for the taxable year or prior taxable years.

Stats. 1943, Ch 659
Adjustment for exhaustion, etc

SEC. 101. Section 17783 of said code is amended to read:

17783. Proper adjustment in respect of the property shall in all cases also be made for exhaustion, wear and tear, obsolescence, amortization and depletion, to the extent sustained prior to January 1, 1935, and for periods thereafter to the extent allowed (but not less than the amount allowable) under this part. However, if a taxpayer has not claimed an amortization deduction for an emergency facility, an adjustment shall be made only to the extent ordinarily provided under Section 17313.

New section
See also Stats 1943, Ch 659
Adjustment for exempt interest on bonds

SEC. 101.5. Section 17784.5 is added to said code, to read:

17784.5. Proper adjustment in respect of the property shall in all cases also be made in the case of any bond (as defined in Section 17318.5) the interest on which is wholly exempt from the tax imposed by this part, to the extent of the amortizable bond premium disallowable as a deduction pursuant to Section 17318.1 (a), and in the case of any other

bond (as defined in that section) to the extent of the deductions allowable pursuant to Section 17318.1 (b) with respect thereto.

New section
See also Stats 1943, Ch 659

SEC. 102. Section 17787 is added to said code, to read:

17787. Neither the basis nor the adjusted basis of any portion of real property shall, in the case of the lessor of the property, be increased or diminished on account of income derived by the lessor in respect of the property and excludible from gross income under Section 17131. If an amount representing any part of the value of real property attributable to buildings erected or other improvements made by a lessee in respect of the property was included in gross income of the lessor for any taxable year beginning before January 1, 1943, the basis of each portion of the property shall be properly adjusted for the amount so included in gross income.

Basis for lessor

Stats 1943, Ch 659

SEC. 104. Section 17813 of said code is amended to read:

17813. In the case of mines (other than metal, coal, fluorspar, ball and sagger clay, rock asphalt or sulphur mines) discovered by the taxpayer after February 28, 1913, the basis for depletion shall be the fair market value of the property at the date of discovery or within 30 days thereafter, if the mines were not acquired as the result of purchase of a proven tract or lease, and if the fair market value of the property is materially disproportionate to the cost.

Basis of mine depletion

Stats 1943, Ch 659

SEC. 105. Section 17817 of said code is amended to read:

17817. The allowance for depletion under Section 17314 shall be, in the case of coal mines, 5 per cent, in the case of metal, fluorspar, ball and sagger clay or rock asphalt mines, 15 per cent, and, in the case of sulphur mines or deposits, 23 per cent, of the gross income from the property during the taxable year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. The allowance shall not exceed 50 per cent of the net income of the taxpayer (computed without allowance for depletion) from the property, except in no case shall the depletion allowance under Section 17314 be less than it would be if computed without reference to this section.

Basis for excepted mines

Stats 1943, Ch 659

SEC. 106. Sections 17818, 17819 and 17820 of said code are repealed.

Stats 1943, Ch 659

SEC. 107. Section 17952 of said code is amended to read:

17952. There shall also be allowed as a credit four hundred dollars ($400) for each individual (other than husband or wife living with the taxpayer) dependent upon and receiving his chief support from the taxpayer if the dependent individual is under 18 years of age or is incapable of self-support because mentally or physically defective.

Credit for dependents

A payment to a wife which is includible under Sections 17104, 17105, 17106 and 17107 or Sections 18172.3 and 18172.5 in the gross income of the wife shall not be considered a payment by her husband for the support of any dependent. If the taxpayer would not occupy the status of head of a family

except by reason of there being one or more dependents for whom he would be entitled to credit under this section, the credit under this subsection shall be disallowed with respect to one of the dependents.

Stats. 1943, Ch. 659
Additional deduction for estates and trusts

SEC. 108. Section 18133 of said code is amended to read:

18133. There shall be allowed as an additional deduction in computing the net income of the estate or trust the amount of the income of the estate or trust for its taxable year which is to be distributed currently by the fiduciary to the legatees, heirs, or beneficiaries, but the amount so allowed as a deduction shall be included in computing the net income of the legatees, heirs, or beneficiaries whether distributed to them or not.

In the case of a nonresident beneficiary his income derived through such an estate or trust is taxable only to the extent it is derived from sources within this State.

Stats. 1943, Ch. 659
Estates or trusts Difference in taxable year

SEC. 109. Section 18135 of said code is amended to read:

18135. If the taxable year of a legatee, heir or beneficiary is different from that of the estate or trust, the amount which he is required, under Section 18133, to include in computing his net income shall be based upon the income of the estate or trust for any taxable year of the estate or trust ending within or with his taxable year.

Stats. 1943, Ch. 659
New section Nontaxable trusts

SEC. 110. Section 18156 of said code is repealed.

SEC. 111. Section 18156 is added to said code, to read:

18156. A trust forming part of a stock bonus, pension, or profit-sharing plan of an employer for the exclusive benefit of his employees or their beneficiaries shall not be taxable under Chapter 18 and no other provision of this chapter shall apply with respect to such trust or to its beneficiary if the trust is one provided for under Sections 18157, 18158, 18159 and 18160.

New section See also Stats. 1943, Ch. 659
Contributions distributable to employees

SEC. 112. Section 18157 is added to said code, to read:

18157. A trust described in Section 18156 is not taxable if contributions are made to the trust by the employer, or employees, or both, for the purpose of distributing to the employees or their beneficiaries the corpus and income of the fund accumulated by the trust in accordance with the plan.

New section See also Stats. 1943, Ch. 659
Exclusive employees trusts

SEC. 113. Section 18158 is added to said code, to read:

18158. A trust described in Section 18156 is not taxable if under the trust instrument it is impossible, at any time prior to the satisfaction of all liabilities with respect to employees and their beneficiaries under the trust, for any part of the corpus or income to be, within the taxable year or thereafter, used for, or diverted to, purposes other than for the exclusive benefit of his employees or their beneficiaries.

New section See also Stats. 1943, Ch. 659
Trusts for benefit of 70%, etc., of employees

SEC. 114. Section 18159 is added to said code, to read:

18159. A trust described in Section 18156 is not taxable if the trust, or two or more trusts, or the trust or trusts and annuity plan or plans are designated by the employer as con-

stituting parts of a plan intended to qualify under this subsection which benefits either:

(a) Seventy per cent or more of all the employees, or 80 per cent or more of all the employees who are eligible to benefit under the plan if 70 per cent or more of all the employees are eligible to benefit under the plan. The percentages shall exclude in each case:

(1) Employees who have been employed not more than a minimum period prescribed by the plan, not exceeding five years; and

(2) Employees whose customary employment is for not more than 20 hours in any one week; and

(3) Employees whose customary employment is for not more than five months in any calendar year; or

(b) Employees who qualify under a classification set up by the employer which is found by the commissioner not to be discriminatory in favor of employees who are officers, shareholders, persons whose principal duties consist in supervising the work of other employees, or highly compensated employees.

SEC. 115. Section 18160 is added to said code, to read: New section

18160. A trust described in Section 18156 is not taxable if the contributions or benefits provided under the plan do not discriminate in favor of employees who are officers, shareholders, persons whose principal duties consist in supervising the work of other employees, or highly compensated employees. See also Stats 1943, Ch 659 Nondiscriminatory trust

SEC. 116. Section 18161 is added to said code, to read: New section

18161. A classification shall not be considered discriminatory within the meaning of Sections 18159 and 18160 merely because it excludes employees the whole of whose remuneration constitutes "wages" under Section 1426 (a) (1) of the Internal Revenue Code (relating to the Federal Insurance Contributions Act) of the California Unemployment Insurance Act or merely because it is limited to salaried or clerical employees. Neither shall a plan be considered discriminatory within the meaning of these provisions merely because the contributions or benefits of or on behalf of the employees under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of the employees. Nor shall a plan be considered discriminatory merely because the contributions or benefits based on that part of an employee's remuneration which is excluded from "wages" by Section 1426 (a) (1) of the Internal Revenue Code or the California Unemployment Insurance Act differ from the contributions or benefits based on employee's remuneration not so excluded, or differ because of any retirement benefits created under State or Federal law. See also Stats 1943, Ch 659 What not discriminatory Stats 1935, p 1850

SEC. 117. Section 18162 is added to said code, to read: New section

18162. A plan shall be considered as meeting the requirements of this article during the whole of any taxable year of See also Stats 1943, Ch 659 Meeting requirements

the plan if on one day in each quarter it satisfied these requirements.

New section
See also Stats 1943, Ch 659
Taxation of distributions

SEC. 118. Section 18163 is added to said code, to read:

18163. The amount actually distributed or made available to any distributee by any trust shall be taxable to him, in the year in which so distributed or made available, under Article 2 of Chapter 3 as if it were an annuity the consideration for which is the amount contributed by the employee, but if the total distributions payable with respect to any employee are paid to the distributee within one taxable year of the distributee on account of the employee's separation from the service, the amount of distribution to the extent exceeding the amounts contributed by the employee, shall be considered a gain from the sale or exchange of a capital asset.

New section
See also Stats 1943, Ch 659
Employer's contribution included within employee's gross income

SEC. 119. Section 18164 is added to said code, to read:

18164. Contributions to a trust made by an employer during a taxable year of the employer which ends within or with a taxable year of the trust for which the trust is not exempt under Section 18156 shall be included in the gross income of an employee for the taxable year in which the contribution is made to the trust in the case of an employee whose beneficial interest in the contribution is nonforfeitable at the time the contribution is made.

New section
See also Stats 1943, Ch 659
Income of trust included in wife's gross income

SEC. 120. Section 18172.3 is added to said code, to read:

18172.3. There shall be included in the gross income of a wife who is divorced or legally separated under a decree of divorce or separate maintenance the amount of the income of any trust which the wife is entitled to receive and which, except for the provisions of this section and Sections 18172.3 and 18172.5 would be includible in the gross income of her husband, and such amount shall not, despite any provision of this part, be includible in the gross income of the husband.

New section
See also Stats 1943, Ch 659
Income of trust as support for children

SEC. 121. Section 18172.5 is added to said code, to read:

18172.5. Section 18172.3 shall not apply to that part of any income of the trust which the terms of the decree or trust instrument fix, in terms of an amount of money or a portion of the income, as a sum which is payable for the support of minor children of the husband. In case the income is less than the amount specified in the decree or instrument, for the purpose of applying Section 18172.3, the income, to the extent of the sum payable for support, shall be considered a payment for support.

New section
See also Stats 1943, Ch 659
Wife as beneficiary

SEC. 122. Section 18172.7 is added to said code, to read:

18172.7. For the purposes of computing the net income of the estate or trust and net income of the wife described in Sections 17104, 17105, 17106 and 17107, or Section 18172.3, the wife shall be considered as the beneficiary specified in Sections 18172.3 and 18172.5. A periodic payment under Sections 17104, 17105, 17106 and 17107 to any part of which the provisions of Sections 18172.3 and 18172.5 are applicable, shall be included in the gross income of the beneficiary in the taxable year in which that part is required to be included.

SEC. 122.5. Section 18431 of said code is amended to read: Stats 1943, Ch 25 See also Stats 1943, Ch 659

18431. Returns required by Section 18405 shall be under oath; all other returns required by this chapter shall contain, or be verified by, a written declaration that they are made under the penalties of perjury. Such returns shall be in such form as the commissioner may from time to time prescribe, and shall be filed with the commissioner at his main office or at any branch office which he may establish. The commissioner shall prepare blank forms for the returns and shall distribute them throughout the State and furnish them upon application. Failure to receive or secure the form does not relieve any taxpayer from making any return required. Any individual who wilfully makes and subscribes a return which he does not believe to be true and correct as to every material matter, shall be guilty of a felony, and upon conviction thereof, shall be subject to the penalties prescribed for perjury by the Penal Code of this State.

Form of returns, etc

Penalty

SEC. 123. Article 4, comprising Sections 18470 to 18479, inclusive, is added to Chapter 10 of Part 10 of Division 2 of said code, to read:

New article See also Stats 1943, Ch 659

Article 4. Returns by Persons Outside the Americas

18470. If an individual is continuously outside the Americas after December 6, 1941, for longer than 90 days, that period of time and the next 90 days thereafter shall be disregarded in determining under this part the amount of any credit or refund (including interest) or in respect of any liability for taxes, interests or penalties of that individual, whether any of the following acts were performed within the time prescribed:

Taxpayer outside the Americas

(a) Filing any return of income tax (except income tax withheld at source);

(b) Payment of any income (except income tax withheld at source);

(c) Filing an appeal with the State Board of Equalization;

(d) Allowance of a credit or refund of any tax;

(e) Filing a claim for credit or refund of any tax;

(f) Bringing a suit upon any such claim for credit or refund;

(g) Assessment of any tax;

(h) Giving or making any notice or demand, for the payment of any tax, or with respect to any liability in respect of any tax;

(i) Collection, by the commissioner or the collector, by distraint or otherwise, of the amount of any liability in respect of any tax;

(j) Bringing suit by the State of California, or any officer on its behalf, in respect of any liability in respect of any tax; and

(k) Any other act required or permitted under this part.

Disregard of period after December 6, 1941

18471. In any case to which Section 18470 does not apply in which it is determined by the commissioner, under regulations prescribed by him, that—

(1) By reason of an individual being outside the Americas, or

(2) By reason of any locality (within or without the Americas) being an area of enemy action or being an area under the control of the enemy, as determined by the commissioner; or

(3) By reason of an individual in the military or naval forces of the United States being outside the States of the Union and the District of Columbia, it is impossible or impracticable to perform any one or more of the acts specified in Section 18470;

then in determining, under this part whether the act was performed within the time prescribed therefor, in respect of any liability for taxes, interest or penalties affected by the failure to perform the act within such time, and in determining the amount of any credit or refund (including interest) affected by that failure, there shall be disregarded the period after December 6, 1941, as may be prescribed by the regulations.

Limit of time disregarded

18472. The period of time disregarded under this article shall not extend beyond whichever of the following dates is the earlier:

(1) The fifteenth day of the third month following the month in which the present war with Germany, Italy, and Japan is terminated, as proclaimed by the President of the United States; or

(2) In the case of an individual with respect to whom a period of time is disregarded under this article, the fifteenth day of the third month following the month in which an executor, administrator, or a conservator of the estate of the individual qualifies.

Proceedings permitted

18473. Notwithstanding the provisions of this article, any action or proceeding authorized by Article 4. of Chapter 11 (regardless of the taxable year for which the tax arose), Article 5 of Chapter 8, Sections 18621 and 18622, as well as any other action or proceeding authorized by law in connection therewith, may be taken, begun, or prosecuted.

Jeopardy collection

18474. In any other case in which the commissioner determines that collection of the amount of any assessment would be jeopardized by delay, the provisions of this article shall not operate to stay collection of that amount by distraint or otherwise as authorized by law. There shall be excluded from any amount assessed or collected pursuant to this section the amount of interest, penalty, additional amount, and addition to the tax, if any, in respect of the period disregarded under this article.

Notice or demand

18475. In any case to which this article relates, if the commissioner is required to give any notice to or make any demand upon any person, that requirement shall be satisfied if the notice or demand is prepared and signed, in any case in which

the address of such person last known to the commissioner is in an area for which United States post offices under instructions of the Postmaster General are not, by reason of the war, accepting mail for delivery at the time the notice or demand is signed. In that case the notice or demand shall be deemed to have been given or made upon the date it is signed.

Assessment or collection

18476. The assessment or collection of any tax or of any liability under this part, or any action in connection therewith, may be made, taken, begun, or prosecuted in accordance with law, without regard to the provisions of Sections 18470 and 18471, unless prior to such assessment, collection, action, or proceeding it is ascertained that the person concerned is entitled to the benefits of those sections.

Expiration of time

18477. This section shall not operate to extend the time for performing any act specified in Section 18470 (g), (h), (i) or (j) if such time under the law in force prior to the date of enactment of this section expired prior to that date.

Definitions

18478. For purposes of this article:

(a) The term "Americas" means North, Central, and South America (including the West Indies but not Greenland), and the Hawaiian Islands.

(b) For the purpose of determining whether any act specified in Section 18470 (g), (h), (i) or (j) was performed within the time prescribed therefor, if any period of time is disregarded under this section by reason of any individual being outside the Americas or within an area of enemy action or control, that individual shall not, if he returns to the Americas or leaves the area after the date of enactment of this section, be deemed to have returned to the Americas or ceased to be within that area before the date upon which the commissioner receives from that individual a notice thereof in such form as the commissioner shall by regulations prescribe. A similar rule shall be applied in the case of a member of the military or naval forces of the United States with respect to whom a period of time is disregarded under this section by reason of being outside the States of the Union and the District of Columbia.

Notice of qualification

18479. For the purpose of determining whether any act specified in Section 18470 (g), (h), (i) or (j) was performed within the time prescribed therefor, the month in which an executor, administrator, or conservator qualifies, if he qualifies after the date of enactment of this section, shall be deemed to be the month in which the commissioner receives from him a notice thereof in such form as the commissioner shall by regulations prescribe.

Stats. 1943, Ch. 659

SEC. 125. Section 18596 of said code is amended to read:

Board's determination

18596. The board's determination becomes final upon the expiration of 30 days from the time of the determination unless within the 30-day period the taxpayer or the commissioner files a petition for rehearing with the board. In that event the determination becomes final upon the expiration of

30 days from the time the board issues its opinion on the petition.

New section
See also Stats 1943, Ch 659
Credit or refund

SEC. 125.3. Section 19053.3 is added to said code, to read:

19053.3. The period within which a claim for credit or refund may be filed, or credit or refund allowed or made if no claim is filed, shall be the period within which the commissioner may make an assessment under the same circumstances, if:

(a) The taxpayer has, within the period prescribed in the preceding sentence, agreed in writing, under the provisions of Article 2 of Chapter 11, to extend the time within which the commissioner may propose an additional assessment, or

(b) The taxpayer has agreed with the United States Commissioner of Internal Revenue for an extension (or renewals thereof) of the period for proposing and assessing deficiencies in Federal income tax for any year.

New section
See also Stats 1943, Ch 659
Claim filed before agreement

SEC. 125.5. Section 19053.5 is added to said code, to read:

19053.5. The provisions of Section 19053.3 shall apply to any claim filed, or credit or refund allowed or made, before the execution of an agreement pursuant to Section 19053.3.

New section
See also Stats 1943, Ch 659
Limitation

SEC. 125.7. Section 19053.7 is added to said code, to read:

19053.7. Insofar as the claim for credit or refund relates to an overpayment on account of the deductibility, under Section 17310, of a debt as one which became worthless, or a loss from worthlessness of a security under Section 17311, or Section 17307, or an erroneous inclusion of an amount attributable to the recovery of a bad debt, prior tax or delinquency amount, under Sections 17132, 17133, 17134, 17135, and 17136 due to an adjustment of a bad debt deduction under Section 17310, or a loss deduction from worthlessness of a security under Section 17311, or Section 17307, in lieu of the period of limitations prescribed in Section 19053, the period shall be seven years from the date prescribed by law for filing the return for the year with respect to which the claim is made.

Stats 1943, Ch 659
Finality of determination

SEC. 126. Section 19061 of said code is amended to read:

19061. The determination is final upon the expiration of 30 days from the date of the determination unless within the 30-day period, the taxpayer or commissioner files a petition for rehearing with the board. In that event the determination becomes final upon the expiration of 30 days from the date the board issues its opinion on the petition.

Tax levy

SEC. 127. This act, inasmuch as it provides for a tax levy for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately.

Constitutionality

SEC. 128. If any section, subsection, clause, sentence or phrase of this act which is reasonably separable from the remaining portions of this act is for any reason held to be unconstitutional, such decision shall not effect the remaining portions of this act. The Legislature hereby declares that

it would have passed the remaining portions of this act, irrespective of the fact that any such section, subsection, clause, sentence or phrase of this act be declared unconstitutional.

Application of provisions

SEC. 129. Except as hereinafter provided in Section 130 of this act, the provisions of this act effecting changes in the computation of taxes shall be applied only in the computation of taxes for taxable years beginning after December 31, 1942, and the remaining provisions of this act shall become effective on the effective date of this act. Provisions effecting changes in the computation of taxes shall include those affecting income, deductions, rates, methods of calculating tax, exclusions, exemptions and credits.

Same

SEC. 130. (a) The provisions of this act adding Section 2 (p), 7 (k), 8 (o), 12 (j) and which amend Sections 7 (b) (2) and 10 (b) (insofar as they relate to Section 7 (k)), of The Personal Income Tax Act, shall be applicable only with respect to taxable years beginning after December 31, 1942; except that if the first taxable year beginning after December 31, 1942, of the husband, does not begin on the same day as the first taxable year beginning after December 31, 1942, of the wife, such provisions shall first become applicable in the case of the husband on the first day of the wife's first taxable year beginning after December 31, 1942, regardless of the taxable year of the husband in which such day falls.

(b) The provisions of this act adding Sections 17019.3, 17104, 17105, 17106, 17107, 17317.5, 18172.3, 18172.5, and 18172.7, to the Revenue and Taxation Code, and which add Sections 17125.3, 17125.5, 17125.7 to, and amend Sections 17952 (insofar as they relate to Sections 17104, 17105, 17106 and 17107) of said code, shall be applicable only with respect to taxable years beginning after December 31, 1942; except that if the first taxable year beginning after December 31, 1942, of the husband, does not begin on the same day as the first taxable year beginning after December 31, 1942, of the wife, such provisions shall first become applicable in the case of the husband on the first day of the wife's first taxable year beginning after December 31, 1942, regardless of the taxable year of the husband in which such day falls.

(c) The provisions of this act which amend Section 7 (b) (2) (relating to employees' annuities), 8 (m) and 12 (f) of The Personal Income Tax Act shall be applicable only with respect to taxable years of the employer beginning after December 31, 1942, except that

(1) In the case of a stock bonus, pension, profit-sharing, or annuity plan in effect on or before September 1, 1943,

(A) Such a plan shall not become subject to the requirements of Section 12 (f) (1) (C), (D), (E), and (F) until the beginning of the first taxable year beginning after December 31, 1943,

(B) Such a plan shall be considered as satisfying the requirements of Section 12 (f) (1) (C), (D), (E) and (F) for the period beginning with the beginning of the first taxable

year following December 31, 1943 and ending December 31, 1944, if the plan satisfies such requirements by December 31, 1944,

(C) If the contribution of an employer to such a plan in the employer's taxable year beginning in 1943 exceeds the maximum amount deductible for such year under Section 8 (m), as amended by this act, the amount deductible in such year shall be not less than the sum of—

(i) The amount paid in such taxable year prior to September 1, 1943, and deductible under Section 8 (a) or 8 (m) prior to amendment by this act; and

(ii) With respect to the amount paid in such taxable year on or after September 1, 1943, that proportion of the amount deductible for the taxable year under Section 8 (m), as amended by this act, which the number of months after August 31, 1943, in the taxable year bears to 12.

(2) In the case of a stock bonus, pension, profit-sharing or annuity plan put into effect after September 1, 1943, such a plan shall be considered as satisfying the requirements of Section 12 (f) (1) (C), (D), (E) and (F) for the period beginning with the date such plan is put into effect and ending December 31, 1944, if the plan satisfies such requirements by December 31, 1944.

(d) The provisions of this act which add Sections 17125.3, 17125.5, 17125.7 (relating to employees' annuities), Article 1.5 to Chapter 4 and 18156 to 18164, inclusive, to the Revenue and Taxation Code shall be applicable only with respect to taxable years of the employer beginning after December 31, 1942, except that

(1) In the case of a stock bonus, pension, profit-sharing, or annuity plan in effect on or before September 1, 1943.

(A) Such a plan shall not become subject to the requirements of Sections 18157, 18158, 18159, 18160, 18161, 18162, 18163 and 18164 until the beginning of the first taxable year beginning after December 31, 1943.

(B) Such a plan shall be considered as satisfying the requirements of Sections 18157, 18158, 18159, 18160, 18161, 18162, 18163 and 18164 for the period beginning with the beginning of the first taxable year, following December 31, 1943, and ending December 31, 1944, if the plan satisfies such requirements by December 31, 1944.

(C) If the contribution of an employer to such a plan in the employer's taxable year beginning in 1943 exceeds the maximum amount deductible for such year under Article 1.5 of Chapter 4, as added by this act, the amount deductible in such year shall be not less than the sum of:

(i) The amount paid in such taxable year prior to September 1, 1943, and deductible under Sections 17301, 17302, prior to their amendment and Section 17303 prior to the addition of Article 1.5 to Chapter 4, and

(ii) With respect to the amount paid in such taxable year on or after September 1, 1943, that proportion of the amount

deductible for the taxable year under Article 1.5 of Chapter 4, as added by this act, which the number of months after August 31, 1943, in the taxable year bears to 12.

(2) In the case of a stock bonus, pension, profit-sharing or annuity plan put into effect after September 1, 1943, such a plan shall be considered as satisfying the requirements of Sections 18157, 18158, 18159, 18160, 18161, 18162, 18163, and 18164 for the period beginning with the date such plan is put into effect and ending December 31, 1944, if the plan satisfies such requirements by December 31, 1944.

(e) The provisions of this act which amend Sections 7 (b) (9), 7 (c) (2), 7 (f), and add Section 8 1 shall be retroactive.

The provisions of this act which amend Section 9.4 (c) (1) shall be applicable to all taxable years beginning after December 31, 1938.

(f) The provisions of this act which amend Sections 17132, 17503, 17506, and 17211 and add Article 1.5 to Chapter 5, (relating to nonresident beneficiaries), and Section 17357 and Sections 17321 to 17322.9, inclusive, shall be retroactive.

The provisions of this act which amend Section 17713 shall be effective for all taxable years beginning after December 31, 1938.

(g) The provisions of this act which amend Sections 8 (i) (relating to emergency facilities) and 9.3 (b) (1) (B) shall be applicable only with respect to taxable years ending after October 6, 1940.

(h) The provisions of this act which amend Sections 17313 (relating to emergency facilities) and 17783 shall be applicable only with respect to taxable years ending after October 6, 1940.

(i) The provisions of this act which add Section 8.3 shall be applicable only with respect to taxable years ending after December 6, 1941.

(j) The provisions of this act which add Article 1.7 to Chapter 4 shall be applicable only with respect to taxable years ending after December 6, 1941.

SEC. 131. The provisions of this act amending sections of the Revenue and Taxation Code become operative only if Part 10, Division 2 of the Revenue and Taxation Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said Part 10 takes effect. At this time, the sections of The Personal Income Tax Act amended or added by this act are hereby repealed. Effect Stats 1943, Ch 659 Repeal

CHAPTER 354

Stats 1935, p 1091, amended

Stats 1939, p 1271, amended

An act to amend Sections 5, 5.1 and 10 of, and to add Section 29.5 to the Personal Income Tax Act and to amend Sections 17052, 17053.5 and 17952 of, and to add Chapter 13.5, comprising Sections 19200 to 19205, inclusive, to Part 10 of Division 2 of, the Revenue and Taxation Code, relating to personal income taxes, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor May 7, 1943. Filed with Secretary of State May 7, 1943.]

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

Stats 1935, p 1091 See also Stats 1943, Ch 657

Imposition of tax on residents and nonresidents

SECTION 1. Section 5 of the Personal Income Tax Act is amended to read:

Sec. 5. (a) There shall be levied, collected and paid for each taxable year upon the entire net income of every resident of this State and upon the net income of every nonresident which is derived from sources within this State, taxes in the following amounts and at the following rates upon the amount of net income in excess of credits against net income as provided in Section 10:

Upon net incomes not in excess of five thousand dollars ($5,000), 1 per centum of such net incomes.

Fifty dollars ($50) upon net incomes of five thousand dollars ($5,000); and upon net incomes in excess of five thousand dollars ($5,000) and not in excess of ten thousand dollars ($10,000), 2 per centum in addition of such excess.

One hundred fifty dollars ($150) upon net incomes of ten thousand dollars ($10,000); and upon net incomes in excess of ten thousand dollars ($10,000) and not in excess of fifteen thousand dollars ($15,000), 3 per centum in addition of such excess.

Three hundred dollars ($300) upon net incomes of fifteen thousand dollars ($15,000); and upon net incomes in excess of fifteen thousand dollars ($15,000) and not in excess of twenty thousand dollars ($20,000), 4 per centum in addition of such excess.

Five hundred dollars ($500) upon net incomes of twenty thousand dollars ($20,000); and upon net incomes in excess of twenty thousand dollars ($20,000) and not in excess of twenty-five thousand dollars ($25,000), 5 per centum in addition of such excess.

Seven hundred fifty dollars ($750) upon net incomes of twenty-five thousand dollars ($25,000); and upon net incomes in excess of twenty-five thousand dollars ($25,000), 6 per centum in addition of such excess.

Stats 1943, Ch 34 See also Stats 1943, Ch 659

SEC. 1.5. Section 5.1 of said act is amended to read:

Simplified return

Sec. 5.1. (a) With respect to taxable years beginning after December 31, 1942, and before January 1, 1945, in lieu of

the tax imposed under Section 5, as limited by Section 29.5 of this act, an individual who makes his return on the cash basis may irrevocably elect, for each taxable year, to pay the tax shown in the following table if his gross income for such taxable year is five thousand dollars ($5,000) or less and consists wholly of one or more of the following: Salary, wages, compensation for personal services, dividends, interest, or annuities:

If the gross income is over—	But not over—	The tax shall be— Single person (not head of family)	Married person making separate return	(1) Married person whose spouse has no gross income, or (2) married person making joint return, or (3) head of family
$0	$1,900	$0	$0	$0
1,900	1,950	0	.60	0
1,950	2,000	0	1.07	0
2,000	2,050	0	1.54	0
2,050	2,100	0	2.01	0
2,100	2,150	0	2.48	0
2,150	2,200	.45	2.95	0
2,200	2,250	.92	3.42	0
2,250	2,300	1.39	3.89	0
2,300	2,350	1.86	4.36	0
2,350	2,400	2.33	4.83	0
2,400	2,450	2.80	5.30	0
2,450	2,500	3.27	5 77	0
2,500	2,550	3.74	6.24	0
2,550	2,600	4.21	6.71	0
2,600	2,650	4.68	7.18	0
2,650	2,700	5.15	7.65	0
2,700	2,750	5.62	8.12	0
2,750	2,800	6.09	8.59	0
2,800	2,850	6.56	9.06	0
2,850	2,900	7.03	9.53	0
2,900	2,950	7.50	10.00	0
2,950	3,000	7.97	10.47	0
3,000	3,050	8.44	10.94	0
3,050	3,100	8.91	11.41	0
3,100	3,150	9.38	11.88	0
3,150	3,200	9.85	12.35	0
3,200	3,250	10.32	12.82	0
3,250	3,300	10.79	13.29	0
3,300	3,350	11.26	13.76	0
3,350	3,400	11.73	14.23	0
3,400	3,450	12.20	14.70	0
3,450	3,500	12 67	15.17	0
3,500	3,550	13.14	15.64	0
3,550	3,600	13.61	16.11	0
3,600	3,650	14.08	16.58	0

If the gross income is over—	But not over—	The tax shall be— Single person (not head of family)	Married person making separate return	(1) Married person whose spouse has no gross income, or (2) married person making joint return, or (3) head of family
3,650	3,700	14 55	17.05	0
3,700	3,750	15.02	17.52	0
3,750	3,800	15.49	17.99	.49
3,800	3,850	15.96	18.46	.96
3,850	3,900	16.43	18.93	1.43
3,900	3,950	16.90	19.40	1.90
3,950	4,000	17.37	19.87	2.37
4,000	4,050	17.84	20.34	2.84
4,050	4,100	18.31	20.81	3.31
4,100	4,150	18.78	21.28	3.78
4,150	4,200	19.25	21.75	4.25
4,200	4,250	19.72	22.22	4.72
4,250	4,300	20.19	22.69	5.19
4,300	4,350	20.66	23.16	5.66
4,350	4,400	21.13	23.63	6.13
4,400	4,450	21.60	24.10	6.60
4,450	4,500	22.07	24.57	7.07
4,500	4,550	22.54	25.04	7.54
4,550	4,600	23.01	25.51	8.01
4,600	4,650	23.48	25.98	8.48
4,650	4,700	23.95	26.45	8.95
4,700	4,750	24.42	26.92	9.42
4,750	4,800	24.89	27.39	9.89
4,800	4,850	25.36	27.86	10.36
4,850	4,900	25.83	28.33	10.83
4,900	4,950	26.30	28.80	11.30
4,950	5,000	26.77	29.27	11.77

Dependents

In applying the above schedule to determine the tax of a taxpayer with one or more dependents, there shall be subtracted from his gross income four hundred dollars ($400) for each such dependent.

(b) For the purpose of this section—

"Married person"

(1) "Married person" means a married person living with husband or wife on July 1 of the taxable year.

"Dependent"

(2) "Dependent" means a person who is, on July 1 of the taxable year, a dependent under Section 10 (b).

Single person

(3) An individual not a head of a family and not living with husband or wife on July 1 of the taxable year shall be treated as a single person.

Limitation

(c) This section shall not apply to an estate or trust, an individual filing a return for a period of less than 12 months or for any taxable year other than a calendar year, or to a married individual, married and living with husband or wife

at any time during the taxable year, whose spouse files a return and computes the tax without regard to this section.

SEC. 1.7. Section 10 of said act is amended to read: Stats. 1943, Ch 353 See also Stats 1943, Ch 659

Sec. 10. There shall be allowed for the purposes of the tax herein imposed:

(a) In the case of a single person, a personal exemption of one thousand dollars ($1,000); or in the case of the head of a family or a married person living with husband or wife, a personal exemption of two thousand five hundred dollars ($2,500). A husband and wife living together shall receive but one personal exemption. The amount of such personal exemption shall be two thousand five hundred dollars ($2,500). If such husband and wife make separate returns, the personal exemption may be taken by either or divided between them; Credits against net income Personal exemption

(b) Four hundred dollars ($400) for each person (other than husband or wife living with the taxpayer) dependent upon and receiving his chief support from the taxpayer if such dependent person is under 18 years of age or is incapable of self-support because mentally or physically defective. A payment to a wife which must be included in the gross income of the wife under Section 7 (k) or Section 12 (j) shall not be considered a payment by her husband for the support of any dependent. If the taxpayer would not occupy the status of head of a family except by reason of there being one or more dependents for whom he would be entitled to credit under this section, the credit shall be disallowed with respect to one of the dependents; Credits for dependents

(c) In the case of an estate an exemption of one thousand dollars ($1,000); in the case of a trust an exemption of one hundred dollars ($100). Estates and trusts

(d) If the status of the taxpayer, insofar as it affects the personal exemption or credit for dependents changes during the taxable year, the personal exemption or credit for dependents changes during the taxable year, the personal exemption and credit shall be apportioned, under such rules and regulations as are prescribed by the commissioner, in accordance with the number of months before and after such change. For the purpose of such apportionment a fractional part of a month shall be disregarded unless it amounts to more than half a month, in which case it shall be considered as a month. Change of status

SEC. 2. Section 29 5 is added to said act, to read: New section

Sec. 29.5. With respect to taxable years beginning after December 31, 1942, and before January 1, 1945: See also Stats 1943, Ch 659

(a) (1) Every person taxable under this act shall make a return to the commissioner, stating specifically the items of his gross income and the deductions and credits allowed by this act, if having a net income for the taxable year of— Temporary tax basis

(i) Two thousand dollars ($2,000) or over, if single, or if married and not living with husband or wife;

(ii) Three thousand five hundred dollars ($3,500) or over, if married and living with husband or wife; or

(iii) If having a gross income of five thousand dollars ($5,000) or over, regardless of the amount of net income.

(2) If a husband and wife living together have an aggregate net income for the taxable year of three thousand five hundred dollars ($3,500) or over, or an aggregate gross income for such year of five thousand dollars ($5,000) or over—

(i) Each shall make such a return; or

(ii) The income of each shall be included in a single joint return, in which case the tax shall be computed on the aggregate income.

(b) Every fiduciary (except a receiver appointed by authority of law in possession of part only of the property of an individual) shall make a return for any of the following individuals, estates or trusts, taxable hereunder, for which he acts, stating specifically the items of gross income thereof and the deductions and credits allowed under this act.

(1) Every individual having a net income for the taxable year of two thousand dollars ($2,000) or over, if single, or if married and not living with husband or wife;

(2) Every individual having a net income for the taxable year of three thousand five hundred dollars ($3,500) or over, if married and living with husband or wife;

(3) Every individual having a gross income for the taxable year of five thousand dollars ($5,000) or over, regardless of the amount of his net income;

(4) Every estate the net income of which for the taxable year is one thousand five hundred dollars ($1,500) or over;

(c) There shall be levied, collected, and paid for each taxable year upon the entire net income of every resident of this State and upon the net income of every nonresident which is derived from sources within this State:

Upon net incomes not in excess of ten thousand dollars ($10,000), 1 per cent of such net incomes;

One hundred dollars ($100) upon net incomes of ten thousand dollars ($10,000); and upon net incomes in excess of ten thousand dollars ($10,000) and not in excess of fifteen thousand dollars ($15,000), 2 per cent in addition of such excess.

Two hundred dollars ($200) upon net incomes of fifteen thousand dollars ($15,000); and upon net incomes in excess of fifteen thousand dollars ($15,000) and not in excess of twenty thousand dollars ($20,000), 3 per cent in addition of such excess.

Three hundred fifty dollars ($350) upon net incomes of twenty thousand dollars ($20,000); and upon net incomes in excess of twenty thousand dollars ($20,000) and not in excess of twenty-five thousand dollars ($25,000), 4 per cent in addition of such excess.

Five hundred fifty dollars ($550) upon net incomes of twenty-five thousand dollars ($25,000); and upon net incomes in excess of twenty-five thousand dollars ($25,000) and not in excess of thirty thousand dollars ($30,000), 5 per cent in addition of such excess.

Eight hundred dollars ($800) upon net incomes of thirty thousand dollars ($30,000); and upon net incomes in excess of thirty thousand dollars ($30,000), 6 per cent in addition of such excess.

(d) There shall be allowed for the purposes of the tax herein imposed:

(1) In the case of a single person, a personal exemption of two thousand dollars ($2,000); or

(2) In the case of the head of a family or a married person living with husband or wife, a personal exemption of three thousand five hundred dollars ($3,500);

(3) A husband and wife living together shall receive but one personal exemption. The amount of such personal exemption shall be three thousand five hundred dollars ($3,500). If such husband and wife make separate returns, the personal exemption may be taken by either or divided between them;

(4) Four hundred dollars ($400) for each person (other than husband or wife living with the taxpayer) dependent upon and receiving his chief support from the taxpayer if such dependent person is under 18 years of age or is incapable of self-support because mentally or physically defective. A payment to a wife which must be included in the gross income of the wife under Section 7 (k) or Section 12 (j) shall not be considered a payment by her husband for the support of any dependent. If the taxpayer would not occupy the status of head of a family except by reason of there being one or more dependents for whom he would be entitled to credit under this section, the credit shall be disallowed with respect to one of the dependents;

(5) In the case of an estate an exemption of one thousand five hundred dollars ($1,500); in the case of a trust an exemption of one hundred dollars ($100).

SEC. 3. Section 17052 of the Revenue and Taxation Code is amended to read: Stats. 1943, Ch. 658

17052. There shall be levied, collected, and paid for each taxable year upon the entire net income of every resident of this State and upon the net income of every nonresident which is derived from sources within this State, taxes in the following amounts and at the following rates upon the amount of net income in excess of credits against net income provided in Article 1 of Chapter 7 of this part: Imposition of tax on residents and nonresidents

Upon net incomes not in excess of five thousand dollars ($5,000), 1 per cent of such net incomes.

Fifty dollars ($50) upon net incomes of five thousand dollars ($5,000); and upon net incomes in excess of five thousand dollars ($5,000) and not in excess of ten thousand dollars ($10,000), 2 per cent in addition of such excess.

One hundred fifty dollars ($150) upon net incomes of ten thousand dollars ($10,000); and upon net incomes in excess of ten thousand dollars ($10,000) and not in excess of fifteen thousand dollars ($15,000), 3 per cent in addition of such excess.

Three hundred dollars ($300) upon net incomes of fifteen thousand dollars ($15,000); and upon net incomes in excess of fifteen thousand dollars ($15,000) and not in excess of twenty thousand dollars ($20,000), 4 per cent in addition of such excess.

Five hundred dollars ($500) upon net incomes of twenty thousand dollars ($20,000); and upon net incomes in excess of twenty thousand dollars ($20,000) and not in excess of twenty-five thousand dollars ($25,000), 5 per cent in addition of such excess.

Seven hundred fifty dollars ($750) upon net incomes of twenty-five thousand dollars ($25,000); and upon net incomes in excess of twenty-five thousand dollars ($25,000), 6 per cent in addition of such excess.

Stats 19 3, Ch 34 See also Stats 1943, Ch 659 Simplified return

SEC 3 5. Section 17053 5 of said code is amended to read:

17053.5. (a) With respect to taxable years beginning after December 31, 1942, and before January 1, 1945, in lieu of the tax imposed under Section 17052, as limited by Sections 19200 and 19201 of this code, an individual who makes his return on the cash basis may irrevocably elect, for each taxable year, to pay the tax shown in the following table if his gross income for such taxable year is five thousand dollars ($5,000) or less and consists wholly of one or more of the following: Salary, wages, compensation for personal services, dividends, interest, or annuities:

If the gross income is over—	But not over—	The tax shall be— Single person (not head of family)	Married person making separate return	(1) Married person whose spouse has no gross income, or (2) married person making joint return, or (3) head of family
$0	$1,900	$0	$0	$0
1,900	1,950	0	.60	0
1,950	2,000	0	1.07	0
2,000	2,050	0	1.54	0
2,050	2,100	0	2 01	0
2,100	2,150	0	2.48	0
2,150	2,200	.45	2.95	0
2,200	2,250	.92	3.42	0
2,250	2,300	1.39	3.89	0
2,300	2,350	1 86	4.36	0
2,350	2,400	2 33	4.83	0
2,400	2,450	2.80	5 30	0
2,450	2,500	3 27	5.77	0
2,500	2,550	3.74	6 24	0
2,550	2,600	4.21	6.71	0
2,600	2,650	4.68	7.18	0
2,650	2,700	5.15	7.65	0
2,700	2,750	5.62	8.12	0
2,750	2,800	6 09	8.59	0

If the gross income is over—	But not over—	The tax shall be— Single person (not head of family)	Married person making separate return	(1) Married person whose spouse has no gross income, or (2) married person making joint return, or (3) head of family
2,800	2,850	6.56	9.06	0
2,850	2,900	7.03	9.53	0
2,900	2,950	7.50	10.00	0
2,950	3,000	7.97	10.47	0
3,000	3,050	8.44	10 94	0
3,050	3,100	8.91	11.41	0
3,100	3,150	9.38	11.88	0
3,150	3,200	9.85	12.35	0
3,200	3,250	10.32	12 82	0
3,250	3,300	10.79	13.29	0
3,300	3,350	11.26	13.76	0
3,350	3,400	11.73	14.23	0
3,400	3,450	12.20	14.70	0
3,450	3,500	12.67	15.17	0
3,500	3,550	13.14	15.64	0
3,550	3,600	13.61	16.11	0
3,600	3,650	14.08	16.58	0
3,650	3,700	14.55	17.05	0
3,700	3,750	15.02	17.52	0
3,750	3,800	15.49	17.99	.49
3,800	3,850	15.96	18.46	.96
3,850	3,900	16.43	18.93	1.43
3,900	3,950	16.90	19.40	1.90
3,950	4,000	17.37	19 87	2 37
4,000	4,050	17.84	20.34	2.84
4,050	4,100	18.31	20.81	3.31
4,100	4,150	18.78	21 28	3.78
4,150	4,200	19.25	21.75	4.25
4,200	4,250	19.72	22.22	4.72
4,250	4,300	20.19	22.69	5.19
4,300	4,350	20.66	23.16	5.66
4,350	4,400	21.13	23.63	6.13
4,400	4,450	21.60	24.10	6.60
4,450	4,500	22.07	24.57	7.07
4,500	4,550	22.54	25 04	7.54
4,550	4,600	23.01	25.51	8.01
4,600	4,650	23.48	25.98	8.48
4,650	4,700	23.95	26.45	8.95
4,700	4,750	24.42	26.92	9.42
4,750	4,800	24.89	27.39	9 89
4,800	4,850	25.36	27.86	10.36
4,850	4,900	25.83	28.33	10.83
4,900	4,950	26.30	28.80	11.30
4,950	5,000	26.77	29.27	11.77

Dependents

In applying the above schedule to determine the tax of a taxpayer with one or more dependents, there shall be subtracted from his gross income four hundred dollars ($400) for each such dependent.

(b) For the purpose of this section—

"Married person"

(1) "Married person" means a married person living with husband or wife on July 1 of the taxable year.

"Dependent"

(2) "Dependent" means a person who is, on July 1 of the taxable year, a dependent under Section 17952.

Single person

(3) An individual not a head of a family and not living with husband or wife on July 1 of the taxable year shall be treated as a single person.

Limitation

(c) This section shall not apply to an estate or trust, an individual filing a return for a period of less than 12 months or for any taxable year other than a calendar year, or to a married individual, married and living with husband or wife at any time during the taxable year, whose spouse files a return and computes the tax without regard to this section.

Stats 1943, Ch 353 See also Stats 1943, Ch 659 Credits for dependents

SEC. 3.7. Section 17952 of said code is amended to read:

17952. There shall also be allowed as a credit four hundred dollars ($400) for each individual (other than husband or wife living with the taxpayer) dependent upon and receiving his chief support from the taxpayer if the dependent individual is under 18 years of age or is incapable of self-support because mentally or physically defective. A payment to a wife which must be included in the gross income of the wife under Sections 17104, 17105, 17106 and 17107, or Sections 18172.3 and 18172.5 shall not be considered a payment by her husband for the support of any dependent. If the taxpayer would not occupy the status of head of a family except by reason of there being one or more dependents for whom he would be entitled to credit under this section, the credit shall be disallowed with respect to one of the dependents.

New chapter See also Stats 1943, Ch 659

SEC. 4. Chapter 13.5, comprising Sections 19200 to 19205, inclusive, is added to Part 10 of Division 2 of said code, to read:

CHAPTER 13.5. TEMPORARY TAX BASIS

Imposition of tax on residents and nonresidents on temporary tax basis

19200. With respect to taxable years beginning after December 31, 1942, and before January 1, 1945, there shall be levied, collected, and paid for each taxable year upon the entire net income of every resident of this State and upon the net income of every nonresident which is derived from sources within this State:

Upon net incomes not in excess of ten thousand dollars ($10,000), 1 per cent of such net incomes.

One hundred dollars ($100) upon net incomes of ten thousand dollars ($10,000); and upon net incomes in excess of ten thousand dollars ($10,000) and not in excess of fifteen thousand dollars ($15,000), 2 per cent in addition of such excess.

Two hundred dollars ($200) upon net incomes of fifteen thousand dollars ($15,000); and upon net incomes in excess

of fifteen thousand dollars ($15,000) and not in excess of twenty thousand dollars ($20,000), 3 per cent in addition of such excess.

Three hundred fifty dollars ($350) upon net incomes of twenty thousand dollars ($20,000); and upon net incomes in excess of twenty thousand dollars ($20,000) and not in excess of twenty-five thousand dollars ($25,000), 4 per cent in addition of such excess.

Five hundred fifty dollars ($550) upon net incomes of twenty-five thousand dollars ($25,000); and upon net incomes in excess of twenty-five thousand dollars ($25,000) and not in excess of thirty thousand dollars ($30,000), 5 per cent in addition of such excess.

Eight hundred dollars ($800) upon net incomes of thirty thousand dollars ($30,000); and upon net incomes in excess of thirty thousand dollars ($30,000), 6 per cent in addition of such excess.

Credits against net income
Personal exemption

19201. With respect to taxable years beginning after December 31, 1942, and before January 1, 1945, there shall be allowed as a credit against net income, in the case of a single individual, a personal exemption of two thousand dollars ($2,000), or, in the case of a head of a family or a married individual living with husband or wife, a personal exemption of three thousand five hundred dollars ($3,500). A husband and wife living together shall receive but one personal exemption of three thousand five hundred dollars ($3,500). If the husband and wife, living together, make separate returns, the personal exemption may be taken by either or divided between them.

Credits against net income of estates and trust

19202. With respect to taxable years beginning after December 31, 1942, and before January 1, 1945, there shall be allowed as a credit against net income, in the case of an estate, an exemption of one thousand five hundred dollars ($1,500) and, in the case of a trust, an exemption of one hundred dollars ($100).

Return

19203. With respect to taxable years beginning after December 31, 1942, and before January 1, 1945, every individual taxable under this part shall make a return to the commissioner, stating specifically the items of his gross income and the deductions and credits allowed by this part, if he has for the taxable year

(a) A net income of two thousand dollars ($2,000) or over, if single, or if married and not living with husband or wife;

(b) A net income of three thousand five hundred dollars ($3,500) or over, if married and living with husband or wife; or

(c) A gross income of five thousand dollars ($5,000) or over, regardless of the amount of net income.

Returns by sponsor

19204. With respect to taxable years beginning after December 31, 1942, and before January 1, 1945, if a husband and wife living together have for the taxable year an aggregate net income of three thousand five hundred dollars

($3,500) or over, or an aggregate gross income of five thousand dollars ($5,000) or over—

(a) Each shall make such a return, or

(b) The income of each shall be included in a single joint return, in which case the tax shall be computed on the aggregate income.

Returns by fiduciaries.

19205. With respect to taxable years beginning after December 31, 1942, and before January 1, 1945, every fiduciary (except a receiver appointed by authority of law in possession of part only of the property of an individual) shall make a return for any of the following taxpayers for whom he acts, stating specifically the items of gross income of the taxpayer and the deductions and credits allowed under this part;

(a) Every individual having a net income for the taxable year of two thousand dollars ($2,000) or over, if single, or if married and not living with husband or wife.

(b) Every individual having a net income for the taxable year of three thousand five hundred dollars ($3,500) or over, if married and living with husband or wife.

(c) Every individual having a gross income for the taxable year of five thousand dollars ($5,000) or over, regardless of the amount of his net income.

(d) Every estate the net income of which for the taxable year is one thousand five hundred dollars ($1,500) or over.

Effect Stats 1943, Ch 659

SEC. 5. The sections of the Revenue and Taxation Code added and amended by this act become operative only if Part 10, Division 2 of the Revenue and Taxation Code is enacted by the Legislature at its Fifty-fifth Session, and in such case, at the same time as said Part 10 takes effect; at which time the sections of the Personal Income Tax Act added and amended by this act are hereby repealed.

Repeal

Urgency

SEC. 6. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

The necessity of high Federal taxation for war purposes requires that all State taxes be reduced wherever possible. The burden of State taxes must be alleviated if individuals are to meet the higher Federal taxes and the higher costs of living due to the war. It is therefore necessary that the personal income tax rates be reduced and that the personal exemptions be increased and a reduction in the amount of tax be granted for the period fixed by this act.

Effect Stats 1943, Chs 355, 356, 357 and 359

SEC. 7. This act shall not take effect unless Assembly Bills 883 and 884 and Senate Bills 103 and 1086, all as amended by the Senate, are enacted by the Fifty-fifth Legislature.

Short title

SEC. 8. The amendments made by this act shall be known as the Ward Act.

CHAPTER 355

An act to add Section 7.5 to the Bank and Corporation Franchise Tax Act, relating to a franchise tax imposed on banks and corporations, providing for the use of part of the proceeds of said tax.

Stats 1929, p 19, amended

[Approved by Governor May 7, 1943. Filed with Secretary of State May 7, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 7.5 is added to the Bank and Corporation Franchise Tax Act, to read:

New section

Sec. 7.5. With respect to taxable years beginning after December 31, 1943, and before January 1, 1946, the amount of the tax that would have been payable, except for the existence of this section, shall be computed in the manner, at the rates and on the basis specified in this act, but the amount to be paid to the State under this act for such taxable years shall be eighty-five per cent (85%) of the amount so computed.

Temporary tax credit

Of the proceeds of the tax levied by this act which are deposited in the Bank and Corporation Franchise Tax Fund pursuant to Section 23 of this act on and after July 1, 1943, and to and including December 31, 1945, one-tenth shall be transferred by the Controller to General Fund and set aside as a postwar employment reserve, which shall be available for expenditure only when appropriated by the Legislature for public projects and improvements that will provide postwar employment for citizens released from the armed forces and private enterprise following relaxation of the war effort.

Postwar employment reserve

The money in the postwar employment reserve shall be excluded in determining surplus, excess, deficit or deficiency in the General Fund in any balance sheet or other statement of the financial condition of the State of California.

The money in the postwar employment reserve may be invested and reinvested by the Director of Finance in bonds or other obligations of the United States, or for which the full faith and credit of the United States are pledged, and such securities may be sold or exchanged by the Director of Finance if, in his discretion, such sale or exchange appears to be in the best interest of the State in effectuating the purposes of this section. The increment from such investment shall accrue to the General Fund.

SEC. 2. This act shall not take effect unless Assembly Bills 876 and 884 and Senate Bills 103 and 1086, all as amended by the Senate, are enacted by the Fifty-fifth Legislature.

Effect Stats 1943, Chs 354, 356, 357 and 359

CHAPTER 356

Stats 1937, p 2184, amended

An act to add Section 5.5 to the Corporation Income Tax Act, relating to the income tax imposed on corporations, providing for the use of part of the proceeds of said tax.

In effect August 4, 1943

[Approved by Governor May 7, 1943. Filed with Secretary of State May 7, 1943.]

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

New section

SECTION 1. Section 5.5 is added to the Corporation Income Tax Act, to read:

Temporary tax credit

Sec. 5.5. With respect to taxable years beginning after December 31, 1942, and before January 1, 1945, the amount of the tax that would have been payable, except for the existence of this section, shall be computed in the manner, at the rates and on the basis specified in this act, but the amount to be paid to the State under this act for such taxable years shall be eighty-five per cent (85%) of the amount so computed.

Postwar employment reserve

Of the proceeds of the tax levied by this act which are deposited in the Bank and Corporation Franchise Tax Fund pursuant to Section 27 of this act on and after July 1, 1943, and to and including December 31, 1945, one-tenth shall be transferred by the Controller to General Fund and set aside as a postwar employment reserve, which shall be available for expenditure only when appropriated by the Legislature for public projects and improvements that will provide postwar employment for citizens released from the armed forces and private enterprise following relaxation of the war effort.

The money in the postwar employment reserve shall be excluded in determining surplus, excess, deficit or deficiency in the General Fund in any balance sheet or other statement of the financial condition of the State of California.

The money in the postwar employment reserve may be invested and reinvested by the Director of Finance in bonds or other obligations of the United States, or for which the full faith and credit of the United States are pledged, and such securities may be sold or exchanged by the Director of Finance if, in his discretion, such sale or exchange appears to be in the best interest of the State in effectuating the purposes of this section. The increment from such investments shall accrue to the General Fund.

Effect Stats 1943, Chs 354, 355, 357 and 359

SEC. 2. This act shall not take effect unless Assembly Bills 876 and 883 and Senate Bills 103 and 1086, all as amended by the Senate, are enacted by the Fifty-fifth Legislature.

CHAPTER 357

An act to amend Section 6051 and Section 6201 of the Revenue and Taxation Code, relating to the rates of the sales and use taxes, providing for the use of part of the proceeds of said taxes, declaring the urgency thereof, to take effect immediately.

Stats 1939, p. 1274, amended

[Approved by Governor May 7, 1943. Filed with Secretary of State May 7, 1943.]

In effect immediately

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

SECTION 1. Section 6051 of the Revenue and Taxation Code is hereby amended to read:

Stats 1941, p. 532
See also Stats 1943, Ch 1004

6051. For the privilege of selling tangible personal property at retail a tax is hereby imposed upon retailers at the rate of 2½ per cent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this State on or after August 1, 1933, and to and including June 30, 1935, and at the rate of 3 per cent thereafter. On and after July 1, 1943, the rate shall be 2½ per cent to and including June 30, 1945, and it shall be 3 per cent thereafter.

Levy of sales tax. Rate

A sum equal to one-fifth of such tax imposed after July 1, 1943, and to and including June 30, 1945, shall be set aside as the same is received by the State Treasurer and deposited by him in the State treasury in a special fund to be known as "Postwar Employment Fund," to be withdrawn from such fund and used only when appropriated by the Legislature for public projects and improvements that will provide postwar employment for citizens released from the armed forces and private enterprise following the relaxation of the war effort.

"Postwar Employment Fund"

SEC. 2. Section 6201 of the said code is hereby amended to read:

Stats 1941, p. 532
See also Stats 1943, Ch 1004

6201. An excise tax is hereby imposed on the storage, use, or other consumption in this State of tangible personal property purchased from a retailer on or after July 1, 1935, for storage, use, or other consumption in this State at the rate of 3 per cent of the sales price of the property. On and after July 1, 1943, the rate shall be 2½ per cent to and including June 30, 1945, and it shall be 3 per cent thereafter.

Levy of use tax Rate

A sum equal to one-fifth of such tax imposed after July 1, 1943, and to and including June 30, 1945, shall be set aside as the same is received by the State Treasurer and deposited by him in the State treasury in a special fund to be known as "Postwar Employment Fund," to be withdrawn from such fund and used only when appropriated by the Legislature for public projects and improvements that will provide postwar employment for citizens released from the armed forces and private enterprise following the relaxation of the war effort.

"Postwar Employment Fund"

SEC. 3. This act shall not take effect unless Assembly Bills 876, 883, and 884, all as amended by the Senate, are enacted by the Fifty-fifth Legislature.

Effect Stats 1943, Chs. 354, 355 and 356

Urgency

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

The necessity of high taxation for war purposes requires that all nonessential taxes be abolished or reduced. With the high cost of living at the present time, it is essential that articles of necessity, such as those subject to the sales and use taxes, be relieved of so high a rate of taxation so that people will not be unduly curtailed in securing the necessities of life, by reason of their inability to meet the taxes thereon.

CHAPTER 358

Stats 1937, p 1005, amended

An act to amend Sections 2005, 2160, 2163, 2164, 2165, 2180, 2181, 2182, 2183, 2222, and 2224 of the Welfare and Institutions Code, and to add Sections 2008.5, 2014, 2015, 2016, 2020.01, 2020.05, 2021.01, 2142 5, 2163.1, 2163.2, 2163.7, 2181.01, 2181.1, 2182.1, 2183.1, 2187.01, 2222.7 and 2223.5 thereto, relating to aid to the aged, to take effect immediately, and to become operative as therein provided.

In effect immediately

[Approved by Governor May 7, 1943. Filed with Secretary of State May 7, 1943.]

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

Stats 1937, p 1005

SECTION 1. Section 2005 of the Welfare and Institutions Code is amended to read:

Policy

2005. The State Department of Social Welfare, through the Division of State Aid to the Aged, and the board of supervisors of every county shall follow the policy of giving the aid provided for in this chapter to every applicant in his own or in some other suitable home of his own choosing, in preference to placing him in an institution.

New section

SEC. 2. Section 2008.5 is added to said code, to read:

Penalty for accepting compensation to obtain aid

2008.5. Any person who accepts compensation or other remuneration or a gift, for making application for aid under this chapter on behalf of an aged person, for assisting an aged person to apply for such aid, or for assisting an aged person to obtain a greater amount of aid than he has been granted, is guilty of a misdemeanor.

Exceptions

This section does not prohibit an active member of the State Bar from accepting a fee for representing an aged person in a hearing before the county board of supervisors, in an appeal to the State Social Welfare Board, or in any court action.

New section

SEC. 3. Section 2014 is added to Article 1 of Chapter 1 of Division 3 of said code, to read:

Inspection of file

2014. In case of dispute, the application and supporting documents pertaining to his case on file in the Department of

Social Welfare or on file in any county office or elsewhere shall be open to inspection at any time during business hours by the applicant or recipient, or by his designated attorney or agent upon proof of his designation as such attorney or agent.

New section

SEC. 4. Section 2015 is added to Article 1 of Chapter 1 of Division 3 of said code, to read:

Copies of laws and regulations

2015. Copies of all laws relating to application for and granting of aid under this chapter, and of all bulletins and rules and regulations of the State Department of Social Welfare shall be made available to the public in each county office administering aid under this chapter and in each local or regional office of the department.

New section

SEC. 5. Section 2016 is added to Article 1 of Chapter 1 of Division 3 of said code, to read:

Itemized report

2016. Upon request therefor, every applicant shall be given an itemized report setting forth the amount of aid granted to him, and the deductions, if any, made.

New section

SEC. 6. Section 2020.01 is added to said code, to read:

Amount of aid

2020.01. The amount of aid to which any applicant shall be entitled shall be, when added to the income (including the value of currently used resources, but excepting casual income and inconsequential resources) of the applicant from all other sources, fifty dollars ($50) per month. If, however, in any case it is found the actual need of an applicant exceeds fifty dollars ($50) per month, such applicant shall be entitled to receive aid in an amount, not to exceed fifty dollars ($50) per month, which when added to his income (including the value of currently used resources, but excepting casual income and inconsequential resources) from all other sources, shall equal his actual need.

Duration

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature. While this section is in effect it shall supersede Section 2020 of this code, and wherever in any provision of law reference is made to Section 2020, such reference shall be deemed to refer to this section; but Section 2020 is not repealed by this section and after this section is no longer effective Section 2020 shall have the same force and effect as though this section had not been enacted.

New section

SEC. 6 5. Section 2020.05 is added to said code, to read:

Earnings not deemed income

2020.05. For the purposes of Section 2020, earnings of an applicant shall not be deemed income or resources of the applicant, and shall not be deducted from the amount of aid to which the applicant would otherwise be entitled.

Condition

This section shall take effect if and when amendments to the Federal statutes or rules and regulations of the Federal Social Security Board take effect permitting this State to give effect to this section without thereby rendering this State ineligible to receive Federal grants-in-aid for old age assistance in this State.

New section

SEC. 7. Section 2021.01 is added to said code, to read:

Appropriation to counties

2021.01. There is hereby appropriated out of any moneys in the State treasury not otherwise appropriated to every county within this State for maintaining or supporting aged persons who come within the provisions of this chapter aid not in excess of five hundred dollars ($500) per annum for each such aged person maintained or supported by such county.

There is hereby further appropriated to every county within this State for the purpose of maintaining or supporting aged persons who come within the provisions of this chapter and who have no county residence as provided in this chapter, aid not in excess of six hundred dollars ($600) per annum for each such aged person.

Payments of aid shall be made in the manner provided in Sections 2187.01 to 2189, inclusive, of this code.

Duration

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature. While this section is in effect it shall supersede Section 2021 of this code, and wherever in any provision of law reference is made to Section 2021, such reference shall be deemed to refer to this section; but Section 2021 is not repealed by this section and after this section is no longer effective Section 2021 shall have the same force and effect as though this section had not been enacted.

New section

SEC. 7.5. Section 2142.5 is added to said code, to read:

Conduct of administrators

2142.5. Every person administering aid under this chapter shall conduct himself with courtesy, consideration, and respect toward applicants for and recipients of aid under this chapter, and shall endeavor at all times to perform his duties in such manner as to secure for every aged person the maximum amount of aid to which he is entitled, without attempting to elicit any information not necessary to carry out the provisions of this chapter, and without comment or criticism of any fact concerning applicants or recipients not directly related to the administration of this chapter.

Stats 1941, p 2930

SEC. 8. Section 2160 of said code is amended to read:

Persons eligible for aid

2160. Aid shall be granted under this chapter to any person who comes within all of the following descriptions:

(a) Who has attained the age of 65 years; provided, that if, when and during such time as the Federal Government shall provide or make available to this State grants in aid to persons who have attained the age of 60 years, the age contained in this subdivision shall be reduced to 60 years and persons who have attained the age of 60 years and who come within all of the descriptions hereinafter contained shall be eligible for aid under this chapter;

(b) Who is a citizen of the United States;

Residence

(c) Who possesses either of the following residence qualifications:

(1) Who resides in the State and has so resided continuously for at least 15 years immediately preceding the date of application, but continuous residence in the State shall not be

deemed to have been interrupted by any period of absence therefrom if the total of such periods does not exceed three years; or who has so resided for a period of 40 years at least five of which have immediately preceded this application;

(2) During such time as grants in aid are provided by the United States Government for such aid in this State and accepted by this State, however, aid may be granted under this chapter to any person who resides in the State and has so resided continuously for at least one year immediately preceding the date of application and for at least five years within the nine years immediately preceding the date of application.

(d) Who resides in the county in which the application is made and has so resided continuously for at least one year immediately preceding the date of application; any person otherwise qualified who has resided in the State for the required period and who has no county residence may file his application in the county in which he resides, and the aid, if granted to him, shall be paid entirely by the State until the first day of the first month beginning after the date upon which he gains such county residence, unless the day upon which he gains county residence is the first day of the month in which event the county shall assume its share of the costs thereon;

(e) Who is not, at the time of receiving such aid an inmate of any public home for the aged, or any public home, or any public institution of a custodial, correctional, or curative character, except in the case of temporary medical or surgical care in a public hospital not exceeding two calendar months in duration. Any such inmate, however, may make an application for aid under this chapter and have his application investigated and acted upon without delay, in the same manner as applications of other persons are acted upon, while he is such an inmate, and, if he is otherwise qualified under the terms of this chapter, such application shall be approved. Payment of the aid granted shall commence within one month following such approval and the applicant may remain an inmate until he receives his first monthly payment, whereupon he shall cease to be such inmate. Persons who are inmates of a boarding home or other institution not supported in whole or in part by public funds shall be granted aid but no such aid shall be granted if such persons are cared for under a contract for a period of time exceeding one month; Inmates of public homes, etc

(f) Who is not receiving adequate support from a husband or wife, or child able and responsible under the laws of this State to furnish such support; free board and lodging supplied to an applicant, because of his necessity, by a friend or relative who is not responsible for his support, shall not be grounds for refusing aid;

(g) Who has not made any voluntary assignment or transfer of property for the purpose of qualifying for such aid.

Stats 1937, p 1005
Personal property owned

SEC. 9. Section 2163 of said code is amended to read:

2163. No aid under this chapter shall be granted or paid to any person who owns personal property the value of which, less all encumbrances of record, exceeds six hundred dollars ($600).

Insurance policies excepted

The term personal property shall not include a policy or policies of insurance which has or have been in effect at least five years prior to the date of application, if the value of the policy or policies at maturity is in an amount not exceeding one thousand dollars ($1,000). No insurance policy shall be valued at more than its present surrender value to the applicant or recipient. Premiums paid on insurance policies shall not be deemed income or resources of the applicant or recipient, whether or not the person by whom the premiums are paid is a responsible relative of the applicant or recipient, and no deduction therefor shall be made from the amount of aid granted to the recipient.

New section
Interest in estate

SEC. 10. Section 2163.1 is added to said code, to read:

2163.1. For the purposes of this chapter, the interest of an applicant or recipient in an estate as heir, devisee, or legatee shall not be considered property of the applicant or recipient until it has been distributed to him and is available for expenditure or disposition by him; and the interest of a beneficiary of a trust shall not be considered to be property of the beneficiary until it has been made available for expenditure or disposition by him.

New section
Personal effects

SEC. 11. Section 2163.2 is added to said code, to read:

2163.2. For the purposes of this chapter the term personal property shall not include personal effects of the applicant or recipient. Personal effects include clothing, furniture, household equipment, foodstuffs, and fuel, but do not include jewelry and items of similar character.

New section
Place of abode

SEC. 11.5. Section 2163.7 is added to said code, to read:

2163.7. For the purposes of this chapter, any place of abode of an applicant or recipient, whether house, boat, trailer, or other habitation, shall be considered real property.

Stats 1937, p 1005
Real property owned

SEC. 12. Section 2164 of said code is amended to read:

2164. No aid under this chapter shall be granted or paid to any person who owns real property the assessed value of which, as assessed by the county assessor, less all encumbrances thereon of record, exceeds three thousand dollars ($3,000) at the time such person makes application for aid.

Stats 1937, p 1005
Combined real property of spouses

SEC. 13. Section 2165 of said code is amended to read:

2165. No aid under this chapter shall be granted or paid to any married person, if the assessed value of the combined real property of the husband and wife, as assessed by the county assessor, less all encumbrances thereon of record, exceeds three thousand dollars ($3,000) at the time such person makes application for aid.

Stats 1937, p 1005
Application

SEC. 15. Section 2180 of said code is amended to read:

2180. Application for aid under this chapter shall be made to the board of supervisors of the county in which the appli-

cant resides. An applicant shall apply in person unless he is physically unable to do so, in which event the application may be made by his authorized representative in his behalf. This application may be made in writing or reduced to writing upon the standard form prescribed by the State Department of Social Welfare, and a copy of his application shall be furnished to each applicant at the time of application. The form shall contain questions, the answers to which will provide the information necessary to establish eligibility for aid under this chapter. All statements in the application shall be verified, under oath, by the applicant.

SEC. 16. Section 2181 of said code is amended to read: Stats 1941, p 3198

2181. The board of supervisors, directly or through an authorized investigator, shall upon receipt of an application for aid, promptly, without any unnecessary delay, and with all diligence, make the necessary investigation. Such investigation shall be completed within 60 days after receipt of the application. Investigation

The board shall upon receipt of the report of the investigation determine the ability of responsible relatives to contribute to the support of applicant and designate the amount of aid, if any, to be granted. The maximum degree of liability of the responsible relative shall be determined by "Relatives' Contribution Scale." In determining ability to contribute, the financial circumstances of responsible relatives shall be given due consideration and, in unusual cases, contributions at less than the amount fixed by "Relatives' Contribution Scale" may be made as the board of supervisors may deem justifiable. A married daughter of the applicant shall not be required to make contributions unless she has income constituting her separate property. Relatives' Contribution Scale

RELATIVES' CONTRIBUTION SCALE

A. Net monthly income of responsible relatives in one family	B. Number of persons dependent upon income C. Maximum required monthly contribution									
	1	2	3	4	5	6	7	8	9	10 and over
Under 155	0	0	0	0	0	0	0	0	0	0
155 to 174	5	0	0	0	0	0	0	0	0	0
175 to 194	10	0	0	0	0	0	0	0	0	0
195 to 214	15	0	0	0	0	0	0	0	0	0
215 to 234	20	0	0	0	0	0	0	0	0	0
235 to 254	25	5	0	0	0	0	0	0	0	0
255 to 274	30	10	0	0	0	0	0	0	0	0
275 to 294	35	15	5	0	0	0	0	0	0	0
295 to 314	40	20	10	5	0	0	0	0	0	0
315 to 334	45	25	15	10	0	0	0	0	0	0
335 to 354	50	30	20	15	5	0	0	0	0	0
355 to 374	55	35	25	20	10	5	0	0	0	0

RELATIVES' CONTRIBUTION SCALE—Continued

A. Net monthly income of responsible relatives in one family	B. Number of persons dependent upon income 1	2	3	4	5	6	7	8	9	10 and over
	C. Maximum required monthly contribution									
375 to 394	60	40	30	25	15	10	0	0	0	0
395 to 414	65	45	35	30	20	15	5	0	0	0
415 to 434	70	50	40	35	25	20	10	0	0	0
435 to 454	75	55	45	40	30	25	15	5	0	0
455 to 474	80	60	50	45	35	30	20	10	0	0
475 to 494	85	65	55	50	40	35	25	15	5	0
495 to 514	90	70	60	55	45	40	30	20	10	0
515 to 534	95	75	65	60	50	45	35	25	15	5
535 to 554	100	80	70	65	55	50	40	30	20	10
555 to 574	100	85	75	70	60	55	45	35	25	15
575 to 594	100	90	80	75	65	60	50	40	30	20
595 to 614	100	95	85	80	70	65	55	45	35	25
615 to 634	100	100	90	85	75	70	60	50	40	30
635 to 654	100	100	95	90	80	75	65	55	45	35
655 to 674	100	100	100	95	85	80	70	60	50	40
675 to 694	100	100	100	100	90	85	75	65	55	45
695 to 714	100	100	100	100	95	90	80	70	60	50
715 to 734	100	100	100	100	100	95	85	75	65	55
735 to 754	100	100	100	100	100	100	90	80	70	60
755 to 774	100	100	100	100	100	100	95	85	75	65
775 to 794	100	100	100	100	100	100	100	90	80	70
795 to 814	100	100	100	100	100	100	100	95	85	75
815 to 834	100	100	100	100	100	100	100	100	90	80
835 to 854	100	100	100	100	100	100	100	100	95	85
855 to 874	100	100	100	100	100	100	100	100	100	90
875 to 894	100	100	100	100	100	100	100	100	100	95
895 to 914 and up	100	100	100	100	100	100	100	100	100	100

New section
Relatives not supporting

SEC. 16.5. Section 2181.01 is added to said code, to read:

2181.01. Notwithstanding any provision of Section 2181, no grant of aid shall be withheld pending investigation of the financial condition of responsible relatives, if the applicant has established the fact that he is not receiving support from such relatives.

New section
Hearing before board

SEC. 17. Section 2181.1 is added to said code, to read:

2181.1. The board shall immediately notify the applicant in writing of its decision, and that he may, upon application to the board within 30 days, appear before the board at a time to be fixed by the board, and show cause why the action of the board is not satisfactory. The hearing shall be held within 30 days from the time of application for hearing. Upon good cause shown, the board may reconsider its previous action, and take whatever action the board deems proper upon the application. The decision of the board confirming or reconsidering

its previous action shall be rendered within 15 days after the hearing.

Alternative to appeal

The right of hearing by the board of supervisors provided by this section is intended as an alternative to direct appeal to the State Social Welfare Board, and an applicant who has applied for hearing before the board of supervisors shall not appeal to the State Social Welfare Board until the decision of the board of supervisors has been rendered. After the decision of the board of supervisors has been rendered, the applicant may appeal therefrom to the State Social Welfare Board. An applicant who does not apply for hearing before the board of supervisors may appeal directly to the State Social Welfare Board as provided in Section 2182.

Stats 1941, p 3029

SEC. 18. Section 2182 of said code is amended to read:

Appeal

2182. If any applicant or recipient is dissatisfied with the action of the board of supervisors, he shall, upon filing a petition with the State Department of Social Welfare, have the right of appeal and shall be accorded an opportunity for a fair hearing. The Social Welfare Department shall set such appeal for hearing before the State Social Welfare Board and shall give all parties concerned written notice of the time and place of such hearing. At such hearing the applicant or recipient may appear in person with counsel of his own choosing or in person and without such counsel.

Decision

The State Social Welfare Board shall consider the appeal, and shall dismiss the appeal or award aid as prescribed in this chapter.

Award

The county board of supervisors shall then pay to such aged person the sum awarded, if any, by the State Social Welfare Board, the payments, if awarded, to commence from the date the applicant was first entitled thereto.

Commencement of payments

Payments of aid shall be commenced as of the first day of the month in which the application is granted, unless otherwise directed by the State Social Welfare Board in cases in which an appeal is taken; but in no event shall the aid commence prior to the date of application.

Renewed application

An applicant whose application for aid under this chapter has been rejected may not again apply for such aid until the expiration of one year from the date of the previous application, except with the consent of the county or an order of the State Department of Social Welfare, or until the condition because of which his application was rejected has been eliminated.

Judicial review

If the applicant or recipient feels himself aggrieved by any decision of the State Welfare Board, he may file with the superior court of the county in which he resides, a petition, praying for a review of the entire proceedings in the matter, upon questions of law involved in the case.

New section

SEC. 19. Section 2182.1 is added to said code, to read:

Proceedings on petition to court

2182.1. No filing fee shall be required from an applicant for or recipient of aid under this chapter for the filing of a

petition in the superior court for a review of the proceedings in his case.

Within ten (10) days after being served with notice of the filing of the petition, the State Department of Social Welfare shall cause to be filed with the clerk of the court the record of the proceedings in the case, and no further pleadings shall be required to bring the matter to issue.

No bond shall be required in the case of any petition for review, nor in any appeal therefrom.

If the decision of the court is in favor of the applicant for or recipient of aid, aid shall be paid from the first of the month following date of application therefor, and the applicant or recipient shall be entitled to reasonable attorney's fees and costs.

Stats 1941, p 2889

SEC. 20. Section 2183 of said code is amended to read:

Payments

2183. If the application for aid is granted, the clerk of the board of supervisors shall report the fact to the auditor of the county. All payments of aid under this chapter shall be made monthly in advance by the treasurer of the county.

A county shall have a period of 60 days after the date of application within which to determine whether or not the applicant is eligible for assistance, and the aid shall be granted to him from the first day of the month in which the determination is made that he is eligible but in no event shall the aid commence prior to the date of application. If the investigation is not completed at the end of the 60-day period, the investigation shall continue until completed and if eligibility is established, aid shall begin as of the first day of the month in which eligibility is established or as of the first day of the month following the end of the 60-day period, whichever is earlier.

Such payment shall be paid by warrant and shall be delivered to the applicant at his residence if he so requests If the recipient of old age assistance is, on the testimony of reputable witnesses, found incapable of taking care of himself or his money, upon recommendation of the board of supervisors and with the approval of the Department of Social Welfare the aid authorized in this chapter may be paid to any responsible person acceptable to the recipient for the benefit of the recipient of this aid, but it shall be unlawful for the board of supervisors to order any part of the aid granted under this chapter to be paid in the form of merchandise orders for food, rent or otherwise.

New sect on

SEC. 21. Section 2183.1 is added to said code, to read:

Duplicate warrants

2183 1. Whenever a warrant for aid under this chapter has been lost or destroyed before it has been paid by the county treasurer, the amount due thereon may be recovered by the payee by filing with the county auditor an affidavit setting forth the fact of the loss or destruction of the warrant, together with all material facts relative thereto known to the affiant, the amount, the name of the payee, and the date and number of the warrant if the same are known to the

affiant. Upon receipt of the affidavit, and without the filing of any bond by the payee, the county auditor may issue and deliver to the payee of the original warrant a duplicate warrant for the full amount of the original warrant, and the county treasurer shall pay the duplicate warrant in lieu of the original warrant.

A warrant shall be considered to have been lost if it has been mailed, and has not been received by the addressee within 20 days after the date of mailing.

SEC. 22. Section 2187.01 is added to said code, to read: New section

2187.01. From the sums appropriated therefor by the State of California in Section 2021.01 of this chapter, the State Treasurer shall pay to each county an additional amount which shall be used exclusively for aid to needy aged equal to five-sixths of the remainder of the sums expended by the county as aid to the needy aged under this chapter, after deducting from the sums so expended the amount paid to the county under subdivision (1) of Section 2186 of this code, except that the State shall pay the county the full amount of aid granted any person otherwise qualified who has resided in the State for the required period and who has no county residence, after deducting the amount paid with respect to such person under subdivision (1) of Section 2186 of this code. Payment of State funds to counties

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature. While this section is in effect it shall supersede Section 2187 of this code, and wherever in any provision of law reference is made to Section 2187, such reference shall be deemed to refer to this section; but Section 2187 is not repealed by this section and after this section is no longer effective Section 2187 shall have the same effect as though this section had not been enacted. Duration

Existing law

SEC. 23. Section 2222 of said code is amended to read: Stats 1937, p 1005

2222. If, at any time during the continuance of aid, the recipient thereof or the husband or wife of the recipient becomes possessed of any property or income in excess of the amount allowed under the provisions of this chapter, the recipient shall immediately notify the board of supervisors of the receipt and possession of such property or income. The board may, on inquiry and with the approval of the State Department of Social Welfare, either cancel the aid or vary the amount thereof in accordance with circumstances. Any excess aid theretofore paid shall be returned to the United States Government, the State, and the county participating in the granting of such aid, in accordance with the provisions of Section 2024, and shall be recoverable as a debt due proportionately to the State and such county. Subsequent possession of property in excess of that allowed

New section

SEC. 23.3. Section 2222.7 is added to said code, to read: Refund of repayments erroneously collected

2222.7. Whenever the State Department of Social Welfare finds that moneys collected from recipients in repayment of

aid granted under this chapter have been collected erroneously, because of mistake of law or fact, refunds shall be made as provided in this section.

Upon certification by the county or the State Department of Social Welfare that the repayment of aid was made and collected erroneously, the county shall refund to the recipient the amount of the county and State shares of the repayment, and the State shall allow to the county in computing the amounts payable to the county pursuant to Section 2188 a credit for any amount of such refund which has previously been credited to the State. If the United States Government pays or credits to the State the amount of the repayment which has been credited to the United States Government, the State shall allow a credit to the county in the amount of the credit received by the State from the United States Government, and the county shall refund to the recipient the amount so credited to the county.

Retroactive application

This section shall be applied retroactively, to require the refund of all repayments erroneously collected from recipients of aid within the two years immediately preceding its effective date, notwithstanding the provisions of Section 4075 of the Political Code.

New section Repayment only for period of ineligibility

SEC. 23.6. Section 2223.5 is added to said code, to read:

2223.5. Notwithstanding the provisions of Sections 2222 and 2223, a person who has received aid in good faith, honestly believing himself to be entitled thereto, but who is found to have possessed property in excess of the amount allowed under the provisions of this chapter, shall be considered to have been ineligible for aid only during the period for which the excess property, if it had been applied to his support at the rate of the aid granted to him, would have supported him. In such case the recipient shall repay only the aid he received during such period of ineligibility.

Stats 1941, p 3198

SEC. 24. Section 2224 of said code is amended to read:

Aid by spouse or adult child

2224. The board of supervisors shall determine if the applicant or recipient of aid has within the State a spouse or adult child pecuniarily able to contribute to the support of the applicant or recipient of aid. A brief form shall be sent to the relative inquiring whether the relative is in fact contributing and will continue to contribute to the support of the applicant pursuant to the provisions of Section 2181. This form shall be completed by the relative as a sworn statement.

Upon the request of the board of supervisors, the spouse or adult child shall file such sworn statement within 10 days if living in the county, or within 30 days if living elsewhere in the State; provided, however, that the granting or continued receipt of aid shall not be contingent upon the filing of such sworn statement by such spouse or adult child.

If the person receiving aid has within the State, a spouse or adult child pecuniarily able to support said person, the board of supervisors shall request the district attorney or

other civil legal officer of the county granting such aid to proceed against such kindred in the order of their responsibility to support. Upon such demand the district attorney or other civil legal officer of the county granting aid shall, on behalf of said county, maintain an action, in the superior court of the county granting such aid, against said relative, in the order named, to recover for said county such portion of the aid granted as said relative is able to pay, and to secure an order requiring the payment of any sums which may become due in the future for which the relative may be liable. Any sum so recovered shall be credited by the county to the county, to the State and to the Federal Government in proportion to the contributions of each respectively, or in the manner prescribed by the State Department of Social Welfare.

The granting of or continued receipt of aid shall not be contingent upon such recovery.

SEC. 25. This act shall become operative on July 1, 1943. Operative date

SEC. 26. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows: Urgency

Increased cost of living has made the present maximum amount of aid allowable to the aged inadequate for the needs of the recipients, while unnecessarily strict requirements and procedures have made such aid unduly difficult to obtain. Many aged persons in the State are inadequately provided with the necessities of life, and their exigencies are urgent. Therefore, to provide for the immediate necessities of the aged of the State, and to prevent widespread misery and impairment of the public health and safety, it is necessary that this act take effect immediately.

CHAPTER 359

An act to add Section 2021.001 to, and to amend Section 2187 of the Welfare and Institutions Code, relating to aid to the aged, providing for the respective participation of the State and the counties in the cost thereof, and making an appropriation.

Stats 1937, p 1005, amended

[Approved by Governor May 7, 1943. Filed with Secretary of State May 7, 1943.]

In effect September 1, 1943

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

SECTION 1. Section 2021.001 is added to the Welfare and Institutions Code, to read: New section

2021.001 There is hereby appropriated out of any moneys in the State treasury not otherwise appropriated to every Appropriation to counties

county within this State for maintaining or supporting aged persons who come within the provisions of this chapter and who have county residence as provided in this chapter aid not in excess of a sum equal to five-sixths of the grant made pursuant to this chapter to every such aged person, after deducting therefrom the amount of any sum received from the United States Government as old-age assistance in respect to such aged person, each month for each such aged person maintained or supported by such county.

There is hereby further appropriated to every county within this State for the purpose of maintaining or supporting aged persons who come within the provisions of this chapter and who have no county residence as provided in this chapter, aid not in excess of a sum equal to the full amount of the grant made pursuant to this chapter to each such aged person who has no such county residence, after deducting therefrom the amount of any sum received from the United States Government as old-age assistance in respect to such aged person, each month for each such aged person.

Payments of aid shall be made in the manner provided in Sections 2187 to 2189, inclusive, of this code.

Stats 1937, p 1005

SEC. 2. Section 2187 of said code is amended to read:

Additional payments to counties

2187. From the sums appropriated therefor by the State of California, the State Treasurer shall pay to each county an additional amount which shall be used exclusively for aid to needy aged equal to five-sixths of the remainder of the sums expended by the county as aid to the needy aged under this chapter, after deducting from the sums so expended the amount paid to the county under subdivision (1) of Section 2186 of this code, except that the State shall pay the county the full amount of aid granted any person otherwise qualified who has resided in the State for the required period and who has no county residence, after deducting the amount paid with respect to such person under subdivision (1) of Section 2186 of this code.

Proportionate burden on State and county

SEC. 3. It is the intention of the Legislature that the cost of maintaining and supporting aged persons in this State pursuant to the Old Age Security Law shall, after deducting moneys received therefor by this State from the United States Government, be borne by the State and the counties in the proportion of five-sixths by the State and one-sixth by the county, in every case in which the county participates in the cost of such aid.

Latest legislative expression

SEC. 4. This act shall be considered to be the latest legislative expression upon the matters herein contained, irrespective of any other bill or law enacted at the Fifty-fifth Session of the Legislature.

Effective date

SEC. 5. This act shall go into effect on the first day of the first month next succeeding the ninetieth day after the final adjournment of the Fifty-fifth Legislature of California.

CHAPTER 360

An act to amend Section 40 of, and to add Section 19c to, the California Water Storage District Act, relating to water storage districts.

Stats 1921, p 1727

[Approved by Governor May 8, 1943. Filed with Secretary of State May 8, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 19c is added to the California Water Storage District Act, to read:

New section

Sec. 19c. If any original project adopted under Section 19 of this act remains uncompleted, whether in whole or in part, for more than 10 years after its adoption and any assessment levied under said Section 19 on the basis of said project remains uncalled, either in whole or in part, and if the board of directors of the district shall be of opinion, and shall so find by a two-thirds vote of the entire membership of the board, that said project should be materially modified or should be completely abandoned and another project be substituted in its place, then said board shall proceed under Section 17 of this act to prepare and file with the State Engineer a new report which shall be complete in itself and which shall set up such original project as materially modified or a new project to be substituted in its place. Such report shall specify what disposition or use shall be made in the new project or otherwise of such parts of the original project as have been completed and are in process of completion and of such property as the district shall have acquired. Thereafter all proceedings in respect of said new report shall be conducted as set forth in Sections 17, 18 and 19 of this act. If the vote at either of the elections prescribed in said Sections 18 and 19 is adverse to said report, the State Engineer shall make and enter in his records an order declaring that said proposed project is abandoned; and thereupon said district shall continue, and the original project shall be and remain in the same full force and effect, as though no proceedings had been taken under this section. If the vote at either of said elections is favorable to said report, then the State Engineer shall proceed as required by Sections 18 and 19 of this act and nothing further shall be done towards completion of the original project, and any uncalled portion, both principal and interest, of any outstanding assessment already levied and in effect under Section 19 of this act to carry out the original project shall be deemed canceled and no longer a lien upon the lands in the district and the State Engineer shall record a notice to that effect on the assessment rolls for said assessment in the county treasurer's office for each county wherein lands of the district are situated; provided, however, that to the extent that said district at that

Procedure where original project remains uncompleted for 10 years

time shall be indebted or shall have any outstanding liabilities, whether contingent or otherwise, the board of directors of the district shall levy, by order from time to time, special assessments upon the lands in the district, pro rata according to the rate of assessment per acre established in said original assessment, to raise funds to pay such debts and liabilities, and Sections 20 and 21 of this act shall be applicable to such assessments. If, after all said debts and liabilities have been paid, any funds remain on hand which have been collected under said original assessment or any funds are subsequently collected through redemptions from any sale for any delinquent call on said original assessment, such funds shall be credited pro rata to the respective tracts of land in the district on the assessment roll for said original asssessment according to the rate of assessment per acre established in said original assessment and thereafter shall be applied on account for the benefit of said tracts of land against any call on any assessment levied upon said tracts through proceedings authorized under this section. If for any reason funds are not available to the district to defray all expenses under this section, as estimated by the board of directors to be incurred for the general benefit of the district up to the time that a new assessment for said new project has been levied and become available under Section 19, the board of directors may levy assessments from time to time pursuant to Section 16 to raise the necessary funds to defray such expenses.

Stats 1929, p. 390

SEC. 2. Section 40 of said act is amended to read:

Oaths of election officers

Sec. 40. The inspector is chairman of the election board and may administer all oaths required in the process of an election; and appoint judges if, during the progress of the election, any judge ceases to act. Any member of the board of election may administer and certify oaths required to be administered during the progress of an election. Before opening the polls, each member of the board must take and subscribe an oath to faithfully perform the duties imposed upon him by law. Any voter of the precinct may administer and certify such oath. The polls must be opened at 6 a.m. on the morning of the election, and be kept open until 7 p.m., when the same must be closed; provided, however, the board of directors may in the notice of election as provided in Section 38 of this act fix different hours for the opening and closing of the polls, provided that the polls shall be kept open for not less than six consecutive hours between the hours of 6 a.m. and 7 p.m.

Hours polls open

CHAPTER 361

An act to amend Section 4242 of the Political Code, relating to salaries and compensation for public services in counties of the thirteenth class.

[Approved by Governor May 8, 1943. Filed with Secretary of State May 8, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 4242 of the Political Code is amended to read: Stats. 1941, p. 2549

4242. In counties of the thirteenth class, the following shall receive as compensation for the services required of them by law or by virtue of their office, the following sums: Tulare Salaries

1. The county auditor, three thousand three hundred dollars ($3,300) per annum. Auditor

2. The district attorney, three thousand seven hundred eighty dollars ($3,780) per annum. District Attorney

3. Each supervisor shall be paid a salary of three thousand six hundred dollars ($3,600) per annum for all personal services performed by him as supervisor, member of the board of equalization and road commissioner, and in addition thereto each supervisor shall receive his actual and necessary traveling expenses incurred in performing any of the duties of his office, the claim for which shall be allowed and paid out of the county general fund in the same manner as other claims are allowed and paid; provided, however, that the said traveling expenses exclusive of meals and hotel accommodations shall not exceed the sum of five cents ($0.05) per mile. Supervisors

4. Each member of the grand jury shall be allowed four dollars ($4) for each day in attendance upon the sessions of the grand jury or for each day's active and necessary service as a member of any committee of the grand jury. Each grand juror shall be allowed mileage at the rate of five cents ($0.05) per mile for each and every mile actually and necessarily traveled in attendance upon and returning from meetings of the grand jury or any actual or necessary session of a grand jury committee, duly called by the secretary, or committee chairman; provided, no mileage shall be allowed outside of the county; for attending as a trial juror in the superior court, for each day's attendance per day two dollars ($2); for attending as a trial juror in the justice's court for each juror sworn to try the cause per day two dollars ($2); for each mile actually traveled in attending court as a juror, five cents ($0.05) per mile each way. Jurors

CHAPTER 362

Stats. 1939, p. 1274, amended

An act to add Chapter 3.3 to Part 6, Division 1 of the Revenue and Taxation Code, relating to real property taxes, and declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor May 8, 1943. Filed with Secretary of State May 8, 1943.]

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

New chapter

SECTION 1. Chapter 3.3, consisting of Sections 3490 to 3495 inclusive is hereby added to Part 6, Division 1 of the Revenue and Taxation Code, to read:

CHAPTER 3.3 SALE OF TAX-SOLD AND TAX-DEEDED PROPERTY

No sale in 1943-1944

3490. Notwithstanding the provisions of Section 3476 of this code no sale at auction to the public shall be made of tax-sold property in the years of 1943 and 1944.

Deed to State

3491. At the day and hour fixed in Section 3476 of this code the property subject to sale to the public shall be deeded to the State as provided in Section 3511 of this code.

Notice

3492. The notice required by Section 3353 of this code in the years 1943 and 1944 shall read substantially as follows:

(a) "To be deeded to the State. See sale No._____ in addenda to this list."

Notices

3493. The notices required by Sections 3354 and 3359 in the years 1943 and 1944 shall show:

(a) A list of descriptions of the property. The assessments contained in this notice of sale shall be numbered in ascending numerical order.

(b) That five years will have elapsed on the date fixed for deeding the property to the State since the property was sold to the State.

(c) The year of sale to the State and the fiscal year for which the taxes were levied.

(d) That the property will be deeded to the State on the _____ day of _____, 19___ unless sooner redeemed.

(e) The official who will furnish all information concerning redemption.

(f) The amount for which the property was sold to the State.

(g) The date of the notice.

(h) The name of the assessee for the fiscal year for which the tax was levied.

Particular sales

3494. Notwithstanding the provisions of Chapters 4.3, 7, and 8 of Part 6, Division 1 of this code no sale shall be made according to the provisions of said chapters from the effective date of this act, and prior to June 1, 1945, of property deeded to the State on and after October 6, 1942. Provided, however, that sales under said Chapter 8 may be made if before

the sale is made the county tax collector approves the sales agreement in writing.

Redemption

3495. The right of redemption of property deeded to the State on and after October 6, 1942, shall not be terminated after the effective date of this act and prior to June 1, 1945.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of Section 1 of Article IV of the Constitution and shall, therefore, go into immediate effect. The facts constituting the necessity are as follows: Due to the existing state of war many taxpayers are serving in the armed forces of the United States in various places all over the world who would be deprived of their property without the enactment of protective measures. The Congress of the United States recognized the inability of the members of the armed forces to protect themselves against the loss of their property in enacting the amendment to the Soldiers and Sailor's Relief Act of 1940, effective October 6, 1942, by providing in Section 500 thereof that no sale of property shall be made to enforce the collection of taxes on real property owned and occupied by a person in military service or his dependents at the commencement of his period of military service and still so occupied by his dependents or employees. Without the enactment of proper laws to postpone the sale of real property to enforce the collection of taxes a chaotic condition would immediately follow due to conflict between the laws of this State relating to real property taxation and the Soldiers and Sailors Relief Act of 1940 as amended.

CHAPTER 363

An act to amend Sections 1859 and 1860 of the Civil Code, relating to the liability of innkeepers, to include voluntary hospitals, rest homes and sanitariums.

[Approved by Governor May 8, 1943 Filed with Secretary of State May 8, 1943.]

In effect August 4, 1943

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

Stats 1931, p 2501

SECTION 1. Section 1859 of the Civil Code is amended to read:

Liability of innkeepers, etc.

1859. The liability of an innkeeper, hotel keeper, operator of a voluntary hospital, rest home or sanitarium, furnished apartment house keeper, furnished bungalow court keeper, boarding house or lodging house keeper, for losses of or injuries to personal property, is that of a depositary for hire; provided, however, that in no case shall such liability exceed the sum of one hundred dollars ($100) for each trunk and its contents, fifty dollars ($50) for each valise or traveling bag and contents, ten dollars ($10) for each box, bundle or package and contents, and two hundred fifty dollars ($250) for all other personal property of any kind, unless he shall

have consented in writing with the owner thereof to assume a greater liability.

Stats 1921, p 149 Limitation of liability

SEC. 2. Section 1860 of said code is amended to read:

1860. If an innkeeper, hotel keeper, operator of a voluntary hospital, rest home or sanitarium, boarding house or lodging house keeper, keeps a fireproof safe and gives notice to a guest, patient, boarder or lodger, either personally or by putting up a printed notice in a prominent place in the office or the room occupied by the guest, patient, boarder, or lodger, that he keeps such a safe and will not be liable for money, jewelry, documents, furs, fur coats and fur garments, or other articles of unusual value and small compass, unless placed therein, he is not liable, except so far as his own acts shall contribute thereto, for any loss of or injury to such articles, if not deposited with him to be placed therein, nor in any case for more than the sum of two hundred fifty dollars ($250) for any or all such property of any individual guest, patient, boarder, or lodger, unless he shall have given a receipt in writing therefor to such guest, patient, boarder or lodger.

CHAPTER 364

Stats 1943, Ch. 71, amended

An act to amend Sections 176, 304, 305, 366, 2863, 12291, 14326, 14411, 14433, 14439, 14503, 14523, 14526, 14528, 14529, 14532, 16731, 20005, and 20793 and the chapter heading of Chapter 15 of Division 3 and the chapter heading of Chapter 9 of Division 7 of, and to add Section 20794 and the chapter heading of Chapter 14 of Division 3 to, the Education Code, relating to the establishment, maintenance, government, and operation of schools and institutions of learning.

In effect August 4, 1943

[Approved by Governor May 12, 1943. Filed with Secretary of State May 12, 1943.]

Note.—See Stats. 1943, Ch. 71.

CHAPTER 365

An act to amend Section 1183.5 of the Civil Code, relating to the proof or acknowledgment of instruments, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor May 12, 1943. Filed with Secretary of State May 12, 1943.]

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

Stats 1943, Ch 28

SECTION 1. Section 1183.5 of the Civil Code is amended to read:

Notarial acts for persons in armed forces

1183.5. 1. Any officer of any component of the Army of the United States on active duty in Federal service commissioned in or assigned or detailed to duty with the Judge Advocate General's Department, any staff judge advocate or acting

staff judge advocate, and the adjutant, assistant adjutant, personnel adjutant or commanding officer of any command;

2. Any commanding officer or executive officer of a ship, shore station or establishment and any officer of or above the rank of lieutenant, senior grade, on active duty with the Navy or Coast Guard of the United States;

3. Any officer of or above the rank of captain on active duty with the United States Marine Corps;

Shall have the power if a commissioned officer to administer and certify oaths or affirmations, attest documents, take acknowledgments, and perform all other notarial acts, for any person serving in or with the armed forces of the United States, wherever located within or without this State.

Any instrument acknowledged by any such officer or any oath or affirmation made before such officer shall not be rendered invalid by the failure to state therein the place of execution or acknowledgment. No authentication of the officer's certificate of acknowledgment or of any jurat signed by him shall be required but the officer taking the acknowledgment shall indorse thereon or attach thereto a certificate substantially in a form authorized by the laws of this State or in the following form:

Form of certificate

On this the _____day of _____, 19___, before me, _____, the undersigned officer, personally appeared_____ known to me (or satisfactorily proven) to be serving in or with the armed forces of the United States and to be the person whose name is subscribed to the within instrument and acknowledged that ____he____ executed the same. And the undersigned does further certify that he is at the date of this certificate a commissioned officer of the rank stated below and is in the active service of the armed forces of the United States.

_____

_____

Signature of officer and serial number, rank, branch of service and capacity in which signed.

Affidavit

To any affidavit subscribed and sworn to before such officer there shall be attached a jurat substantially in the following form:

Subscribed and sworn to before me on this_____day of _____, 19___.

_____

_____

Signature of officer and serial number, rank, branch of service and capacity in which signed.

Presumption of truth of recitals

The recitals contained in any such certificate or jurat shall be prima facie evidence of the truth thereof, and any certificate of acknowledgment, oath or affirmation purporting to have been made by any commissioned officer of the Army, Navy, Marine Corps or Coast Guard shall, notwithstanding

the omission of any specific recitals therein, constitute presumptive evidence of the existence of the facts necessary to authorize such acknowledgment, oath or affirmation to be taken by the certifying officer pursuant to this section.

Duration

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section; but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

Existing law

Urgency

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

The existing statutes covering the acknowledgment of documents are such that since the entrance of the United States into the war a large percentage of those serving in or with the armed forces are unable to have needed documents notarized. Essential transactions pertaining to the family affairs of members of the Army, Navy, Marine Corps and Coast Guard and others serving in or with such forces can not be consummated for this reason. To remedy this situation and to protect and aid the members of our armed forces in the conduct of their and their families' affairs it is urgently necessary that this act take effect immediately.

CHAPTER 366

Stats 1939, p. 1274, amended

An act to amend Section 2617 of the Revenue and Taxation Code, relating to taxation.

In effect August 4, 1943

[Approved by Governor May 12, 1943. Filed with Secretary of State May 12, 1943.]

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

Stats 1939, p 1274

SECTION 1. Section 2617 of the Revenue and Taxation Code is hereby amended to read as follows:

Delinquent penalties: 1st installment

2617. All taxes due November 1st, if unpaid, are delinquent December 5th at 5 p.m., and thereafter a delinquent penalty of 6 per cent attaches to them. If these taxes are not paid before the second half of taxes on real property is delinquent, an additional delinquent penalty of 3 per cent attaches to them.

CHAPTER 367

An act to add Article 3, comprising Section 3.56, to Chapter 4 of Part 1 of Division 3 of the School Code, and to add Article 3, comprising Section 8286, to Chapter 3 of Division 4 of the Education Code, relating to the absence of pupils from school for participation in religious exercises or for moral and religious instruction.

Stats 1943, Ch 71, amended

[Approved by Governor May 12, 1943. Filed with Secretary of State May 12, 1943.]

In effect August 4, 1943

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

SECTION 1. Article 3, comprising Section 3.56, is added to Chapter 4 of Part 1 of Division 3 of the School Code, to read:

New article

Article 3. Supplementary Instruction

Pupils excused for religious instruction

3.56. Pupils, with the written consent of their parents or guardians, may be excused from school in order to participate in religious exercises or to receive moral and religious instruction at their respective places of worship or at other suitable place or places designated by the religious group, church, or denomination, which shall be in addition and supplementary to the instruction in manners and morals required elsewhere in this code. Such absence shall not be deemed absence in computing average daily attendance, if all of the following conditions are complied with:

Conditions

(a) The governing board of the district of attendance, in its discretion, shall first adopt a resolution permitting pupils to be absent from school for such exercises or instruction.

(b) The governing board shall adopt regulations governing the attendance of pupils at such exercises or instruction and the reporting thereof.

(c) Each pupil so excused shall attend school at least the minimum school day for his grade as provided elsewhere in this code, or by the rules and regulations of the State Board of Education for secondary schools.

(d) No pupil shall be excused from school for such purpose on more than four days per school month.

Legislative intent. Permissive

It is hereby declared to be the intent of the Legislature that this section shall be permissive only.

Note.—See Stats. 1943, Ch. 71.

SEC. 3. Section 2 of this act becomes operative only if the Education Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case at the same time as said Education Code takes effect, at which time Article 3 of Chapter 4 of Part 1 of Division 3 of the School Code added by this act is repealed.

CHAPTER 368*

An act to establish a Water Code, thereby consolidating and revising the law relating to water, including the use of water, the acquisition and regulation of water rights, the control and utilization of water, the distribution of water, the supervision of dams, the use of and rights in streams, wells, pumping plants, and conduits, the establishment and operation of public districts relating to water, and to repeal certain acts and parts of acts specified herein.

In effect August 4, 1943

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

NOTE.—The Water Code, as prepared by the California Code Commission, consists of this chapter and Chapters 369 to 372, inclusive, all as originally enacted. As here set forth Chapter 368 contains the provisions of these chapters and also contains all of the amendments to the code made during the Fifty-fifth Session of the Legislature, namely, by chapters 230, 373, 374, 375, 376, 382, 423, 489, 531, 532, 648, 657, 674, 683, 684, 685, 686, 687, 693, 698, 916, 945 and 1054.

The chapters constituting the original code are in effect August 4, 1943. For approval, filing and effective dates of the amendatory chapters, see the respective chapters in their numerical sequence.

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

GENERAL PROVISIONS

Title

1. This act shall be known as the Water Code.

Continuation of existing law

2. The provisions of this code, in so far as they are substantially the same as existing statutory provisions relating to the same subject matter, shall be construed as restatements and continuations thereof, and not as new enactments.

Tenure

3. All persons who, at the time this code takes effect, hold office under any of the acts repealed by this code, which offices are continued by this code, continue to hold them according to their former tenure.

Pending proceedings

4. No action or proceeding commenced before this code takes effect, and no right accrued, is affected by this code, but all procedure thereafter taken therein shall conform to the provisions of this code so far as possible.

Construction

5. Unless the provision or the context otherwise requires, these definitions, rules of construction, and general provisions shall govern the construction of this code.

Headings

6. Division, part, chapter, article, and section headings do not in any manner affect the scope, meaning, or intent of the provisions of this code.

Delegation of powers

7. Whenever a power is granted to, or a duty is imposed upon, a public officer, the power may be exercised or the duty may be performed by a deputy of the officer or by a person

* A cross-reference table showing the origin of each section appears in the appendix to this volume.

authorized, pursuant to law, by the officer, unless this code expressly provides otherwise.

Writings

8. Writing includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement, petition, or record is required or authorized by this code, it shall be made in writing in the English language unless it is expressly provided otherwise.

Reference to statutes

9. Whenever reference is made to any portion of this code or of any other law of this State, the reference applies to all amendments and additions heretofore or hereafter made.

"Section"

10. "Section" means a section of this code unless some other statute is specifically mentioned. "Subdivision" means a subdivision of the section in which that term occurs unless some other section is expressly mentioned.

"Subdivision"

Tense

11. The present tense includes the past and future tenses, and the future, the present.

Gender

12. The masculine gender includes the feminine and the neuter.

Number

13. The singular number includes the plural, and the plural, the singular.

"County"

14. "County" includes city and county.

"Shall" and "may"

15. "Shall" is mandatory and "may" is permissive.

"Oath"

16. "Oath" includes affirmation.

"Signature" and "subscription"

17. "Signature" or "subscription" includes mark when the signer or subscriber can not write, such signer's or subscriber's name being written near the mark by a witness who writes his own name near the signer's or subscriber's name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto.

"State"

18. "State" means the State of California, unless applied to the different parts of the United States. In the latter case, it includes the District of Columbia and the territories.

"Person"

19. "Person" means any person, firm, association, organization, partnership, business trust, corporation, or company.

"United States"

20. "United States" means the United States of America, and in relation to any particular matter includes the officers, agents, employees, agencies, or instrumentalities authorized to act in relation thereto.

Constitutionality

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

"Department"

22. "Department," unless otherwise specified, means the Department of Public Works.

"State Engineer"

23. "State Engineer" means the Chief of the Division of Water Resources in the Department of Public Works.

Miner's inch of water

24. The standard miner's inch of water is equivalent to one and one-half cubic feet of water per minute, measured through any aperture or orifice.

DIVISION 1. GENERAL STATE POWERS OVER WATER

CHAPTER 1. GENERAL STATE POLICY

Beneficial use of water

100. It is hereby declared that because of the conditions prevailing in this State the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of such water is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare. The right to water or to the use or flow of water in or from any natural stream or watercourse in this State is and shall be limited to such water as shall be reasonably required for the beneficial use to be served, and such right does not and shall not extend to the waste or unreasonable use or unreasonable method of use or unreasonable method of diversion of water.

Riparian rights

101. Riparian rights in a stream or watercourse attach to, but to no more than so much of the flow thereof as may be required or used consistently with this and the next preceding section, for the purposes for which such lands are, or may be made adaptable, in view of such reasonable and beneficial uses; provided, however, that nothing in this or the next preceding section shall be construed as depriving any riparian owner of the reasonable use of water of the stream to which his land is riparian under reasonable methods of diversion and use, or of depriving any appropriator of water to which he is lawfully entitled.

Construction

Ownership and use

102. All water within the State is the property of the people of the State, but the right to the use of water may be acquired by appropriation in the manner provided by law.

No change in law

103. In the enactment of this code the Legislature does not intend thereby to effect any change in the law relating to water rights.

Public use and protection

104. It is hereby declared that the people of the State have a paramount interest in the use of all the water of the State and that the State shall determine what water of the State, surface and underground, can be converted to public use or controlled for public protection.

Development for public benefit

105. It is hereby declared that the protection of the public interest in the development of the water resources of the State is of vital concern to the people of the State and that the State shall determine in what way the water of the State, both surface and underground, should be developed for the greatest public benefit.

Domestic purpose and irrigation

106. It is hereby declared to be the established policy of this State that the use of water for domestic purposes is the highest use of water and that the next highest use is for irrigation.

Declared policy not exclusive

107. The declaration of the policy of the State in this chapter is not exclusive, and all other or further declarations of policy in this code shall be given their full force and effect.

CHAPTER 2. STATE ADMINISTRATION GENERALLY

Article 1. State Administrative Agencies

Division of Water Resources

200. There is in the Department of Public Works the Division of Water Resources.

Chief

201. The Division of Water Resources is in charge of a chief, designated as the State Engineer, who is appointed by the Director of Public Works.

Duties, powers, etc., in department · Administration

202. The duties, powers and jurisdiction conferred by this chapter are vested in the Department of Public Works and shall be administered and exercised through the State Engineer.

(Added by Stats. 1943, Ch. 373.)

State Engineer

203. The State Engineer shall be responsible to the Director of Public Works for the proper administration of this chapter.

(Added by Stats. 1943, Ch. 373.)

Reclamation associations

205. The department may join associations of representatives of other States which have been established for not less than 10 years and which have for their purpose the promotion of reclamation and irrigation and cooperation between the several States and the Federal Government in matters relating to reclamation and irrigation. The department may collaborate and cooperate with other members of the association selected in accordance with the constitution and by-laws of such association, relative to matters of public interest to the State within the scope of the activities of such association. The department may, from any of its funds available for the purpose, make expenditures for the pro rata share of the expenses of such association attributable to California and for the services performed by such association for the State.

(Added by Stats. 1943, Ch. 674.)

Article 2. Surveys, Investigations, and Distribution of Water

Surveys and investigations

225. The department may carry on topographic surveys and investigations into matters pertaining to the water resources of the State along the lines of hydrography, hydroeconomics, and the use and distribution of water for agricultural purposes, and to that end, where possible and to the best interest of the State, shall enter into contracts for cooperation with the different departments of the Federal Government. The department, with the consent of the Governor, may maintain and continue such surveys and investigations where there is available money not covered by cooperative contract.

Same

226. The department, either independently or in cooperation with any person or any county, State, Federal, or other agency, may do any of the following:

(a) Conduct investigations of all or any portion of any stream, stream system, lake or other body of water.

(b) Investigate either or both surface and underground water conditions.

(c) Collect records of diversion and use of water.

(d) Supervise distribution of water in accordance with agreements and court orders therefor.

Reservoirs or reservoir systems

227. The department may investigate any natural situation available for reservoirs or reservoir systems for gathering and distributing flood or other water not under beneficial use in any stream, stream system, lake, or other body of water. The department may ascertain the feasibility of projects for such reservoirs or reservoir systems, the supply of water that may thereby be made available, and the extent and character of the areas that may be thereby irrigated. The department may estimate the cost of such projects.

Water crop forecast

228. The department shall gather and correlate information and data pertinent to an annual forecast of seasonal water crop, including the making of snow surveys, either independently or in cooperation with any person or any county, State, Federal, or other agency.

(Amended by Stats. 1943, Ch. 373.)

[ORIGINAL SECTION]

228. The Division of Water Resources shall gather and correlate information and data pertinent to an annual forecast of seasonal water crop, including the making of snow surveys, either independently or in cooperation with any person or any county, State, Federal, or other agency.

Article 3. Proceedings to Prevent Waste or Unreasonable Use

Prevention of waste, unreasonable use, etc.

275. The department shall take all appropriate proceedings or actions before executive, legislative, or judicial agencies to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water in this State.

(Amended by Stats. 1943, Ch. 373.)

[ORIGINAL SECTION]

275. The Division of Water Resources shall take all appropriate proceedings or actions before executive, legislative, or judicial agencies to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water in this State.

Article 4. Waste from Artesian Wells

Artesian well

300. For the purposes of this article, an artesian well is any artificial hole made in the ground through which water naturally flows from subterranean sources to the surface of the ground for any length of time.

Waste

301. For the purposes of this article, waste is the causing, suffering, or permitting any water flowing from an artesian well, to run either:

(a) Into any natural watercourse or channel, or into any bay or pond, unless the water is used thereafter for irrigation or domestic use.

(b) Into any street, road, or highway.

(c) Upon the land of any person or upon the public land of the United States or of the State, unless it is used thereon for irrigation, domestic use, or the propagation of fish.

Escape of over 5 per cent of water

302. The use of any water flowing from an artesian well for the irrigation of land, whenever over 5 per cent of the water received on the land for irrigation purposes is permitted to escape from the land, is waste within the meaning of this article.

Artesian water into artificial pond, etc.

303. Nothing in this article prevents the running of artesian water into an artificial pond or storage-reservoir, if the water is used thereafter for a beneficial use.

Amount of water

304. A beneficial use under the next preceding section shall not exceed one tenth of one miner's inch of water per acre, perpetual flow, but the person using the water may cumulate that amount within any period of each year.

Public nuisance

305. Any artesian well which is not capped or equipped with a mechanical appliance which will readily and effectively arrest and prevent the flow of any water from the well is a public nuisance.

Existence or continuance a misdemeanor

306. The owner, tenant, or occupant of the land upon which a well which is a public nuisance under the next preceding section is situated, who causes, permits, or suffers such public nuisance to exist or continue is guilty of a misdemeanor.

Waste a misdemeanor

307. Any person owning, possessing, or occupying any land upon which is situated an artesian well, who causes, suffers, or permits water unnecessarily to flow from the well or to go to waste is guilty of a misdemeanor.

New offense

308. Each day's continuance of waste constitutes a new offense.

Penalties

309. Any person who violates any of the provisions of this article is punishable for each offense by a fine of not less than twenty-five dollars ($25) and not more than five hundred dollars ($500) or by imprisonment in the county jail for not more than six months, or by both.

Jurisdiction

310. All prosecutions for the violation of any of the provisions of this article shall be instituted in the justice's court of the county in which the well is situated.

Collection of fines Execution

311. Any fine imposed under the provisions of this article may be collected as in other criminal cases, and the justice may also issue an execution upon the judgment therein rendered, which may be enforced and collected as in civil cases.

DIVISION 2. WATER

PART 1. GENERAL PROVISIONS

CHAPTER 1. DEFINITIONS AND INTERPRETATION OF DIVISION

"Water"

1000. As used in this division, "water" includes the term "use of water."

Construction

1001. Nothing in this division shall be construed as giving or confirming any right, title, or interest to or in the corpus of any water.

Rights bestowed

1002. This division shall not be held to bestow upon any person, except as expressly provided in it, any right where no such right existed prior to the time this division takes effect.

"Water Commission Act"

1003. As used in this division, "Water Commission Act" means Chapter 586, Statutes of 1913, as amended.

"Useful or beneficial purposes"

1004. As used in this division, "useful or beneficial purposes" shall not be construed to mean the use in any one year of more than 2½ acre-feet of water per acre in the irrigation of uncultivated areas of land not devoted to cultivated crops.

Rights of cities, etc.

1005. Nothing in this division shall be construed as depriving any city, city and county, municipal water district, irrigation district, or lighting district of the benefit of any law heretofore or hereafter passed for their benefit in regard to the appropriation or acquisition of water. Any right to the water of any stream which flows along a boundary of the State and which is the subject of an interstate compact to which the State is a party, to the extent such right relates to quantities of water which the United States has, under the authority of an act of Congress, contracted to deliver to any municipal corporation, political subdivision, or public district in the State, from storage constructed by the United States on any such stream, shall not be subject to any requirement or limitation provided by law relating to the time within which the construction of works for the use of such water shall be commenced, carried on, or completed, or within which such water shall be put to use, or relating to the continuity of use of such water; and water contracted to be delivered from such stream, shall be reserved to the contractor therefor without diminution by reason of the contractor's failure to apply such water to use during any period, and shall not be subject to appropriation by any other than such contractor.

(Amended by Stats. 1943, Ch. 230.)

[ORIGINAL SECTION]

1005. Nothing in this division shall be construed as depriving any city, city and county, municipal water district, irrigation district, or lighting district of the benefit of any law heretofore or hereafter passed for their benefit in regard to the appropriation or acquisition of water

Appropriation by cities prior to December 19, 1914

1006. Nothing in this division affects or limits in any manner whatsoever the right or power of any municipality which, prior to December 19, 1914, had appropriated or acquired water for municipal purposes, to use, sell, or otherwise dispose of such water either within or without its limits

for domestic, irrigation, or other purposes in accordance with laws in effect on that date.

Eminent domain proceedings

1007. Nothing in this division shall be construed to deprive the State or any city, city and county, municipal water district, irrigation district, lighting district, political subdivision, or any person of any rights to acquire property by eminent domain proceedings.

Appeal

1008. Nothing in this division shall be construed as depriving any person of the right of appeal conferred under the laws of this State.

"This division"

1009. As used in this division of this code, "this division" refers to Division 2 and also includes Sections 226, 227, and 275.

Chapter 2. Administrative Provisions Generally

Use of water resources

1050. This division is hereby declared to be in furtherance of the policy contained in Section 3 of Article XIV of the Constitution of the State and in all respects for the welfare and benefit of the people of the State, for the improvement of their prosperity and their living conditions, and the department and its agencies shall be regarded as performing a governmental function in carrying out the provisions of this division.

Administration by department

1050.5. The duties, powers and jurisdiction conferred by this division are vested in the Department of Public Works and shall be administered and exercised through the State Engineer.

(Added by Stats. 1943, Ch. 373.)

Responsibility of State Engineer

1050.6. The State Engineer shall be responsible to the Director of Public Works for the proper administration of this division.

(Added by Stats. 1943, Ch. 373.)

Investigations

1051. The department for the purpose of this division may:

(a) Investigate all streams, stream systems, portions of stream systems, lakes, or other bodies of water.

(b) Take testimony in regard to the rights to water or the use of water thereon or therein.

(c) Ascertain whether or not water heretofore filed upon or attempted to be appropriated is appropriated under the laws of this State.

Unauthorized diversion a trespass

1052. The diversion or use of water subject to the provisions of this division other than as authorized in this division is a trespass, and the department may institute in the superior court in and for any county wherein such diversion or use is attempted appropriate action to have such trespass enjoined.

Departmental records

1053. A full and accurate record of business or acts performed or of testimony taken by the department or any agency thereof in pursuance of the provisions of this division shall be kept and be placed on file in the office of the department.

Certification of documents and orders

1054. The department may certify to all of its official acts and may certify copies of all official documents and orders filed in its office.

Fees

1055. The department shall charge and collect the following fees: for copies and records not required to be certified or otherwise authenticated by it, ten cents ($0.10) for each folio; for certified copies of official documents and orders filed in its office, fifteen cents ($0.15) for each folio, and one dollar ($1) for every certificate under seal affixed thereto; for certified copies of evidence and proceedings before the department fifteen cents ($0.15) for each folio.

Charges for publications

1056. The department may fix reasonable charges for publications issued under its authority.

Disposition of fees

1057. All fees charged and collected under this chapter shall be paid, at least once each week, accompanied by a detailed statement thereof, into the State Treasury.

Rules and regulations

1058. The department may make such reasonable rules and regulations as it may from time to time deem advisable in carrying out its powers and duties under this division.

Certification by deputies

1059. The department may designate one or more of its employees who shall have authority to certify under its seal all copies of orders, applications, permits, licenses, certificates, and other records under this division, and to attest all records, transcripts, evidence, and other original documents which it is necessary so to authenticate.

Deputies as examiners

1060. The department may designate such of its employees as it may deem advisable to be examiners who shall have power to act as referee and to conduct hearings, administer oaths, examine witnesses, issue subpenas, and receive evidence.

CHAPTER 3. WITNESSES AND PRODUCTION OF EVIDENCE

Article 1. Definitions

"Proceeding"

1075. As used in this chapter, "proceeding" means any inquiry, investigation, hearing, ascertainment, or other proceeding ordered or undertaken by the department or any agency thereof pursuant to this division.

"Evidence"

1076. As used in this chapter, "evidence" means any paper, book, map, account, or document.

Article 2. Attendance and Fees

Oaths and subpenas

1080. The department may administer oaths and issue subpenas for the attendance and giving of testimony by witnesses and for the production of evidence in any proceeding in any part of the State.

Witness fees

1081. Each witness who appears by order of the department shall receive for his attendance the same fees and mileage allowed by law to witnesses in civil cases, which shall be paid by the party at whose request the witness is subpenaed.

Funds for witness fees

1082. When any witness who has not been required to attend at the request of any party is subpenaed by the department his fees and mileage shall be paid from the funds appropriated for the use of the department and available for the purpose.

Payment of fees, exception

1083. Any witness subpenaed, except one whose fees and mileage are payable from the funds of the department, may, at the time of service, demand the fees to which he is entitled for travel to and from the place at which he is required to appear and one day's attendance.

Demand for fees

1084. If the witness demands the fees to which he is entitled at the time of service and they are not at that time paid or tendered he shall not be required to attend as directed in the subpena.

Action for fees and mileage

1085. All fees and mileage to which any witness is entitled under the provisions of this chapter may be collected by action therefor instituted by the person to whom they are payable.

Distance

1086. No witness shall be compelled to attend as a witness before the department under this division out of the county in which he resides, unless the distance is less than 30 miles from his place of residence to the place of hearing.

Article 3. Compelling Attendance

Superior court may compel attendance

1090. The superior court of the county in which any proceeding is held by the department may compel the attendance and giving of testimony by witnesses and the production of evidence as required by any subpena issued by the department.

Petition to superior court

1091. In case of the refusal of any witness to attend or testify or produce any evidence required by a subpena issued by it, the department may report by petition to the superior court in and for the county in which the proceeding is pending.

Contents of petition

1092. The petition shall set forth the following:

(a) That due notice has been given of the time and place of attendance of the witness or for the production of evidence and that the witness has been summoned in the manner prescribed in this chapter.

(b) That the witness has failed and refused to attend or produce the evidence required by the subpena before the department in the proceeding named in the notice and subpena, or has refused to answer questions propounded to him in the course of the proceeding.

Request for order

1093. The petition shall ask an order of court compelling the witness to attend, testify, and produce the evidence before the department.

Order to show cause

1094. The court, upon the petition of the department, shall enter an order directing the witness to appear before the court at a time and place fixed by the court in the order and not more than 10 days from the date of the order, and then and there show cause, if any he have, why he refused to obey

the subpena, or refused to answer questions propounded to him by the department, or neglected, failed, or refused to produce before the department the evidence called for in the subpena.

Service

1095. A copy of the order and of the petition shall be served upon the witness.

Order to testify, etc

1096. If it appears to the court that the subpena was regularly issued, the court shall thereupon enter an order that the witness appear before the department at the time and place fixed in the order and testify or produce the required evidence or both testify and produce.

Contempt

1097. Upon failure to obey the order the witness shall be dealt with as for contempt of court.

Article 4. Depositions

Depositions

1100. The department or any party to a proceeding before it may, in any investigation or hearing, cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law for depositions in civil actions in the superior courts of this State.

Article 5. Immunity

Testimony compulsory

1105. No person shall be excused from testifying or from producing any evidence in any investigation or inquiry by or hearing before the department upon the ground that the testimony or evidence required of him may tend to incriminate him or subject him to penalty or forfeiture.

Immunity

1106. No person shall be prosecuted, punished, or subjected to any penalty or forfeiture for or on account of any act, transaction, matter, or thing material to the matter under investigation by the department concerning which he has been compelled as a witness to testify or to produce documentary evidence; but no person so testifying or producing shall be exempt from prosecution and punishment for any perjury committed by him in his testimony.

Exception

PART 2. APPROPRIATION OF WATER

CHAPTER 1. GENERAL PROVISIONS

Article 1. Water Subject to Appropriation

Interpretation of terms

1200. Whenever the terms stream, lake or other body of water, or water occurs in relation to applications to appropriate water or permits or licenses issued pursuant to such applications, such term refers only to surface water, and to subterranean streams flowing through known and definite channels.

Public water of State

1201. All water flowing in any natural channel, excepting so far as it has been or is being applied to useful and beneficial purposes upon, or in so far as it is or may be reasonably needed for useful and beneficial purposes upon lands riparian thereto, or otherwise appropriated, is hereby declared to be public

water of the State and subject to appropriation in accordance with the provisions of this code.

Unappropriated water

1202. The following are hereby declared to constitute unappropriated water:

(a) All water which has never been appropriated.

(b) All water appropriated prior to December 19, 1914, which has not been in process, from the date of the initial act of appropriation, of being put, with due diligence in proportion to the magnitude of the work necessary properly to utilize it for the purpose of the appropriation, or which has not been put, or which has ceased to be put to some useful or beneficial purpose.

(c) All water appropriated pursuant to the Water Commission Act or this code which has ceased to be put to the useful or beneficial purpose for which it was appropriated, or which has been or may be or may have been appropriated and is not or has not been in the process of being put, from the date of the initial act of appropriation, to the useful or beneficial purpose for which it was appropriated, with due diligence in proportion to the magnitude of the work necessary properly to utilize it for the purpose of the appropriation.

(d) Water which having been appropriated or used flows back into a stream, lake or other body of water.

Article 2. Exclusive Method of Appropriation

Method of appropriation

1225. No right to appropriate or use water subject to appropriation shall be initiated or acquired except upon compliance with the provisions of this division.

Article 3. Appropriation from Interstate Streams

Appropriation of water for use in another State

1230. Upon any stream flowing across the State boundary, an appropriation of water in this State for beneficial use in another State may be made only when, under the laws of the latter, water may be lawfully diverted therein for beneficial use in this State.

Force and effect of appropriation

1231. Upon any stream flowing across the State boundary a right of appropriation having the point of diversion and the place of use in another State and recognized by the laws of that State shall have the same force and effect as if the point of diversion and the place of use were in this State if the laws of that State give like force and effect to similar rights acquired in this State.

Restriction

1232. Nothing in this article applies to interstate lakes, or streams flowing in or out of such lakes.

Article 4. Beneficial Use

Beneficial use
Termination of right

1240. The appropriation must be for some useful or beneficial purpose, and when the appropriator or his successor in interest ceases to use it for such a purpose the right ceases.

Reversion of unused water

1241. When the person entitled to the use of water fails to beneficially use all or any part of the water claimed by him,

for which a right of use has vested, for the purpose for which it was appropriated or adjudicated, for a period of three years, such unused water reverts to the public and shall be regarded as unappropriated public water.

Storage of water underground

1242. The storing of water underground, including the diversion of streams and the flowing of water on lands necessary to the accomplishment of such storage, constitutes a beneficial use of water if the water so stored is thereafter applied to the beneficial purposes for which the appropriation for storage was made.

Article 5. (Repealed by Stats. 1943, Ch. 373.)

[ORIGINAL ARTICLE]

Article 5. Administrative Provisions

1245. The duties, powers, jurisdiction, and responsibilities conferred by this part are vested in the Chief of the Division of Water Resources. As used in this part "department" means the Chief of the Division of Water Resources.

CHAPTER 2. APPLICATIONS TO APPROPRIATE WATER

Article 1. General Provisions

Applications

1250. The department shall consider and act upon all applications for permits to appropriate water and shall do all things required or proper relating to such applications.

Investigations

1251. The department shall make such investigations of the water resources of the State as may be necessary for the purpose of securing information needed in connection with applications for appropriations of water.

Applicant

1252. Any person may apply for and secure from the department, in conformity with this part and in conformity with reasonable rules and regulations adopted from time to time by it, a permit for any unappropriated water.

Same

1252.5. All rights and privileges conferred by this part upon any person in relation to the appropriation of water are likewise conferred upon the United States, the State, and any entity or organization capable of holding an interest in real property in this State.

(Added by Stats. 1943, Ch. 423.)

Allowance by department

1253. The department shall allow the appropriation for beneficial purposes of unappropriated water under such terms and conditions as in its judgment will best develop, conserve, and utilize in the public interest the water sought to be appropriated.

Policy

1254. In acting upon applications to appropriate water the department shall be guided by the policy that domestic use is the highest use and irrigation is the next highest use of water.

Rejection

1255. The department shall reject an application when in its judgment the proposed appropriation would not best conserve the public interest.

Article 2. Contents of Applications

Contents of application

1260. Every application for a permit to appropriate water shall set forth all of the following:

(a) The name and postoffice address of the applicant.

(b) The source of water supply.

(c) The nature and amount of the proposed use.

(d) The location and description of the proposed headworks, ditch, canal, and other works.

(e) The proposed place of diversion.

(f) The place where it is intended to use the water.

(g) The time within which it is proposed to begin construction.

(h) The time required for completion of the construction.

(i) The time for the complete application of the water to the proposed use.

Maps, drawings and other data

1261. All applications shall be accompanied by as many copies of such maps, drawings, and other data as may be prescribed or required by the department, and such maps, drawings, and other data are part of the application.

Agricultural purposes

1262. If for agricultural purposes the application shall give the legal subdivisions of the land and the acreage to be irrigated, as near as may be.

Power purposes

1263. If for power purposes the application shall state the nature of the works by means of which the power is to be developed, the head and amount of water to be utilized, and the use to which the power is to be applied.

Municipal water supply

1264. If for municipal water supply the application shall state the present population to be served, and, as near as may be, the future requirements of the city.

Mining purposes

1265. If for mining purposes the application shall state the nature and location of the mines to be served and the methods of supplying and utilizing the water.

Storage in reservoir

1266. If for storage in a reservoir the application shall state the height of dam, the capacity of reservoir, and the use to be made of the impounded waters, except that for storage underground these additional requirements as to height of dam and capacity of reservoir shall be given as near as may be.

Article 3. Defective Applications

Bona fide defective application

1270. A defective application made in a bona fide attempt to conform to the rules and regulation of the department and to the law secures to the applicant a priority of right as of the date of the application until he is notified in what respect his application is defective, and the applicant shall be allowed 60 days after notice of the defect in which to file an amended and perfected application.

Amended application

Rejection or cancellation

1271. If, within the 60 day period, the applicant does not file an amended and perfected application, the application shall be rejected and canceled, unless for good cause shown the department allows the applicant to file a further amended and perfected application.

Further amended application

CHAPTER 3. NOTICE OF APPLICATION

Article 1. Contents of Notice

Notice of application

1300. As soon as practicable after the receipt of an application for a permit to appropriate water the department shall issue and deliver to the applicant a notice of the application.

Contents of notice

1301. The notice shall specify all of the following:

(a) The number of the application.
(b) The name and address of the applicant.
(c) The date of filing.
(d) The source of supply.
(e) The amount applied for.
(f) The season of diversion..
(g) The location of the point of diversion.
(h) The use to be made.
(i) The location of the place of use.
(j) The date of issuance of the notice.
(k) Such other information as the department deems necessary.

Protests against approval within 60 days

1302. If the application is for more than three cubic feet per second or for more than 200 acre-feet per annum of storage, the notice shall state that protests against the approval of the application may be filed within 60 days from the date of issuance of the notice or within such further time as the department may, for good cause shown, allow.

Protests against approval within 40 days

1303. If the application is for three cubic feet or less per second, or for 200 acre-feet or less per annum of storage, the notice shall state that protests may be filed within 40 days from date thereof or within such further time as the department may, for good cause shown, allow.

Contents of protests

1304. The notice shall contain appropriate general information as to what protests against the approval of the application shall contain in order to accord with the requirements of law and the rules and regulations of the department.

Article 2. Publication of Notice

Publication of notice

1310. If the application is for more than three cubic feet per second or for more than 200 acre-feet per annum of storage the notice of application shall be published in accordance with this article.

Publication by applicant

1311. Upon receipt of notice of an application coming under this article, the applicant shall cause it to be published as directed by the department.

Rules for publication

1312. The notice shall be published at the expense of the applicant within 15 days of the date of issuance of the notice and in a newspaper having a general circulation and published within the county wherein the point of diversion lies, or, if there are points of diversion in more than one county, in each county in which a point of diversion lies.

Same

1313. In case there is no newspaper published within the appropriate county publication shall be made in a newspaper having a general circulation within the county.

Period of publication
1314. The notice shall be published at least once a week for three consecutive weeks.

Filing of proof of publication
1315. Proof of publication shall be filed by the applicant within 60 days from the date of issuance of the notice.

Proof of publication
1316. Proof of publication shall be by copy of the notice as published attached to and made a part of the affidavit of the publisher or foreman of the newspaper publishing the notice.

Article 3. Posting and Mailing Notice

Notice by posting and mailing
1320. Notice of an application for three cubic feet or less per second or for 200 acre-feet or less per annum of storage shall be given by posting and mailing in accordance with this article.

Copies of notice by registered mail
1321. Upon the date of issuance of notice of an application coming under this article the department shall mail three copies of the notice to the applicant by registered mail and shall also send a copy by registered mail to each person who is known to the department and who in its judgment is interested in the application because of ownership or location in the vicinity of the proposed appropriation.

Posting notice
1322. The applicant shall post the notice within 15 days of the date of issuance thereof in at least two conspicuous places in the locality to be affected by the proposed appropriation.

Proof of posting
1323. Proof of posting shall be by affidavit of the applicant or the person posting notice on behalf of the applicant and shall be filed within 40 days from the date of issuance of notice.

Chapter 4. Protest of Application

Protest of application
1330. Any person interested may, within the time allowed in the notice of application or within such further time as may, for good cause shown, be allowed by the department, file with it a written protest against the approval of an application.

1331. The protest shall:

Contents of protest
(a) State the name and address of the protestant;

(b) Be signed by the protestant, his agent or attorney;

(c) Clearly set forth the protestant's objections to the approval of the application;

(d) Contain other appropriate information and be in the form provided in the rules and regulations of the department.

Chapter 5. Proceedings on Application

Article 1. Notice of Hearing

Notice of hearing on protested application
1340. Notice of hearing on a protested application shall be given by mailing notice not less than 20 days before the date of hearing to both the applicant and protestant by registered mail.

Contents of notice
1341. The notice of hearing on a protested application shall state the names of the applicant and protestant, the

time and place fixed for the hearing, and such other appropriate information as may be deemed advisable by the department.

Notice of hearing on unprotested application

1342. If a hearing is held on an unprotested application, notice of hearing shall be given by mailing notice not less than 20 days before the date of hearing.

Article 2. Action on Application

Action on application

1350. The department may grant, or refuse to grant a permit and may reject any application, after hearing.

When hearing unnecessary

1351.. No hearing is necessary in order to issue a permit upon an unprotested application or in order to reject a defective application after notice, unless the department elects to hold a hearing.

Failure to appear at hearing

1352. Upon failure of any party in interest to appear at a hearing or show good cause within five days thereafter for his failure, final action may be taken without further hearing.

Rules of evidence

1353. In the conduct of hearings technical rules of evidence need not be applied.

Article 3. Review by Court of Action on Application

Review by superior court

1360. Any person interested in any application may, within 30 days after final action by the department, file an action in the superior court in and for the county in which the applicant seeks to divert water under the application.

Same

1361. The action shall be for a review of the ruling, order, decision, or other official act of the department.

Records and transcript

1362. The court shall review all records on file with the department which pertain to the ruling, order, decision, or other official act, and a transcript, if any, of evidence taken.

Additional evidence

1363. The court shall take such additional relevant and competent evidence as it may require or as may be submitted by the department or the party filing the petition for review.

Judgment

The court shall then render judgment, according to the weight of evidence adduced before it, affirming, reversing, or modifying the action of the department.

CHAPTER 6. PERMITS

Article 1. Prerequisites to Issuance of Permit

Prerequisites to permit

1375. As prerequisite to the issuance of a permit to appropriate water the following facts must exist:

(a) There must be an applicant.

(b) The application must contain the matter and information prescribed by this division and be in the form required by the department.

(c) The intended use must be beneficial.

(d) There must be unappropriated water available to supply the applicant.

(e) All fees due must be paid.

Article 2. Issuance of Permit

Issuance of permit

1380. Upon the approval of an application the department shall issue a permit.

Limitation of permit

1381. The issuance of a permit gives the right to take and use water only to the extent and for the purpose allowed in the permit.

Terms and conditions

1382. All permits shall be under the terms and conditions of this division.

Article 3. Permit Terms and Conditions

Effectiveness of permit

1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division, but no longer.

Enumeration of conditions Permit subject thereto

1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Conditions of accepting permit

1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division, or for any rights granted or acquired under the provisions of this division, in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division.

Article 4. Application to Beneficial Use and Construction of Works

Commencement of construction work

1395. Actual construction work upon any project shall begin within the time specified in the permit, which time shall not be less than 60 days from the date of the permit.

Terms, etc., governing construction and use of water

1396. The construction of the work thereafter and the utilization of water for beneficial purposes shall be prosecuted with due diligence in accordance with this division, the terms of the permit, and the rules and regulations of the department.

Completion of work and use of water

1397. The work shall be completed and the water applied to beneficial use in accordance with this division, the rules and regulations of the department, and the terms of the permit and within the period specified in the permit.

Extension of time for commencement, completion, etc.

1398. The period specified in the permit for beginning construction work, for completion of construction work, for application of the water to beneficial use, or any or all of these periods may, for good cause shown, be extended by the department.

Article 5. Revocation of Permit

Revocation after notice and hearing

1410. If the work is not commenced, prosecuted, and completed, or the water applied to beneficial use as contemplated in the permit and in accordance with this division and the rules and regulations of the department, the department shall, after notice in writing and mailed in a sealed, postage prepaid and registered letter addressed to the permittee at the address given in his application, and after a hearing, revoke the permit and declare the water subject to further appropriation.

Findings prima facie correct

1411. The findings and declaration of the department on the revocation of a permit shall be deemed to be prima facie correct until modified or set aside by a court of competent jurisdiction.

Review by superior court

1412. The holder of any permit which is revoked may bring an action within 30 days after the revocation in the superior court of the county in which is situated the point of proposed diversion of the water for a review of the order revoking the permit.

Loss of rights

1413. Unless the action for review is brought within the time specified all rights of the permittee under the permit cease and lapse.

Priority of right until final judgment

1414. The priority of right of any permittee bringing an action under this article continues under the permit until a final judgment is rendered as to the reasonableness of the revocation of the permit.

Taking or use enjoined pending review

1415. Until and unless the order revoking the permit is finally reversed or modified by the court, the permittee shall not take or use any of the water the right to take and use which is granted by the permit.

Chapter 7. Priorities

Article 1. Priority of Application

Priority as of date of application

1450. Any application properly made gives to the applicant a priority of right as of the date of the application until such application is approved or rejected. Such priority continues

Condition

only so long as the provisions of law and the rules and regulations of the department are followed by the applicant.

Article 2. Effect of Issuance of Permit

Permit continues priority

1455. The issuance of a permit continues in effect the priority of right as of the date of the application and gives the right to take and use the amount of water specified in the permit until the issuance or the refusal of issuance of a license for the use of the water.

Priority dependent on payment of fees

1456. Priority of right secured under this article shall not be effective for more than 30 days after service of notice of issuance of the permit, personally or by registered mail, on the applicant, unless within that time the fees, if any, due upon issuance of the permit are paid to the department. If payment is not made within that time, the department shall forthwith revoke the permit.

Revocation of permit

Article 3. Preferred Priorities of Municipalities

Preferences to municipalities

1460. The application for a permit by a municipality for the use of water for the municipality or the inhabitants thereof for domestic purposes shall be considered first in right, irrespective of whether it is first in time.

Limitation on use

1461. The application for, or the granting of, a permit to any municipality to appropriate water does not authorize the appropriation of any water for other than municipal purposes.

Permits for temporary appropriation of surplus

1462. Where permission to appropriate is granted to any municipality for any quantity of water in excess of the existing municipal needs therefor, the department may, pending the application to beneficial use of the entire appropriation permitted, issue permits for the temporary appropriation of the excess of the permitted appropriation over and above the quantity being applied to beneficial use from time to time by the municipality.

Compensation by municipality to temporary appropriator

1463. When the municipality desires to use the additional water granted in its application it may do so upon making just compensation for the facilities for taking, conveying, and storing the additional water rendered valueless for said purposes to the person who constructed the facilities. The compensation, if not agreed upon, may be determined in the manner provided by law for determining the value of property taken by eminent domain proceedings.

Determination of compensation

Right of city to become public utility

1464. In lieu of the granting of such temporary permits for appropriation, the department may authorize the municipality to become as to such surplus a public utility, subject to the jurisdiction and control of the Railroad Commission of the State for such period from and after the date of the issuance of such permission to appropriate, as may be allowed for the application to municipal uses of the entire appropriation permitted.

Article 4. Priority of Reservoir Systems Constituting Single Unit

Reservoir, appropriations and rights as single unit

1475. In any case where a reservoir has been or shall hereafter under the provisions of this division be constructed, or surveyed, laid out, and proposed to be constructed, for the storage of water for a system, which water is to be used at one or more points under appropriations of water and rights held and owned by the person owning the reservoir site and constructing the reservoir, the reservoir, appropriations, and rights shall, in the discretion of the department constitute a

Priority

single enterprise and unit, and work of constructing the reservoir, or work on any one of the appropriations shall, in the discretion of the department, be sufficient to maintain and preserve all applications for appropriations and rights thereunder.

Article 5. Applications in Aid of State Water Plan

Priority of application by Department of Finance

1480. An application by the Department of Finance in aid of any general or coordinated water plan has such priority as is now or may hereafter be provided by law.

CHAPTER 8. FEES

Article 1. Application Fees

Application fee

1525. Every person making application for a permit to appropriate water shall pay to the department at the time of filing the application a filing fee of five dollars ($5).

Minimum fee

1526. The five dollar ($5) fee is a minimum fee but shall be a credit to the extent of five dollars ($5) whenever the fee due upon direct diversion or storage or both totals more than five dollars ($5) under the schedule provided in this article, and in such case the further fee due shall be the total computed amount less five dollars ($5).

Additional amount

1527. Not later than five days after receipt of an application, the department shall notify the applicant by registered mail of the further amount of fee, if any, due under the schedule of fees provided in this article, and if there is a further amount due and it is not received within 30 days after the date of filing the application in the office of the department the application shall be rejected.

Period for payment

Further fee

1528. Such further fee as may be due shall be paid as provided in this article.

Fee for diversion

1529. For each cubic foot per second or fractional cubic foot per second of direct diversion from one cubic foot per second to and including 500 cubic feet per second, the fee is at the rate of one dollar ($1) per cubic foot per second.

Same

1530. For each cubic foot per second or fractional cubic foot per second of direct diversion from 500 cubic feet per second to and including 2,000 cubic feet per second, the fee is at the rate of twenty-five cents ($0.25) per cubic foot per second.

Same

1531. For each cubic foot per second or fractional cubic foot per second of direct diversion over 2,000 cubic feet per second, the fee is at the rate of ten cents ($0.10) per cubic foot per second.

Fee for storage

1532. For each acre-foot or fractional acre-foot per annum of storage to and including 100,000 acre-feet per annum, the fee is at the rate of one-half cent ($\frac{1}{2}\phi$) per acre-foot.

Same

1533. For each acre-foot or fractional acre-foot per annum of storage over 100,000 acre-feet per annum, the fee is at the rate of one-tenth cent ($\frac{1}{10}\phi$) per acre-foot.

Article 2. Fees on Permits

Permit fees

1540. In addition to fees paid upon applications every person shall pay upon issuance of a permit to him, the additional fee prescribed in this article.

Power purposes

1541. If the purpose or use is for the generation of electricity or other power, the fee is ten cents ($0.10) for each theoretical horsepower capable of being developed by the works to and including 100 theoretical horsepower, five cents ($0.05) for each horsepower in excess of 100 theoretical horsepower to and including 1,000 theoretical horsepower, and one cent ($0.01) for each theoretical horsepower in excess of 1,000 theoretical horsepower.

Agricultural purposes

1542. If for agricultural purposes, the fee is five cents ($0.05) for each acre of land to be irrigated to and including 100 acres, three cents ($0.03) per acre for each acre in excess of 100 acres to and including 1,000 acres and two cents ($0.02) for each acre over 1,000 acres.

Permits for irrigation of same land

1543. Only one fee shall be paid upon issuance of two or more permits for the irrigation of the same land, whether the permits are issued simultaneously or otherwise.

Permits covering same power generating machinery

1544. Only one fee shall be paid upon issuance of two or more permits for water to be applied to the same power generating machinery or appliance whether the permits are issued simultaneously or otherwise.

Increase in acreage or horsepower

1545. Whenever additional acreage may be irrigated or additional horsepower may be developed as a result of another permit issued or by amendment of a permit or by a supplemental permit, a fee shall then be paid for the increase in acreage or horsepower.

Article 3. Payment into Treasury

Disposition of fees

1550. All fees paid under the provisions of this chapter shall be paid at least once a week into the State Treasury by the department and shall be accompanied by a detailed statement thereof.

Article 4. Exemptions

Exemption from fees

1560. No fee shall be required from the United States on applications or permits to appropriate water to be used in furtherance of projects under the supervision of the United States Bureau of Reclamation, nor shall any fee be required from any person exempt by any law of the State from the payment of such fee.

Chapter 9. Licenses

Article 1. Report of Completion

Report of completion

1600. Immediately upon completion of the project the holder of a permit for the right to appropriate water shall report the completion to the department.

Article 2. Examination and Inspection

Inspection and examination

1605. The department shall as soon as practicable after receiving the report of completion cause to be made a full inspection and examination of the works constructed and the use of water therefrom, and shall determine whether the construction of the works and the use of water therefrom is in conformity with law, the rules and regulations of the department, and the permit.

Article 3. Issuance or Refusal of License

Extension of time

1610. The department may for good cause shown further extend the time for completion, or, if the determination as to completion is favorable to the applicant, shall issue a license which gives the right to the diversion of such an amount of water as has been found by inspection to have been applied to beneficial use.

Issuance of license

Nonconformity

1611. If, upon inspection and examination of the works constructed and the use of water therefrom, the department finds that the construction and condition of the works and the use of water therefrom are not in conformity with the law, the rules and regulations of the department, and the terms of the permit, it may, after due notice in writing and in the manner provided in Sections 1111, 1112, and 1113 of the Code of Civil Procedure to the holder of the permit, and a public hearing thereon, refuse to issue the license.

Notice and hearing

Refusal of license

Article 4. Review by Court of Action Refusing License

Review by superior court

1615. The holder of any permit to whom the department has refused to issue a license, may bring an action in the superior court within 30 days after the refusal, to review the order and to obtain a decree requiring the issuance of the license.

Loss of rights

1616. Unless the action is brought within the time specified all rights of the holder of the permit under the application and permit lapse and cease.

Rights continue until final court action

1617. The rights of the holder of any permit so bringing an action shall continue under the permit until the decree in the action has been entered and become final.

Use enjoined until final court action

1618. Until the order of the department refusing to issue the license is finally reversed or modified by the court, the permittee shall not take or use any of the water, the taking and using of which is granted to him by the permit.

Article 5. Contents and Conditions of License

License form and contents

1625. Each license shall be in such form and contain such terms as may be prescribed by the department.

Terms and conditions

1626. All licenses shall be under the terms and conditions of this division.

Effectiveness of license

1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division but no longer.

Enumeration of conditions License subject thereto

1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Conditions of accepting license

1629. Every licensee, if he accepts a license, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division, or for any rights granted or acquired under the provisions of this division, in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division.

Purchase by governmental agency

1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Method of determining value of property

1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property can not agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Article 6. Filing of Licenses and Orders with County Recorder

Filing of copies of licenses and modification orders

1650. A true copy of each license issued or of each order modifying or changing a license shall within 30 days after issuance thereof be filed by the department in the office of the recorder of the county in which the point of diversion specified in the license lies or in case there are points of diversion lying in more than one county then in each of those counties in which a point of diversion lies and in case the place or places of use specified in the license are in different counties than the point or points of diversion also in the county or counties in which the place or places of use lie.

Order of revocation or modified court order

1651. Whenever an order revoking a license in whole or in part becomes final a true copy of the order shall be filed

promptly by the department in the office or offices in which a copy of the license affected is on file or in case the order of revocation has been modified by a court the order as finally decreed by the court shall be filed as herein provided.

Article 7. Revocation of Licenses

Grounds for revocation of licenses

1675. If it appears to the department at any time after a license is issued that the licensee has not put the water granted under the license to a useful or beneficial purpose in conformity with this division or that the licensee has ceased to put the water to such useful or beneficial purpose, or that the licensee has failed to observe any of the terms and conditions in the license, the department, after due notice to the licensee and after a hearing, may revoke the license and declare the water to be subject to appropriation in accordance with this part. As used in this section "licensee" includes the heirs, successors, or assigns of the licensee.

"Licensee" defined

Findings prima facie correct

1676. The findings and declaration of the department on the revocation of a license shall be deemed to be prima facie correct until modified or set aside by a court of competent jurisdiction.

Limitation on review by court

1677. Any action brought to modify or set aside a finding or declaration on the revocation of a license shall be commenced within 30 days after the service of notice of revocation on the licensee, his heirs, successors or assigns.

CHAPTER 10. CHANGE OF POINT OF DIVERSION, PLACE OF USE, OR PURPOSE OF USE

Change of purpose of use

1700. Water appropriated under the Water Commission Act or this code for one specific purpose shall not be deemed to be appropriated for any other or different purpose, but the purpose of the use of such water may be changed as provided in this code.

Petition for permission to change

1701. At any time after notice of an application is given, an applicant, permittee, or licensee may change the point of diversion, place of use, or purpose of use from that specified in the application, permit, or license; but such change may be made only upon permission of the department.

No injury to any legal user

1702. Before permission to make such a change is granted the petitioner shall establish, to the satisfaction of the department, and it shall find, that the change will not operate to the injury of any legal user of the water involved.

Notice

1703. After filing a petition for permission to make such a change, the petitioner, in case the department so requires, shall cause notice thereof to be given or published in such manner as may be prescribed by the department.

Protest

1704. If at any time prior to the granting of permission to make such a change a protest is filed with the department against allowance of the proposed change the department shall fix a time and place for the hearing of the petition and of objections thereto.

Hearing

1705. After the hearing the department shall grant or refuse, as the facts warrant, permission to change the point of diversion, place of use, or purpose of use.

Stats 1913, p 1012

Person entitled to make change

1706. The person entitled to the use of water by virtue of an appropriation other than under the Water Commission Act or this code may change the point of diversion, place of use, or purpose of use if others are not injured by such change, and may extend the ditch, flume, pipe, or aqueduct by which the diversion is made to places beyond that where the first use was made.

CHAPTER 11. JOINT USE AND DEVELOPMENT

Article 1. General Provisions

"Works"

1750. As used in this chapter "works" includes dams, tunnels, diversion works, ditches, and other works or constructions.

"Power"

1751. As used in this chapter "power" includes electricity, electrical power, and other power.

Pro rata and other costs

1752. The department shall determine the pro rata and other costs provided for in this chapter.

Article 2. Joint Occupancy and Use

Joint utilization of water

1775. If at any time it appears to the department, after a hearing of the persons interested and an investigation, that the full capacity of the works built or constructed, or being built or constructed, under an appropriation of water made pursuant to the Water Commission Act or this code has not developed or can not develop the full capacity of the stream at the point where the works have been or are being built or constructed, and that the holder of the appropriation will not or can not, within a period deemed to be reasonable by the department, develop the stream at that point to such capacity as the department deems to be required by the public good, the department may permit the joint occupancy and use, with the holder of the appropriation, to the extent necessary to develop the stream to its full capacity or to such portion of its capacity as may appear to the department to be advisable, by any persons applying therefor, of any such works.

Factors to be considered

1776. The department shall take into consideration the reasonable cost of the original and new work, the good faith of the applicant, the market for water or power to be supplied by the original and the new work, and the income or use that may be required to provide fair and reasonable returns upon such cost.

Sharing of costs

1777. The applicant shall be required to pay to the person owning the works a pro rata portion of the total cost of the old and the new works.

Basis for sharing costs. Water for irrigation or domestic purposes

1778. If the water is used or to be used for irrigation or domestic purposes, the pro rata portion of the cost shall be based upon the proportion of the water used by the original and the subsequent users of the works.

Same Generation of power

1779. If the water is used or to be used for the generation of power, the pro rata portion of the cost shall be based upon the relative amount of power capable of being developed by the original and the new works.

Same Irrigation and generation of power

1780. If a portion of the water is used or to be used for irrigation and another portion is used or to be used for the generation of power, the applicant shall pay to the person owning the works a pro rata portion of the total cost of the old and new works based upon the proportion of the relative amount of water used by each joint occupant and the income derived by each from the joint occupancy.

Same Other purposes

1781. If any of the water is used or to be used for purposes other than those specified in this article, the applicant shall pay to the person owning the works such a pro rata portion of the total cost of the old and new works as appears to the department to be just and equitable.

Sharing of expense

1782. The applicant shall also pay a proper pro rata share, based as above provided in this article, of the cost of maintaining the works, on and after beginning the occupancy and use thereof.

Article 3. Enlargement of Existing Works of Another

Enlargement and joint use of existing works of another

1800. If it appears to the department that the full capacity of the works built or constructed, or being built or constructed, under an appropriation of water under the Water Commission Act or this code, will not develop the full capacity of the stream at that point, and that the public good requires it, and the department specifically so finds after investigation and hearing of the persons interested, the department may permit any person to repair, improve, add to, supplement, or enlarge, at his own expense, any works already so built or constructed or in process of being so built or constructed under the provisions of this division, and to use the works jointly with the owners thereof.

Material interference with owner's use prohibited

1801. The repairing, improving, adding to, supplementing, or enlarging of works under this article, shall not materially interfere with the proper use thereof by the owner of the works nor materially injure the works.

PART 3. DETERMINATION OF WATER RIGHTS

CHAPTER 1. REFERENCE BY COURTS OF THIS STATE

Article 1. Subjects of Reference

Reference to department of issues

2000. In any suit brought in any court of competent jurisdiction in this State for determination of rights to water, the court may order a reference to the department, as referee, of any or all issues involved in the suit.

Reference to department for investigation and report

2001. In any suit brought in any court of competent jurisdiction in this State for determination of rights to water, the court may refer the suit to the department for investigation of and report upon any or all of the physical facts involved.

Article 2. Report of Referee

Basis for report

2010. The department may base its report solely upon its own investigations or in addition thereto may hold hearings and take testimony.

Opinions upon law and fact

2011. The report of the department as referee may contain such opinion upon the law and the facts as it deems proper in view of the issues submitted.

Findings of fact and conclusions of law

2012. The report shall set forth such findings of fact and conclusions of law as may be required by the court's order of reference.

Report in draft form

2013. Before filing its report the department shall announce it in the form of a draft.

Mailing of notice and copy of draft

2014. The department shall mail notice of the draft, together with a copy of the draft, to the parties or their attorneys.

Objections to draft

2015. Within 30 days after the date of the mailing of the draft any party may file objections to it with the department.

Filing of report

2016. After the objections have been considered by the department or a hearing has been held thereon if deemed advisable by it, the department shall file its report as referee with the clerk of the court and give notice by mail of the filing of its report to the parties or their attorneys.

Review of report by court upon exceptions

2017. The report of the department as referee is subject to review by the court upon exceptions thereto filed with the clerk of the court within 30 days after date of mailing notice of the filing of the report.

Requirement for consideration of exception

2018. No exception to the report shall be considered, except in the court's discretion or for good cause shown, unless it appears that the matter of the exception was presented to the department in the form of an objection.

Prima facie evidence

2019. The report filed by the department is prima facie evidence of the physical facts therein found; but the court shall hear such evidence as may be offered by any party to rebut the report or the prima facie evidence.

Article 3. Expenses of Reference

Payment or reimbursement for expenses

2040. In acting pursuant to this chapter the department shall not be entitled to any fee for its services but shall be paid or reimbursed the total expense incurred by it, including salaries, wages, traveling expenses, and all costs of whatsoever character which are properly chargeable to the reference.

Prior adequate provision for payment of expenses

2041. If the funds available for use by the department are inadequate to permit it to advance the expense of a reference, or if in its opinion the payment of the expense of any reference is not reasonably certain, the department shall refuse to undertake a reference unless and until adequate provision is made by the parties and approved by the court for the payment of the expenses.

Interim or partial payments of expense

2042. During the pendency of any reference, upon motion of the department and upon a hearing by the court after at least 10 days' notice to the parties, the court may order such interim or partial payments of the expense to be made by the

parties as it deems proper and equitable under the circumstances.

Apportionment of expense

2043. The total expense shall be equitably apportioned by the department against the parties to the suit and a statement thereof and of the apportionment shall be included in the report to the court.

Payment of apportionments of expense

2044. Unless an objection is made to the court, the apportionments of the expense shall be paid by the respective parties in the amounts apportioned, within 30 days after mailing of notice of the filing of the report with the court by the department to the respective parties or their attorneys.

Objections to expense of reference

2045. Upon application in writing by any party aggrieved within the 30 day period, the court shall after expiration of that period set a hearing for the determination of any objections to the expense of the reference or to the apportionment thereof. The clerk of the court shall, at least 10 days prior to the date of hearing, give notice thereof by mail to all parties or their attorneys.

Conclusive waiver of objections

2046. Any party failing to object to the expense of a reference or the apportionment thereof is conclusively deemed to have waived all objection thereto.

Order when no objection filed

2047. If no objection is filed with the court within the prescribed period, the court upon motion of the department or its attorney shall enter an order approving the expense and its apportionment.

Order when objections filed

2048. Upon the hearing of objections to the expense or the apportionment thereof the court shall determine the issues involved and enter such final order determining the expense and its apportionment as the court deems equitable.

Payment of apportionments on court order

2049. When a court order relating thereto is made, all apportionments shall be paid within 30 days after notice of the order is mailed by the department to the parties or their attorneys.

Issuance of execution

2050. Execution shall issue in favor of the department and against any party delinquent upon application therefor by the department in like manner and with like effect as execution upon a final judgment.

CHAPTER 2. REFERENCES IN FEDERAL COURTS

Master or referee in Federal court actions

2075. In case suit is brought in a Federal court for determination of rights to water within, or partially within, this State, the department may accept a reference of such suit as master or referee for the court.

Method of procedure

2076. In acting under this chapter the department shall proceed according to the rules of practice and procedure of the court or as otherwise directed by the court.

CHAPTER 3. STATUTORY ADJUDICATIONS

Article 1. General Provisions

"Stream system"

2500. As used in this chapter, "stream system" includes stream, lake, or other body of water, and tributaries and contributory sources, but does not include an underground water

supply other than a subterranean stream flowing through known and definite channels.

Determination of all rights

2501. The department may determine, in the proceedings provided for in this chapter, all rights to water of a stream system whether based upon appropriation, riparian right, or other basis of right.

Article 2. Petition and Preliminary Proceedings

Determination of water rights Order of investigation

2525. Upon petition signed by one or more claimants to water of any stream system, requesting the determination of the rights of the various claimants to the water of that stream system, the department shall, if, upon investigation, it finds the facts and conditions are such that the public interest and necessity will be served by a determination of the water rights involved, enter an order granting the petition and make proper arrangements to proceed with the determination

Notice of order and examination

2526. As soon as practicable after granting the petition the department shall prepare a notice setting forth the facts of the entry of the order and of the pendency of the proceedings, and the date when the department is to begin the examination. The notice shall state that all claimants to rights to the water of the stream system are required to make proof of their claims.

Publication of notice of order

2527. The notice shall be published for a period of four consecutive weeks in one or more newspapers of general circulation published in each county in which any part of the stream system is situated.

Duty of claimants

2528. Whenever proceedings are instituted for the determination of rights to water, it is the duty of all claimants interested therein and having notice thereof as provided in this chapter, to appear and submit proof of their respective claims at the time and in the manner required by this chapter.

Article 3. Investigation of Stream System

Conduct of investigation

2550. At the time set in the notice of the proceeding, the department shall begin an investigation of the stream system, of the conduits diverting water, and of the lands irrigated or irrigable therefrom, and shall gather such other data and information as may be essential to the proper determination of the water rights in the stream system.

Observations, data, etc., in writing

2551. The department shall reduce its observations, data, information, and measurements to writing.

Surveys and maps

2552. The department shall make surveys and prepare maps from the observations of the surveys in accordance with such uniform rules and regulations as it may adopt or from such other available data as it determines to be adequate for the purpose.

Contents of surveys and maps

2553. The surveys and maps shall show with substantial accuracy the stream system, the location of each conduit diverting water therefrom, the land irrigated and capable of being irrigated by each conduit, and the kind of culture upon the irrigated land.

Preparation and filing of maps

2554. Maps shall be prepared as the surveys and observations progress, and, when completed, shall be filed and made of record in the office of the department.

Article 4. Notice to File Proofs

Notice of time for filing proofs

2575. Upon the completion of the measurements and maps and the filing of the observations, data, information, and measurements, the department shall prepare a notice setting forth the date prior to which the proofs as to the rights to the water of the stream system shall be filed.

Time limit

2576. The date prior to which the proofs shall be filed shall not be less than 60 days from the date of the last publication of notice.

Publication

2577. The notice shall be published by the department for a period of four consecutive weeks in one or more newspapers of general circulation published in each county in which any part of the stream system is situated.

Mailing of copies

2578. At or near the time of the first publication of notice the department shall send by registered mail to each claimant to rights to water of the stream system, in so far as such claimant can be reasonably ascertained, at his last known place of address, a notice equivalent in terms to the published notice.

Article 5. Proof of Claim

Forms to be sent claimant

2600. The department shall inclose with the notice to file proofs, blank forms of proofs. The claimant shall present in writing upon the forms all particulars the department determines to be necessary for the determination of his right to the water of the stream system, together with such other information as the claimant may deem pertinent.

Data to be presented

2601. The statement of proof shall include all of the following:

(a) The name and postoffice address of the claimant.

(b) The nature of the right or use on which the claim is based.

(c) The date of the initiation of the right and a description of any works of diversion and distribution.

(d) The date of beginning of construction.

(e) The date when completed.

(f) The dates of beginning and completion of enlargements.

(g) The dimensions of any ditch as originally constructed and as enlarged.

(h) The date when water was first used for irrigation or other beneficial purposes, and if used for irrigation, the amount of land irrigated the first year, the amount in subsequent years, with the dates of irrigation and the area and the location of the lands which are intended to be irrigated.

(i) The character of the soil and the kind of crops cultivated.

(j) Such other facts as the department requires to show the extent and nature of the right and a compliance with the law in acquiring it.

Statements under oath

2602. Each claimant shall certify to his statements under oath.

Proof barred Extension of time

2603. After the date fixed for the filing of proofs, no proofs shall be received or filed unless the department, for cause shown, extends the time in which proofs may be filed.

Determination of right on failure to make proof

2604. Upon neglect or refusal of any person to make proof of his claim prior to the expiration of the period during which proofs may be filed, the department shall determine the right of such person on such evidence as it may obtain or may have on file in its office in the way of maps, plats, surveys, and transcripts.

Article 6. Abstract and Inspection of Proofs

Abstract of proofs

2625. As soon as practicable after the expiration of the period for filing proofs, the department shall assemble all proofs which have been filed and prepare and certify an abstract of them. The abstract of proofs shall be filed in the office of the department and may be printed in the State printing office.

Inspection

2626. As soon as practicable after the abstract is filed, the department shall prepare a notice of the filing of it and setting a time and fixing a place, reasonably convenient to the claimants, when and where the evidence taken by or filed with the department will be open to the inspection of all interested persons.

Period of inspection

2627. The period of inspection shall be fixed by the department but shall be not less than 10 days.

Mailing of copies

2628. A copy of the notice and a copy of the abstract of proofs shall be sent by registered mail, at least 15 days prior to the first day of the period of inspection, to each claimant who has appeared and filed proof.

Permission to inspect

2629. A representative of the department shall be present at the time and place designated in the notice, and shall permit, during the period of inspection, any person interested to inspect such evidence and proofs as have been filed in accordance with this chapter.

Article 7. Contest of Proofs

Contest of statements

2650. If any claimant desires to contest any of the statements contained in the proofs of claims filed by any other claimant to the water of the stream system, he may file a notice of contest with the department.

Notice of contest

2651. The notice of contest shall be filed within 15 days after the expiration of the period during which the evidence and proofs are open to public inspection or within such further time as for good cause shown may be allowed by the department upon application made prior to the expiration of said 15 days.

Notice to be in writing

2652. The notice of contest shall be in writing and shall state with reasonable certainty the grounds of the proposed contest.

Verification

2653. The statement shall be verified by the affidavit of the contestant, his agent or attorney.

Necessary pleadings

2654. The statements contained in the proofs of the person whose rights are contested and the verified statement of the contestant constitute all necessary pleadings for the contest.

Hearing of contest

2655. Within 10 days after the receipt of the notice of contest the department shall notify by registered mail the contestant and the claimant whose rights are contested to appear before it at a time and place specified and that at said time and place the contest will be heard.

Time for hearing

2656. The time specified for the hearing shall not be less than 15 days nor more than 60 days from the date of the mailing of the notice of hearing.

Adjournments

2657. The department may adjourn hearings of contests from time to time upon reasonable notice to all parties in interest.

Costs

2658. The costs of taking testimony at a hearing on a contest shall be borne by the parties thereto as follows: each party shall pay for the direct examination of his own witness and the cross-examination of opponent's witness, and the parties shall share equally for that part of the examination directed by the representative of the department.

Copy of transcript to department

2659. One copy of the transcript of testimony taken at the hearing shall be furnished to the department at the cost of the parties.

Article 8. Order of Determination

Order determining and establishing rights

2700. As soon as practicable after the hearing of contests or the expiration of the time for filing notice of contest, the department shall make and cause to be entered of record in its office an order determining and establishing the several rights to the water of the stream system.

Rehearing

2701. Within 60 days after the entry of an order of determination the department may, for good cause shown, reopen the proceedings and grant a rehearing.

Preparation, certification and printing of order

2702. The order of determination shall be prepared and certified by the department and may be printed in the State printing office.

Mailing of copies

2703. A copy of the order of determination shall be sent by registered mail to each person who has filed proof of claim and to each person who has become interested through intervention or as a contestant in the proceeding.

Article 9. Intervention

Petition to intervene

2725. Any claimant upon whom no service of notice of the pendency of proceedings under this chapter has been made and who has had no actual knowledge or notice of the pendency

of the proceedings, may, at any time prior to the expiration of three months after the entry of the order of determination of the department, file a petition to intervene in the proceedings.

Petition under oath

2726. The petition in intervention shall be under oath.

Contents of petition

2727. The petition shall contain, among other things, all matters required by this chapter of claimants who have been served with notice of the proceedings, and a statement that the intervener had no actual knowledge or notice of the pendency of the proceedings.

Rights of petitioner

2728. Upon the filing of the petition in intervention, the petitioner shall be permitted to intervene and thereafter shall have all the rights and be subject to all the duties of a claimant who has been duly served.

Article 10. Hearing and Decree of Court

Filing of order of determination

2750. As soon as practicable after the entry of the order of determination a certified copy of the order, together with the original evidence and transcript of testimony filed with or taken before the department and certified by it, shall be filed with the clerk of the superior court of the county in which the stream system or some part thereof is situated.

Order setting time for hearing

2751. Upon the filing of the certified copy of the order of determination and the evidence and transcript, the department shall procure an order from the court setting a time for hearing.

Certified copy of order

2752. The clerk of the court shall immediately furnish the department with a certified copy of the order setting the time for hearing.

Notice of hearing

2753. Upon receiving the certified copy of the order setting the time for hearing, the department shall immediately mail a copy of the order by registered mail to each known party in interest at his last known place of residence.

Publication of order

2754. The department shall cause the order to be published at least once a week for four consecutive weeks in some newspaper of general circulation published in each county in which the stream system or any part thereof is situated.

Proof of service

2755. The department shall file with the clerk of the court proof of service by registered mail and by publication.

Full and sufficient notice

2756. Service by registered mail and by publication shall be deemed full and sufficient notice to all parties in interest of the date and purpose of the hearing.

Filing of notice of exceptions

2757. At least 10 days prior to the day set for hearing, each party in interest who is aggrieved or dissatisfied with the order of determination may file with the clerk of the court notice of exceptions to the order of determination.

Contents of notice

2758. The notice of exceptions shall state briefly the exceptions taken, the reasons therefor, and the prayer for relief.

Service

2759. A copy of each notice of exceptions shall be transmitted by registered mail at least 10 days prior to the hearing to the department and to each claimant who was an adverse party to any contest wherein the exceptor was a party.

Pleadings

2760. The order of determination, the statements or claims of claimants, and the exceptions made to the order of determination constitute the pleadings.

Additional or amended pleadings

2761. The court may allow such additional or amended pleadings as may be necessary to a final determination of the proceeding.

Decree by default

2762. If no exceptions are filed, then on the day set for the hearing, on motion of the department or its attorney, the court shall enter a decree affirming the order of determination.

Hearing of exceptions

2763. On the day set for hearing all parties in interest who have filed notices of exceptions shall appear in person, or by counsel, and the court shall hear the matter or set the time for hearing, and shall continue the hearing until all exceptions are disposed of.

Rules governing proceedings

2764. All proceedings on the hearing shall be as nearly as may be in accordance with the rules governing civil actions.

Making State a party

2765. Whenever in the judgment of the court the State is a necessary party to the action, the court shall make an order to that effect and thereupon a copy of all pleadings and proceedings on file with the court in the action shall be served upon the Attorney General who shall represent the State therein.

Further investigation

2766. For further information on any subject in controversy the court may employ one or more qualified persons to investigate and report thereon under oath, subject to examination by any party in interest as to his competency to give expert testimony on the subject.

Hearing of additional evidence

2767. The court may take additional evidence on any issue and may, if necessary, refer the case for such further evidence to be taken by the department as the court may direct, and may require a further determination by the department

Decree determining rights

2768. After the hearing, the court shall enter a decree determining the right of all persons involved in the proceeding.

Contents of decree

2769. The decree shall in every case declare as to the water right adjudged to each party, the priority, amount, season of use, purpose of use, point of diversion, and place of use of the water; and as to water used for irrigation, the decree shall also declare the specific tracts of land to which it is appurtenant, together with such other factors as may be necessary to define the right.

Costs

2770. Upon the hearing the court may assess and adjudge against any party such costs as it may deem just.

Appeals

2771. Appeals from the decree may be taken by the department or any party in interest, in the same manner and with the same effect as in civil cases.

Filing of decree with county recorder

2772. A certified copy of the decree shall be prepared by the clerk of the court, without charge, and filed for record in the office of the county recorder of each county in which any part of the stream system is situated and also in the office of the department.

Decree conclusive

2773. The decree is conclusive as to the rights of all existing claimants upon the stream system lawfully embraced in the determination.

Effect of decree

2774. When a decree has been entered, any claimant who has failed to appear and submit proof of his claim as provided in this chapter shall be barred and estopped from subsequently asserting any rights theretofore acquired upon the stream system embraced in the proceedings, and shall be held to have forfeited all rights to water theretofore claimed by him on the stream system, other than as provided in the decree, unless entitled to relief under the laws of this State.

Article 11. Proceedings when Appropriation Incomplete at Time of Determination

Fixing time for completion

2800. In making an order of determination, the department may fix a time limit for the completion of all appropriations of water from the stream system which have been initiated according to law and since prosecuted with reasonable diligence.

Proofs of claims

2801. All persons claiming rights under an incomplete appropriation, when notified as provided in this chapter, shall appear and submit their proofs of claim in accordance with this chapter, or they shall be deemed and held to be in default and to have abandoned or to have no right, title, or interest in or to the water of the stream system, other than as the person may be found to be entitled by the department based on available information and data.

Incomplete appropriations

2802. In determining rights based on an incomplete appropriation, the department shall prescribe such a reasonable time for the completion of the appropriation and the application of the water to a beneficial use as will enable the claimant acting in good faith and with due diligence to complete the appropriation.

Submission of proof of completion

2803. The order of determination shall provide for the submission of proof or evidence as to completion and the amount of water actually applied to beneficial use.

Time for submission

2804. Proof of completion shall be submitted not more than 90 days prior to the expiration of the time allowed.

Jurisdiction of superior court

2805. Upon the filing of a certified copy of an order of determination with the superior court, jurisdiction relative to incomplete appropriations covered by the order vests in the court.

Hearing and determination of proof

2806. The court shall have authority to thereafter hear and determine proof offered as to the completion of any such right.

Extensions of time

2807. Time for completion may be extended from time to time by the court upon motion made prior to the expiration of the limit of time fixed therefor.

Motion

2808. Notice of motion for an extension of time for completion shall be filed not more than 90 days prior to the expiration of the time limit.

Notice of hearing

2809. The clerk of the court shall post notice of hearing of the motion at the courthouse where the hearing is to be held and at least 10 days prior to the hearing.

Reference to department

2810. After hearing the motion the court shall refer the matter of the motion to the department for its report and recommendation thereon.

Action by court

2811. Upon receipt of the report and recommendation of the department or, if the department fails to file its report and recommendations within 90 days after the reference, upon the expiration of that period, the court shall grant such an extension of time as there is, in its discretion, good and sufficient cause for, or shall deny the motion.

Denial of extension. Filing notice of intention to offer proof

2812. In event of denial of a motion for the extension of time for completion the applicant may within 10 days after notice by the clerk of the denial, file notice of intention to offer proof of completion.

Notice of intention to offer proof of completion

2813. Any claimant desiring to offer proof of completion shall file a notice of intention to offer such proof with the clerk of the court.

Hearing of proof

2814. The clerk shall post notice of the time for hearing the proof at the courthouse where the hearing is to be held and at least 10 days prior to the hearing.

Supplemental decree

2815. Upon submission of proof of completion after entry of the decree of the court, the court shall enter a supplemental decree determining the right before it and in event of failure, after entry of the decree of the court, to submit proof within the time allowed or to move for and secure an extension of time to do so the court shall enter a supplemental decree denying the right involved.

Failure to complete. Abandonment of rights

2816. All persons claiming rights under incomplete appropriations who fail to complete their appropriations within the limit of time fixed by the department in its order of determination, or within such further time granted upon motion made prior to the expiration of the time limit as the court finds equitable and just, shall be deemed to have abandoned their rights of appropriation in so far as the same remain incomplete, and such appropriators shall be deemed and held to have no right, title or interest in or to the water of the stream system in so far as their appropriations have not been completed.

Appeals

2817. Appeals from any action of the court under this article may be taken by the department or any party in interest in the same manner and with the same effect as in civil cases.

Construction of article

2818. This article shall not be construed to confer any rights of appropriation upon parties who shall have abandoned their appropriations or failed to use due diligence in the application of the water to a beneficial use and in the completion of their appropriations.

Article 12. Service of Copy of Decree

Service of decree

2825. The department shall furnish to each claimant whose rights are decreed a copy of the decree and a notice of the entry thereof.

Service of supplemental decree

2826. Upon entry of a supplemental decree establishing a right the department shall furnish to each claimant a copy of the supplemental decree and a notice of entry thereof.

Article 13. Expenses of Determination

Fee upon submission of proof

2850. At the time of submission of proofs, the department shall collect from each claimant a fee of five dollars ($5) for each proof filed by the claimant.

Computation of entire expense

2851. At the time of, or as soon as practicable after the mailing of, its order of determination the department shall compute the entire expense it has incurred in performing the duties prescribed in this chapter, including salaries, wages, traveling expenses, and all costs of whatever character which are properly chargeable to the proceeding.

Apportionment of expense

2852. If the total amount of expense exceeds the total amount received from claimants at the time of submission of proofs, the excess expense shall be equitably apportioned by the department against the parties to the proceeding.

Mailing of statement of expense

2853. A statement setting forth the expense and the apportionments thereof against the respective parties shall be sent by registered mail to each of the parties.

Payment of apportionments

2854. Unless objection is made to the court the apportionments shall become due and payable to the department by the respective parties, or their successors in interest, in the amounts so allocated, 30 days subsequent to the date of mailing of the statement.

Hearing of objections

2855. Upon application in writing by any party aggrieved, within the 30-day period, the court shall after expiration of said period set for hearing the determination of any objections to the expense or to the apportionments thereof.

Notice of hearing

2856. The clerk of the court shall, at least 10 days prior to the date of hearing, give notice thereof by mail to all parties.

Payment deferred

2857. Upon the filing of objections to the expense or the apportionments thereof, the apportionments do not become due and payable until the objections are determined.

Failure to object

2858. Any party failing to object to the expense or the apportionments thereof waives all objections thereto.

Order determining expense

2859. Upon the hearing of objections to the expense or the apportionments thereof the court shall determine the issues relative thereto and enter such order determining the expense and its apportionment as it deems equitable.

When order becomes final

2860. The order becomes final upon the expiration of 30 days after entry thereof and all apportionments included therein shall then become due and payable to the department

by the respective parties, or their successors in interest, in the amounts so allocated.

Inclusion in findings or judgment

2861. Any apportionments of expense which remain unpaid shall be included in any findings of fact and conclusions of law which may be filed by the court and if unpaid at time of entry of judgment and decree shall be included therein.

Disposition of money

2862. All money paid to or collected by the department, as provided in this article, shall be paid, at least once each month, accompanied by a detailed statement thereof, into the Water Commission Revolving Fund, which fund is continued in existence.

Use of money in Water Commission Revolving Fund

2863. All or any part of the money in the Water Commission Revolving Fund may be drawn from the State Treasury upon the approval of the Department of Finance without the submission of receipts, vouchers, or itemized statements, and used by the Department of Public Works in paying costs of making determinations of water rights as provided in this part.

Refusal to proceed for lack of funds, etc

2864. If the funds available for use by the department are inadequate to enable it to undertake the expense of any proceeding under this chapter or if in its judgment reimbursement for the expense of any such proceeding is not reasonably certain, it may refuse to proceed with its investigation and to undertake the proceeding, unless and until such provision is made by persons interested as may be satisfactory to the department and deemed by it sufficient to secure reimbursement or payment to it for its expenses.

Report to Governor

2865. The department shall, within 30 days prior to the regular session of the Legislature, submit to the Governor a full and true report of transactions under this chapter during the preceding biennium, including a complete statement of receipts and expenditures during the period.

CHAPTER 4. MODIFICATION OF DECREES

Modification of decrees

2900. In rendering its decree for the determination of rights to water, whether in suits referred to the department under the provisions of Chapter 1 of this part or in adjudications under the provisions of Chapter 3 of this part, the court may provide that the department or any party affected by the decree may, at any time within three years from entry thereof, apply to the court for a modification of the decree in so far only as the decree determines quantities of water, and after hearing the motion and any competent and admissible evidence offered in support of or against the motion the court may modify the decree by increasing or decreasing the quantities of water therein allowed.

PART 4. DISTRIBUTION OF WATER IN WATERMASTER SERVICE AREAS

CHAPTER 1. GENERAL PROVISIONS

"Service area" 4000. As used in this part, "service area" applies to watermaster districts heretofore established and to watermaster service areas hereafter established pursuant to this part.

"Conduit" 4001. As used in this part, "conduit" includes ditches, pipe lines, and other means of diversion.

Delegation of duty 4002. Any duty or authority vested in a watermaster may be exercised by the watermaster directly or through the agency of a deputy watermaster, if there is one.

CHAPTER 2. CREATION OF WATERMASTER SERVICE AREAS

Division of State into watermaster service areas 4025. The department shall divide the State into watermaster service areas so constituted and adjusted as to insure the most practical and economical supervision of the distribution of water on the part of the State.

Creation of service areas 4026. Service areas shall be created from time to time as rights to water are ascertained and determined.

Methods of determining rights 4027. The rights may be ascertained and determined by any or all of the following:

(a) Under procedure provided for in this division;

(b) Under procedure provided by law, other than this division;

(c) By agreement in writing entered into by the respective claimants;

(d) By permits and licenses issued subsequent to any such adjudication or agreement.

Recording of agreements 4028. When rights are ascertained and determined by agreement, the agreement shall be recorded in the office of the county recorder of each county in which is situated any water rights involved, and in the office of the county recorder of each county in which is situated the land, or any portion thereof, on which any water involved is, or is entitled to be, used.

Recording of court decree 4028.5. When rights are ascertained and determined by court decree, certified copies of the decree shall be recorded as agreements are required to be recorded by Section 4028.

(Added by Stats. 1943, Ch. 375.)

Filing of order and description 4029. Upon the creation of a service area the department shall file in the office of the county recorder of each county in which a portion of the service area is situated a certified copy of the order creating the service area and a description by 40-acre subdivision or other smallest subdivisions of the public land surveys of all of the land within the service area which is within the county in which the description is filed.

Supplemental or revised descriptions 4030. From time to time the department shall file supplemental or revised descriptions as the descriptions are changed.

Records of county recorder

4031. The county recorder shall keep in his office a file for each service area of such orders and descriptions as pertain thereto.

Changing of areas

4032. Service areas may be enlarged, reduced, consolidated, or abolished from time to time as convenience of administration may require.

CHAPTER 3. WATERMASTERS

Appointment of watermaster

4050. Upon written request of the owners or governing bodies of at least 15 per cent of the conduits lawfully entitled to directly divert water from the streams or other sources of water supply in any service area, the department may, if in its discretion necessity therefor exists, appoint a watermaster and if necessary in its discretion one or more deputy watermasters for the service area.

Discontinuance of watermaster service

4051. The department may from time to time discontinue watermaster service in any service area, if necessity therefor ceases, and revive the service whenever and as frequently as necessity exists.

Qualifications and duties

4052. The watermaster shall be properly qualified and shall perform the duties imposed on him by this part as an employee under the general supervision and control of the department.

Salary and expenses

4053. Watermasters, in addition to compensation for their services, shall receive necessary travel expenses incurred in the performance of their duties.

CHAPTER 4. CONSTRUCTION AND MAINTENANCE OF WORKS AND MEASURING DEVICES

Article 1. By Owners of Conduits

Conduit owners duties

Diversion dams

4100. The owner of every conduit subject to regulation by a watermaster shall construct and maintain to the satisfaction of the department a substantial and serviceable diversion dam or works in the channel of the stream from which the water is diverted.

Same Headgates

4101. The owner of a conduit shall construct and maintain to the satisfaction of the department a substantial and serviceable headgate in the conduit through which the water is diverted at or near the diversion dam or works.

Construction of headgates

4102. The headgate shall be of such construction that it can be locked and kept closed by the watermaster.

Measuring devices

4103. The owner of a conduit shall construct and maintain such water flow measuring devices at such points along the conduit as may be required and approved by the department for the purpose of assisting the watermaster in determining the amounts of water which are being diverted and applied to beneficial use.

Procedure on refusal

4104. If the owner of any conduit refuses or neglects to construct and maintain the diversion dam or works, the headgate, or the measuring devices provided for in this article after 30 days' notice by the department so to do, the watermaster may close the conduit, and it shall not be opened or

any water diverted from the source of supply until the requirements of the department as to the diversion dam or works, the headgate, or the measuring devices have been complied with.

Article 2. By Owners of Reservoirs

Reservoir owners to maintain measuring devices

4125. The owner of every reservoir which is subject to regulation by a watermaster and which is located across or upon the bed of a natural stream or requires the use of a natural stream channel shall construct and maintain such measuring devices below the reservoir in the stream and such measuring devices above the reservoir on each stream or source of supply discharging into the reservoir as may be required and approved by the department for the purpose of assisting the department or the watermaster in determining the amounts of water to which the owner is entitled and the amounts of water which the owner is diverting, storing, and applying to beneficial use.

Procedure on refusal

4126. If the owner of any reservoir neglects or refuses to construct and maintain the measuring devices provided for in this article after 30 days' notice by the department, the watermaster may open the outlet of the reservoir and the outlet shall not be closed, except by order of the department, until the requirements of the department as to the measuring devices are complied with.

Chapter 5. Distribution of Water in Service Areas

Article 1. Procedure of Distribution

Regulations for distribution

4150. The department may make such reasonable regulations to secure distribution of water in accordance with determined rights as may be needed.

Duties of watermaster

4151. The watermaster shall divide the water of the streams or other sources of supply among the several conduits and reservoirs taking water therefrom and so adjust or close the headgates of conduits and regulate the controlling works of reservoirs as may be necessary to insure a distribution of the water among the water users entitled to its use, according to the rights of the users.

Written notice of watermaster's control

4152. Whenever in pursuance of his duties the watermaster regulates a headgate to a conduit or the controlling works of a reservoir, he may attach to the headgate or controlling works a written notice properly dated and signed setting forth the fact that the headgate or controlling works have been properly regulated and are wholly under his control.

Legal notice

4153. The notice is legal notice to all persons interested in the diversion and distribution of the water of the conduit or reservoir.

Article 2. Remedies for Improper Distribution

Injunctive relief

4160. Any person who is injured by the action of any watermaster may apply to the superior court of the county in which the injury takes place, for an injunction.

Same Facts to be shown

4161. Such injunction shall be issued only in case it is shown at the hearing that the watermaster has failed to distribute the water according to the rights as determined by decrees of court, agreements, permits, or licenses as provided in this part.

CHAPTER 6. OFFENSES

Unauthorized opening of headgates etc

4175. Every person who wilfully and without authority opens, closes, changes, or interferes with any headgate, waterbox, or measuring device while it is under the control of the watermaster, or who wilfully takes or uses water which has been denied him by the watermaster under the provisions of this part is guilty of a misdemeanor.

Prima facie evidence of guilt

4176. The possession or use of water when it has been so denied him by the watermaster is prima facie evidence of the guilt of the person using it.

Penalties

4177. Every person who violates any of the provisions of this chapter or of Chapter 4 of this part is guilty of a misdemeanor and is punishable by a fine of not less than twenty-five dollars ($25) nor more than two hundred fifty dollars ($250), or by imprisonment in the county jail for not less than 10 days nor more than six months, or by both such fine and imprisonment.

Power of watermaster to arrest

4178. A watermaster has the power to arrest any person violating any of the provisions of this chapter or of Chapter 4 of this part and to give him into the custody of the sheriff or other competent police officer within the county, and immediately thereafter make complaint before a magistrate against the person so arrested.

CHAPTER 7. EXPENSES OF DISTRIBUTION

Article 1. General Provisions

Expenses of administration and distribution

4200. The department may incur such expense and make such expenditures as may be necessary to provide for the administration of any service area and the distribution of water therein.

Payment of expenses

4201. One-half of the cost of administration of a service area and the distribution of water therein shall be paid by the State and one-half shall be paid by the owners of the rights to divert or store water within the service area as provided in this chapter.

Article 2. Statement and Budget

Annual statement

4225. The department shall, between the first day of January and the first day of March of each year, prepare a statement for each service area. The statement shall contain a budget showing the amount of money estimated to be necessary to pay the cost of administration of the service area and the distribution of water therein for the current calendar year.

Provisions in budget

4226. The budget shall include all of the following:

(a) Expenses theretofore incurred for the payment of which funds are not available.

(b) The cost of an annual watermaster report covering the current calendar year to be prepared at the end of said year.

(c) A reasonable estimate for contingencies.

(d) Other costs of administration of the service area or of distribution of water therein.

Apportionment of one-half of budget

4227. The statement shall also contain an apportionment of one-half the amount of the budget among the owners of the various rights to store or divert water within the service area.

Apportionment among joint owners

4228. In all cases where a water right is owned by two or more persons, they shall pay in proportion to their respective interests in the water right, and, when the extent of the several interests is known to the department, the statement prepared by the department shall contain an apportionment of the amount to be paid by the various owners of the water right.

Article 3. Apportionment of Expense

"Owners expense"

4250. As used in this article, "owners expense" means one-half of the total amount of the budget for the service area.

Basis of apportionment

4251. One-tenth of the owners expense shall be apportioned equally among the respective ownerships of all water rights involved, and except as otherwise provided in this article the remaining nine-tenths shall be apportioned among the ownerships of the respective water rights in accordance with the quantities of water which the owners of the respective water rights are entitled to store or divert within the service area.

Power development or other nonconsumptive use

4252. In all cases of rights to divert the direct flow of a stream, without storage, for power development or other nonconsumptive use, where the entire flow so diverted, with the exception of reasonable transportation losses, is returned to the same stream system above the next lower diversion, the owners of these rights shall share on account of these rights only in the equal apportionment of one-tenth of the owner's expense, and shall not share in so far as these rights are concerned in the apportionment of the remaining nine-tenths.

Use of water for more than one purpose

4253. In all cases where rights exist to store or divert water for use for more than one purpose, the amount to be paid by the owner of such rights shall be based upon the total amount of water he is entitled to store or divert, and he shall not be required to pay more than one amount on the same water so stored or diverted notwithstanding use for more than one purpose.

Measure of water

4254. In making an apportionment to any owner of the right to store water, 350 acre-feet of storage capacity which the owner is entitled to use shall be considered the equivalent of the right to divert one cubic foot per second of the direct flow of a stream.

Article 4. Filing and Service of Statement

Filing of original statement

4275. The department shall file the original of each statement in its office and the original of each statement shall there be open to public inspection at all times during business hours.

Distribution of copies

4276. A certified copy of the statement for each service area shall be transmitted by the department prior to the fifteenth day of March of each year to the State Controller and a like copy to the tax collector of each county in which any part of the service area is situated.

Filing of copies

4277. The certified copy sent to the State Controller and to the proper tax collectors shall be filed by said officials in their respective offices and shall at all times during business hours be available for public inspection.

Service of statement

4278. After the filing of the statement with the tax collectors and on or before the fifteenth day of March of each year, the department shall serve each owner named in the statement with a true copy thereof.

Method of service

4279. Service on the owners may be made personally, or by mail as provided by Section 1013 of the Code of Civil Procedure, or the department may, in its discretion, and in lieu of such service, serve the statement by publication.

Service by publication

4280. If the statement is published, publication shall begin on or before the fifteenth day of March of each year and shall be in a newspaper having a general circulation and published within each county in which the service area or any portion thereof is situated, but if there is no newspaper published within the county publication shall be in a newspaper having a general circulation within the county.

Period of publication

4281. Publication of the statement shall be made at least once a week for three consecutive weeks.

Proof of publication

4282. Proof of publication shall consist of a copy of the statement as published, attached to and made a part of the affidavit of the publisher or foreman of the newspaper publishing the statement. The proof of publication shall be filed in the office of the department.

Article 5. Payment and Collection

Payment to tax collector

4300. The owner of each right to store or divert water shall pay to the tax collector of the county in which the works for the diversion of water under such right are located the amount apportioned to the owner.

Delinquency: Penalty

4301. Unless payment is made on or before the last Monday in April of the year in which the apportionment was made, the payment shall become delinquent and 10 per cent thereof shall be added thereto as a penalty for delinquency.

Legal charge against general fund of county, etc.

4302. If the owner of the right is a county, municipality, district, political subdivision, public corporation, or State agency, the amount apportioned, together with the penalty in case of delinquency, is a legal charge against the general fund thereof or such fund as may be provided for the maintenance and operation of its public works.

Lien against money of public utility

4303. If the owner of the right is a public utility as defined in the "Public utilities act", the amount apportioned, together with the penalty in case of delinquency, is a lien against any money of the public utility.

Lien in case of water for private use

4304. If the water stored or diverted is for private use, the amount apportioned, together with the penalty in case of delinquency, is a lien upon all the property used in the storage or diversion, conveyance, or distribution of the water stored or diverted under the right and the land on which the water is, or is entitled to be, used, and the lien attaches as of the date of filing the statement in the office of the county tax collector.

Date of lien

Superior to other liens Exceptions

4305. The liens provided for in this article are superior to all other liens against the property in question except liens for taxes and assessments levied by authority of law.

Action to foreclose lien

4306. At any time after 30 days after any payment due under this chapter becomes delinquent the department may institute in the name of the people of the State an action to foreclose the lien provided for in this article or to compel the payment of the charge against any county, municipality, district, political subdivision, public corporation, or State agency.

Prosecution by district attorney

4307. The department may call upon the district attorney of the county in which any such action may properly be brought to commence and prosecute an action and enforce the sale of the property on which any lien exists, or so much thereof as may be necessary to pay the delinquent amount, penalty, and all costs incurred in the action. When called upon to do so the district attorney shall commence and prosecute such action.

Jurisdiction

4308. The action shall be instituted in the county in which the land or property affected is situated, in a court of competent jurisdiction, and the provisions of the Code of Civil Procedure relating to service of summons, pleadings, proofs, trials, and appeals are applicable.

Satisfaction of judgment

4309. Any judgment rendered in the action shall not be satisfied nor the lien removed until the charges are paid or the property sold for the payment thereof.

Article 6. Alternative Method of Payment by Owners

Alternative procedure for collection

4325. The procedure set forth in this article for collecting and making available money for watermaster distribution is in lieu of that set forth in the other provisions of this chapter.

Associations for financing distribution of water

4326. Whenever all the owners of rights to water within any service area, by agreement in writing, shall have organized themselves into an association for the purpose of financing the distribution of the water to which they are entitled and shall have agreed therein as to the apportionment of the expense and the payment thereof and shall have filed with the department a copy of the agreement duly certified and authenticated by the president and secretary of the association, the department shall thereafter submit the statement provided for in this chapter to the association.

Submission of statement

Apportionment to association

4327. The statement shall be submitted on or before the first day of September of the year preceding the year for which it is

made and shall apportion one-half the amount of the budget therein contained to the association and shall not include the estimated cost of the owner's share of the expenses of publication.

Distribution of copy

4328. A certified copy of the statement shall be transmitted by the department to the State Controller on or before said first day of September.

Payment of amount apportioned

4329. The association shall pay the total amount apportioned to it to the State Treasurer on or before the first day of December next succeeding the receipt of the statement.

Disposition of money

4330. The State Treasurer shall deposit the money into the State Watermaster Service Fund to the credit of the amount of the service area affected.

Refusal of service on failure to pay

4331. The department may refuse to render watermaster service to such service area during any calendar year next succeeding the first day of December of any year during which the association fails to pay the total amount apportioned to it on or before the first day of December of such year.

Filing of statement by department

4332. On or before the first day of March of each year the Department of Public Works shall file with the Department of Finance a certified copy of the statement provided for in this article.

Transfer of one-half amount of budget

4333. On receipt of the statement the Department of Finance shall provide for the transfer of one-half the amount of the budget therein contained from the general support funds of the Department of Public Works to the State Watermaster Service Fund to the credit of the service area for which the budget was prepared.

Application of nonconflicting provisions

4334. All of the provisions of this chapter relating to the expenses of service areas which are not in conflict with this article shall apply to expenses of service areas under this article.

When copy of order creating service area need not be filed

4335. If, at the time of creation of a service area, all the owners have formed an association by agreement in writing and have filed a certified copy of the agreement as provided in this article, the department need not file a certified copy of the order creating the service area or a description of the land within the service area in the office of any county recorder.

CHAPTER 8. THE STATE WATERMASTER SERVICE FUND

State Watermaster Service Fund

4350. There is in the State Treasury the State Watermaster Service Fund.

Division of fund

4351. The fund is and shall be divided into separate accounts to the credit of the various service areas now in existence or hereafter created from time to time.

Tax collector's records

4352. Each tax collector in whose office has been filed any statement under this chapter shall keep as a permanent record of his office a receipt book furnished by the department in such form as the department determines.

Receipt for payment

4353. At the time any payments are made to him as provided in this part the tax collector shall execute in quadruplicate a receipt for the amount so paid. The receipt shall refer

to the statement by number or in some other manner sufficient to identify it. The tax collector shall deliver the original receipt to the person paying and shall immediately forward one copy thereof to the State Controller and one copy thereof to the department.

Recordation of discharge of liens

4354. Upon issuance of any receipt under this chapter, the tax collector shall note on the margin of the statement on file in his office for the service area for that year, opposite the name of the person paying, the fact of payment, the amount and date thereof, and a statement that the lien thereof against any lands and property of such person is thereby released and discharged.

Lien released and discharged

4355. From and after such payment any lien provided for in this part against the lands and property of the person paying is released and discharged.

Disposition of funds

4356. Each tax collector to whom any payments are made as provided in this chapter shall at least once each month transmit the amounts so paid to him to the State Treasurer, who shall place the same in the State Watermaster Service Fund and notify the department. The department shall credit the payment on its books to the proper service area.

(Amended by Stats. 1943, Ch. 382.)

[ORIGINAL SECTION]

4356 Each tax collector to whom any payments are made as provided in this chapter shall at least once each month transmit the amounts so paid to him to the State Treasurer, who shall place the same in the State Watermaster Service Fund and credit it to the account of the proper service area.

Payment of claims from portions of fund

4357. All expenditures for the supervision of the distribution of water in any service area shall be paid from that portion or account of the State Watermaster Service Fund credited on the department's books to that service area, upon claims approved by the department and otherwise audited and approved as may be required in the case of other claims against the State; but the State Controller and the State Treasurer shall have no responsibility for verifying the correctness of the claim as to the portion or account of the fund upon which it is drawn, and the State Controller shall keep no separate accounts on his books within the State Watermaster Service Fund.

(Amended by Stats. 1943, Ch. 382.)

[ORIGINAL SECTION]

4357. All expenditures for the supervision of the distribution of water in any service area shall be paid from that portion or account of the State Watermaster Service Fund credited to that service area, upon claims approved by the department and otherwise audited and approved as may be required in the case of other claims against the State.

Use of money remaining in fund

4358. Any money remaining in the State Watermaster Service Fund at the end of any year shall be available for use the following year for the respective service areas to which credited.

Filing of copies of statements by department

4359. On or before the first day of March of each year the Department of Public Works shall file with the Department of Finance a certified copy of each service area statement provided for in this part.

Transfer of one-half the amount of each budget

4360. On receipt of the statement the Department of Finance shall provide for the transfer of one-half the amount of each budget therein contained from the general support funds of the Department of Public Works to the State Watermaster Service Fund to the credit of the respective service areas for which such budgets were prepared.

CHAPTER 9. ALTERNATIVE DISTRIBUTION PROCEDURE

(Chapter 9. Added by Stats. 1943, Ch. 657.)

Election of procedure

4400. The foregoing provisions of this part shall be applicable to this chapter, so far as adaptable thereto or consistent therewith, and whenever rights to water have been ascertained and determined as specified in Section 4027 the department may elect to proceed under this chapter.

(Added by Stats. 1943, Ch. 657.)

Decrees inconsistent with code provisions

4401. Insofar as the foregoing provisions of this part may not be adaptable to or may be inconsistent with the provisions of any decree of court, the department may conform to the requirements of such decree of court and observe the foregoing provisions of this part only insofar as the same may be adaptable to or consistent with such decree of court.

(Added by Stats. 1943, Ch. 657.)

Election to proceed in accordance with decree

4402. In the event an order or decree of court provides for an allocation among and payment of costs of water distribution by the owners of the rights decreed, the department, in lieu of the procedures provided in the foregoing provisions of this part for allocation and payment of costs, may proceed in accordance with such decree and as hereinafter provided.

(Added by Stats. 1943, Ch. 657.)

Recording and filing of order or decree: Constructive notice

4403. A certified copy of the order or decree shall be recorded in the county or counties wherein the water is diverted or used and a certified copy filed in the office of the department and such recordation and filing shall constitute constructive notice of the provisions of the order or decree to the owners of the rights decreed and their successors in interest.

(Added by Stats. 1943, Ch. 657.)

Enforcement of payment

4404. Obligations to pay for the respective allocations of cost set forth in the order or decree may be enforced by the department against the respective owners or their successors by execution or as may be otherwise provided in such order or decree.

(Added by Stats. 1943, Ch. 657.)

Funds for rendering watermaster service under order or decree

4405. One-half of the entire annual cost of the work to be performed by the department in rendering watermaster service and incidental duties required under the order or decree shall be paid out of the general support funds of the department into the State Watermaster Service Fund prior to com-

mencement of said work and the other one-half shall be paid by the owners and deposited into said fund by the department as received from the respective owners.

(Added by Stats. 1943, Ch. 657.)

Expenditure of funds

4406. The total sum thus made available shall be subject to expenditure by the department in performing said work, and any money remaining at the end of any year shall be available for use the following year for the respective watermaster district to which credited.

(Added by Stats. 1943, Ch. 657.)

Money in special deposit fund

4407. Any moneys collected or received by the department for or on account of owners of the rights involved may be placed in a special deposit fund and paid out in accordance with the provisions of the order or decree or as provided for by the agreement between the owners of the rights affected thereby.

(Added by Stats. 1943, Ch. 657.)

DIVISION 3. DAMS

PART 1. SUPERVISION OF DAMS

CHAPTER 1. DEFINITIONS

Definitions govern construction

6000. Unless the context otherwise requires, the definitions in this chapter govern the construction of this part.

"Department"

6001. "Department" means the Department of Public Works acting through the agency of the State Engineer.

"Dam"

6002. "Dam" means any artificial barrier, together with appurtenant works, if any, across a stream channel, watercourse, or natural drainage area, which does or may impound or divert water, and which either (a) is or will be 25 feet or more in height from natural stream bed to crest of spillway, or (b) has or will have an impounding capacity of 50 acre-feet or more.

When barrier not a dam

6003. Any such barrier which is or will be not in excess of six feet in height, regardless of storage capacity, or which has or will have a storage capacity not in excess of 15 acre-feet, regardless of height, shall not be considered a dam.

When obstruction in canal, etc., not a dam

6004. No obstruction in a canal used to raise or lower water therein or divert water therefrom, no levee, no railroad fill or structure, and no road or highway fill or structure, shall be considered a dam.

(Amended by Stats. 1943, Ch. 698.)

[ORIGINAL SECTION]

6004. No obstruction in a canal used to raise or lower water therein or divert water therefrom shall be considered a dam.

"Owner"

6005. "Owner" includes any of the following who own, control, operate, maintain, manage, or propose to construct a dam:

(a) The State and its departments, institutions, agencies, and political subdivisions.

(b) Every municipal or quasi municipal corporation.

(c) Every public utility.

(d) Every district.

(e) Every person.

(f) The duly authorized agents, lessees, or trustees of any of the foregoing.

(g) Receivers or trustees appointed by any court for any of the foregoing.

"Owner" does not include the United States.

"Alterations" "Repairs"

6006. "Alterations," "repairs," or either of them, mean only such alterations or repairs as may affect the safety of the dam.

"Enlargement"

6007. "Enlargement" means any change in or addition to an existing dam, which raises or may raise the water storage elevation of the water impounded by the dam.

Water storage elevation

6008. Water storage elevation means that elevation of water surface which could be obtained by the existing dam, as previously operated, were there no outflow and were the reservoir full of water.

CHAPTER 2. GENERAL PROVISIONS

Exclusive regulation by State

6025. It is the intent of the Legislature by this part to provide for the regulation and supervision of dams and reservoirs exclusively by the State.

Prohibition on authority of cities and counties

6026. No city or county has authority, by ordinance enacted by the legislative body thereof or adopted by the people under the initiative power, or otherwise, to regulate, supervise, or provide for the regulation or supervision of any dams or reservoirs in this State, or the construction, maintenance, or operation thereof, nor to limit the size of any dam or reservoir or the amount of water which may be stored therein.

Conformity with Federal requirements

6027. Whenever supervision of safety of design or construction of a proposed or existing dam is exercised by the United States or any of its agencies pursuant to a jurisdiction superior to that of the State, and the requirements made under authority of such jurisdiction are so contradictory with requirements made by the department under this part that a compliance can not be made which will meet both Federal and State requirements, then the State requirements shall be modified by the department sufficiently to make possible compliance with both Federal and State requirements.

Grounds for nonliability of State for damages

6028. No action shall be brought against the State or the department or its agents or employees for the recovery of damages caused by the partial or total failure of any dam or through the operation of any dam upon the ground that such defendant is liable by virtue of any of the following:

(a) The approval of the dam.

(b) The issuance or enforcement of orders relative to maintenance or operation of the dam.

(c) Control and regulation of the dam.

(d) Measures taken to protect against failure during an emergency.

Legal duties, etc., incident to ownership

6029. Nothing in this part shall be construed to relieve an owner or operator of a dam of the legal duties, obligations, or liabilities incident to the ownership or operation of the dam.

Findings, orders, etc., binding upon State agencies

6030. The findings and orders of the department and the certificate of approval of any dam issued by the department are final and conclusive and binding upon all State agencies, regulatory or otherwise, as to the safety of design, construction, maintenance, and operation of any dam.

Recourse to courts

6031. Nothing in this part shall be construed to deprive any owner of such recourse to the courts as he may be entitled to under the laws of this State.

Public documents

6032. The records pertaining to the supervision of dams are public documents.

Chapter 3. Administrative Provisions

Duties, powers, etc., in department Administration

6050. The duties, powers and jurisdiction conferred by this part are vested in the Department of Public Works and shall be administered and exercised through the State Engineer.

State Engineer

6051. The State Engineer shall be responsible to the Director of Public Works for the proper administration of this part.

Employees

6052. The department shall employ such clerical, engineering, and other assistants as are necessary for carrying on the work of dam supervision in accordance with this part.

Consultants

6053. The department may employ consultants.

Consulting board

6054. When the safety and technical considerations pertaining to a dam or plans and specifications require it, or when requested in writing to do so by the owner, the department shall appoint a consulting board of two or more consultants to report to the department on the safety features involved.

Cost of consulting board

6055. The cost and expense of a consulting board if appointed on the request of an owner shall be paid by the owner.

Chapter 4. Powers of the Department

Article 1. Powers in General

Duties of department

6075. The department, under the police power of the State, shall supervise the construction, enlargement, alteration, repair, maintenance, operation, and removal of dams for the protection of life and property as provided in this part.

Jurisdiction over dams

6076. All dams in the State are under the jurisdiction of the department.

Approval of department required

6077. It is unlawful to construct, enlarge, repair, alter, remove, maintain, or operate any dam except upon approval of the department as provided in this part.

Rules and regulations

6078. The department shall adopt and revise from time to time such rules and regulations and issue such general orders as may be necessary for carrying out, but not inconsistent with, the provisions of this part.

Cooperation with United States

6079. In carrying out the provisions of this part the department may cooperate with the United States or any of its agencies.

Necessary entry upon private property

6080. In making any investigations or inspections required or authorized by this part the department or its representatives may enter upon private property as may be necessary.

Article 2. Maintenance and Operation

Safety supervision in department

6100. Supervision over the maintenance and operation of dams in so far as necessary to safeguard life and property from injury by reason of the failure thereof is vested in the department.

Owners to keep records

6101. The department may require owners to keep records of, and to report on, maintenance and operation and may issue such rules and regulations and orders as necessary to secure maintenance and operation which will safeguard life and property.

Inspection by department Work by owners

6102. The department, from time to time, shall make inspections of dams at State expense for the purpose of determining their safety but shall require owners to perform at their expense such work as necessary to disclose information sufficient to enable the department to determine conditions of dams in regard to their safety and to perform at their expense other work necessary to secure maintenance and operation which will safeguard life and property.

Article 3. Emergency Work

Conditions justifying emergency work

6110. The department may immediately employ any remedial means necessary to protect life and property if either:

(a) The condition of any dam is so dangerous to the safety of life or property as not to permit of time for the issuance and enforcement of an order relative to maintenance or operation.

(b) Passing or imminent floods threaten the safety of any dam.

Emergency acts permitted

6111. In applying the remedial means provided for in this article, the department may in emergency do any of the following:

(a) Lower the water level by releasing water from the reservoir.

(b) Completely empty the reservoir.

(c) Take such other steps as may be essential to safeguard life and property.

Duration of control

6112. The department shall continue in full charge and control of such dam and reservoir and its appurtenances until they are rendered safe or the emergency occasioning the action has ceased.

Court action to recover cost and expenses

6113. The cost and expenses of the remedial means provided in this article, including cost of any work done to render a dam or its appurtenances safe, shall be recoverable

by the State from the owner by action brought by the department in the superior court of the county wherein the dam or any part thereof is situated.

Article 4. Investigations and Studies

Investigations and studies

6120. For the purpose of enabling it to make decisions as compatible with economy and public safety as possible the department shall make or cause to be made such investigations and shall gather or cause to be gathered such data as may be needed for a proper review and study of the various features of the design and construction of dams, reservoirs, and appurtenances.

Watershed investigations and studies

6121. The department shall also make or cause to be made such watershed investigations and studies as may facilitate its decisions.

Article 5. Action and Procedure to Restrain Violations

Mandamus or injunction

6150. The department may commence an action or proceeding under this article, either by mandamus or injunction, for the purpose of stopping or preventing violations or threatened violations.

Conditions for commencing action

6151. An action or proceeding under this article may be commenced whenever any owner or any person acting as a director, officer, agent, or employee of any owner, or any contractor or agent or employee of such contractor is:

(a) Failing or omitting or about to fail or omit to do anything required of him by this part or by any approval, order, rule, regulation, or requirement of the department under the authority of this part; or

(b) Doing or permitting anything or about to do or permit anything to be done in violation of or contrary to this part or any approval, order, rule, regulation, or requirement of the department under this part.

Venue

6152. Any action or proceeding under this article shall be commenced in the superior court in and for the county in which (a) the cause or some part thereof arose, (b) the owner or person complained of has its principal place of business, or (c) the person complained of resides.

Petition

6153. Any action or proceeding under this article shall be brought by petition in the superior court, alleging the violation or threatened violation complained of, and praying for appropriate relief by way of mandamus or injunction.

Answer

6154. The court shall specify a time, not exceeding 20 days after the service of the copy of the petition, within which the owner or person complained of shall answer the petition, and in the meantime the owner or person may be restrained.

Temporary injunction

6155. In case of default in answer or after answer the court shall immediately inquire into the facts and circumstances of the case.

Necessary parties

6156. The court may join such parties as it deems necessary or proper in order to make its judgment, order, or writ effective.

Contents of final judgment

6157. The final judgment in such action or proceeding shall either dismiss the action or proceeding or direct that the writ of mandamus or injunction issue or be made permanent as prayed for in the petition, or in such modified or other form as will afford appropriate relief.

CHAPTER 5. APPLICATIONS

Article 1. New Dams or Enlargements of Dams

Written approval of plans and specifications

6200. Construction of any new dam or the enlargement of any dam shall not be commenced until the owner has applied for and obtained from the department written approval of plans and specifications.

Separate applications

6201. A separate application for each dam shall be filed with the department upon forms to be provided by it.

Information required

6202. The application shall give the following information:

(a) The name and address of the owner.

(b) The location, type, size, and height of the proposed dam and appurtenant works.

(c) The storage capacity of the reservoir.

(d) Such other pertinent information as the department requires.

(e) As accurately as may be readily obtained, the area of the drainage basin, rainfall and stream flow records and flood flow records and estimates.

Additional requirements

6203. The department may also require the following:

(a) Data concerning subsoil and foundation conditions.

(b) That the site be drilled or otherwise prospected.

(c) Such other appropriate information as may be necessary in a given instance.

Waiver of requirements

6204. In instances wherein the physical conditions involved and the size of the dam are such as to render the above requirements as to drainage areas, rainfall, stream flow, flood flow, and drilling or prospecting of site unnecessary, the department may waive the requirements.

Purpose of dam

6205. The application shall set forth the purpose for which the impounded or diverted water is to be used.

Maps and plans and specifications

6206. The application shall be accompanied by maps and plans and specifications of such character and size and setting forth such pertinent details and dimensions as the department requires.

The maps and plans and specifications shall be a part of the application.

Article 2 Repairs, Alterations or Removals

Written approval of department

6225. Before commencing the repair, alteration, or removal of a dam, the owner shall secure the written approval of the department, except as provided in this article.

Pertinent information

6226. The application shall give such pertinent information or data concerning the dam and reservoir as may be required by the department and such information as to other

matters appropriate to a thorough consideration of the safety of such a change as may be required by the department.

Proposed time for construction

6227. The application shall state the proposed time of commencement and of completion of construction.

Data in application

6228. The application shall give the name and address of applicant, shall adequately detail, with appropriate references to the existing dam, the changes which it is proposed to effect, and shall be accompanied by maps and plans and specifications which shall be a part of the application and which shall be of such character and size and set forth such pertinent details and dimensions as the department may require. The department may waive any of the requirements of this section if found by it unnecessary.

Waiver

Emergency repairs

6229. In case of an emergency where repairs are necessary to safeguard life and property repairs may be started immediately, but the department shall be notified at once of proposed repairs and of work under way.

Conformity with orders

6230. The proposed repairs and work shall be made to conform to such orders as the department issues.

Article 3. Dams Constructed Prior to August 14, 1929

Application for approval

6250. Unless application for approval of the dam has heretofore been made, every owner of a dam completed prior to August 14, 1929 shall, immediately after the effective date of this part, file an application for the approval of such dam.

Separate applications

6251. A separate application shall be made for each dam and shall be filed with the department upon forms to be supplied by it and shall supply such appropriate information concerning the dam as the department requires.

Notice upon failure to file application

6252. The department shall give notice to file to owners who have failed to do so as required by this article, and a failure to file within 30 days after such notice shall be punishable as provided in this part.

Prima facie evidence of service

6253. The notice provided for in this article may be given by registered mail and a return receipt signed by the owner shall constitute prima facie evidence of service.

Article 4. Approval of Applications

Approval within prescribed time

6260. Upon receipt of any application other than an application provided for in Article 3 of this chapter the department shall give its consideration thereto and shall approve or disapprove the same within the time provided in this article.

Notice of defect

6261. A defective application made in a bona fide attempt to conform to the law and rules and regulations of the department shall not be rejected but notice of defect shall be sent to the applicant by ordinary and registered mail.

Amended application

6262. If within 30 days of the date of mailing the notice the applicant does not file an amended and perfected application, the application shall be rejected and canceled unless for good cause shown the department allows the applicant further time.

Minimum time for approval

6263. No application shall be approved in less than 10 days from its receipt but all applications shall be approved or disapproved as soon as practicable after the receipt of all data and information found necessary by the department.

Terms, etc., of approvals

6264. Approvals may be granted under terms, conditions, and limitations necessary to safeguard life and property.

Commencement of construction

6265. Actual construction shall be commenced within one year after date of approval, otherwise the approval becomes void.

Extension of time

6266. The department may, upon written application and for good cause shown, extend the time for commencing construction.

Notice before commencement

6267. Notice shall be given to the department at least 10 days before construction is to be commenced and such other notices shall be given to the department as it may require.

CHAPTER 6. FEES

Basis for fee

6300. The application for a new dam or enlargement shall set forth the estimated cost, as defined in this article, of the dam or enlargement and shall be accompanied by a filing fee based upon the estimated cost and according to the following schedule:

(a) For the first one hundred thousand dollars ($100,000) a fee of 1½ per cent of the estimated cost.

(b) For the next four hundred thousand dollars ($400,000) a fee of three-fourths of 1 per cent.

(c) For the next five hundred thousand dollars ($500,000) a fee of one-half of 1 per cent.

(d) For all costs in excess of one million dollars ($1,000,000) a fee of one-fifth of 1 per cent.

Minimum fee

In no case, however, shall the minimum fee be less than twenty dollars ($20).

One fee

6301. One fee only shall be collected for an enlargement to be effected by flashboards, sandbags, earthen levees, gates, or other works, devices, or obstructions which are, from time to time, to be removed and replaced or opened and shut and thereby operated so as to vary the surface elevation of the impounded water.

Items included in estimated cost

6302. For the purposes of this part, the estimated cost of the dam or enlargement involved shall include the following:

(a) The cost of all labor and materials entering into the construction of the dam and appurtenant works.

(b) The cost of preliminary investigations and surveys.

(c) The cost of the construction plant properly chargeable to the cost of the dam.

(d) Any and all other items entering directly into the cost of the dam.

Items not included

6303. The costs of right of way, detached powerhouses, electrical generating machinery, and roads and railroads affording access to the dam shall not be included among the items used in the determination of cost.

Condition precedent

6304. An application shall not be considered by the department until the filing fee is received.

Further fee

6305. In the event that the actual cost exceeds the estimated cost by more than 10 per cent, a further fee shall be required by the department before final approval and shall be 110 per cent of the amount by which the original fee is less than it would have been had the cost it was based upon been the same as the actual cost.

Fees for dams partially constructed on August 14, 1929

6306. Applications for dams found by the department to have been less than 90 per cent constructed on August 14, 1929, shall be accompanied by fees as much less than provided for dams commenced after that date as the percentage of construction found by the department to have been completed on that date.

Disposition of fees

6307. All filing fees collected under the provisions of this part shall be paid once each month into the State Treasury.

Fees required of owner

6308. The fees provided for in this article shall be required of all enumerated in the definition of owner in Chapter 1 of this part.

Chapter 7. Inspection and Approval

Article 1. New or Enlarged Dams

Notice of completion

Supplementary drawings or descriptions

6350. Immediately upon completion of a new dam or enlargement of a dam the owner shall give a notice of completion to the department and as soon thereafter as possible shall file with the department supplementary drawings or descriptive matter showing or describing the dam as actually constructed, including the following:

(a) A record of all grout holes and grouting.

(b) A record of permanent location points and bench marks.

(c) A record of tests of concrete or other material used in the construction of the dam.

(d) Any other items which may be of permanent value and have a bearing on the safety and permanency of the dam.

Enlargement of dam

6351. In connection with the enlargement of a dam, the supplementary drawings and descriptive matter need apply only to the new work.

Affidavit of actual cost

6352. As soon as possible after giving notice of completion, the owner shall file an affidavit with the department stating the actual cost of the dam in such detail as the department requires to determine whether a further fee is due.

Conditions precedent to approval

6353. No certificate of approval shall be issued by the department until the data required by this article and such other pertinent data as may be required by the department are filed.

Inspection

6354. As soon as practicable the completed dam shall be inspected by the department.

Certificate of approval

6355. A certificate of approval shall be issued upon a finding that the work has been done in accordance with the approved plans and specifications or in accordance with the

approved revised plans and specifications and that the dam is safe for use to the full extent contemplated in the approved plans and specifications or in the approved revised plans and specifications.

Use prior to approval

6356. Pending issuance of a certificate of approval by the department the dam shall not be used except upon written consent from the department and subject to such conditions as may be imposed by it for the protection of life and property.

Article 2. Repaired or Altered Dams

Notice of completion
Supplementary data

6360. Immediately upon completion of the repair or alteration of any dam, the owner shall give notice of completion to the department and as soon thereafter as possible shall file with it supplementary drawings or descriptive matter showing or describing the dam as actually repaired or altered together with such maps, data, records, and information pertaining to the dam as repaired or altered as the department requires.

Conditions precedent to approval

6361. No certificate of approval for a dam as repaired or altered shall be issued by the department until the data required by this article and such other pertinent data as may be required by the department are filed.

Inspection

6362. As soon as practicable the dam as repaired or altered shall be inspected by the department.

Certificate of approval

6363. A certificate of approval shall be issued upon a finding that the work has been done in accordance with the approved plans and specifications or in accordance with the approved revised plans and specifications and that the dam is safe for use to the full extent contemplated in the approved plans and specifications or in the approved revised plans and specifications.

Effect of certificate

6364. The certificate of approval shall either supersede any previous certificate of approval issued for the dam so repaired or altered or be supplemental thereto as declared by the department.

Use prior to approval

6365. No repaired or altered dam shall be used prior to the issuance of a new certificate of approval or a supplemental certificate of approval except upon written consent from the department and subject to such conditions as may be imposed by it for the protection of life and property.

Article 3. Removal of Dams

Data required upon completion

6370. Upon completion of the removal of a dam such evidence as to the manner in which the work was performed and as to the conditions obtaining after the removal as the department requires shall be filed with the department.

Evidence regarding flood water

6371. This evidence shall show that a sufficient portion of the dam has been removed to permit the safe passage of floods down the watercourse across which the dam was located.

Inspection

6372. Before final approval of the removal of a dam is issued, the department shall inspect the work and determine that all danger to life and property has been eliminated.

Article 4. Dams Completed Prior to August 14, 1929

Inspection

6380. The department shall make inspections at State expense of all dams in the State completed prior to August 14, 1929.

Work by owners

6381. The department shall require owners to perform at their expense such work or tests as necessary to disclose information sufficient to enable the department to determine whether to issue certificates of approval or to issue orders directing further work at the owner's expense necessary to safeguard life and property.

Certificate of approval

6382. If, upon inspection or upon completion to the satisfaction of the department of all work that may be ordered, the department finds that the dam is safe to the full extent for which use is or will be made, a certificate of approval shall be issued.

Article 5. Complaints as to Unsafe Conditions

Written complaint - Inspection if data inadequate

6390. Upon receipt of a written complaint alleging that the person or property of the complainant is endangered by the construction, maintenance, or operation of any dam the department shall cause an inspection to be made unless the data, records, and inspection reports on file with it are found adequate to enable a determination whether or not the complaint is meritorious.

Inspection when data sufficient

6391. If the complainant insists upon an inspection and deposits with the department a sum estimated by it to be sufficient to cover costs of an inspection, the department shall cause an inspection to be made despite its finding as to the sufficiency of its records to determine the alleged danger.

Action to remedy condition - Deposit returned

6392. If it is found that an unsafe condition exists, the department shall take such action as is necessary to render or cause the condition to be rendered safe and any money deposited to secure an inspection shall be returned.

Disposition of moneys when complaint unmerited

6393. If, after an inspection is made on account of a complaint, the complaint is found by the department to have been without merit, any money deposited therefor shall be payable into the State Treasury.

Article 6. Inspection During Progress of Work

Inspections

6400. During the construction, enlargement, repair, alteration, or removal of any dam the department shall make continuous or periodical inspections at State expense for the purpose of securing conformity with the approved plans and specifications but shall require the owner to perform at his expense such work or tests as necessary to disclose information sufficient to enable the department to determine that conformity with the approved plans and specifications is being secured.

Owners' responsibilities

Revision of plans and specifications

6401. If, after any inspections, investigations, or examinations, or at any time as the work progresses, or at any time prior to issuance of a certificate of approval it is found by the department that amendments, modifications, or changes are

necessary to insure safety, the department may order the owner to revise the plans and specifications.

Revocation of approval

6402. If conditions are revealed which will not permit the construction of a safe dam the approval may be revoked.

Waiver of imposed conditions

6403. In the event that conditions imposed may be waived or made less burdensome without sacrificing a proper margin of safety, the department may authorize an owner to revise the plans and specifications accordingly.

Service of notice and order upon noncompliance

6404. If at any time during construction, enlargement, repair, or alteration of any dam the department finds that the work is not being done in accordance with the provisions of the approval and the approved plans and specifications or in accordance with the approval and revised plans and specifications, it shall give a written notice and order by registered mail or by personal service to the owner.

Contents of notice and order

6405. The notice and order shall state the particulars in which the approval and approved plans and specifications or the approval and approved plans and specifications as revised are not being or have not been complied with and shall order the immediate compliance with the approval and approved plans and specifications or with the approval and approved revised plans and specifications as the case may be.

Work stoppage

6406. The department may order that no further work be done until such compliance has been effected and approved by the department.

Revocation of approval

6407. A failure to comply with the approval and approved plans and specifications as originally approved or as revised shall render the approval subject to revocation by the department, if compliance is not made in accordance therewith after notice and order from the department as provided in this article.

Chapter 8. Offenses and Punishment

Penalties

6425. Every person who violates any of the provisions of this part or of any approval, order, rule, regulation, or requirement of the department is guilty of a misdemeanor and punishable by a fine of not more than two thousand dollars ($2,000) or by imprisonment in the county jail not exceeding six months, or both. In the event of a continuing violation each day that the violation continues constitutes a separate and distinct offense.

Separate offense

Interference

6426. Any person who wilfully obstructs, hinders, or prevents the department or its agents or employees from performing the duties imposed by this part or who wilfully resists the exercise of the control and supervision conferred by this part upon the department or its agents or employees is guilty of a misdemeanor and punishable as provided in this article.

Penalties

Work without approval, etc

6427. Any owner or any person acting as a director, officer, agent, or employee of an owner, or any contractor or agent or employee of a contractor who engages in the construction, enlargement, repair, alteration, maintenance, or removal

of any dam, who knowingly does work or permits work to be executed on the dam without an approval or in violation of or contrary to any approval as provided for in this part, or any inspector, agent, or employee of the department who has knowledge of such work being done and who fails to immediately notify the department thereof is guilty of a misdemeanor and punishable as provided in this article. Penalties

CHAPTER 9. DAMS UNDER CONSTRUCTION PRIOR TO AUGUST 14, 1929

6450. Any dam which the department finds was not 90 per cent constructed on August 14, 1929 shall be subject to the same provisions as a dam commenced after that date. Provisions applicable

6451. Construction work on such a dam may proceed, if an application for approval thereof is filed, until an order from the department is received approving the dam or specifying how its construction must be made or altered to render it safe. After receipt of an order directing the construction of such a dam, work thereafter must be in accordance with the order. Compliance with order

6452. Dams found to be 90 per cent or more constructed on August 14, 1929 shall be subject to the same supervision as dams which were completed prior to that date. Supervision

PART 2. FISHWAYS OVER DAMS

6500. Whenever an application for approval of plans and specifications for a new dam, or for the enlargement of any dam, in any stream in this State, is filed pursuant to Part 1 of this division, a copy of the application shall be filed with the Fish and Game Commission as required by the Fish and Game Code. Filing of application with Fish and Game Commission

6501. The provisions for the installation of fishways over or around dams and for the protection and preservation of fish in streams obstructed by dams are contained in Article 2, Chapter 1, Part 2, Division 4 of the Fish and Game Code. Provisions governing fishways

DIVISION 4. WELLS, PUMPING PLANTS, CONDUITS AND STREAMS

CHAPTER 1. JOINT USE OF WELLS, PUMPING PLANTS AND CONDUITS

Article 1. Definitions

7000. As used in this chapter "conduit" includes ditch, pipe line, and flume. "Conduit"

Article 2. Contribution of Expenses of Jointly Used Wells, Pumping Plants or Conduits

7001. When two or more persons are associated by agreement in the use of a conduit, well, or pumping plant, for the conveyance or obtaining of water, or are using such conduit, Joint use

well, or pumping plant, or any part thereof, for any lawful purpose, to the construction of which they or their grantors have contributed, each is liable, in the absence of any agreement to the contrary, to the others for the reasonable expenses of maintaining and repairing the same proportionately to the use actually made of the water.

Liability for maintenance

Action for contribution

7002. If any person neglects, after demand in writing, to pay his proportion of the expenses under the next preceding section, he is liable therefor in an action for contribution, and in any judgment obtained against him interest from the time of demand shall be included.

Plaintiffs

7003. The action authorized by this article may be brought by any or all of the parties who have contributed more than his or their just proportion of the expenses, and the plaintiff may recover, as costs, reasonable counsel fees to be fixed by the court.

Counsel fees

Article 3. Proceeding for Declaration of Rights in Jointly Used Wells, Pumping Plants or Conduits

Declaratory relief

7005. When two or more persons are using any conduit, well, or pumping plant for the conveyance of water or any part thereof for the irrigation of land or for any other lawful purpose, to the construction of which they or their grantors have contributed, and which is not under the control or management of any public agency or authority, any one or more of them may bring an action in the superior court of the county in which the conduit, well, or pumping plant, or some part thereof, is situated, for a declaration of the respective rights of the users of water in the conduit, well, or pumping plant, including a determination of the manner in which the conduit, well, or pumping plant shall be administered with respect to repair, upkeep, improvement, and otherwise.

Repair, upkeep, etc

Parties

7006. The complaint shall contain the names, if known, of all users, and if there are users whose names are unknown, a statement that they are unknown.

Defendants

7007. The users other than those bringing the action shall be styled defendants.

Summons

7008. The summons shall contain the names of the parties, and an order to the defendants to appear and show cause why the determination of rights as prayed for in the complaint should not be granted. In all other particulars the summons shall be in the form of, and served in the same manner as, a summons in a civil action.

Determination regarding repair, upkeep, etc

7009. The court shall determine the manner in which all improvements, repairs, maintenance and other matters relating to the conduit, well, or pumping plant shall be authorized, and thereafter no user of such conduit, well, or pumping plant may make claim for any funds expended for improvements, repairs, maintenance and otherwise except as determined by the court in said action. No authorization for such claim shall be valid except as made under the authority set forth by the decree or judgment of the court.

Contribution for repair, upkeep, etc

7010. The decree shall include a determination of the proportionate amount which all users shall contribute to the maintenance, repair, improvement and other expenses relating to the conduit, well, or pumping plant.

Chapter 2. Private Ways for Canals

"Canal"

7020. As used in this chapter "canal" means an irrigation, drainage, or seepage canal.

Private ways One petitioner

7021. Private ways for a canal may be opened, laid out, or altered for the convenience of one or more residents or freeholders of any road district in the same manner as public roads are opened, laid out, or altered, except that only one petitioner is necessary.

Residence requirement

7022. The petitioner shall be either a resident or freeholder in the road district.

Petitioner's bond Conditions

7023. The petitioner shall accompany the petition with a good and sufficient bond, approved by the board of supervisors, in double the amount of the probable cost of viewing, surveying, and laying out the proposed alteration or construction. The bond shall be conditioned that the bondsmen will pay all the costs of viewing and surveying in case the petition is not granted and shall be further conditioned that the bondsmen will pay to the person over whose land the private way is sought to be opened, his necessary costs and disbursements in contesting the opening of the private way, in case the petition is not granted, and the private way finally not opened.

Order by board of supervisors

7024. The board of supervisors may order the private way to be viewed, opened, laid out, or altered.

Damages to landowners

7025. The person for whose benefit the private way is required shall pay the damages awarded to landowners, and shall keep the canal in repair.

Course of private way

7026. Any private way for a canal established under this chapter shall follow as nearly as possible the line of natural watercourses, but where this is not practicable, it shall follow as nearly as practicable section or half section lines.

Chapter 3. Conduits on or Near Highways

Obstruction of public highway

7030. No canal, flume, or other appliance for conducting water shall be so laid, constructed, or maintained as to obstruct any public highway.

Bridges

7031. Every person who owns, maintains, operates or uses any canal, flume, or appliance for conducting water, crossing or running along any public highway, shall construct, maintain, and keep in repair such bridges as are necessary to the safe and convenient use of the highway by the public.

Construction or repair by board of supervisors

7032. On failure of any person to maintain any bridge required by the next preceding section, the board of supervisors of the county, after seven days' notice in writing to the person, may construct or repair the bridge, and recover from the person the amount of expenditure made in so doing.

Maintenance and repair by county

7033. Bridges heretofore or hereafter constructed in a permanent manner and approved by the county engineer, or the county board of supervisors, if constructed by irrigation districts, other quasi municipal corporations, public corporations, or private persons over irrigation ditches or drainage ditches, shall, after such construction and acceptance, be maintained and kept in repair by the county in which the bridges are situated and the cost of such maintenance and repair shall be borne by the county.

CHAPTER 4. MAINTENANCE OF FLOW IN STREAMS

Maintenance

7040. The flow of water in any natural stream to the intake of any canal diverting water from the stream for any public use, or the use of any farming neighborhood may be maintained by the person in charge of the use.

Methods of maintenance

7041. The flow may be maintained by restoring or repairing any break in the bank of the stream, by maintaining the banks of the stream, and by preventing by physical structure and other appropriate means any increased flow of water through any natural by-ways of water which carry or threaten to carry an increased flow of water of the stream away from the canal intake.

Priority construction work

7042. No act authorized in this chapter when performed, shall prevent, retard or obstruct the building and maintenance thereafter of any reclamation, protection, or flood control levee.

Other priorities

7043. No act authorized in this chapter shall prevent the use or enlargement of any natural channel for municipal purposes or for use in connection with any artificial system of drainage, irrigation, or flood control which does not cause the flow of water in the channel at the intake of the canal to be less than the quantity of water the owners and appropriators have the right to divert into the intake.

Same

7044. No act authorized in this chapter shall prevent the use or enlargement of any natural channel to convey water appropriated under the laws of this State, where the channel is designated as the means, or part of the means, of conveying the water so appropriated.

Powers of Department of Public Works

7045. No acts authorized by this chapter shall limit the powers of the Department of Public Works to accomplish in its own way the purposes of this chapter nor interfere with the construction of any flood control works in accordance with any plan of flood control adopted by the Reclamation Board.

CHAPTER 5. CUTS IN BANKS OF STREAMS

Responsibility for damages

7050. Every person owning or occupying lands upon the bank of any stream where the lands lying back of the stream are lower than the bank, is responsible for all damages sustained by the owners or occupants of lower lands by reason of any cut or embrasure made in the bank of the stream by the owner or occupant of the bank.

7051. If the cuts were made for the purpose of irrigation, and headgates and culverts were installed which competent persons consider sufficient to restrain the water, and if great diligence was used to prevent damage, these facts may be pleaded and proved in mitigation of damages. Mitigation of damages

CHAPTER 6. USE OF STREAMS AS CONDUITS

7075. Water which has been appropriated may be turned into the channel of another stream, mingled with its water, and then reclaimed; but in reclaiming it the water already appropriated by another shall not be diminished. Water may be turned into natural channels

DIVISION 5. FLOOD CONTROL

(Division 5 added by Stats. 1943, Ch. 369, as part of codification.)

PART 1. LOCAL FLOOD CONTROL

CHAPTER 1. FLOOD CONTROL BY CITIES

Article 1. General Provisions

8000. The provisions of this chapter are intended to be paramount and controlling as to all matters provided for in, and as to all questions arising out of procedure under, this chapter. Provisions of chapter control

8001. As used in this chapter, "works" includes canals, ditches, levees, dikes, embankments, dams, machinery, and other appropriate or ancillary means of accomplishing the purposes mentioned in this chapter. "Works"

8002. As used in this chapter, "city" means any city, town, or municipal corporation incorporated under the laws of this State. "City"

8003. As used in this chapter, "city council" includes the legislative body of any city by whatever name it may be designated. "City council"

8004. Every publication required by this chapter shall be made in some newspaper published in the city. Publication

8005. Except as otherwise specifically provided, if publication is in a daily paper the publication shall appear in at least 10 issues thereof, and if in a weekly paper in at least two issues thereof. Period of publication

8006. No publication shall be deemed to have begun until any required preceding publication has been completed. Publication Beginning

Article 2. Preliminary Proceedings

8010. Any city may, pursuant to this chapter, incur indebtedness and liability, although in excess of the income and revenue provided by it for the current fiscal year, but not so that the aggregate funded indebtedness of the city exceeds 6 per cent of the assessed value of all the real and personal property Incurment of debt

in the city, for any or all, or any part of, the following
Purposes purposes:

(a) To protect the city from overflow by water.

(b) To drain the city.

(c) To secure an outlet for overflow water and drainage.

Works 8011. The works may be situated within or without the territorial limits of the city.

General plans and estimates 8012. The city council shall have some competent person make general plans and estimates of the cost of the contemplated works.

Filed with city clerk 8013. The general plans and estimates shall, after adoption, be filed in the office of the clerk of the city, and shall be substantially adhered to thereafter in proceedings under this chapter.

Determination as to construction, etc 8014. After the filing of the general plans and estimates, and by resolution or ordinance of intention passed at a regular meeting by a vote of two-thirds of all its members and approved by the executive of the city, the city council shall determine, if so advised, that the public good demands the construction, acquisition, and completion, or either, of the works.

Determination as to cost 8015. The city council, by the same resolution or ordinance, shall determine, if so advised, that the cost of the works will be too great to be paid out of the ordinary income or revenue of the city.

Publication of resolution 8016. The resolution or ordinance of intention, shall, after its passage and approval, be published.

Article 3. Election

Special election 8020. Within one month after the publication of the resolution or ordinance of intention, and by resolution or ordinance passed at a regular meeting by a vote of two-thirds of all its members, and approved by the executive of the city, the city council shall call a special election, and submit to the qualified
Purpose voters of the city the proposition to incur a debt for any or all of the purposes mentioned in this chapter which have been determined to be demanded for the public good.

Specifications in resolution 8021. The resolution or ordinance calling the special election shall specify the following:

(a) The purpose for which the indebtedness is proposed to be incurred.

(b) The estimated cost of the things proposed.

(c) That bonds of the city will issue in the amount of the estimated cost.

(d) The number and character of the bonds.

(e) The rate of interest to be paid.

(f) The amount of the tax levy for each year during the outstanding of the bonds to be made for their payment.

Publication 8022. The resolution or ordinance calling the election shall be published.

Notice of election 8023. The city council shall publish, after the publication of the resolution or ordinance calling the election and prior

to the day of holding the special election, a notice of the election, which shall set forth substantially all the matters contained in the resolution or ordinance calling the election.

Conduct of special election

8024. The special election shall be held in the manner provided by law for holding elections in the city.

Votes necessary

8025. The votes of two-thirds of all the voters voting at the special election are necessary to authorize the incurring of any indebtedness or the issuance of any bonds under this chapter.

Issuance of bonds

8026. If two-thirds of all the votes cast at the special election are in favor of the proposition submitted, the city council may, by ordinance reciting the result of the election, provide for the issuance of the proposed bonds and any matter incidental thereto.

Article 4. Bonds

Serial bonds

8030. All bonds issued under this chapter shall be serial bonds and of such denominations as the city council determines

Minimum and maximum amounts

8031. No bond shall be for less than one hundred dollars ($100) nor for more than one thousand dollars ($1,000).

Amount payable annually

8032. Not less than one-fortieth part of the whole indebtedness evidenced by the whole of the issue of bonds shall be, by the terms of the bonds, made payable each and every year.

Terms

8033. Each bond shall be made payable in lawful money of the United States on a day and at a place designated in the bond, with interest at the rate specified in the bond.

Interest rate

8034. The interest rate shall not exceed 7 per cent per annum, and shall be fixed by the city council.

Place of payment

8035 The place of payment shall be either at the office of the treasurer of the city, or at some designated bank in San Francisco, Chicago, or New York.

Execution

8036. The bonds shall be executed on the part of the city by the mayor or other executive, and the treasurer, and countersigned by the clerk of the city.

Interest coupons

8037. The interest coupons shall be numbered consecutively and signed by the treasurer.

Issuance and sale

8038 Any of the bonds may be issued and sold by the city council at not less than its face value.

Disposition of proceeds

8039. The proceeds of the sale of the bonds shall be deposited in the city treasury to the credit of a designated fund and shall be applied exclusively to the purposes and objects for which the electors have voted to incur indebtedness or liability until the purposes and objects are accomplished, after which the surplus, if any, may be transferred to the general fund of the city.

Article 5. Powers of City Council

Powers

8050. The city council of every city in or for which any works are constructed for the purposes specified in this chapter, and for which indebtedness has been incurred under the provisions of this chapter may do any of the following:

(a) Make all needed rules and regulations for acquisition, construction, and completion of the works.

(b) Appoint all necessary agents, superintendents, and engineers to supervise and construct the works.

(c) Protect and preserve the rights and interests of the city in respect to the works.

Contracts for works

8051. All contracts for the works shall be let, in such parcels as the city council determines, to the lowest responsible bidder, after notice inviting sealed proposals has been published.

Security or bonds

8052. Security or bonds may be required in order to guarantee good faith in bidding and in the performance of contracts, or either, in such amount as the city council determines.

Rejection of bids

8053. The city council may reject any or all bids.

Additional bonds

8054. The city council may, by resolution, require the treasurer of the city to give additional bonds for the safe custody and care of public funds derived under this chapter.

Article 6. Taxation

Levy of taxes

8060. The city council, at the time of fixing the general tax levy, and in the manner provided for the general tax levy, shall levy and collect each year for the term of 40 years, a tax sufficient to pay the annual interest on the bonds and also one-fortieth part of the aggregate amount of the indebtedness.

Collection of taxes

Additional to other taxes

8061. The taxes required by this chapter to be levied and collected shall be in addition to all other taxes levied for municipal purposes, and shall be collected at the same time and in the same manner as other municipal taxes are collected.

CHAPTER 2. FLOOD CONTROL IN COUNTIES

Article 1. General Powers Relating to Flood Control

Appropriation

8100. Under such limitations and restrictions as are prescribed by law, and in addition to jurisdiction and powers otherwise conferred, the boards of supervisors, in their respective counties, may appropriate and expend money from the general fund of the county for any of the following purposes in connection with streams or rivers in the county:

Purposes

(a) The construction of works, improvements, levees or check dams to prevent overflow and flooding.

(b) The protection and reforestation of watersheds.

(c) The conservation of the flood waters.

(d) The making of all surveys, maps and plats necessary to carry out any work, construction or improvement authorized by this article.

(e) The carrying out of any work, construction or improvement authorized by this article outside the county if the rivers or streams affected flow in or through more than one county.

Article 2. Flood Control Work Outside of County

Appropriations

8101. A board of supervisors may appropriate and expend money from the general or other appropriate funds of the

county for the construction of works, improvements, levees or check dams to prevent the overflow and flooding of streams and rivers in the county, and for that purpose may construct works, improvements, levees or check dams outside the county.

Work permitted

8102. Work under this article may be done upon channels, streams or rivers which flow through or lie in more than one county, or where the work is reasonably necessary for the control of flood waters in the county upon a channel, river or stream which does not lie or flow in or through two or more counties.

Flood control work

8103. In connection with flood control work under this article, whether done by the county or by any district therein or agency thereof, highways, bridges and other public works affected thereby or which will be of public benefit, whether located in the county or wholly or partially in incorporated or unincorporated territory outside the county, may be constructed, reconstructed, remodeled, maintained, repaired or demolished.

Expense

8104. The work described in the next preceding section may be done at the expense of the county doing the flood control work, or of any district or agency therein which is doing the work. The legislative bodies of the counties and cities affected may provide by agreement that the work be done at the joint expense of the county or counties and city or cities in which the work is done.

Joint expense

Tax or special assessment not authorized

8105. Nothing in this article shall be construed to authorize the imposition of any tax or special assessment either by the county or any district in, or agency of, the county on any property outside the county doing the work whether the work is done directly by the county or by any district in, or agency of the county.

Authorization for work outside county

8106. Nothing in this article shall be construed to authorize the doing of any work outside the county without the consent of the legislative body of the county in which the work is to be done if in unincorporated territory or of the legislative body of any city in which any of the works are situated in whole or in part.

Article 3. County Flood Control Districts

Organization

8110. The board of supervisors may provide by ordinance for the organization and government of districts for the following purposes:

(a) To protect and preserve the banks of rivers and streams and lands lying contiguous thereto from injury by overflow or washing.

(b) To provide for the improvement of rivers and streams.

(c) To prevent the obstruction of rivers and streams.

(d) To assess, levy and collect within each district a tax for the district.

Article 4. Improvement of Non-navigable Streams

"Non-navigable streams"

8125. "Non-navigable streams," as used in this article, means streams and washes in a county which are not declared by law to be navigable and which are not in fact navigable for commercial purposes.

Powers of board of supervisors

8126. The board of supervisors may provide for widening, deepening, straightening, removing obstructions from, and otherwise improving non-navigable streams the overflow of which interferes with highways, and for protecting the banks and adjacent lands from overflow of non-navigable streams.

Regulations

8127. The board may make regulations for the use of the streams and the repair and control of the works.

Private rights

8128. No regulations of the board nor improvements directed by it to be made shall in any manner interfere with the private rights or privileges of riparian owners, miners, or others.

When general fund insufficient

8129. Whenever, in the opinion of the board of supervisors, the general fund is insufficient to defray the cost of the improvements provided for under this article, the board may levy a tax or contract a bonded indebtedness therefor in the manner provided by Title 2 of Part 4 of the Political Code.

PART 2. STATE FLOOD CONTROL

CHAPTER 1. EMERGENCY FLOOD CONTROL

Declaration of emergency

8200. In times of extraordinary stress and of disaster, resulting from storms and floods, the Director of Public Works may declare the existence of an emergency and designate the location, nature, cause and area and extent of the emergency

Conditions

if in his opinion:

(a) The emergency is a matter of general public and State concern; and

(b) Work and remedial measures are required to immediately avert, alleviate, repair or restore damage or destruction to property having a general public and State interest and to protect the health, safety, convenience and welfare of the general public of the State.

Powers of department

8201. The Department of Public Works may perform any work required or take any remedial measures necessary to avert, alleviate, repair or restore damage or destruction to property as provided in this chapter.

Transmission of declaration

8202. The Director of Public Works shall transmit any declaration made under this chapter to the Department of Finance with a recommendation and request that moneys be allocated from any available moneys appropriated for that purpose or which are or hereafter may be appropriated to meet State emergencies within the meaning of that term as employed in this chapter, in order to carry out the work and remedial measures required to meet the emergency.

Duty of Director of Finance

8203. The Director of Finance shall forthwith determine whether or not a State emergency exists, and whether or not moneys are available in any appropriation or emergency fund

for the work and remedial measures, and upon an affirmative finding upon these matters, he shall allocate to the Department of Public Works such amount as in his opinion will be required to meet the emergency. Allocation of funds

CHAPTER 2. GENERAL POWERS OF DEPARTMENT OF PUBLIC WORKS

8300. The Department of Public Works may make examinations of lands subject to inundation and overflow by flood waters and of the waters causing the inundation or overflow and may make plans and estimates of the cost of works to regulate and control the flood waters. Examinations

8301. Whenever the law provides for any drainage or improving or rectifying river channels or other work on any river or slough flowing into San Francisco Bay, San Pablo Bay, and Suisun Bay, or on the tide waters flowing into said bays, the management and control of the work is in the department, if no other agency is specified. When management in department

8302. The department shall have charge of all expenditures unless otherwise provided by law for all public works relating to general river and harbor improvements, including reclamation and drainage of lands. Expenditures

8303. The department may purchase, construct and operate one or more dredges or any other needed appliances to promote or properly carry out the work of the department. Purchases, construction, etc

8304. The department may obtain or condemn any right of way necessary for any construction under this chapter and shall proceed, if necessary, to condemn under the terms of the Code of Civil Procedure relating to such proceedings. Right of eminent domain

CHAPTER 3. MAINTENANCE AND OPERATION AT SACRAMENTO RIVER FLOOD CONTROL PROJECT

Article 1. Adoption of Federal Policy

8350. The approval and adoption, by and on behalf of the State of California, of the conditions, plans, construction, and mode of maintenance and operation of works within the Sacramento River Flood Control Project, set forth in Senate Committee Print, Seventy-fifth Congress, First Session, as authorized and approved by Act of Congress, Public No. 392, Seventy-fifth Congress, approved August 26, 1937, including the holding and saving the United States from damages due to construction works, are continued in effect. Adoption continued in effect

Article 2. Powers and Duties of Department of Public Works

8360. On behalf of the State the Department of Public Works, acting by and through the State Engineer, has supervisory powers over the maintenance and operation of the flood control works of the Sacramento River Flood Control Project. Supervisory powers

8361 The department, acting by and through the State Engineer, shall maintain and operate on behalf of the State Units operated

the following units or portions of the works of the Sacramento River Flood Control Project, and the cost of such maintenance and operation shall be defrayed by the State:

(a) The east levee of the Sutter By-pass north of Nelson Slough.

(b) The levees and channels of the Wadsworth Canal, the intercepting canals draining into it, and all structures incidental thereto.

(c) The collecting canals, sumps, pumps and structures of the drainage system of Project No. 6 east of the Sutter By-pass.

(d) The by-pass channels of the Butte Slough By-pass, the Sutter By-pass, the Tisdale By-pass, the Yolo By-pass and the Sacramento By-pass with all cuts, canals, bridges, dams, and other structures and improvements contained therein and in the borrow pits thereof.

(e) The levees of the Sacramento By-pass.

(f) The channels and overflow channels of the Sacramento River and its tributaries within the Sacramento and San Joaquin Drainage District.

(g) The Sacramento River outlet enlargement project below Cache Slough to the extent of the State's liability therefor.

(h) The Knights Landing ridge cut flowage area.

(i) The flood relief channels controlled by the Moulton and Colusa Weirs and the training levees thereof.

(j) The levee on the left bank of the Sacramento River adjoining Butte Basin, from the Butte Slough outfall gates upstream to a point four miles northerly from the Moulton Weir, after completion.

(k) All weirs and relief structures.

(*l*) The west levee of the Yolo By-pass, extending from the west end of the Fremont Weir southerly a distance of about two miles to the northerly levee of the Knights Landing ridge cut.

(m) Any other levee which may be constructed jointly from State and Federal funds over which no other State agency has jurisdiction or responsibility after a written finding by the State Engineer that the levee is within the provisions of this subdivision. Upon written notice from the United States of the construction of any such levee, the State Engineer shall promptly make his finding thereon.

Contribution and expenditure of funds

8362. The department, acting by and through the State Engineer, may contribute funds to the United States and expend funds appropriated or otherwise available to provide all lands, easements, and rights of way for bank revetment for the protection of levees above Cache Slough and the levee reconstruction, including the costs of all alterations to highways, road crossings, and drainage and irrigation facilities incident to the work and the State's contribution of one-third of the costs of bank revetment and levee construction, as provided for and required under the provisions of the Act of Congress, Public No. 392, Seventy-fifth Congress, approved August 26, 1937.

Article 3. Duties and Liabilities of Districts and Public Agencies

Maintenance and operation of works

8370. It is the responsibility, liability and duty of the reclamation districts, levee districts, protection districts, drainage districts, municipalities, and other public agencies within the Sacramento River Flood Control Project limits, to maintain and operate the works of the project within the boundaries or jurisdiction of such agencies, excepting only those works enumerated in Section 8361 and those for which provision for maintenance and operation is made by Federal law.

Annual report

8371. The governing bodies of every State agency enumerated in the next preceding section shall on or before June 1st of each year cause a report on the condition of the Sacramento River Flood Control Project works within the jurisdiction of the agency, to be prepared and submitted by a competent civil engineer registered in accordance with law.

Contents of report

8372. The report shall contain detailed statements of all of the following:

(a) The condition of the flood control works as of May 1st of that year.

(b) The record of maintenance and operation of the works for the preceding year.

(c) The work necessary to properly maintain and operate the works for the succeeding year with an estimate of the cost thereof.

(d) Such other recommendations as are deemed necessary to insure the safety of the project works.

Filing of copy

Public inspection of original

8373. A certified copy of the report shall be filed with the State Engineer on or before the following July 1st, and the original of the report shall be filed in the office of the governing body and shall be open to public inspection.

PART 3. SACRAMENTO AND SAN JOAQUIN DRAINAGE DISTRICT

Chapter 1. Creation and Boundaries

Continuance

8500. The "Sacramento and San Joaquin Drainage District" is continued in existence.

Boundaries and description

8501. The boundaries of the district are set forth and described in Chapter 170, Statutes and Amendments to the Codes, California, 1913, and the description is hereby incorporated herein by reference as there set out.

Management and control

8502. The management and control of the district are vested in the reclamation board.

Entity

8503. The district is a body corporate and politic and may sue and be sued.

Property rights

8504. The district may acquire, own, hold, use, and enjoy any and all properties necessary for the purposes of the district.

PART 4. THE RECLAMATION BOARD

CHAPTER 1. DEFINITIONS AND GENERAL PROVISIONS

Article 1. Definitions

Definitions govern construction

8520. Unless the context otherwise requires the definitions hereinafter set forth shall govern the construction of this part of this division of this code.

"Board"

8521. "Board" means the Reclamation Board.

"Drainage district"

8522. "Drainage district" means the Sacramento and San Joaquin Drainage District.

Article 2. General Provisions

Approved plan Report of California Debris Commission

8525. The report of the California Debris Commission transmitted to the Speaker of the House of Representatives of the United States by the Secretary of War on June 27, 1911, as modified by the report of the California Debris Commission, dated January 5, 1925, and as heretofore amended or modified by the board, is approved as a plan for controlling the flood water of the Sacramento and San Joaquin Rivers and their tributaries, for the improvement and preservation of navigation and the reclamation and protection of lands that are susceptible to overflow from the rivers and their tributaries.

Execution of plan

8526. The board in conjunction with the California Debris Commission shall execute the plan approved by this chapter, and the board may make such modifications and amendments to the plan as are necessary to execute the plan for the purpose stated.

Maximum State appropriations

8527. For the purpose of cooperating in the carrying out and completion of the plan approved in Section 8525, and on condition that the United States will likewise cooperate in the carrying out of the plan and, to that end, will appropriate and make available to the extent that it has not already done so, substantially the same amount as the State as recommended in the plan, appropriations will be made by the State from time to time by law, which, together with amounts heretofore appropriated by the State in aid of the plan, will not exceed in the aggregate seventeen million seven hundred thousand dollars ($17,700,000).

Equal contributions

8528. The intent of the next preceding section is to provide for substantially equal contributions by the United States, the State and local interests to the total cost of carrying out the plan, it being recognized that certain local interests have become obligated in excess of one-third of the total cost of the plan.

Regulation for expenditures

8529. All money appropriated under authority of Section 8527 shall be expended in accordance with the plans, specifications and recommendations of the California Debris Commission and the board for purposes in general conformity with the plan approved in Section 8525, including expenditures and appropriations to make such equitable adjustments as the Legislature may determine with such local interests as have

obligated themselves in excess of their shares of one-third of the total cost of the plan, and including necessary expenditures for operation and maintenance during construction.

Control over plans

8530. The board shall have control and jurisdiction over the plans of the California Debris Commission and such other plans as may be adopted by the board, excepting such portions of the plans as relate to channel excavating, enlargement, rectification and control in the Sacramento River and the construction of weirs.

Concurrent control

All work and control in the Sacramento River and the construction of weirs shall remain concurrently with the United States and the State.

Application of prior statutes

8531. The Statutes of California as existing on April 1, 1923, shall be observed and followed:

(a) In all plans, hearings, notices and proceedings relating to the maintenance, repair and operation of reclamation and flood control works existing on April 1, 1923.

(b) In the completion, maintenance and operation of any project adopted by the board prior to April 1, 1923.

(c) In the adoption and carrying to completion of any project of work contained or involved in the report of the California Debris Commission dated January 5, 1925.

Primary interest

8532. The State has a primary interest in adequately protecting lands overflowed, or subject to overflow, in confining the waters of rivers, tributaries, by-passes and overflow channels and basins within their respective basins and boundaries within the district, and in preserving the welfare of the residents and holders of land therein.

Same

8533. The State has a primary and supreme interest in having erected, maintained and protected on the banks of the Sacramento and San Joaquin Rivers, their tributaries, by-passes, overflow channels and basins, good and sufficient levees and embankments or other works of reclamation, adequately protecting the lands overflowed or subject to overflow, and confining the waters of the rivers, tributaries, by-passes, overflow channels, and basins within their respective channels and boundaries.

Enforcement

8534. The board at all times shall enforce on behalf of the State the erection, maintenance and protection of such levees, embankments and channel rectification as will, in its judgment, best serve the interests of the State.

Nonresponsibility

8535. The drainage district, the board and the members thereof are not responsible or liable for the operation or maintenance of levees, overflow channels, by-passes, weirs, cuts, canals, pumps, drainage ditches, sumps, bridges, basins, or other flood control works within or belonging to the drainage district.

Central Valley Project

8536. The board has no power, jurisdiction, authority or control over the construction, operation or maintenance of the Central Valley Project or any part of it.

Exemptions

8537. The property of the board and of the drainage district is exempt from execution or attachment.

No fee
Expense allowed

8538. No county or public officer shall charge or receive any fee for any of the services required to be performed by him under the provisions of this part, but any reasonable and necessary expense actually incurred by any officer in carrying out any of the provisions of this part relating in any manner to the collection or enforcement of any assessment, shall be paid out of the funds of the drainage district applicable thereto.

CHAPTER 2. ADMINISTRATIVE PROVISIONS

Article 1. The Board

Reclamation Board

8550. There is in the State Government the Reclamation Board.

Members

8551. The board consists of seven members who are appointed by and serve at the pleasure of the Governor.

Compensation

8552. Each member of the board shall receive the necessary expenses incurred by him in the performance of his duties, and twenty dollars ($20) for each day attending the meetings of the board, but such per diem shall not exceed one thousand dollars ($1,000) in any one year.

Director of Finance

8553. The Director of Finance is executive officer of the board for the purpose of reporting to the Governor's Council upon matters relating to reclamation projects and problems.

President

8554. The board shall elect one of its members as president.

Vice president

8555. The board may elect one of its members other than the president as vice president.

Powers and duties of vice president

8556. The vice president shall have the powers and perform the duties of the president under the following circumstances:

(a) During the president's absence or inability to act.

(b) At the request of the president.

(c) When authorized by the board.

Office and legal residence

8557. The board shall have its office at the City of Sacramento, which is the principal place of business and legal residence of the board and of the drainage district.

Meetings

8558. The regular meetings of the board shall be held at times fixed by the board.

Quorum

8559. A majority of the board constitutes a quorum.

Necessary vote

8560. No action of the board shall be effective unless it is concurred in by a majority of the members of the board.

Special meetings

8561. Special meetings of the board may be called at any time by the president or by a majority of the members upon notice given by mail or telegraph to each member at his place of residence or business, and there received at least 12 hours before the hour fixed for the meeting.

Legal meeting

8562. Any meeting of the board, at its office, when all of the members are present, is a legal meeting at which any business may be transacted.

Minutes

8563. The board shall keep full and correct minutes of all proceedings and transactions of all meetings of the board.

Public inspection

8564. The minutes shall be open for public inspection during office hours.

Seal

8565. The board shall have a seal of such device as the board may adopt.

Seal of drainage district

8566. The seal of the board is also the seal of the drainage district.

Board's records deemed correct

8567. A copy of any record of the board, certified by its secretary or assistant secretary to be a true copy, and attested by the seal of the board, is prima facie evidence of the existence and contents of the record.

Charge for copies

8568. For making a copy of any of its records the board may charge and collect the actual reasonable cost of making the copy, including the time of its employees and materials used, and one dollar ($1) for the certificate if a certified copy is requested.

Deposit

8569. The board may require a deposit in advance sufficient to cover the charges for copying and certifying copies of its records.

Disposition of moneys

8570. All money collected for copying and certifying copies of the board's records shall be paid monthly to the State Treasurer and credited to the balance remaining unexpended of any appropriation or assessment available for the general administrative expenses of the board.

Rules

8571. The board may adopt, amend or repeal rules to promote the convenient, orderly and just conduct of the business of the board and of the drainage district.

Suspension or waiver

8572. The rules may be suspended or compliance therewith may be waived by the board at any meeting to such extent as may be deemed proper.

Interested vote

8573. It is unlawful for a member of the board to vote upon any contract or other matter in which he has an interest or share.

Retention of part of funds

8574. It is unlawful for any employee of the board to receive directly or indirectly for his own use or benefit any portion or share of the money or other thing paid under any contract.

Member not disqualified

8575. A member of the board having an interest in lands within the drainage district is not disqualified from voting to execute any part of the plans of flood control or from carrying out the objects of this part.

Exemption from personal liability

8576. No member of the board shall be held personally liable on any obligation or liability of any kind or character arising out of the claim that he has failed to carry out any obligation imposed upon the board by this division and the Legislature expressly declares that discretion is vested in the board and the members thereof to determine how and when the various provisions of this division and the projects contemplated in this division with which the board is concerned may best be carried into effect.

Article 2. Employees of Board

Secretary

8580. The board shall appoint a secretary, who may be a member of the board.

Other employees

8581. The board may appoint a general manager, a chief engineer and an assistant secretary, and may employ such assistant engineers, consulting engineers, and other assistants, employees, and advisers as it deems necessary.

Engineer's compensation

8582. The compensation of any engineer employed by the board may be fixed at a monthly rate of compensation, or fees for special services rendered, or both.

Article 3. Administration of Oaths

Qualified persons

8585. The president, any member of the board, the secretary, assistant secretary, general manager and chief engineer may administer oaths and take and certify affidavits relating to any matter pending before the board, or in which the board or the drainage district is interested.

CHAPTER 3. POWERS, DUTIES AND JURISDICTION

Article 1. General Powers

Express powers

8590. The board may do any of the following:

(a) Acquire either within or without the boundaries of the drainage district, by purchase, condemnation or by other lawful means, in the name of the drainage district, all lands, rights of way, easements, property or material necessary or requisite for the purpose of by-passes, weirs, cuts, canals, sumps, levees, overflow channels and basins, reservoirs and other flood control works, and other necessary purposes, including drainage purposes.

(b) Construct, clear, and maintain by-passes, levees, canals, sumps, overflow channels and basins, reservoirs and other flood control works.

(c) Construct, maintain, and operate ditches, canals, pumping plants, and other drainage works.

(d) Make contracts in the name of the drainage district to indemnify or compensate any owner of land or other property for any injury or damage caused by the exercise of the powers conferred by this division, or arising out of the use, taking, or damage of any property for any of the purposes of this division.

Prohibitions

8591. The board has no power, authority, or jurisdiction, either directly or indirectly, except as provided in this division, to incur any indebtedness or expend any money or adopt or carry into effect any plan or project or to acquire any lands, rights of way, or easements, or to do any work, or cause any work to be performed, for which any land lying within the drainage district is to be assessed, except to maintain, repair, and operate its existing works of reclamation and flood control and to complete, maintain and operate any project adopted by the board prior to April 1, 1923, with the existing powers to levy assessments therefor.

Power regarding report of California Debris Commission

8592. The board has the same power, authority and jurisdiction in reference to the adoption and carrying to completion of any work or project involved in or contained in the

report of the California Debris Commission dated January 5, 1925, to the Congress of the United States as are conferred in the case of projects adopted by the board prior to April 1, 1923.

Right of condemnation

8593. The board may condemn in the name of the drainage district for any of the purposes set forth in this part, under the provisions of the Code of Civil Procedure relating to eminent domain, any property or interest in property which it is authorized to acquire.

Resolution prior to condemnation

8594. The board shall not commence any proceeding in eminent domain unless it first adopts a resolution declaring that the public interest and necessity require the acquisition, construction or completion of the improvement for which the property or interest in property is required and that the property or interest described in the resolution is necessary for the improvement.

Resolution deemed conclusive

8595. The resolution of the board shall be conclusive evidence of all of the following:

(a) The public necessity for the proposed public improvement.

(b) That the property or interest is necessary for the proposed public improvement.

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

Actions

8596. The board may maintain actions in the name of the people of the State to restrain, or to recover damages for, the doing of any act or thing that may be injurious to any of the works necessary to the plan of flood control or that may interfere with the successful execution of the plan.

Disposition of damages recovered

8597. Any damages so recovered shall be deposited with the State Treasurer to the credit of the drainage district and the assessment for the particular portion or project affected by the injury.

Further powers

8598. The board may also do any of the following:

(a) Establish a standard of levee construction.

(b) Do any and all things necessary or incident to the powers granted or to carry out the objects specified in this article.

(c) Maintain actions in the name of the people of the State to restrain the diversion of the water of any stream that will increase the flow of water in the Sacramento or San Joaquin Rivers or their tributaries, and such diversion of the water of any stream into the rivers or either of them or any of their tributaries, is a public nuisance which may be prevented or abated by the board.

(d) Rent, lease for oil, gas or other hydrocarbons in the manner provided for in this chapter, or dispose, by sale, exchange, in payment for work done or services rendered, or for any other purpose which the board may deem advisable, of any land, property, material, equipment, or any other thing

in the possession of the drainage district, which, in the opinion of the board, is no longer needed for the purposes of flood control works or other necessary or convenient purposes.

Construction work

8599. The board may undertake any construction work that it is authorized to do by this part, free from any control or jurisdiction of the department.

Manner of performance

8600. Subject to the provisions of the State Contract Act any construction work undertaken by the board may be done wholly or partly by contract let by the board in such manner as the board may determine, or may be done wholly or partly by day labor or force account if deemed advisable by the board.

Powers relating to construction

8601. The board may construct, purchase, rent, sell or exchange dredgers, machines, appliances, tools, apparatus and other property necessary or convenient for doing any construction work.

Levy of assessments

8602. The cost of the equipment and property shall be apportioned to and paid from the funds raised from the several assessments levied or to be levied by the board in a just and equitable manner according to the use made of the equipment or property in carrying out the several separate portions or projects for which the assessments are levied.

Rental

8603. The board may rent for use by others idle dredgers or other equipment.

Disposition of rentals

8604. The rental received shall be paid to the State Treasurer and credited to the balance remaining unexpended of the assessments against which the cost of such equipment has been paid or is to be charged, as indicated by the board.

Inspection and supervision

8605. The board may inspect and supervise any work done or under construction pursuant to the provisions of this part.

Same
Stipulation

8606. The board may insert a stipulation providing for such inspection and supervision in any order, contract or other instrument, relating to the work authorized in this part.

Article 2. Cooperation With the United States

Flood control

8615. The board may, in cooperation with the United States, adopt and carry out any plan or plans or project of flood control in the Sacramento or San Joaquin River Valleys or on or near the Sacramento River or the San Joaquin River or their tributaries and may exercise jurisdiction and authority in connection with such plans or projects inside or outside the drainage district.

Intention

8616. It is the intent of this article to enlarge and extend the power, jurisdiction and authority of the board outside the drainage district to the extent set forth but not in any degree to limit, restrict or abridge any of the powers, jurisdiction or authority of the board.

Assurances

8617. The board may give assurances satisfactory to the Secretary of War of the United States that the State will:

(a) Provide without cost to the United States all lands, easements and rights of way necessary for the construction of the project under the adopted flood control plan

except as otherwise provided in that certain act passed by the Congress of the United States, approved June 22, 1936, and entitled "An act authorizing the construction of certain public works on rivers and harbors for flood control and other purposes" (Public No. 738, Seventy-fourth Congress).

(b) Hold and save the United States free from damage due to the construction works.

(c) Maintain and operate all the works after completion in accordance with regulations prescribed by the Secretary of War.

(d) Promise, agree, do or perform any or all other things required or necessary under the provisions of the act of Congress approved June 22, 1936, or any acts amending or adding to the same, now or hereafter adopted.

Agreements with governmental agencies

8618. All political subdivisions, agencies of the State, and municipal and quasi municipal corporations may make agreements with the board obligating themselves to do or perform those things which are required of the State, political subdivisions thereof, or other local agencies by the act of Congress approved June 22, 1936, or any acts amending or adding to it, now or hereafter adopted.

Powers of board

8619. In case any land, right of way, or easement is needed and is required to be provided free of cost to the State or the United States for any work of channel excavation, enlargement, rectification or control, or for the construction of any weir, which is a part of the plan and is to be done or constructed in whole or in part by the United States or by the State, the board may:

(a) Acquire the land, right of way, or easement and cause it to be conveyed to the United States or to the State free of cost.

(b) Cause the land, right of way, or easement to be condemned for the use and in the name of the United States or the State in the manner provided by the laws of this State or of the United States.

(c) Pay the cost and expense of acquiring the land, right of way, or easement out of the funds of any assessment by the board applicable thereto.

(d) If the land, right of way, or easement has been already acquired by the board in the name of the drainage district, the board may cause it to be conveyed by the district to the United States or to the State free of cost.

Contribution of funds to United States

8620. Whenever any work to be done by the board of the drainage district under any of the provisions of this part is such that it can be so done in connection with work of public improvement of rivers and harbors authorized by the United States as to bring it within the provisions of Section 4 of the United States River and Harbor Act, approved March 4, 1915, authorizing the receipt by United States agencies of funds to be contributed for expenditures in connection with funds appropriated by the United States for such work, the funds under the control of the board and available for such work

may be contributed by the board to the United States under the provisions of the act in order that the work may be done in the manner contemplated in the act.

Article 3. Levees

"Levee" 8630. As used in this article the term "levee" means any levee within the Sacramento and San Joaquin Drainage District.

Promotion of work 8631. The board may promote the construction, completion, maintenance and repair of levees along all rivers, streams, overflow channels, basins and by-passes where, in the opinion of the board, the levees are insufficient or necessary for the purpose of the plans for flood control to be carried out by the board under this part.

Publication of notice of insufficiency or necessity 8632. Whenever any levee is in the opinion of the board insufficient or necessary for flood control, the board shall publish notice to that effect.

Contents 8633. The published notice shall state that the levee is insufficient or necessary, that it is the intention of the board to construct, repair or complete the levee and pay the cost out of an assessment levied or to be levied and assessed upon the lands within the drainage district directly or indirectly benefited by the levee.

Signatures 8634. The notice shall be signed in the name of the board by its president and secretary and shall be published once a week for three weeks in some newspaper published in the county wherein the levee or the greater part of it is situated or is to be constructed.

Period of publication

Completion of publication 8635. The giving of the notice by publication shall be complete on the twenty-first day after the first publication.

Application to construct, etc 8636. Any landowner, reclamation district, drainage district, levee district, municipal corporation or other organization or association authorized by law to construct, repair or complete a levee shall have 30 days after completion of the giving of notice by publication within which to apply to the board for leave to construct, repair or complete the levee.

Form and signature 8637. The application shall be in writing and signed by the applicants or their respective executors, administrators, guardians, trustees or duly constituted and authorized officers.

Filing 8638. The application shall be filed in the office of the board.

Acts of applicants 8639. When an application is filed within the required 30 days, the applicants shall have 60 days after filing the application, or any further time that the board allows, within which to do the following:

(a) Present to the board plans and specifications.

(b) Obtain the board's approval of plans and specifications.

(c) Commence the work of repair, construction or completion.

Mailing address 8640. The application for leave to construct, repair or complete a levee shall designate the name and post-office address of at least one and not more than three of the appli-

cants as the person or persons to whom any notice or communication may be addressed by the board in the matter of the application.

Several applications

8641. In case there are two or more applications filed in the office of the board within the required 30 days the board may determine which of such applications shall be recognized and may reject the others.

Applicable provisions

8642. Any levee constructed or work done by the applicants, pursuant to notice from the board and according to plans and specifications approved by the board, shall be considered as constructed or done with the permission of the board within the meaning of Article 1 of Chapter 8 of this part.

Power of board on default

8643. If the application is not filed in the office of the board within 30 days after completion of the giving of notice by publication, or if the applicants fail to present to the board and obtain its approval of the plans and specifications and to commence the work within 60 days after filing the application or any further time the board may allow, or fail to complete the work with reasonable diligence, the board may proceed with the construction, repair or completion of the work, and pay the cost by assessment upon the lands within the drainage district directly or indirectly benefited by the levee according to the benefits, as provided for in this part.

Levy of assessment

Manner of levy

8644. The assessment may be either an assessment specially levied and assessed for that purpose, or any assessment levied and assessed by the board and applicable to the payment of such work.

Determination of emergency

8645. Notwithstanding anything in this article the board may determine a case of emergency exists requiring immediate action to preserve life or property or to protect or preserve the safety of any levee along any river, stream, overflow channel, basin or by-pass.

Work by board

8646. The board may do the necessary work immediately for the protection or preservation of the levee, without giving the notice provided for in this article.

Payment of cost by assessment

8647. The board may pay the cost, including any damage that may result from the performance of the work, by an assessment to be levied and assessed as provided in this article or out of the funds of any assessment available for that purpose under the provisions of this part.

Article 4. Lease and Sale of Property

Excess land

8655. The board may determine that any land acquired by the drainage district and deeded to the State for any right of way for river improvement work or flood control is in excess of what is or will be required.

Sale of excess land

8656. The Department of Finance upon request of the board may sell the excess land at a purchase price determined upon by the board.

Conveyance

8657. The Department of Finance when authorized by the board may execute and deliver in the name and on behalf of

the State, a conveyance of such land to the purchaser upon payment of the purchase price to the State Treasurer.

Disposition of purchase price

8658. The purchase price when paid to the State Treasurer shall be credited to such fund as the board directs.

Sale to drainage district or United States

8659. All or any part of any land, right of way or easement required for any work of channel excavation, enlargement, rectification or control or for any site for the construction of any weir, forming part of or incidental to any plan approved by the State for flood control in the Sacramento or San Joaquin Valleys, which land, right of way or easement or weir site has been or may hereafter be acquired by the State, may, at the request of the board and with the approval of the Department of Finance, be sold to the drainage district at a purchase price equal to the cost thereof to the State, to be determined by the Department of Finance, and upon payment to the State of the purchase price, may be conveyed to the drainage district, or to the United States, as may be requested by the board.

Conveyance

8660. The Department of Finance may execute and deliver pursuant to the next preceding section a conveyance in the name and on behalf of the State upon payment to the State Treasurer of the purchase price.

Disposition of purchase price

8661. The purchase price, when paid to the State Treasurer, shall be credited back to the appropriation out of which the cost of acquiring the land, right of way, easement or weir site was paid by the State, and shall be available for the same purposes for which such appropriation was made.

Oil, etc., leases

8662. Any lease of property of the drainage district for the production of oil, gas or other hydrocarbons may be made upon such consideration or for such royalties as may be authorized by the board subject to the provisions of this article.

Resolution at regular meeting

8663. The board, before ordering the lease of any property pursuant to the next preceding section, shall, in a regular open meeting, adopt a resolution declaring their intention to lease the property.

Contents of resolution

8664. The resolution shall:

(a) Describe the property proposed to be leased in such manner as to identify it.

(b) Specify the minimum rental or royalty.

(c) Specify terms upon which the property will be leased.

(d) Fix time not less than three weeks thereafter for a public meeting of the board.

Place of meeting
Sealed proposals

8665. The meeting shall be held at the board's regular place of meeting, at which meeting sealed proposals to lease the property will be received and considered.

Notice before meeting

8666. Notice of the adoption of the resolution and of the time and place for holding the meeting shall be given by publishing a notice containing the resolution not less than once a week for three successive weeks before the meeting, in a newspaper of general circulation published in the county in which the drainage district or any part thereof is situated.

Opening of sealed proposals

8667. At the time and place fixed in the resolution for the meeting of the board, all sealed proposals which have been

received shall, in public session, be opened, examined and declared by the board, and of the proposals submitted which conform to all terms and conditions specified in the resolution, and which are made by responsible bidders, the one which is the highest shall be accepted.

Oral bidding

8668. Upon a call for oral bidding, at the session, any person may offer to lease the property upon the terms and conditions specified in the resolution for a rental or royalty exceeding by at least 5 per cent the highest of the written proposals.

Highest oral bid

8669. The highest of any of the oral bids made by a responsible person shall be finally accepted

Final acceptance

8670. The board may make a final acceptance either at the same session or at any adjourned session of the same meeting held within the 10 days next following.

Rejection of bids

8671. The board may, at such session, if it deems the action to be for the best public interest, reject any and all bids either written or oral, and withdraw the property from lease.

Provisions in resolution of acceptance

8672. The resolution of acceptance of any bid shall provide for the proper execution of a lease upon behalf of the drainage district, and delivery of the lease upon performance and compliance by the lessee of all the terms and conditions of his contract which are to be performed concurrently with the execution of the lease.

Joint lease

8673. The board, in lieu of leasing property as provided in this article, if it deems such action to be for the best public interest, may lease lands for the production of oil, gas and other hydrocarbon substances therefrom jointly with the lands of an adjoining landowner.

Applicable regulations

8674. No joint lease shall be entered into until after adoption of a resolution and publication of notice as provided in this article and after a public meeting of the board at which protests, if any, shall be heard.

Protests

Minimum royalty

8675. A joint lease shall provide for the payment of a minimum royalty to the drainage district of not less than 15 per cent of the value of the oil, gas or other hydrocarbon substances produced from the property owned by the district.

Sale reserving easement

8676. Whenever the board has acquired or shall in the future acquire title in fee to any land in the name and in behalf of the district and whenever, in the judgment of the board, the purposes of the district will be satisfied by the retention of an easement or other interest in the land less than the title in fee thereto, the board shall take all steps necessary to sell said land reserving to said district the easement or other interest acquired for the purposes of the district. Conveyances of such land or interest therein owned by the district shall be executed by the officers of the board authorized by the board and shall be approved by the Director of Finance.

Execution and approval

(Added by Stats. 1943, Ch. 489.)

Reservations

8677. All oil, gas, oil shale, coal, phosphate, sodium, gold, silver, and all other mineral deposits in the land are reserved

to the State and shall be reserved from sale except on a rental and royalty basis. A purchaser of any of the land shall acquire no right, title, or interest in or to such deposit. The right of such purchaser shall be subject to the reservation of all oil, gas, oil shale, coal, phosphate, sodium, gold, silver, and all other mineral deposits, and to the conditions and limitations prescribed by law providing for the State and persons authorized by it to prospect for, mine, and remove such deposits, and to occupy and use so much of the surface of the land as may be required for all purposes reasonably extending to the mining and removal of such deposits therefrom. The provisions of this section shall not apply to any compromise agreement entered into with respect to such land, nor to grants of such land to the United States when such grants are authorized by law.

Exception

(Added by Stats. 1943, Ch. 489.)

Article 5. Cooperation with Board by Department of Public Works

Construction, repairs, etc.

8685. The board may determine that any construction, repair work, maintenance, or operation of flood control works or structures shall be done by the Department of Public Works.

Plans and specifications

8686. The plans and specifications for the work shall be prepared and approved by the board and delivered to the Department of Public Works with a request that the work be done by the Department of Public Works.

Charge and control of work

8687. The work shall be done under the sole charge and direct control of the Department of Public Works.

Cost, etc., chargeable to district

8688. The cost and expenses incurred by the Department of Public Works in connection with work under this article is a legal charge against the drainage district and shall be paid out of any applicable assessment or fund.

Approval of contract

8689. Any contract let by the Department of Public Works for any work under this article shall be approved by the board before becoming effective.

Recovery of forfeitures

8690. Any cash, bond, check or other security forfeited by any bidder or contractor for failure to enter into or to perform any contract for doing work under this article shall be forfeited to and recovered by the board for the use of the drainage district.

Disposition of forfeitures

8691. Any forfeiture, as soon as received or recovered, shall be paid to the State Treasurer and placed to the credit of the assessment out of which the cost of the work is to be paid.

Machinery, etc., board may furnish

8692. The board may furnish to the Department of Public Works any of its dredgers, machines, appliances, tools, apparatus or other property which may be necessary or convenient for performing work delegated to the Department of Public Works.

Advice and assistance

8693. The Department of Public Works shall advise and assist the board.

Reimbursement

8694. The Department of Public Works shall be reimbursed by the board for any necessary expenses incurred by it under the directions of the board.

Chief engineer as assistant

8695. The department may at its option appoint the chief engineer of the board to act also as its assistant in the performance of the duties required of it by this article.

Compensation to be apportioned

8696. The compensation of the chief engineer while acting also as assistant to the department shall be apportioned as may be agreed upon between the board and the department.

Maps, records, etc

8697. All maps, records and engineering data prepared or obtained by the department for the use of the board shall be deposited in the office of the board and remain part of its records.

Article 6. Encroachments on Flood Control Works

Draws or appliances required

8700. Whenever so required and notified by the board the owner and the operator of any railroad, electric railroad, wire line, wagon road or other structure crossing any by-passes or overflow channel, provided for in this part, shall provide and maintain one or more suitable draws or other appliances within the by-pass or overflow channels to permit the passage of watercraft, dredgers or other machines used in the construction of reclamation works.

Notice and fee for use

8701. The draws or appliances shall be opened for any person desiring to pass who gives reasonable notice and pays a fee of fifty dollars ($50).

Location

8702. The draws or appliances shall be located at points designated by the board.

Liability for noncompliance

8703. A failure to comply with any of the preceding provisions of this article renders the owner or operator of any of the structures liable to any person for the damages caused to the person by the failure.

Remedies

8704. The board may enforce compliance with the provisions of this article by mandamus, mandatory injunction or by any other appropriate remedy authorized by law. The action or proceeding may be commenced and maintained by the board in the name of the State.

Same Concurrent and additional

8705. The remedies provided by this article are not exclusive of, but shall be concurrent with and in addition to, any other remedy which may exist by law.

Injunctive relief

8706. The board may maintain actions in the name of the State to compel by injunction the owner or owners of any bridge, trestle, wire line, viaduct, or embankment or other structure or obstruction which shall be intersected, traversed or crossed by any by-pass, drainage canal, channel, or overflow channel, to construct or alter any structure in order to offer a minimum of obstruction to the free flow of water.

Existing works Removal or alteration

8707. The board may in the case of existing works compel the removal or alteration of structures or obstructions that impede the free flow of water.

Article 7. Approval of Plans

Approval before commencement

8710. Every plan of reclamation, flood control, drainage or other improvement that includes or contemplates the construction, enlargement, revetment or alteration of any levee, embankment, canal or other excavation along or near the banks of the Sacramento or San Joaquin Rivers or any of their tributaries or connected therewith, or upon any land adjacent thereto, or within any of the overflow basins thereof, or upon any land susceptible to overflow therefrom, shall be approved by the board before construction is commenced.

Applicable provisions of law

8710.5. Whenever any irrigation, drainage, levee, or flood control district makes application for the approval required by the next preceding section, all of the provisions of Section 3455 of the Political Code which relate to works of reclamation by reclamation districts within the Sacramento and San Joaquin Drainage District shall be applicable to the works of such irrigation, drainage, levee, or flood control district.

(Added by Stats. 1943, Ch. 374.)

Void until approved

8711. Any such plan is void until approved by the board, and no work shall be done without the permission of the board.

Permission required

8712. No levee along a river or by-pass at any of the places mentioned in this article, nor any levee forming part of any of the plans of flood control adopted by this part or by the board, shall be cut or altered without permission of the board.

Approval and supervision

8713. The owner of any existing levee at any of the places mentioned in this article may raise, widen, or strengthen the levee, if before work is commenced, the plans, specifications and method of construction are submitted to and approved by the board, and the work is done subject to the supervision of the board.

Limitation on compensation

8714. No claim shall ever be made against the board or the drainage district for compensation, through or by assessment or otherwise, for any part of the work under Section 8713 in excess of the requirements of the plan of flood control for that locality finally adopted and approved by the board.

Emergency work

8715. Any existing levee may be protected or strengthened in case of emergency during the season of flood water, where it is in danger of injury or destruction from flood water.

Notice of emergency

8716. Notice of emergency work shall be immediately given to the board.

Subsequent approval

8717. All emergency work shall be subject to the subsequent approval of the board, and the board may require its removal or alteration if not approved.

Permission required

8718. No levee, embankment or other structure within any by-pass or overflow channel adopted by the board shall be raised, widened, strengthened or altered without permission of the board.

Public nuisance

8719. The doing of any act or construction of any work mentioned in this article, or permitting the work to remain after such construction, without the permission of the board and in violation of any of the provisions of this article, is a public nuisance, and the board may commence and maintain

suit in the name of the people of the State for the prevention or abatement of the nuisance. Abatement

8720. Any person who does any act contrary to or in violation of any of the provisions of this article is guilty of a misdemeanor. Misdemeanor

8721. Any plans or specifications adopted or approved by the board for any work to be done pursuant to this part may be changed or altered, with the consent of the board, at any time before commencement or during progress of the work. Consent to change or alter

8722. The board may at any time change or alter the plans or specifications for work undertaken upon its own initiative. Change or alteration by board

Chapter 4. Hearings, Depositions and Notices

8730. Any hearing before the board may be conducted upon sworn testimony of the applicants or witnesses except in the case of reports or investigations made by the members, employees or special advisers of the board. Conduct of hearing

8731. The board may meet at any place in the State for a hearing or partial hearing of any application coming before it. Place of hearing

8732. The board may hold a hearing or partial hearing before a committee of one or more members of the board, or before the general manager or chief engineer of the board, at any place within the State. Hearing officers

8733. The hearing officer shall take and report the evidence to the board. Duties

8734. The board may require the applicant to pay all or part of the expenses of any outside hearing, if held at the request of the applicant. Payment of expenses

8735. The expenses shall include traveling expenses of the members, officers or employees of the board, expenses of stenographic reporting and transcribing evidence taken at the hearing, and a proportionate allowance, according to their usual rate of compensation, for the time of the members, officers and employees of the board required for the hearing. Expenses

8736. All money collected as compensation for the time of the members, officers or employees of the board shall be paid by the board into the State Treasury and credited to the balance remaining unexpended of any appropriation or assessment available for the general administrative expenses of the board. Disposition of moneys

8737. The board may provide for the taking at any place of the deposition under oath of any witness for or against any application pending before the board. Deposition

8738. The deposition shall be taken before a notary public or other officer or person authorized by law or by this part to administer oaths. Deposition officer

8739. The deposition shall be certified and returned to the office of the board in the manner provided by law for certifying and returning depositions in civil actions. Certification and return

8740. When taken and certified pursuant to this article the deposition may be read in evidence before the board at the hearing of the application. Deposition as evidence

Proof of service or publication

8741. An affidavit may be used to prove the service or publication of any notice required or provided for by any of the provisions of this part in the same manner and to the same extent as provided for in Sections 2009 to 2015, inclusive, of the Code of Civil Procedure, and the affidavit shall be received as prima facie evidence of the service or publication in any court or elsewhere.

Additional notices

8742. In addition to the notices required by this part, the board may in its discretion give such notice as it may deem proper, by publication, mailing or otherwise, of any of its assessments, orders, proceedings, hearings or other acts done or contemplated.

CHAPTER 5. ASSESSMENTS

Article 1. In General

Plans and estimates

8750. Whenever in the opinion of the board it is necessary to levy an assessment upon any lands within the drainage district for any of the purposes specified in this chapter, the board shall adopt plans and make careful estimates of the costs and expense.

Contents of estimate

8751. The estimate shall include the following:

(a) The expenses of bonding the assessment if authorized by law, other than an assessment to pay the costs and expenses necessary for the maintenance, repair, and operation of its existing works of reclamation and flood control.

(b) The costs and expenses necessary for the completion, maintenance, and operation of any project adopted by the board prior to April 1, 1923.

(c) The costs and expenses necessary for the adoption and carrying to completion of any project or work involved in or contained in the report of the California Debris Commission dated January 5, 1925.

Separate projects

8752. The plans to be carried out shall be divided by the board into separate projects or units in such manner as will in its judgment best facilitate the levying of assessments for each particular project or unit in a just and equitable manner, according to benefits upon the lands in the district affected by the project or unit.

Inclusions in separate project

8753. Each separate and particular project or unit shall include all by-passes, cuts, canals, sumps, levees, pumping plants and other works of flood control and drainage necessary to properly conduct the water of any stream, natural or otherwise, the outlet of which has been intercepted by the construction of any levee or embankment included in the project or unit into a by-pass.

Resolution

8754. The board shall enter in the minutes of the board a resolution to the effect that the execution of each separate project or unit which they determine upon is a public necessity.

Designation of project

8755. Each project or unit shall be designated by the board in the resolution by name and number.

Designation of assessments, etc

8756. All assessments, plans and funds intended for or connected with the execution of each project or unit shall be designated by name and number and kept separate and used only for the purpose of carrying out the particular project or unit.

Basis

8757. In determining the benefits that will or may accrue to each particular tract of land by the construction or maintenance of the works contemplated by any project or unit, the works of the project or unit shall be considered as a whole and land shall be assessed for the works embraced in the project or unit only in the proportion that it will or may be benefited by the construction of the entire works embraced in the project or unit.

Limitations

8758. No land shall be considered as benefited by the construction or maintenance of the works embraced in a project or unit, nor shall any land be assessed for the expense of the construction or maintenance of the project or unit, because the land has been or may be first endangered or flooded, or the natural drainage thereof obstructed by the construction or maintenance of any part or portion of the works embraced in the project or unit prior to the completion of the construction of the entire works embraced in the project or unit.

Contribution by subsequently included land

8759. Whenever an assessment has been levied by the board upon land in the district for general administrative expenses and other expenses not pertaining to any particular project, and the boundaries of the district have been or shall be extended so as to include land other than the land included within the district at the time the assessment was levied, the board shall make an estimate of the fair and equitable amount which should be contributed by the land included by the change of boundaries for the purposes of the assessment previously levied.

Same Levy and assessment

8760. The board shall levy and cause to be assessed, equalized and collected in the manner provided in this part, an assessment to the amount of the estimate upon land included in the district by the change of boundaries, according to benefits in the manner provided in this part.

Release of assessment liens

8761. Whenever in the opinion of the board it appears that the total amount of any assessment previously levied and assessed and which has become a lien upon land in the drainage district, including assessments which have been bonded pursuant to the provisions of Part 5 of this division, is greater than required to meet all obligations incurred or to be incurred for the purposes for which the assessment was levied, the board may by resolution entered in its minutes, order the release of the lien of and abandonment of any part of the charges against any tract so assessed not required to be collected.

Order of release

8762. The portions of the assessment to be first abandoned and released shall be such portions of the charges on each tract as are based upon flood control benefits or by-pass severance as those terms are defined in, and determined by the

assessors appointed by the reclamation board, pursuant to the provisions of this chapter.

Conditions of release

8763. No assessment upon any tract shall be released or abandoned in pursuance to Section 8761 until all delinquent installments which have accrued thereon, together with interest and penalties, have been paid in full and a copy of the resolution certified by the secretary of the board and attested with its seal has been deposited in the office of the county treasurer of each county wherein any land affected by the assessment is situated.

Annexation of resolution of release

8764. The resolution shall be annexed by the county treasurer to the assessment list of the assessment for his county.

Readjustment

8765. When any payment has been made upon an assessment so abandoned and released, in whole or in part, the board may issue such warrants in the manner provided in this part as are necessary to secure a just, fair and equitable readjustment of the assessment so paid, but the reclamation board shall not take any action after June 30, 1944, to cause warrants to be issued for such readjustment of Sutter-Butte By-pass Assessment No. 6 and any action or proceeding brought to secure such readjustment of said Sutter-Butte By-pass Assessment No. 6 or to require the issuance of any warrant or payment of any money in connection with such readjustment of Sutter-Butte By-pass Assessment No. 6 must be commenced before January 1, 1945.

Limitation

Extent of abandonment

8766. The board may in its discretion abandon any assessment in whole or in part at any time prior to the time when the lien of the assessment has accrued to the extent that the assessment is greater than required to meet the obligations incurred or to be incurred thereon.

Invalid assessments Reassessment

8767. In all cases in which an assessment is levied upon land within the drainage district, and the assessment upon any tract is thereafter adjudged invalid by any court of competent jurisdiction, or, for any reason, the tract is not legally charged with the assessment, the tract shall be charged in any subsequent assessment with such proportion of the former assessment as the benefits derived by the land from the purposes for which the former assessment was levied bears to the whole amount of the former assessment.

Alternative method of reassessment

8768. Instead of proceeding under the next preceding section a subsequent reassessment of the tract may be made separately for the purpose of charging the land with its proper proportion of the assessment.

Change of boundary lines, etc

8769. In case of any change of county boundary lines or creation of any new county, all acts and proceedings provided for in this chapter relating to any assessment upon land affected by the change of county boundary lines, or creation of the new county, shall be done as if the land was situated in the same county as at the time of appointment of the assessors to make the assessment.

8770. The board has no power or authority to levy any assessment for any purpose upon property outside of the boundaries of the drainage district. Restriction on board's power

8771. Assessments shall be numbered consecutively. Consecutive numbering

Article 2. Assessors and Assessment

8775. When an assessment is to be levied, the board shall appoint three assessors. Three assessors

8776. The assessors shall be disinterested persons, and shall have no interest in any real estate within the drainage district. Disinterested persons

8777. Each assessor before entering upon his duties, shall make and subscribe an oath that he is not in any manner interested in any real estate within the drainage district, and that he will perform the duties of an assessor to the best of his ability. Oath

8778. The compensation of assessors shall be fixed and allowed by the board. Compensation

8779. After the assessors have examined the plan or plans of the works contemplated and the estimates of the cost, they shall make a preliminary report to the board indicating the exterior boundaries of the land that in their opinion will be benefited by the expenditures. Preliminary report

8780. The assessors, after performing their duties pursuant to Section 8779, shall appoint a time and place in each county in which any of the land proposed to be assessed is situated, when and where they will hear objections to the report and evidence concerning the manner in which the assessment shall be apportioned. Hearing of objections

8781. The assessors shall give notice of the hearing in each of the counties by publication in a newspaper published in the county once a week for three weeks, the first publication to be not later than the twenty-first day before the day of hearing. Notice by publication

8782. The notice shall contain a general designation of the land which will in the assessors' opinion be benefited, and shall refer to the preliminary report on file in the office of the board for the exterior boundaries. Contents of notice

8783 The assessors, may amend, modify or change the exterior boundaries of the land that, in their opinion, will be benefited by such expenditures. Change of exterior boundaries

8784. The board shall levy an assessment pursuant to this chapter if, within six months after the completion of the hearings there is filed with the board, written consent to the contemplated project, signed and acknowledged by the following: Consent prior to levy

(a) Owners of land representing 66 per cent or more of the value of the land excluding improvements within the district, as described in the preliminary report of the appraisers, or as modified thereafter, as such value is shown by the last preceding county tax assessment roll of the county in which the land is situated.

(b) Sixty-six per cent or more of the owners of land within the district as described in the preliminary report, or as modified thereafter.

Consent not filed

8785. If consent in writing is not filed in the manner and at the time provided, no further expenditures for the project shall be made, nor shall any obligations be incurred therefor.

Levy of assessments for expenses

8786. If consent is not filed the board may cause an assessment to be levied in the manner provided in this chapter for the purpose of paying the necessary engineering and other expenses in preparing the plans for the project, in making the preliminary report of the assessors and in holding the hearings thereon.

Basis of apportionment

8787. The assessors shall assess upon the lands within the drainage district proposed to be assessed for the plans adopted by the board the sums included in the estimates of the board, and shall apportion the sums according to the benefits that will accrue to each tract of land in the drainage district affected by any particular project or unit by reason of the expenditure.

Flood control benefit

8788. The assessors in apportioning the assessment on each tract of land shall, as information for the board set out, opposite each sum assessed for each particular tract of land, in separate columns respectively, the amount that they determine that each tract is so assessed by reason of benefit from the flood control features of the works involved in the plans, and also the amount that they deem each tract of land is so assessed by reason of all other benefit from the works.

Other benefits

Additional information

8789. The assessors shall, in the case of all assessments of the drainage district which may hereafter be levied by the board and all assessments which have heretofore been commenced but on which the assessment lists have not been made to conform with the decision of the board after equalization hearings held pursuant to the provisions of this part, state, as information for the board, in addition to the amount assessed by reason of the flood control features, opposite each sum assessed for each particular tract of land, in a separate column, the amount that they determine each tract is so assessed by reason of the severance of any lands not included in the assessed area which would have been included but for the location of a by-pass channel or channels provided for by another separate portion or project of the drainage district, adopted by the board.

Effect of apportionment

8790. The amounts stated and placed opposite each assessment shall be no part of the assessment and shall in no way affect the assessment charged against each tract of land as the same may be fixed, but shall be subject to review and readjustment in the same manner as the assessment itself.

Article 3. Reapportionment of Assessments

Subdivision into smaller parcels

8795. Whenever any tract of land upon which an assessment has been made, including assessments which have been bonded under and pursuant to the provisions of Part 5 of this

division, is subdivided into smaller parcels, the board shall at any time, after the list has been certified by the secretary of the board to be correct and deposited as provided in this chapter, reapportion the assessment or assessments upon the tract, including assessments or portions thereof which have become delinquent together with the delinquencies thereon including penalties and interest.

Subdivision after sale for delinquency

8796. Assessments and delinquencies on tracts of land which have become delinquent and which have been sold for delinquency pursuant to the provisions of this part and of Part 5 of this division, or either, and which have been subdivided, shall be reapportioned in the same manner and with the same effect as if the tract had not been so sold.

Basis

8797. Whenever application is made to the board for reapportionment, the board shall reapportion the assessment upon the tract or tracts in such manner as in their judgment will charge each of the smaller tracts with a just proportion of the assessment made upon the tract so subdivided, and with a just proportion of the delinquencies.

Hearing objections

8798. Before the reapportionment becomes final, the board shall appoint a time when it will meet for the purpose of hearing objections to the reapportionment.

Notice of hearing

8799. Notice of the hearing shall be given by publication for two weeks in some newspaper of general circulation published in the county in which the land or some portion thereof is situated.

Description of land

8800. The notice need not describe the land with particularity, but it is sufficient to describe the tract or tracts of land subdivided as a tract or tracts assessed to the owner or owners giving his name or other names upon the assessment list.

Tracts in one application

8801. As many tracts may be embraced in one application as applicant is the owner of, or interested in.

Hearing and order

8802. At the time appointed, or such other time to which the hearing may be postponed, or which may be appointed by the board, the board shall hear any objections to the reapportionment and shall approve, modify, or alter the reapportionment in such manner as in their judgment will charge each of the smaller parcels with a just proportion of the assessment made upon the tract subdivided and shall enter an order on its minutes accordingly.

Filing list of assessments

8803. When the reapportionment has been made by the board, it shall deposit, in the office of the county treasurer of the county in which the land is situated, a list or lists of the charges assessed against each of the parcels, and the lists, after filing, shall have the same effect as an original assessment.

Effect of filing lists

8804. The filing of the lists shall be conclusive evidence that the requisite notice has been given, and that all acts required to be done before the filing of the lists have been duly done and performed, and the decision of the board is final and conclusive.

Expenses

8805. The expenses of publication and such other expenses as the board may order shall be borne and paid by the applicant.

Article 4. Assessment Lists

Separate lists

8810. The assessors shall make a separate list of the lands assessed in each county pursuant to the provisions of this chapter.

Contents

8811. The list shall contain a description of the tracts of land assessed by swamp land surveys, legal subdivisions, or other boundaries or references sufficient to identify the tracts.

Further contents

8812. The list shall also contain the name of the owner, if known, or if unknown, that fact, and the amount of the charge assessed against each tract.

Estate of deceased as owner

8813. The name of the owner of land which is or is supposed to be the property of the estate of a deceased person in course of administration may be stated as estate of (such person, naming him), deceased.

Known and unknown owners

8814 When there are two or more owners or supposed owners of any tract of land, partly known and partly unknown, the assessment may be to the known owner or owners by name and to other owners unknown.

Mistake in ownership

8815 No mistake in the name of the owner, or supposed owner, of any real estate invalidates the assessment.

Abbreviations

8816. In the assessment list for any county the assessors may use any abbreviation in common use in that county, without explanation thereof.

Same Explanation thereof

8817. The assessors may also in the assessment list for any county make use of other abbreviations, if a schedule and explanation thereof with reasonable certainty is, unless printed on each page of the assessment list, prefixed to the assessment list and a reference thereto written, printed or stamped on each page of the assessment list whereon any such abbreviation is used.

Designation of recorded map, etc.

8818. In case any land in the assessment list for any county is described in whole or in part by reference to a map, plat or survey, which is on file or of record in any public office, it is sufficient in the description to designate the map, plat or survey by name, number or other designation sufficient to identify it in a schedule of such maps, plats and surveys.

Schedule of maps, etc

8819 The schedule shall be prefixed to the assessment list and shall set forth with reasonable certainty where each such map, plat or survey may be found, and shall be referred to by a reference written, printed or stamped on each page of the assessment list whereon such method of description is relied upon.

Filing

8820. The assessment lists when completed shall be filed with the secretary of the board and the secretary shall forward to the county treasurer of each county in which any land so assessed is situated, the assessment list for the county.

Public inspection

8821 The assessment list shall be open for inspection by the public for at least 60 days.

Hearing objections

8822. The board shall appoint a time and place not less than 60 days after the assessment list has been filed with the county treasurer when and where it will meet in each county wherein any of the land assessed is situated for the purpose of hearing objections to the assessments.

Filing and publication of notice of hearing

8823. The notice of hearing in each county shall be filed with the county treasurer and published once a week for four weeks in some newspaper published in the affected county.

Filing of objections

8824. At any time before or during the hearing any person interested in any land upon which any charge has been assessed, may file in the office of the board or with any member thereof, written objections to the assessment, stating the grounds of the objections.

Verification

8825. The statement shall be verified by the affidavit of the person objecting or some other person who is familiar with the facts.

Evidence

8826. At the hearing, the board shall hear such evidence as may be offered touching the correctness of the assessment or the manner of its apportionment.

Board action

8827. The board may modify or amend the assessment, and may reapportion all or any part of the entire assessment.

Condition for reapportionment

8828. Unless the aggregate amount of the whole of the assessment is modified or amended by the board so as to cause a difference of more than 2½ per cent greater or less than the original total amount of the assessment, it is deemed that the assessment has not been substantially modified and no necessity shall exist for a reapportionment thereof.

Notice of reapportionment

Hearing objections

Order of approval

8829. If the assessment is reapportioned the board shall give two weeks notice as provided in this article and proceed to hear objections in each county affected and shall then reconsider the assessment and make an order approving the assessment as finally fixed.

Effect of decision

8830. The decision of the board shall be final, and thereafter the assessment list shall be conclusive evidence, except in the suit provided in this article, that the assessment has been levied and apportioned according to law.

Action in superior court

8831. Any person interested in any land upon which any charge has been assessed, who is aggrieved by the decision of the board approving the assessment, may commence an action against the district in the superior court of the county in which the land or the greater part thereof is situated, to have the assessment upon such land modified or annulled.

Limitation

8832. The action shall be commenced within 60 days after the board has approved the assessment and the assessment list for the county has been deposited in the office of the county treasurer.

Preference

8833. This action shall have preference over all civil actions in fixing the time of trial.

Article 5. Maps

Definition

8835. As used in this article map means a map or maps prepared by the assessors appointed for any assessment.

Preparation and detail

8836. The assessors appointed for any assessment may prepare or cause to be prepared a map for the whole or any part or parts of the land to be assessed with sufficient detail to indicate thereon and identify the several tracts of land to be separately assessed.

Designation of tracts

8837. Each of the separate tracts shall be designated on the map by a distinctive number.

Designation of maps

8838. Each of the maps shall be inscribed and designated as "reclamation board assessment map No._____," giving each map a distinctive number.

Form

8839. Any map may consist of any number of sheets attached together and designated as one map.

Approvals

8840. The map when approved by the board, shall be certified by the secretary of the board as having been so approved.

Recordation

8841. The approved map shall be filed for record in the office of the county recorder of the county wherein the land indicated on the map is situated.

Description by reference

8842. For the purpose of any assessment levied by the board, the assessment list for any county may, for the description of any tract of land indicated on any map, refer to the map and to the number by which the tract is designated on the map.

Purposes for which sufficient

8843. Any reference to a map and tract is a sufficient description of the tract for the purposes of an assessment list, and for the purposes of the notice of delinquent sale, certificate of sale and deed in pursuance of said sale, and all other proceedings based upon the assessment.

Inapplicable statutes

8844. No provision of any other statute of this State relative to the filing or recording of maps in the office of the county recorder shall apply to the maps referred to in this article

Legal effect

8845. The maps referred to in this article shall have no legal effect for any purpose except for the convenient reference to and description of the tract of land indicated thereon for the purposes of description of tracts of land by reference thereto in the matter of assessments levied by the board and acts and proceedings based thereon as provided in this chapter.

No fee

8846. No fee shall be charged by any county recorder for the filing for record of any map as provided in this article.

Article 6. Collection and Delinquencies

Filing of lists with county treasurers

8850. After the board has held the hearings in each county pursuant to this chapter and the assessment lists have been made to conform with its decision, the lists shall be certified by the secretary of the board to be correct, and shall thereupon be filed in the offices of the county treasurers, respectively, of the several counties in which are situated any of the lands assessed.

When lien attaches

8851. The county treasurer shall indorse upon the assessment list the date and time to the hour and minute when it was filed in his office; and thereafter the assessment constitutes a lien upon the land so assessed in the county, and imparts

notice to all subsequent purchasers or incumbrancers or any person acquiring any interest in or lien upon the land. Notice

8852. The assessment shall be paid to the respective county treasurers in one or more installments of such amounts, and at such time, respectively, as the board, from time to time, may, by order entered in its minutes, direct. Payment

8853. At any time within 30 days after the assessment list has been filed in the office of the county treasurer, the whole amount of the assessment upon any tract of land therein separately assessed may be paid in cash to the county treasurer. Full payment when separately assessed

8854. The county treasurer shall issue his receipt and shall endorse the fact and date of the payment in full upon the assessment list, and thereupon the lien of the assessment upon the tract of land ceases. Discharge of lien

8855. No interest shall be charged on any assessment paid in full within this 30-day period. No interest

8856. All assessments not paid in full within the period of 30 days shall bear interest at the rate of 7 per cent per annum from and after the time when the assessment list is filed in the office of the county treasurer for collection. Interest rate

8857. The remaining portion not yet ordered paid by the board of the assessment upon any tract of land may be voluntarily paid in full, with the accrued interest thereon, at any time after the lien of the assessment has accrued. Voluntary payment

8858. If any installment is unpaid at the expiration of 30 days from the date of the board order calling the installment, the installment is delinquent, together with accrued interest to date of delinquency. Delinquency

8859. When any installment is delinquent, a penalty of 10 per cent of the amount of the installment plus interest, shall be added and collected for the use of the drainage district. Penalty

8860. If any action is pending in any court to have the assessment on any tract of land reviewed, modified or annulled, pursuant to the provisions of this chapter, the assessment, if not annulled in the action, may, in the discretion of the board, become delinquent 30 days after any judgment rendered in the action has become final. Delinquency after judgment

8861. From date of delinquency until time of delinquent sale, the unpaid installment, together with added interest and penalty, bears interest at the rate of 7 per cent per annum. Interest after delinquency

8862. When the installment is delinquent, the board, when it deems it advisable, shall publish in each county where the delinquency exists, a list in one notice of all delinquencies once a week for two weeks successively in some newspaper of general circulation published in the county. Publication of delinquencies

8863. The notice shall contain: Contents of notice

(a) A description of the property assessed as described in the assessment list by reference number or by other descriptions sufficient to identify the property.

(b) The name of the owner to whom the property is assessed or a statement that the owners are unknown.

(c) The amount of the delinquent installment, interest and penalty.

Same
Public auction

8864. The notice shall also state that each of the parcels will be sold at public auction by the county treasurer in front of the courthouse of the county at a specified day and hour, to pay the installment with accrued interest and the penalty, together with its proportion of the total cost of publication of the notice of sale.

CHAPTER 6. SALE OF LAND FOR DELINQUENT ASSESSMENTS

Conditions

8870. At the time and place stated in the notice of sale, or such other time to which the sale is postponed, the county treasurer shall sell each parcel of land described in the notice to the highest bidder for lawful money of the United States unless prior thereto he has received payment in full of the delinquent installment, interest, penalty and cost of publication.

Continuation

8871. If not completed on the first day the sale may be continued from day to day and over Sundays and legal holidays until completed.

License not required

8872. No license shall be required of the county treasurer for conducting the sale.

Minimum bid

8873. No bid for any parcel shall be accepted which is less than the aggregate sum then due for the installment thereon, together with accrued interest, penalty and cost of publication.

Sale to drainage district

8874. If no bid is made for any parcel at the delinquent sale which is equal to the total amount when due on the parcel, the county treasurer shall bid in and sell the parcel to the drainage district for the amount of the delinquent installment or installments, together with accrued interest, penalty and cost of publication.

Certificate of sale: Recordation

8875. The county treasurer shall execute to each purchaser at the delinquent sale, including the drainage district, a certificate of sale which shall be recorded by the purchaser in the county recorder's office of the county in which the land is situated.

Distribution of proceeds

8876. Out of the proceeds of the sales the county treasurer shall transmit to the State Treasurer the total amount then due on the property so sold as shown in the notice, and shall pay to the owner of the property any surplus remaining after the payment to the State Treasurer.

Postponement
Posting notice

8877. The county treasurer shall, when directed by the board, postpone the delinquent sale from time to time for not less than 10 nor more than 30 days by a written notice posted at or near the place of sale.

Form of notice

8878. The notice of postponement shall be substantially as follows: The sale of property for delinquent assessment under (name and number of assessment) of the Sacramento and San Joaquin Drainage District, which was fixed for (time and place of sale) has been postponed to (time to which postponed) at the same place.

Redemption

8879. Any person interested in any tract of land sold at the delinquent sale may redeem the tract at any time within one year after the date of sale by paying to the county treasurer for the purchaser a sum equal to the purchase price stated in the certificate of sale with interest thereon at the rate of 12 per cent per annum from the date of sale to the date of the redemption, together with the amount remaining due and unpaid of any installment upon any assessment on the land under the provisions of this part, with the penalty prescribed for delinquencies.

Deed of conveyance

8880. If no redemption is made within one year the board, upon demand and the surrender of the certificate of purchase and the delivery of a certificate of the county treasurer that no redemption has been made within the year from date of sale, shall execute to the purchaser, his heirs or assigns, a deed of conveyance of the parcel of land described in the certificate.

Encumbrances

8881. The deed conveys to the grantee the land free and clear of all encumbrances except State, county and municipal taxes, assessments levied or assessed by statutory authority and the unpaid balance of any assessment made by the drainage district.

Collection of unpaid balance

8882. The unpaid balance of any assessment made by the drainage district, shall be called in and collected in the same manner as other assessments, except that no parcel sold and conveyed to the drainage district shall thereafter, until redeemed or until sold and disposed of by the board, be subject to sale by the treasurer for subsequent installments of any assessment made pursuant to the provisions of this part.

Deed prima facie evidence

8883. Each deed by the board purporting to be executed under this chapter shall be prima facie evidence of the truth of the matters therein recited and of ownership by the grantee of the lands therein described.

Execution by officers

8884. All deeds required by this chapter to be executed by the board may be executed by the president and secretary thereof on behalf of the board.

Drainage district as trustee

8885. Any parcel of land bid in and purchased by the drainage district at the delinquent sale shall be held in trust for the assessment under which the parcel of land was sold.

Expiration of exemption period

8886. The parcels of land mentioned in the preceding section may be sold and conveyed by the board at any time after the expiration of the redemption period of one year at public or private sale and with or without notice, to any person paying not less than the amount for which the parcel was bid in by the county treasurer at the delinquent sale for the drainage district, with interest thereon at the rate of 12 per cent per annum compounded yearly from the date of the delinquent sale, and also the amount of all subsequent installments or other assessments then delinquent, with accrued interest and penalties thereon.

Terms of sale

Legal tender

8887. Payment for the land purchased pursuant to the provisions of this chapter shall be made in lawful money of the United States.

Deed: Encumbrances

8888. The board, when any land has been sold pursuant to the provisions of this chapter shall execute a deed to the purchaser at the sale conveying the property, free of all encumbrances except State, county and other municipal taxes, assessments levied or assessed by statutory authority and the unpaid balance of all assessments of the drainage district, which balance shall be called in and collected in the same manner as other assessments.

Public auction

8889. When any lands purchased at the delinquent sale by the drainage district remain unsold then the board shall sell all such lands so held by the drainage district at public auction to the highest bidder for cash, upon two weeks published notice substantially in the manner provided for notice upon delinquent sales, and shall execute to the purchaser a conveyance, which deed shall convey title to the land as prescribed in this chapter.

Deed

Disposition of proceeds

8890. The proceeds of the sale shall be deposited with the State Treasurer to the credit of the assessment under which the property became delinquent.

CHAPTER 7. FINANCES

Article 1. Joint Navigation and Flood Control Project Fund

Deposit of moneys in fund

8900. All money which shall be or has been appropriated or made available by the State for expenditure under and pursuant to Chapter 176 Statutes of 1925 (except for purposes of bank protection and maintenance and except appropriations pursuant to the provisions of Chapter 556, Statutes of 1919), shall immediately, upon any of the money becoming available, be deposited in the "Joint Navigation and Flood Control Project Fund," which fund is continued in existence.

Administration of fund

8901. The fund shall be expended and disbursed by the board for the uses and purposes and subject to the conditions set forth in this article at such times and in such manner as the board in its discretion deems necessary or proper.

Surplus carried over

8902. In the event any money so made available during any fiscal year is not expended or encumbranced during the year, the money shall not revert to the General Fund but shall continue to be available for the uses and purposes specified in this article from year to year until expended.

Warrants

8903. The Controller shall issue his warrants upon order by the board payable out of the fund and the State Treasurer shall pay the warrants.

Expenditures permitted

8904. The money shall be set aside, disbursed and applied by the board in such amounts as the board may from time to time determine and declare, for the uses and purposes as follows:

(a) For new construction, land, rights of way, or easements required to be done or acquired by the State, pursuant to the plan or project.

(b) For the purpose of defraying the general administrative operations and the overhead of the board.

(c) For the uses and purposes hereinafter set forth in Sections 8905 and 8906 such portion or portions of the money of the fund which has not theretofore been set aside for the uses and purposes provided in subdivisions (a) and (b) of this section.

Cancellation of warrants or bonds

8905. The Department of Finance, with the consent of the board, may from time to time and to such extent as it may determine, purchase, retire and cause to be canceled at such price or prices as it may deem advisable, but not to exceed par plus accrued interest thereon, all or any warrants or bonds or refunding bonds of the drainage district heretofore or hereafter issued as provided in this part of Part 5 of this division, and drawn or based upon or secured by Sutter-Butte By-pass Assessment No. 6, Feather River Assessment No. 7 or Sacramento River Outlet Assessment No. 2.

Redemption of bonds

8906. The board, with the consent of the Department of Finance, may from time to time and to such extent as it may determine call and redeem bonds based upon any of the assessments pursuant to the provisions of Part 5 of this division, allocating therefor such sums as it may deem adequate or proper.

Allocation of moneys

8907. The unexpended balance of all moneys made available and all moneys hereafter made available shall be allocated to projects Nos. 2, 6 and 7 of the drainage district, in such proportions and amounts as the Department of Finance or the board, may determine with the consent of the other.

Use of appropriated moneys

8908. The use of moneys heretofore or hereafter appropriated or made available by the State further to carry out the purposes of this part, shall not be restricted to the uses and purposes set forth in subdivision (c) of Section 8904 but such moneys or any part thereof may be set aside, applied and disbursed for any and all of the purposes set forth in subdivisions (a), (b) and (c) of Section 8904.

Disposition of rentals, etc. Exception

8909. Funds received from the rent, lease or sale of property of the drainage district, other than property leased or rented for oil and gas, shall, upon the order of the board, be placed in the "Joint Navigation and Flood Control Project Fund" or in any other fund of the drainage district.

Use of rentals, etc

8910. The board may use money received under the next preceding section for any authorized purpose.

Disposition of oil and gas rentals, etc

8911. From the funds received for the rent or lease of property of the drainage district for oil and gas, there shall first be transferred to the "Joint Navigation and Flood Control Project Fund" such amount as the Director of Finance may by executive order determine to be necessary to meet any and all expenses required by the board to administer the renting or leasing of the property of the drainage district for oil and gas, and the balance of such funds shall be deposited monthly in the General Fund of the State treasury.

State and Federal undertaking: Warrant to United States treasurer

8912. On all work which, under the report of the California Debris Commission is to be prosecuted jointly by the United States and the State, the board may upon request by the California Debris Commission cause warrants to be drawn

by the Controller and the Controller shall draw his warrant in favor of the Treasurer of the United States payable out of the Joint Navigation and Flood Control Project Fund.

Same Conditions

8913 No amounts shall be so drawn from the Joint Navigation and Flood Control Project Fund and paid to the Treasurer of the United States unless an equal amount has been appropriated or authorized to be appropriated by the Congress of the United States, conditional on the payment of an equal amount by the State for the prosecution of the work to be undertaken jointly.

Article 2. Revolving and Contingent Funds

Revolving fund continued

8920. The revolving fund for the use of the board is continued in existence.

Warrants

8921. The Controller shall draw warrants upon the State Treasurer whenever drafts of the board are presented to him, payable out of the revolving fund, and the State Treasurer shall pay the warrants.

Permitted uses

8922. The revolving fund may be used by the board from time to time for any purpose for which the funds of the board or of the drainage district, whether raised by assessment or otherwise provided, may be lawfully used.

Reimbursement for prepaid expenses

8923. Whenever any assessment is levied or ordered by the board which is applicable to the payment of any expenses or charges that have been prepaid out of the revolving fund, and proceedings have been taken pursuant to the provisions of this part which legalize the drawing of warrants against the funds of the assessment, then the board shall make and present its draft to the Controller and the Controller shall draw his warrant upon the State Treasurer upon the funds of the assessment for the amount of the expenses or charges prepaid out of the revolving fund.

Payee

8924. The warrant shall be drawn in favor of the State Treasurer.

Form, interest, and payment

8925. The warrants drawn pursuant to Section 8923 may be registered and renewed, shall bear interest and be paid in the same manner as provided in this part for the payment of other warrants against the funds of the assessment and when so paid the amount of the warrants and the interest thereon shall be credited by the State Treasurer to and become part of the revolving fund.

Disposition of money

Maximum withdrawals

8926. The board, with approval from the Department of Finance, may from time to time draw sums from the State Treasury out of the revolving fund, not to exceed the sum of five thousand dollars ($5,000).

Vouchers, etc., not required

8927. The sums mentioned in the preceding section may be drawn without the submission of estimates, receipts, vouchers or itemized statements.

Special cash contingent fund

8928. The funds drawn pursuant to Section 8926 are to be used as a special cash contingent fund out of which may be advanced any proper expenses or charges in the conduct of the board's business, requiring prompt payment in cash.

Reimbursement upon accounting and vouchers

8929. All charges and expenses advanced out of the special cash contingent fund shall be accounted for and proper vouchers therefor submitted to the Department of Finance, and when approved by the Department of Finance, the amount thereof shall be paid out of the revolving fund and returned to the cash contingent fund.

Accounting

8930. The special cash contingent fund shall be accounted for by the board and at any time upon demand by the Controller or the Department of Finance shall be refunded to the revolving fund.

Refund to revolving fund

Article 3. Sacramento and San Joaquin Drainage District Refunding Act

Cancellation of proceedings

8935. The board shall cancel all proceedings taken in connection with the bond issue of the drainage district based upon and secured by Sutter-Butte By-pass assessment number six of the district now authorized but not sold.

Transfer of moneys Retirement of warrants

8936. The Controller shall request the State Treasurer to transfer and the Treasurer shall immediately transfer, any and all moneys deposited in the Bond Fund or Bond Interest Fund of the assessment from the fund or funds into the Construction Fund of the assessment to be used for the retirement of warrants pursuant to the provisions of this part.

Payment of assessment number six

8937. Immediately upon the bonds authorized and directed to be canceled by this article being canceled, the board may order that assessment number six shall be paid in semiannual installments equal to not less than 3½ per cent of the principal of the assessment for each installment.

Supplementary assessment number six Levy and payment

8938. If a supplementary assessment number six is levied by the board, immediately upon the supplementary assessment number six becoming a lien upon the lands, the board shall rescind and cancel its then existing order and the board may order that thereafter the assessment number six and the supplementary assessment number six shall be paid in semiannual installments equal to not less than 3½ per cent of the principal amount of the assessment for each installment.

Basis of semiannual installments

8939. Each of the semiannual installments upon each tract shall be based upon the original principal amount of the assessment on the tract less any deductions theretofore made by reason of any credits made upon the tract pursuant to the provisions of Chapter 556 of the Statutes of 1919, and shall continue to be so based until such time as the principal and interest of the assessment on the tract are paid in full.

Postponement or discontinuance

8940. The board may, by order entered in its minutes, postpone or discontinue from time to time the calling of the semiannual installments or any of them for such periods of time as it deems advisable.

Warrants in payment

8941. Any owner or holder of lands within the boundaries of the drainage district whose lands are subject to the lien of assessment number six or supplemental assessment number six levied in connection with project number six may present to any officer authorized by law to collect such assessments, or

any part thereof, warrants of the district now, or hereafter to be, issued in connection with project number six in payment of his assessment, or any part thereof.

Terms of acceptance

8942. Any officer mentioned in the next preceding section shall accept such warrants so presented or tendered in payment of the assessment, or any part thereof, at the face value of the warrant or warrants so presented, plus accrued interest.

Transmission of warrant

8943. All warrants when received by any officer authorized by law to receive them shall be by him transmitted to the Controller who shall give the officer a receipt for the warrants.

Duties of Controller and State Treasurer

8944. The Controller shall, upon demand of the board, cancel the warrants and credit the face value thereof, plus the accrued interest thereon to the date of the tender of the warrants in payment of assessments to the fund upon which the warrants were originally drawn and charge the fund with the accrued interest. Thereupon the Controller shall notify the State Treasurer of the cancellation and the State Treasurer shall make the proper entry in his books.

Excess payments

8945. Partial payments on any tract in excess of any regular installment amount shall be credited to the payment of the principal amount of the assessment upon that tract thereby reducing the interest that would thereafter accrue upon that tract.

Order of crediting payments

8946. Any and all partial payments of principal may, and upon request of the person making payment shall, be credited to the amounts charged against the tract by reason of benefits other than flood control until such charges have been paid in full and thereafter to the amounts charged against the tract by reason of flood control benefits.

Article 4. Sacramento and San Joaquin Drainage District Fund

Duties of county treasurer

8950. All money collected upon sales or otherwise shall be paid to the county treasurer of the county in which the land is situated, and the money, together with all other money collected by the county treasurer shall, within one month after its receipt by the county treasurer, be by him deposited in the State Treasury to the credit of the drainage district in a fund which is continued in existence and known as the Sacramento and San Joaquin Drainage District Fund, specifying the name and number of the assessment from which the money was derived.

Issuance of warrants

8951. The money in the Sacramento and San Joaquin Drainage District Fund shall be paid out upon warrants of the Controller, and the Controller shall issue warrants upon the funds whenever drafts of the board are presented to him.

Payment by State Treasurer

8952. The State Treasurer shall pay such Controllers warrants when there is sufficient money in the fund of the drainage district.

Article 5. Funds of Defunct Sacramento Drainage District

Duty of county treasurers

8953. All money collected by any of the county treasurers of the State as assessments of the defunct Sacramento drainage district, and unexpended in the hands of the county treasurers, shall vest in the drainage district, and the county treasurers of the State shall pay the money over to the board for the benefit of the drainage district, and the money, when paid over to the board, shall be expended by it for general administrative purposes of the drainage district.

Article 6. Warrants

Use of assessment money restricted

8955. All money collected from assessments shall be paid out only on warrants issued for works or other expenses covered by the assessment from which the money was derived, to the end that all money raised by assessment upon any of the lands embraced in the drainage district, shall be expended only for works of reclamation or other expenses, beneficial to the lands so assessed, and for the payment of warrants issued for the construction of the works and other expenses for which the assessment was levied.

Designation of assessment

8956. Each warrant shall designate the name and number of the assessment from which it is to be paid.

When warrant may be drawn

8957. Drafts of the board may be presented to the Controller and warrants drawn against the funds to be raised by an assessment as soon as the board has passed its order or resolution for the levy of the assessment and appointed the assessors.

Insufficient funds

8958. In case there are not sufficient funds applicable thereto for the payment of the warrants when presented to the State Treasurer, he shall indorse on the warrants the date of presentation and register the same, and thereafter the warrants shall bear interest at the rate of 7 per cent per annum, and shall be paid in the order of their registration.

Contracts for payment of money: Statute of limitations

8959. All such warrants shall be considered as contracts in writing for the payment of money, and the period prescribed for the commencement of an action based upon any such warrants, or connected therewith, is four years from the date of the first publication of the notice specifying the warrants published by the State Treasurer pursuant to the provisions of this article.

Toll of statute

8960. No statute of limitations shall be deemed to have run against any action upon or affecting any warrant drawn against any assessment under this part by reason of the lapse of time during which funds adequate for the payment of the outstanding warrants against the assessment were not available.

As payment of assessment

8961. The warrants shall, at any time within the period of four years, be received in payment of any assessment for work or expenses for which the warrants were issued.

Renewal

8962. The board may, at its option, at any time before payment of any warrant renew it upon application of the owner

or holder thereof by an indorsement thereon of the fact and date of the renewal and notice thereof to the State Treasurer and Controller.

Notice of sufficient funds

8963. Whenever there is sufficient money in the treasury applicable to the payment of any outstanding warrants of the drainage district, the State Treasurer shall give notice that there is money in the treasury to pay certain warrants, giving their numbers in the order of their registration.

Publication

8964. The notice shall be published for 10 days in one newspaper published in the City of Stockton and one published in the City of Sacramento.

Interest ceases

8965. After the last publication of the notice the warrants therein mentioned cease to bear interest.

Official newspapers

8966. The board shall designate a paper in each of the cities of Stockton and Sacramento which shall be the official papers of the drainage district for the purpose of the publication.

Transmission to Controller by board, etc.

8967. All warrants of the drainage district when received by the board, Department of Finance, the respective county treasurers or any other officer authorized by law to accept them, for the cancellation or retirement thereof or in payment of assessments, shall be transmitted by the board, department, or officer to the Controller who shall give the board, department, or officer a receipt for the warrants.

Duties of Controller

8968. The Controller upon demand by the board shall cancel the warrants and credit the face value thereof, plus accrued interest thereon to the date of the tender of the warrants to the board, department or officer receiving them, to the fund upon which the warrants were originally drawn and charge the fund with the accrued interest.

Notice to State Treasurer

8969. The Controller shall notify the State Treasurer of the cancellation and the State Treasurer shall then make the proper entries in his books.

Insufficient funds, failure to register, duty of Controller

8970. Whenever any warrant drawn by the Controller upon the State Treasurer as provided in this chapter has been presented to the State Treasurer and not paid for want of funds and has not been registered by the State Treasurer and bears interest as provided in this chapter, the Controller shall at any time, on presentation of the warrant to him for that purpose, certify on the warrant, over his signature, the amount of interest accrued thereon to that date, specifying the date.

Payment of accrued interest

8971. When the State Treasurer pays a warrant he shall, in addition to the amount for which the warrant was drawn, pay the interest accrued thereon as certified to by the Controller.

Substituted warrants

8972. Whenever any unpaid, outstanding and interest-bearing warrant drawn by the Controller upon the State Treasurer as provided in this chapter is presented to the board by the owner or holder thereof for the purpose of having two or more warrants issued to him in lieu thereof, the board shall present the warrant properly indorsed to the Controller for

credit to the fund upon which it was originally drawn together with a claim on the Controller setting forth the following:

(a) The number and denomination of the warrant to be credited.

(b) The number of substituted warrants, and denomination of each, to be issued in lieu thereof.

Required amount

8973. The sum of the substituted warrants shall equal the principal amount of the original warrant.

Duties of Controller

8974. The Controller shall credit the original warrant to the fund upon which it was originally drawn and shall prepare and issue warrants in accordance with the claim so presented showing thereon that the substituted warrants are issued in lieu of warrant No._____ (giving the warrant number of the original warrant) and also showing the date of issuance and date of registration of the original warrant.

Insufficient funds: Registration, interest

8975. When, upon presentation to the State Treasurer, payment can not be made for want of funds the State Treasurer shall register the warrants as of the date of registration of the original warrant and the substituted warrants shall bear interest from the original date of registration at the rate of 7 per cent per annum as provided in this chapter.

Authority of Department of Finance to purchase

8976. The Department of Finance may, out of any funds of the State which it is authorized by law to invest, purchase at their face value and invest in any warrants of the drainage district drawn by the Controller as provided in this part and payable out of any assessment levied or to be levied by the board upon lands within the drainage district.

Authority to exchange or sell

8977. The Department of Finance may exchange any warrants purchased pursuant to the next preceding section for other warrants drawn against the same assessment, and sell all or any part of the warrants so purchased or taken in exchange.

Without loss to State

8978. All such exchanges or sales of warrants shall be effected without loss to the State.

Registration

8979. All warrants purchased or acquired by exchange by the Department of Finance shall be registered by the State Treasurer, unless already registered.

How payable

8980. The warrants shall be payable with interest in their proper order of registration, as provided in this part.

To be held until paid

8981. The warrants shall, unless sold or exchanged, be held by the Department of Finance until paid.

Disposition of proceeds

8982. Upon payment of the warrants the proceeds thereof shall be returned into the fund out of which the purchase or investment was made.

Article 7. Claims

New construction for flood control

8990. If any reclamation district, levee district, drainage district, municipal corporation, private corporation, association or person has since February 28, 1928, or shall hereafter, advance or expand any sum of money to be applied upon, and in aid of the completion of, any work of new construction called for by the provisions of the flood control plan of the State as in effect February 28, 1928, or as amended after August 14, 1931, the sum advanced, or a specified portion thereof agreed

Charge against particular work
Claim: How payable

upon, may in the discretion of the board, be determined to be a proper charge against the particular work of construction for which the money was advanced and the party advancing it may, in the discretion of the board, have a claim against the drainage district for the amount, or specified portion thereof, without interest, payable as and when moneys are made available by law for defraying the cost of the particular work for which the sum was originally advanced.

CHAPTER 8. DISTRICTS AND PERSONS WITHIN SACRAMENTO AND SAN JOAQUIN DRAINAGE DISTRICT

Article 1. Flood Control Works, Purchases and Compensation

Acquisition of right of way, etc.

8995. Any reclamation district, levee district, drainage district, or municipal corporation, wholly or partly within the drainage district, may, with the permission of the board, acquire by grant or eminent domain or otherwise, any right of way or other easement included in any of the plans for controlling the flood waters of the Sacramento and San Joaquin rivers or their tributaries to be carried out by the board pursuant to the provisions of this part.

Required by plans

8996. The right of way or other easement acquired pursuant to the next preceding section shall be required by the plans of the reclamation, levee, or drainage district or municipal corporation for the consummation of its purposes as authorized by law.

Construction permitted

8997. Any reclamation district, levee district, drainage district or municipal corporation, wholly or partly within the drainage district may with the permission of the board, construct levees, cuts, canals or gates required to complete any by-pass forming part of the plans to be carried out by the board, or to complete any part of any by-pass which may in the judgment of the board be safely and economically constructed as a separate unit or portion of the plans.

Compensation for title

8998. The title to any such right of way or other easement or levees, cuts, canals or gates shall be conveyed to the drainage district upon compensation being made for the cost thereof.

Compensation for easements, etc.

8999. If any reclamation district, levee district, drainage district, municipal corporation, or person within the drainage district, with the consent of the board, provides or leaves any land for a by-pass, waterway, storage basin or sump for the purpose of complying with the plans to be carried out by the board, or for carrying out in whole or in part any of the plans or works adopted by it or erects any levee along the by-pass or waterway, storage basin or sump, the by-pass, waterway, storage basin, sump, and levee shall be considered as a part of the work to be done pursuant to the provisions of this part and proper compensation shall be made for the right of way or easement through, over and upon the by-pass, waterway, storage basin or sump and for the actual reasonable cost of construction of the levees, cuts, canals or gates.

Perpetual easements

9000. When the compensation has been made, the reclamation district, levee district, drainage district, municipal corpo-

ration, or person shall convey to the drainage district a perpetual easement in, over and upon the by-pass, storage basin, sump or levee for all purposes necessary to accomplish the plans to be carried out by the board.

Claims

9001. Any reclamation district, levee district, drainage district, municipal corporation or person which does any of the following, with the consent of the board has a claim against the drainage district for the reasonable value of the rights of way, levees, cuts, canals or gates that are involved:

(a) Expends any sum of money in the acquisition of rights of way or other easements, or in the construction of levees, cuts, canals or gates.

(b) Conveys the rights of way, easements, levees, cuts, canals or gates to the drainage district.

(c) Allows any land to be used for the purpose of a by-pass, waterway, storage basin, or sump to comply with the plans to be carried out by the board.

(d) Constructs levees along any line of any by-pass, or storage basin and conveys a perpetual easement therein to the drainage district.

Payment by assessment

9002. An assessment shall be levied upon the lands in the drainage district benefited thereby so that the claim may be paid.

Alternative method

9003. In lieu of levying an assessment pursuant to Section 9002 the cost of the claim may be included as one of the items in any assessment that may be levied in the drainage district.

Permission and consent construed

9004. The words "with the permission of the board" or "with the consent of the board," as used in this article mean the express permission or consent of the board in each particular case, evidenced by resolution or order entered in its minutes, and granted upon application of the particular district, municipal corporation, or person desiring to obtain benefit of the provisions of this article.

Plans and specifications

9005. Before granting its permission for the acquiring of any right of way or easement or for the construction of any of the levees or other works mentioned in this article, the board may require the applicant to furnish and submit to the board complete and detailed plans and specifications and estimates of the cost thereof, and the board may in its order granting such permission designate a maximum limit of the amount of compensation to be so allowed therefor.

Maximum compensation

Ownership in fee

9006. In case the board determines that the ownership in fee of, instead of the right of way or easement over, any land required for use as a by-pass, overflow channel or basin, or for any part of the works of flood control to be carried out by the board, is necessary, or that the absolute ownership by the drainage district of any levees, cuts, canals, gates or other flood control works is necessary for the purposes of the district, then the board may require that title in fee and absolute ownership shall be conveyed to the drainage district before any compensation is allowed therefor pursuant to any of the provisions of this article.

Article 2. Application of Compensation

Municipal corporation or person

9010. Any compensation made to any municipal corporation, or person, in accordance with the provisions of this chapter, shall be applied toward the payment of any assessment upon any tract of land assessed for any particular portion or project owned by the municipal corporation, or person.

Reclamation, levee or drainage districts

9011. The compensation made to any reclamation district, levee district or drainage district shall be applied and credited pro rata toward the payment of the balance remaining unpaid upon the assessments levied by the board against the land respectively situated within the reclamation district, levee district or drainage district, as part of the assessment out of which the compensation is to be made, based upon the total amount of the assessment charges against the lands in such reclamation district, levee district or drainage district.

Excess compensation

9012. When the compensation applied pursuant to the provisions of the next preceding section exceeds the total amount of such credits upon the assessments upon the lands in the district, the excess shall be paid to the district.

Outstanding warrants or bonds

9013. Whenever any reclamation district, levee district, or drainage district has warrants or a bond issue outstanding, or both, compensation made pursuant to the provisions of this article shall be paid directly to the district, and the compensation shall be applied and paid by the district, pursuant to the provisions of this article.

Reclamation district: Proceeds to county treasurer

9014. The compensation, or the proceeds thereof, when received by any reclamation district shall be paid or delivered by the board of trustees thereof to the county treasurer having the custody of the funds of the district.

Disposition by county treasurer

9015. The county treasurer shall place the compensation paid to a reclamation district in the fund of the district out of which warrants are payable.

Proceeds to custodian of funds

9016. When compensation is received by any levee district, or drainage district, it shall be paid or delivered by the governing body thereof to the officer having the custody of the funds who shall place the compensation into the proper funds of the district.

Payment of outstanding warrants

9017. Any reclamation district, levee district, or drainage district, to which compensation is made, shall apply the same, or the proceeds thereof, to the payment of outstanding warrants of the district.

Residue for bonded indebtedness

9018. If any reclamation district, levee district, or drainage district, has a bond issue outstanding, the board of trustees of the district shall direct the county treasurer, or officer having the custody of the funds of the district to apply any residue of such compensation after the payment of all outstanding warrants to the payment of interest on the bonds, or the principal of the bonds, or both.

Duties of county treasurer and custodian

9019. The county treasurer, or other officer having the custody of the funds of the district shall comply with such directions and transfer to the proper fund the necessary amount therefor.

9020. The county treasurer shall transfer sufficient funds from the general fund of the district to the bond and interest fund for the purpose of carrying out the provisions of Section 9018. County treasurer Transfer of funds

9021. Any district, association or corporation may act under this article through a majority of its trustees or other governing body. Official acts

Article 3. Exchange of Warrants

9025. Any reclamation district that has sold or transferred any of its levees, or other reclamation or flood control works, easements, or property of any kind, to the drainage district, Sutter-Butte By-Pass Project No. 6, or of any other unit or project, and received warrants issued by the drainage district, or of Sutter-Butte By-Pass Project No. 6, or of any other unit or project, in exchange or payment therefor, or has received compensation from the drainage district, or Sutter-Butte By-Pass Project No. 6, or any other project thereof, for any levee, land, right of way, easement, or property of any kind, included in any of the plans adopted for controlling the flood waters of the Sacramento and San Joaquin rivers or their tributaries, to be carried out by the board, may exchange the warrants, or any portion of them, at par and accrued interest, for outstanding warrants issued by the reclamation district, at par and accrued interest. Reclamation district

9026. Any person, owning and holding any warrants of a reclamation district may apply to the board of trustees of the reclamation district for an exchange of the warrants. Application

9027. Upon application made pursuant to the next preceding section the board of trustees of the reclamation district shall make the exchange. Duty of board of trustees

9028. When any such exchange has been effected, the board of trustees of the reclamation district shall notify the county treasurer of the county in which the land, or the largest portion thereof, is situated, of the exchange. Notice to county treasurer

9029. After the exchange has been effected, the warrants of the district shall be marked: "Surrendered for warrants of Sacramento and San Joaquin Drainage District." Notation on district warrants

9030. Proper entries of the surrender payment shall be made upon the books of the reclamation district, and also of the county treasurer of the county having the custody of the funds of the reclamation district. Surrender payment entries

9031. If the warrants of the drainage district, or any of its units or projects, are at the time of the offer for exchange, in the hands and custody of the county treasurer of the county in which the land of the reclamation district, or of the largest portion thereof, is situated, the county treasurer of the county shall make the exchange on the terms, and in the manner provided by this chapter, whenever application is made to him for such purpose. Warrants in custody of county treasurer

Article 4. Assessments

Facts to be determined

9035. In any new, additional, or supplemental assessment of any reclamation district, the following shall be determined:

(a) The amount that should be assessed upon each tract of land according to the benefits that accrued to each tract of land from the expenditures represented by the warrants of the reclamation district that have been exchanged or surrendered for or paid by warrants of the drainage district or of Sutter-Butte By-Pass Project No. 6 or any other unit or project.

(b) The amount which should have been apportioned to each tract of land if the warrants of the drainage district or of Sutter-Butte By-Pass Project No. 6 or any other unit or project had been distributed to the tract of land or owner thereof proportionately to the percentage which the tract of land was assessed on the last assessment made by the reclamation district for the construction or acquisition of the levees, easements and property sold or transferred to the drainage district or any project thereof.

Assessment of excess

9036. If it appears that the amount that would have been assessed against any tract of land is greater than the amount to which the tract or owner thereof would have been entitled if the distribution had been made, the excess shall be assessed to the tract.

Lesser amount

9037. If the amount is less than the amount to which the tract or owner would have been entitled, the difference shall be paid to the owner of such tract by the reclamation district.

Article 5. Land Subject to Lien of Assessment No. 6

Drainage district warrants to pay assessments

9040. Any reclamation district, levee district or drainage district in which there are lands within the boundaries of the drainage district, which lands are subject to the lien of assessment number 6, or supplemental assessment number 6, levied in connection with project number 6, may present to any officer authorized by law to collect such assessments, warrants of the drainage district owned by it, and issued in connection with project number 6, in payment of the assessment on the lands.

Acceptance value

9041. Any officer authorized by law to collect the assessments named in this article shall accept at the face value, plus accrued interest, the warrant or warrants tendered in payment of the assessment.

Basis of payment in warrants

9042. Payment in warrants shall be made on a pro rata basis on all lands in the district subject to such assessment.

Alternative application of warrants

9043. It is discretionary with the board of trustees of any such reclamation district, levee district or drainage district to apply such warrants in payment of the assessment, or to apply the same as provided by Article 2 of this chapter.

Delivery of warrants to county treasurer

9044. If any such warrants are delivered by the board of trustees to the county treasurer having the custody of the funds of any district, under the provisions of Article 2 of this chapter or otherwise, the county treasurer, shall upon the

request of the board of trustees return the warrants to the reclamation district, levee district or drainage district to the end that the board of trustees thereof may apply the same pursuant to the provisions of this article.

Payment by funds other than those of district

9045. If the assessment, or any part of it has been paid in warrants by the district on any lands in the district by funds other than the funds of the district, the district shall deliver to the owner of such lands a warrant of the drainage district, levied in connection with project number 6, which in amount shall be equivalent to the same pro rata of the assessment on the lands as the district paid on other lands in the district.

Cancellation of warrants

9046. If it appears to the trustees of any such district that any such warrants owned by it will be paid from any assessment thereafter to be levied, and in their opinion 85 per cent, or more, of the moneys necessary to pay the warrants will be raised by an assessment on the lands within the district, the trustees may return the warrants to the board for cancellation and the warrants shall be canceled by the board and thereafter are inoperative and of no effect.

Same When assessment being levied

9047. The trustees shall not return the warrants to the board for cancellation, without the consent of the board, if an assessment is then in process of being levied to pay the warrants.

PART 5. RECLAMATION BOARD BOND ACT

CHAPTER 1. DEFINITIONS

Definitions govern construction

9250. Unless the context otherwise requires the definitions in this chapter govern the construction of this part of this division of this code.

"Board"

9251. "Board" means the reclamation board.

"Drainage district"

9252. "Drainage district" means the Sacramento and San Joaquin Drainage District.

CHAPTER 2. GENERAL PROVISIONS

Determination to issue bonds

9260. Whenever any assessment levied by the board upon lands within the drainage district has been completed and all of the hearings before the board in regard thereto have been held and the board is ready to make its order approving the assessment as finally fixed pursuant to the provisions of Chapter 5, Part 4, of this division the board may at the time of making the order finally approving the assessment, also determine, and make a part of the order, that in its judgment it is for the best interests of the owners of land in the drainage district affected by the assessment to issue bonds for the purpose of obtaining money to pay the cost of the works or other expenses for which the assessment was levied.

Applicable provisions

9261. If the board by its order determines to issue bonds, the subsequent proceedings in the matter of the assessment and the collection thereof and all other proceedings for the raising of money to be used for the purposes for which the assessment was levied, shall be in pursuance to the provisions of this part.

Deposit of original assessment lists

9262. If the board determines that it is best to issue bonds, the original assessment lists shall not be deposited in the offices of the respective county treasurers as directed by Chapter 5, Part 4, of this division, but shall be retained in the office of the board until after final determination of the judicial proceeding provided for in Chapter 3 of this part.

Use of proceeds of bonds

9263. With the money received from the sale of bonds, the board as the managing body of the drainage district shall proceed with the construction and completion or carrying into execution of the works or project for the purpose of which the assessment upon which the bonds are based was levied.

Official services

9264. No officer shall charge or receive any fee for any services required to be performed by him under the provisions of this part.

Expenses incurred

9265. Any reasonable and necessary expense actually incurred by any officer in carrying out any of the provisions of this part relating in any manner to the collection or enforcement of any assessment, shall be paid out of the funds of the drainage district applicable thereto.

Compelling performance of duties

9266. If the board or any member, officer, appointee, or employee thereof or any public officer mentioned or referred to in this part fails to perform any duties imposed by this part, the Attorney General shall compel the performance of such act by mandamus proceedings or by any other appropriate legal or equitable remedy.

CHAPTER 3. JUDICIAL PROCEEDINGS TO VALIDATE ASSESSMENTS

Time limit

9275. If the board determines, pursuant to the provisions of this part, that bonds should be issued it shall, within 10 days after the passage of the order determining the issuance of bonds, commence a judicial proceeding for the validation of the assessment.

Governing provisions

9276. The judicial proceeding shall be commenced, prosecuted and determined pursuant to the provisions of this chapter.

Actions and proceedings stayed Board excepted

9277. During the period of 10 days after the passage of the order no action or proceeding shall be commenced by any party other than the board to contest or in any manner question or interfere with the validity of the assessment, or to have the assessment upon any land modified or annulled as provided in Chapter 5, Part 4, of this division.

Board action

9278. If an action or proceeding is commenced by the board within the 10-day period, no such action or proceeding shall be commenced by any party other than the board at any time thereafter.

Venue

9279. The proceeding to validate the assessment shall be commenced by the board in the superior court of the county within which the largest acreage of land affected by the assessment is situated.

Commencement of proceeding

9280. The proceeding shall be commenced by filing a copy of the assessment lists for the assessment and a copy of the order of the board approving the assessment as finally fixed by

the board, both attested by the certificate of the secretary or assistant secretary of the board, in the office of the county clerk of the county in which the proceeding is commenced.

Notice to Governor designation of judges

9281. The board shall notify the Governor of the commencement of the proceeding and thereupon the Governor shall designate three judges of the superior court, from counties wholly outside the drainage district, and the three judges shall sit en banc in the proceeding.

Hearing objections

9282. Upon the filing of the assessment lists the county clerk shall fix a time not less than 30 nor more than 40 days from the date of filing when objections will be heard to the assessment lists.

Notice of time and place by publication

9283. The clerk shall give notice of the time and place of the hearing by publishing a notice for once a week for four weeks in a newspaper of general circulation published in each county in the drainage district in which any lands affected by the assessment are situated, and if in any such county no newspaper is published, or if for any reason the notice can not be published in a county, then the notice shall be published in a newspaper of general circulation published in an adjoining county.

Proof of publication

9284. Affidavits showing the publications shall, prior to the hearing, be filed with the county clerk of the county in which the proceeding is commenced.

Change of venue for hearing evidence

9285. The court may for the convenience of witnesses and shall upon written demand of 10 interested parties file in the proceeding, by order duly given and made, conduct sessions and take evidence in the proceeding in any county in the drainage district in which lands affected by the assessment are situated.

Filing of objections

9286. At any time before the day for the hearing fixed in the notice published by the county clerk, any person interested in any land upon which any charge has been assessed in and by the assessment, may file in the proceeding written objections to the assessment, stating in detail the grounds for objection. The statement shall be verified by the affidavit of such person or of some other person who is familiar with the facts.

Consideration by court

9287. No objection to the assessment shall be considered by the court unless the objection has been made in writing to the board as provided in Part 4 of this division.

Exclusive procedure

9288. No action or defense shall ever be maintained attacking the assessment in any respect except by the judicial proceeding provided for in this chapter.

Evidence

9289. At the hearing the court shall hear such evidence as may be offered touching the correctness or validity of the assessment or the manner of its apportionment.

Judgment

9290. As expeditiously as possible, the court shall determine and pass upon all written objections filed in the proceeding, and make and enter its judgment approving the assessment or annulling, modifying or amending all or any part of it.

References in judgment

9291. The judgment shall refer to the assessment apportioned to each county separately and it shall be sufficient to refer to the portions of the assessment which are affected by the judgment.

Effect of majority decision

9292. The decision of a majority of the court shall be final and conclusive, and no motion for a new trial of the proceeding shall be allowed, and no appeal from the judgment shall be had.

Basis for determining substantial modification

9293. Unless the aggregate amount of the whole of the assessment is modified or amended by the judgment in the proceeding so as to cause a difference of more than 2½ per cent greater or less than the original total amount of the assessment, the assessment shall not be deemed to have been substantially modified and no necessity shall exist for a reapportionment thereof.

Assessment lists as conclusive evidence

9294. The assessment lists, unless annulled by the judgment in the judicial proceeding, embracing any modifications made by the judgment are conclusive evidence that the assessment has been apportioned according to the benefits that will accrue to each tract of land in the drainage district by reason of the expenditure of the sums of money to be raised thereby.

Filing of judgment

9295. A certified copy of the judgment referring to the assessment lists shall be filed in the office of the board.

Conforming assessment lists with judgment

9296. A certified copy of so much of the judgment as relates to the lands in each of the counties affected thereby shall be affixed to the original assessment list for such county and the board shall thereupon cause such amendments or modifications to be made and entered upon the original assessment lists as may be necessary to make them conform to the provisions and directions of the judgment.

Certification as to conformity

9297. The assessment lists as amended or modified shall be certified by the secretary or assistant secretary of the board as being in conformity with the requirements of the judgment.

CHAPTER 4. ASSESSMENTS

Annullment of assessment

9305. In the event that the assessment is annulled as a whole by the judicial proceeding, the board shall cause a new assessment to be made as provided in Part 4 of this division, and thereafter the same proceedings shall be had in regard thereto as provided in this part.

Filing of conformed assessment lists

9306. When, if necessary, the assessment lists have been modified and amended to conform to the requirements of the judgment and have been certified as provided in this part, the board shall file them in the offices of the county treasurers of the several counties in which are situated any of the lands assessed thereby.

Endorsement on list

9307. Each county treasurer shall indorse on the assessment list the time to the hour and minute when it was so filed in his office.

Attachment of lien

9308. From the time of filing as provided in the next preceding section the assessment constitutes a lien upon the lands

in the county so assessed and imparts notice to all subsequent purchasers or encumbrancers or any person acquiring any interest in or lien upon the lands. Notice

9309. At any time within 30 days after the assessment list is filed in the office of the county treasurer as provided in Section 9307, the whole amount of the assessment upon any tract of land therein separately assessed may be paid in cash to the county treasurer. Full payment when separately assessed

9310. Upon such payment the county treasurer shall issue his receipt and indorse the fact and date of payment upon the assessment list, and thereupon the lien of the assessment upon the tract of land ceases. Discharge of lien

9311. The report of payment of the assessment shall be made by the county treasurer at once to the secretary of the board. Report of payment

9312. The amount of assessments received by the county treasurer shall, within 30 days after receipt thereof by him, be deposited by him with the State Treasurer. Deposit with State Treasurer

9313. The State Treasurer shall credit the amount of assessments received by him to the construction fund of the assessment. Fund credited

9314. All assessments not paid in full within the 30-day period bear interest thereafter at the rate of 7 per cent per annum. Interest on unpaid assessments

9315. If the amounts raised by means of the assessment as provided in this part prove insufficient to pay in full all of the bonds and the interest thereon, the board shall levy and collect in the same manner as provided in Part 4 of this division, and this part, a supplementary annual assessment from time to time as may be necessary upon the same lands previously assessed in the original assessment. Supplemental assessment

9316. The supplemental assessment shall be levied by resolution of the board entered in its minutes. Same: Levy by resolution

9317. The board need not appoint assessors nor prepare new or additional assessment lists for any supplemental assessment, but the assessment shall be levied and apportioned according to benefits and in the same proportion as specified in the original assessment lists for the assessment. Same Requirements

9318. The board shall, for the purpose of collecting the supplemental assessment, prepare and certify to the county treasurers of the several counties annual assessment collection lists in the same manner and at the same times as provided for the annual assessment collection lists upon the original assessment. Same Annual assessment collection lists

9319. The supplemental assessment shall be collected by the county treasurers, and the same percentages, penalties and costs added for delinquency and the same proceedings had for sale of property and for redemption thereof and for disposition of the proceeds of sale, and in all other particulars as provided in the case of the annual assessment collection lists upon the original assessment. Same Collection

Disposition of money

9320. All money collected for or on account of any supplemental assessment shall be paid over to the State Treasurer in the manner provided in this part, and credited by the State Treasurer to the bond redemption fund of the assessment.

CHAPTER 5. BOND ELECTIONS

Article 1. In General

Determinable issues

9330. Upon the expiration of the 30-day period mentioned in Chapter 4 of this part, an election shall be called and held by the board in that part of the drainage district affected by the assessment or the issuance of bonds, to determine whether the money necessary to pay the cost of the works and other expenses to be paid out of the assessment shall be raised by calls to be made upon the assessment in such installments as may from time to time be determined by the board, or whether bonds of the drainage district shall be issued in an amount equal to the amount of the assessment then remaining unpaid.

Order of election

9331. The unpaid amount shall be entered by the board in its records and stated by the board in its order for the election and the order for the election shall be entered upon the minutes of the board.

Number of votes

9332. At the election the owner of each tract of land assessed in and by the assessment, upon which the assessment has not been paid as provided in Chapter 4 of this part, may, in person or by proxy, cast one vote for each one cent ($0.01) of the amount for which the tract is assessed by the assessment.

Votes of joint owners

9333. In case there is more than one owner of any tract of land separately assessed in and by the assessment, all of the owners shall unite in the ballot to be cast at the election for and on behalf of the tract, or shall authorize one or more of their number or some other person to cast the vote for them by proxy.

Votes of guardians, etc

9334. Guardians, executors, administrators and other persons holding land in a trust capacity under appointment of court may vote at the election without obtaining special authority therefor.

Votes of public or private corporations, etc.

9335. The vote of any public or private corporation or of any reclamation district, levee district, drainage district or other public agency entitled to vote at the election, may be cast by any person authorized by the board of directors or trustees or other managing body thereof.

Authorization to vote

9336. The authorization shall be in writing and certified to by the secretary or clerk of the district or public agency and attested by its seal duly acknowledged and filed with the board of election.

Vote by proxy

9337. No person shall vote by proxy at the election unless authority to vote is evidenced by an instrument in writing duly executed, acknowledged and certified in the same manner as grants of real property and filed with the board of election.

Right to vote

9338. In case of change of ownership of any tract of land, or in case the name of the owner of any tract of land is not

correctly stated in the voting list, or in case the land is assessed to unknown owners, the right to vote shall belong to the owner of the land at the time of the holding of the election.

Dispute of right Examination under oath

9339. If the right of any person to vote as the owner of any such tract of land is disputed or challenged, the question of his right to vote shall be determined by the board of election after examining him under oath.

Administration of oath

9340 The oath may be administered by any member of the board of election.

Perjury

9341. Any person testifying falsely upon such examination is guilty of perjury.

Penalties and punishments

9342 Any person voting or attempting to vote at the election who is not entitled to vote at it, as provided in this part, is subject to the same penalties and punishments as provided by the general election laws of this State, for voting or attempting to vote illegally.

"Reference number"

9343. For the purpose of determining the "reference number" of each tract separately assessed upon the assessment lists, the board shall, before preparing the voting lists, cause each tract of land separately assessed upon the assessment lists, unless already done, to be given a separate number designated as the "reference number" of the tract. The reference numbers shall be entered upon the assessment lists opposite the several tracts separately assessed.

Entry

Vote against issuance of bonds

9344. If the result of the election provided for in this chapter is against the issuance of bonds, then the assessment, or that portion thereof involved in and affected by the election shall be ordered paid and collected in such installments and as often as may in the judgment of the board be necessary for the purpose for which the assessment was originally levied as provided in Part 5 of this division.

Conduct of subsequent proceedings

9345. All subsequent proceedings in regard to the assessment shall be conducted as provided in Part 4 of this division and without any further reference to the provisions of this part.

Article 2. Polling Places, Notices and Board of Election

Provisions regarding election

9355. The board shall, in its order providing for the election, specify the day on which the election is to be held and shall specify and designate one or more polling places in each supervisor district wherein are situated any of the lands affected by the assessment.

Separate voting districts

9356. In case the board considers it necessary or proper to provide more than one polling place in any supervisor district for the holding of the election, the board shall in its order divide the lands in the supervisor district and within the drainage district, into separate voting districts.

Polling place

9357. The board shall designate and provide one polling place within each voting district at which shall be cast the votes of the owners of land within the voting district.

Combination of contiguous portions

9358. The board may combine contiguous portions of different supervisor districts into one voting district in cases

where the lands in the voting district are not assessed to more than 100 different owners, counting one owner for each tract assessed to unknown owners and counting the estate of a deceased person as one owner.

Board of election

9359. The board shall in the order providing the election, appoint a board of election for each polling place.

Number and qualifications of members

9360. The board of election shall consist of three owners of land assessed in and by the assessment and situated within the voting district where the polling place is located.

Compensation

9361. Each member of the board of election, whether appointed by the board or whether acting as a substitute as provided in this part, is entitled to the sum of five dollars ($5) for his services.

Applicable funds

9362. The compensation of the election officers shall be paid by the board out of any funds of the drainage district or of the board applicable thereto.

Substitute member

9363. If any person appointed as a member of the board of election fails to attend at the opening of the polls, the voters then present at the polling place may appoint in his place any landowner of the district then present and entitled to vote at the election.

Official oath

9364. Each member of the board of election before entering upon the discharge of his duties shall take and subscribe an official oath, which may be administered by any officer authorized by law to administer oaths, or by any landowner in the drainage district.

Substance of oath

9365. The oath shall be to the effect that he will support the Constitution of the United States and the Constitution of the State and that he will faithfully perform his duties as member of the election board to the best of his ability.

Posting of notice of election

9366. Notice of the election shall be given by the board by posting notices thereof in at least three public places in each voting district at least 21 days prior to the election, and

Publication

also by publication for the same length of time in some newspaper of general circulation published in each county in which any portion of the land assessed in and by the assessment is situated.

Contents of notice

9367. The notice shall specify the time and place of holding the election, the aggregate face value of bonds proposed to be issued, and the names of the persons appointed to act as the board of election.

Filing affidavits of publication and posting

9368. Affidavits of publication and posting of the notices shall be filed with the county clerk of the county in which the notices have been posted or published, together with a copy of the order calling the election certified to by the secretary or assistant secretary of the board.

Filing duplicate original affidavits

9369. Duplicate original affidavits of publication and posting of the notice, shall be filed in the office of the board.

Article 3. Voting Lists and Ballots

Furnished to boards of election

9375. The board shall, prior to the election, cause to be prepared and certified by its secretary or assistant secretary,

and furnished to the board of election in each voting district, a true and correct voting list containing all of the following: Contents

(a) The reference number of each tract separately assessed upon the assessment list.

(b) The name of the person to whom each tract assessed.

(c) The amount of the assessment on each tract with reference to which the election is to be held.

9376. The voting list shall be used by the board of election in determining the right to vote and the number of votes to be cast by each voter, and shall be sufficient evidence of these matters. Use by board

9377. The ballot cast at the election shall contain the words "Bonds—Yes," or the words "Bonds—No," and also the signature of the person casting the ballot, with the number of votes cast by the voter. Contents of ballot

9378. A ballot cast by proxy shall contain the name of the landowner for whom the ballot is cast and the signature of the person casting the vote as proxy. Ballot by proxy

9379. A list of the ballots cast shall be made by the board of election, containing the name of each voter, and if the ballot is cast by proxy, the name of the person casting it, the number of votes cast by each voter and whether they are cast for or against the issuing of the bonds. List of ballots cast

Article 4. Canvass and Contest

9385. The polls at each polling place for the election shall be kept open from 9 o'clock in the forenoon until 5 o'clock in the afternoon of the day appointed for the election. Time for opening and closing

9386. At the close of the polls the board of election shall do the following: Duties of board of election

(a) Proceed to canvass the votes and declare the result.

(b) Forward a certificate showing the result and the number of votes cast for and against the issuing of bonds to the board.

(c) Deliver a duplicate certificate to the county clerk of the county wherein the voting district is located.

(d) Deliver to the board all ballots, voting lists, lists of ballots cast at the election, and all documents and papers used at the election.

9387. The board shall examine and canvass the certificates received from the boards of election, and shall determine therefrom and declare, and enter in its minutes as the managing body of the drainage district, the total result of the election. Entry of total result by board

9388. Any person interested may within 10 days after the result of the election has been determined and declared by the board, contest the election so far and to such an extent as the contest depends upon the votes or proceedings had in the matter of the election in any county, by bringing suit in the superior court of that county. Contest of election

9389. If no contest is commenced within the time mentioned in the next preceding section, the declaration of the result by the board is final and conclusive. Effect of failure to contest

CHAPTER 6. BONDS

Article 1. In General

Preparation, execution and delivery

9395. If a majority of the votes cast at the bond election are in favor of the issuance of bonds, the board shall cause bonds of the drainage district, in the amount stated in the order calling the election, to be prepared and executed and delivered to the State Treasurer.

Minimum and maximum denominations

9396. The bonds shall be of the denomination of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) each.

Manner of execution, date

9397. The bonds shall be signed by the president of the board, attested by its secretary with the seal of the board affixed thereto, numbered consecutively in the order of their maturity, and shall bear date either January 1st or July 1st.

Interest

9398. The bonds shall bear interest at a rate to be fixed by the order of the board for issuance of the bonds not to exceed 6 per cent per annum payable semiannually on the first day of January and the first day of July in each year, at the office of the State Treasurer upon presentation of the proper coupons therefor.

Interest coupons

9399. Coupons for each installment of interest shall be attached to the bonds and shall bear the facsimile signature of the Controller.

Sale Cancellation of past due interest coupons

9400. Whenever any of the bonds are sold or delivered by the State Treasurer either to a purchaser thereof or upon an order from the board payable in such bonds, the State Treasurer shall first detach therefrom and cancel all past due interest coupons and deliver the canceled coupons to the board or its secretary.

Duty of State Treasurer

9401. The State Treasurer shall certify and deliver to the board or its secretary a list of bonds sold or delivered, showing the serial numbers, denominations, date of maturity, the price received for each bond sold, and the date of maturity of the earliest maturing interest coupon left attached to each bond.

Same

9402. The State Treasurer shall certify and deliver to the board or its secretary, whenever requested, a statement of all bonds and coupons for interest thereon paid by him and of all bonds or coupons presented for payment and not paid for want of funds, with the date of presentation.

Approved investments and pledges for loans

9403. The bonds of the drainage district issued pursuant to this part which are investigated and approved by any commission or officer authorized by any law of this State to conduct the investigation and give the approval and by authority of which approval the bonds are declared to be legal investments for savings banks, may be lawfully purchased or received in pledge for loans by any of the following who hold funds which they are permitted by law to invest or loan:

(a) Banks.
(b) Trust companies.
(c) Insurance companies.

(d) Guardians.
(e) Executors.
(f) Administrators and special administrators.
(g) Any public officer or officers of this State or of any county, city, or city and county, or other municipality or corporate body within this State.

Cancellation of proceedings

9404. If within one year from the time bonds are authorized to be issued as provided in this part, the bonds are not sold or disposed of, the board may at its discretion by an order duly made and entered in its minutes and a copy duly certified sent to the county treasurer of each county wherein lands affected by the assessment are situated, cancel all proceedings taken in connection with the bond issue.

Call for payment of assessment

9405. The board may thereafter call for the payment of the assessment in such installments from time to time as it shall determine and as provided in Part 4 of this division.

Article 2. Form of Bond

9410. The bonds may be substantially in the following form:

Form

UNITED STATES OF AMERICA
No._____ STATE OF CALIFORNIA $_____

SACRAMENTO AND SAN JOAQUIN DRAINAGE DISTRICT

Sacramento and San Joaquin Drainage District, in the State of California, for value received, hereby acknowledges itself indebted to and promises to pay to the holder hereof at the office of the State Treasurer of the State of California, on the first day of_____, 19___, the sum of $_____dollars in lawful money of the United States of America, with interest thereon in like lawful money from date hereof until paid at the rate of_____per cent per annum, payable at the office of the State Treasurer semiannually on the first day of January and the first day of July in each year on presentation and surrender of the interest coupons hereto attached. This bond is one of a series of_____bonds of like tenor and effect, except as to denomination and maturity, numbered from _____to_____, inclusive, amounting in the aggregate to $_____issued in accordance with_____ _____ authorizing the same, and is based upon and secured by an assessment levied on lands in the drainage district known and designated as (name and number of assessment), validated by a judgment of the Superior Court of the State of California, in and for the County of_____, on the_____day of_____, 19___, and filed in the respective offices of the county treasurers of the counties wherein are situated the lands assessed thereby. And the Sacramento and San Joaquin Drainage District does hereby certify and declare that the issuance of these bonds was duly authorized by an election duly called and held upon due notice,

and the result thereof was duly canvassed and ascertained in pursuance of and in strict conformity with the laws of the State of California applicable thereto, and that all the acts and conditions and things required by law to be done precedent to and in the issuance of the bonds have been done and performed in regular and due form and in strict accordance with the provisions of law authorizing the issuance of the bonds of the Sacramento and San Joaquin Drainage District.

IN WITNESS WHEREOF, The Sacramento and San Joaquin Drainage District, acting through the Reclamation Board of the State, has caused this bond to be signed by the president of the Reclamation Board and attested by the secretary of the board with the seal of the board affixed, this_____ day of _____, 19___.

_____
President of said Reclamation Board.

Attest:_____
Secretary of Reclamation Board.

Form of interest coupons

9411. The interest coupons may be substantially in the following form:

No._____ $_____

The Treasurer of the State of California will pay to the holder hereof on the_____day of_____, 19___, at his office in the City of Sacramento, State of California, the sum of_____dollars ($_____) in lawful money of the United States, out of the funds of the Sacramento and San Joaquin Drainage District applicable thereto, for interest on bond of the district numbered_____.

Attest:_____
State Controller.

Article 3. Validation of Bonds

Delivery to State Treasurer

9415. The board shall deliver the bonds prepared pursuant to this part duly signed and attested, to the State Treasurer.

Superior court action by board

9416. Within 10 days after the bonds are delivered to the State Treasurer, an action may be commenced by the board in the superior court in and for the county within which the largest acreage of land affected by the assessment for which bonds are proposed to be issued is situated, against the lands and all persons owning the same or interested therein, in that portion of the drainage district affected by the assessment or the issuance of the bonds, to have it determined that the bonds are a legal obligation of the drainage district.

Proceeding in rem

9417. The action shall be in the nature of a proceeding in rem and the defendants in the action shall be designated as "All persons owning or claiming any interest in or lien upon any lands within the Sacramento and San Joaquin Drainage District affected by that certain assessment levied by the Reclamation Board known and designated as (giving the name and number of the assessment)."

Description of lands

9418. It shall be sufficient in the action to describe the lands as all lands affected by the assessment, without a more specific description.

Summons

9419. A summons shall be issued in the action.

Additional contents

9420. The summons, besides the matters required by Section 407 of the Code of Civil Procedure, shall contain a statement that the action is brought to determine the validity of bonds of the drainage district to the amount stated therein executed by the board and delivered to the State Treasurer and based upon and to be paid out of an assessment levied by the board upon lands within the drainage district assessed in and by that certain assessment known and designated as (giving name and number of the assessment).

Jurisdiction over parties by publication

9421. Jurisdiction by the court over all parties interested in the action shall be obtained by publication of a copy of the summons at least once a week for three successive weeks in a newspaper of general circulation published in each county wherein is situated any land within the drainage district assessed in and by the assessment.

Designation of newspaper

9422. The newspaper, in each county, shall be designated by the court wherein the action is pending or by a judge thereof.

Further provision for publication

9423. If there is no newspaper within any such county, or if the summons is refused publication in the newspaper so designated for any county, then the summons may be published in a newspaper of general circulation published in an adjoining county.

Answer

9424. Within 30 days after completion of the publication of the summons in each of the counties any owner of land assessed by the assessment or any one interested in any such land may appear and answer the complaint in the action.

Form and contents

9425. The answer shall be verified and shall set forth the facts relied upon to show the invalidity of the bonds.

Default

9426. The default of all defendants not appearing in the action may be entered.

Precedence

Judgment

9427. The action shall be given precedence in hearing and trial over all other civil actions or proceedings in the court and judgment shall be rendered therein declaring the bonds either valid or invalid.

Appeal

9428. Any party not in default may within 30 days after the entry of the judgment appeal therefrom.

Advancement upon calendar

9429. The appeal shall be advanced upon the calendar of the court in which the appeal may be pending and shall be determined as early as possible.

Effect of judgment

9430. Judgment for the plaintiff in the action declaring the bonds to be valid shall be considered as a judgment in rem and shall be conclusive against the district and against all lands therein and all owners thereof and all other interested persons.

Costs

9431. Costs may be awarded to or against any party appearing in the action as the court may in its discretion determine.

Venue of action to protest

9432. Any action or proceeding commenced by any party other than the board to contest or in any manner interfere with the validity or disposition of the bonds shall be tried in the superior court in and for the county within which the largest acreage of land affected by the assessment or the issuance of the bonds is situated.

Conditions of bringing suit

9433. No such action or proceeding shall be commenced by any party other than the board until the expiration of 10 days after the bonds have been executed and delivered to the State Treasurer and then only if the board has not commenced an action within the 10-day period.

Article 4. Sale of Bonds

Duty of State Treasurer

9440. The State Treasurer shall receive and place the bonds to the credit of the drainage district, and shall when and as directed by the board sell any of the bonds for the best price obtainable.

Minimum sales price

9441. The bonds shall not be sold for less than 95 per cent of their face value and the accrued interest thereon.

Notice of sale

9442. Before making a sale of any of the bonds, notice shall be given by the State Treasurer that he will sell a specified amount of the bonds, stating the day, hour and place of the sale.

Contents of notice

9443. The notice shall state that sealed proposals will be received by him for the purchase of the bonds or any part thereof at the day and hour named in the notice.

Publication

9444. The notice shall be given by publication once a week for three successive weeks in a newspaper of general circulation published in the City of Sacramento.

Opening of bids and sale

9445. At the time and place appointed in the notice the State Treasurer shall open the bids and shall award the purchase of the bonds or any part thereof to the highest responsible bidder.

Sufficiency of bid

9446. If the highest bid is not equal to par and accrued interest the State Treasurer shall notify the board of the amounts of the highest bids received, and reject any or all bids if so required by the board.

Payment in bonds

9447. At any time before all the bonds held by the State Treasurer have been sold by him, the board may:

(a) Draw upon the State Treasurer for, and issue and deliver any unsold bonds at not less than their face value in payment for any of the works or other expenses for which the assessment has been levied and for which bonds have been authorized.

(b) Make contracts for any of the works or expenses, payable in whole or in part in bonds.

Same Orders upon State Treasurer

9448. In making payments in bonds, the board shall draw orders upon the State Treasurer payable in bonds to the amount therein named.

Countersignature and payment

9449. The orders shall be countersigned by the Controller and shall be paid with bonds by the State Treasurer upon presentation to the amount therein provided for.

Same
Specification of maturity

9450. In drawing any order upon the State Treasurer payable in bonds, the board may specify the maturity of the bonds which are to be delivered in compliance with the order and the specifications shall be complied with by the State Treasurer as far as possible.

Article 5. Payment of Principal, Interest and Redemption

Principal payments
Maturity

9455. The principal of the bonds shall, by an order of the board entered in its minutes, be made payable on the first day of July or the first day of January and in such years as the board may prescribe, but all of the bonds shall be payable serially within 20 years from their date.

Percentages of payment

9456. Not less than 10 per cent of the aggregate face value of the bonds shall be payable within 10 years from their date, and not less than 9 per cent of the aggregate face value of the bonds issued shall be payable each year beginning with the eleventh year from their date until the whole amount of the bonds has been paid.

Redemption

9457. The board may call and redeem in their numerical order such an amount of the bonds as it may see fit on any interest date subsequent to the first day of July, 1921, at their face value, with accrued interest to date of redemption.

Notice of redemption

9458. To effect such redemption, the board shall cause to be published once each week for two successive weeks, in a newspaper published in the City of Sacramento, a notice stating that at the next semiannual interest date, the bonds specified in the notice will be redeemed and that there will be due and payable on the bonds at the places specified therein for payment, the amount of the principal thereof with accrued interest.

Payment on presentation

9459. Out of the bond fund of the assessment the State Treasurer shall, on presentation at or after its maturity, pay the holder of each bond or interest coupon which has been sold or which has been issued and delivered upon an order of the board payable in bonds as provided in this part.

When interest ceases
Want of funds
Indorsed bond or coupon

9460. If any bond or interest coupon has not been presented to the State Treasurer for payment when it becomes due, it shall cease to bear interest, but if presented at or after such time and not paid for want of funds, the State Treasurer shall indorse the bond or coupon, together with the date of presentation.

Interest payable

9461. The indorsed bond or coupon shall bear interest at the rate expressed in the bond until paid or until funds have been provided in the State Treasury applicable to its payment.

Article 6. Funds and Warrants

Distribution of money

9465. The money derived from the sale of any of the bonds shall be received by the State Treasurer and placed to the credit of the following funds in the following manner:

(a) An amount equal to the accrued interest on the bonds so sold to the date of sale shall be placed by the State Treasurer to the credit of the bond fund of the assessment upon which the bonds are based.

(b) All other money derived from the sale of any of the bonds shall be placed to the credit of the drainage district in a fund designated as the "Construction fund of (giving the name and number of the assessment upon which the bonds are based)," and may be drawn and expended upon warrants drawn by the Controller at the request of the board upon and payable out of the construction fund in the same manner as provided in Part 4 of this division, with reference to the expenditure of moneys collected upon assessments.

Investment of bond fund

9466. Whenever the drainage district has any money in the bond fund of any assessment which money is not immediately required for the purpose of paying principal or interest on bonds of the assessment, all or any part of it may be invested in bonds of the drainage district based upon and secured by the assessment.

Method of investment

9467. The investment may be made by the board by direct purchase of the bonds from time to time and in such manner as it determines and at such price or prices as it deems advisable but not to exceed par, plus the accrued interest thereon

Sale of bonds and reinvestment

9468. Any bonds purchased pursuant to the provisions of this article, and held in the bond fund may from time to time be sold and the proceeds temporarily reinvested in bonds as provided in this article.

Sales required

9469. Sales of any bonds purchased and held in the bond fund shall from time to time be made so that the proceeds may be applied to the purpose for which the bond fund was created.

Cancellation

9470. Any bonds purchased pursuant to the provisions of this article, may be delivered to the State Treasurer for cancellation and the bonds shall thereupon be canceled by the State Treasurer and after cancellation shall cease to be an indebtedness or obligation of the drainage district and the assessment, or either, for any purpose whatsoever.

Bond fund Duty of State Treasurer

9471. The bond fund of each assessment shall be held by the State Treasurer and shall be applied by him toward the payment of the bonds and coupons thereon based upon the assessment, as the bonds and coupons fall due.

Balance after payment

9472. If any balance remains in the bond fund of the assessment after payment in full of the principal and interest of all outstanding bonds issued upon the assessment, the balance shall be held for the benefit of the lands upon which the assessment was made and in proportion to the amounts assessed thereon.

Distribution of balance

9473. The balance may be distributed by the board to the owners or other persons interested in the lands.

Request for issuance of warrants

9474. The board shall from time to time when necessary, present its written request to the Controller for the issuance of warrants for the purpose of paying the cost and expenses of the works or project, for which the assessment was levied, and the expenses of making, bonding and collecting the assessment.

Contents of request

9475. The board's request shall specify the amount of the warrant and the name of the payee thereof and upon receipt of the request the Controller shall draw his warrants upon the State Treasurer payable out of the Construction Fund of the assessment upon which the bonds are issued.

Fund drawn on

Payment

9476. The State Treasurer shall pay the warrants or make delivery of the bonds as provided in this part.

Same Limited to particular fund

9477. Warrants issued by the Controller and payable out of the assessment as provided by Part 4 of this division shall be paid by the State Treasurer out of and only out of the Construction Fund of the assessment, and in their proper order of registration.

Prohibition upon county treasurer

9478. No warrant issued pursuant to any of the provisions of this part or of Part 4 of this division shall be accepted or received by the county treasurer in payment of all or any part of any assessment upon which bonds have been authorized.

Article 7. Annual Installments

Order determining amount to be collected

9485. Upon the sale of any of the bonds of the drainage district based upon any assessment levied by the board, as provided by this part, the board shall annually thereafter, by an order entered in its minutes ascertain and determine the total amount necessary to be collected upon the assessment for the payment of principal and interest of all bonds which will or may become due on the two semiannual due dates next succeeding the date of the order.

Sinking fund

9486. The board may also in the order fix and determine upon such additional sum as the board deems proper to be collected to provide a sinking fund for the retirement of bonds on or before maturity.

Duty of board upon making order

9487. Immediately upon making the order the board shall prepare in duplicate, retaining one original, and causing the other original to be certified by its secretary or assistant secretary and delivered to the county treasurer of each county wherein are situated any of the lands covered by the assessment, a statement of the amount of the assessment necessary to be collected for the year to pay the principal and interest of the bonds falling due.

Collection of additional amount For delinquencies

9488. To the assessment referred to in the preceding section shall be added and collected an additional amount of 15 per cent of the amount to cover possible delinquencies.

Same For sinking fund

9489. The statement provided for in Section 9487 shall also include, and there shall be added and collected, such additional sum as the board in its order may have fixed and determined upon to provide a sinking fund for the redemption of bonds on or before maturity.

Total amount to be collected

9490. The amount necessary to pay the interest and principal, or either, falling due, together with the additional 15 per cent of that amount and the amount for sinking fund purposes, shall constitute the amount to be collected and paid into the bond fund and shall be known as the installment for bonds.

How payable

9491. Unless otherwise determined by the board or by an order entered in its minutes, a copy of which duly certified shall be transmitted to the county treasurer of each of the counties wherein are situated any of the lands covered by the assessment, the installment for bonds shall be payable in two equal portions, the first of which shall be due and payable to the county treasurers, respectively, on the third Monday in October and is delinquent on the first Monday in December next thereafter at 6 o'clock p.m. and the remaining portion may be paid at any time before the last Monday in April next thereafter at 6 o'clock p.m. at which time the installment is delinquent.

Information in collection list

9492. For convenience in entering payments of the installment for bonds, the board shall furnish to the county treasurer of each county affected, an annual collection list setting forth the following:

(a) The reference number of each tract of land assessed.

(b) The name of the owner to whom assessed, as stated in the original assessment list.

(c) The total amount assessed upon each tract and the amount to be collected thereon for that year.

Contents of list

9493. The list shall contain appropriate columns for the entry of payments, sales and redemptions.

Entries by county treasurer

9494. The county treasurer shall enter on the annual collection list in the proper column the following:

(a) All payments, with date of payment.

(b) The word "sold" with date of sale, in case of sales for delinquency.

(c) The words "sold to the district" with date of sale, in the case of sales to the district.

(d) The word "redeemed," with date of payment, in case redemption is made.

Report of entries

9495. The county treasurer shall make a report to the board as often as requested of all entries made by him on the collection list.

Penalty for delinquency

9496. When either portion of any installment for bonds becomes delinquent, a penalty of one dollar ($1) together with 20 per cent of the amount of the installment on each tract delinquent, shall be added thereto and collected for the use of the bond fund of the assessment.

Disposition of moneys

9497. All money collected by the several county treasurers upon the installment for bonds or for the penalty thereon in case of delinquency shall, within 30 days after collection, be paid over to the State Treasurer and credited to the bond fund of the assessment.

Article 8. Bond Record

Open to public inspection

9505. The board shall maintain in its office and open to public inspection at all reasonable times during office hours, a book or books to be known as the bond record of the drainage district, containing a complete record of the existing condition of the whole of each bond issued as compiled from time to time

Contents

from reports from the State Treasurer, from which can be ascertained the amount of bonds outstanding and the interest accumulated and unpaid thereon.

Separate records for each bond issue

9506. In case there are several bond issues under this part based upon several different assessments all of the proceedings, records and transactions of every kind provided for by this part shall be had and kept separately with reference to each bond issue.

Article 9. Refunding Bonds

Resolution

9510. The board may, by resolution entered in its minutes, order the refunding of the whole or any part of the principal of any bond issue now or hereafter outstanding at lower rates of interest whenever in its judgment and opinion it will be for the best interests of the owners of lands assessed by the assessment to be refunded so to do.

Purpose

9511. Refunding bonds may be issued for the purpose, and when issued their proceeds may be used to refund outstanding bonds either as they mature or to call and redeem outstanding bonds as provided in this part, or both.

Contents of resolution

9512. The resolution ordering refunding of bonds shall designate the numbers, denominations, dates of maturity and aggregate principal amounts of the bonds to be refunded, and shall fix and prescribe the form of the refunding bonds and of the interest coupons attached thereto, and shall fix the rate of interest the bonds shall bear, which rate, however, shall be less than the rate provided in the bonds to be refunded.

Maturity

9513. Refunding bonds shall mature serially in amounts to be fixed by the board in its resolution.

Beginning and completion of payment

9514. The payment of the refunding bonds shall begin not later than five years from the date thereof and shall be completed in not more than 25 years from the date thereof.

Place of payment

9515. The refunding bonds, together with interest thereon, shall be payable at the office of the State Treasurer.

Denominations, maturity, and interest

9516. Refunding bonds shall be issued in such denominations as the board may determine except that no bonds shall be of a denomination of less than one hundred dollars ($100) nor of a greater denomination than one thousand dollars ($1,000), and shall be payable on the day fixed in the bonds with interest at the rate specified therein which interest shall be payable semiannually.

Execution and seal

9517. The refunding bonds shall be signed by the president of the board or such other member of the board as the board may by resolution designate and shall be countersigned by the secretary of the board with the seal of the board affixed thereto.

Interest coupons

9518. The interest coupons of the refunding bonds shall be numbered consecutively and signed by the secretary of the board by his engraved or lithographed signature.

Validity of execution

9519. In case any officer whose signature or countersignature appears on the refunding bonds or coupons ceases to be such officer before the delivery of the bonds to the purchaser,

the signature or countersignature shall nevertheless be valid and sufficient for all purposes the same as if the officer had remained in office until the delivery of the bonds.

Sale by board

9520. The refunding bonds may be issued and sold by the board as it may determine but for not less than their par value and accrued interest thereon.

Disposition of proceeds

9521. The proceeds of the refunding bonds shall be placed in the State Treasury to the credit of the drainage district in the bond fund of the assessment upon which the bonds are based, and the proceeds shall be used and applied for the objects and purposes for which the refunding bonds were issued.

Further use

9522. The proceeds may also be used to defray the expenses of refinancing the obligations.

Applicable assessments

9523. The principal and interest of the refunding bonds shall be based upon, secured by and payable out of the assessment or assessments upon which the bonds refunded were payable in accordance with the provisions of this part.

Effect of sale on installments of assessments

9524. Upon the sale of any of the refunding bonds, installments of the assessment upon which the bonds are based shall be called and collected and the installments shall become delinquent, with the penalties, provisions for sale, redemption and conveyancing all as set forth in this part, which provisions apply to the refunding bond issues to the same extent as to original issues.

Redemption

9525. The refunding bonds or any part thereof when sold may be called and redeemed by the board in the manner provided by Chapter 6 of this part.

Legal investments

9526. The refunding bonds issued by the drainage district pursuant to this part shall be legal investments for all trust funds and for the funds of all insurance companies, banks, both commercial and savings, and trust companies, and for the State school funds, and whenever any moneys or funds may by law now or hereafter enacted be invested in bonds of cities, cities and counties, counties or school districts, in the State, such moneys or funds may be invested in the bonds of the drainage district.

Security

9527. Whenever bonds of cities, cities and counties, counties or school districts may by law be issued as security for the performance of any act or as security for the deposit of public funds of the State or of any county, city and county, municipality or other public corporation or political subdivision in any State or National bank or banks, refunding bonds of the drainage district may be so used.

CHAPTER 7. SALE OF LAND FOR DELINQUENT INSTALLMENTS

Article 1. Notice and Sale

Publication of delinquencies

9535. If both portions of the installments, levied pursuant to Chapter 6 of this part, are not paid before the last Monday in April at 6 o'clock p.m., the board shall publish in each county where the delinquencies exist, in one notice, a list of all

the delinquencies in the county at least once a week for two weeks successively in some newspaper of general circulation published in the county.

Contents of notice

9536. The notice shall contain the following:

(a) A description of each parcel of land assessed within the county whereon an installment or installments are delinquent, as such description appears on the assessment list.

(b) The name of the owner to whom the parcel is assessed or a statement that it is assessed to unknown owners if such be the fact.

(c) The amount of the installment or installments delinquent on the parcel, and the amount of the penalty thereon.

(d) A notice that each of the parcels will be sold at public auction by the county treasurer in front of the courthouse of the county at a specified day and hour.

Sale

9537. The sale shall be held not less than 30 days nor more than 90 days from the date of delinquency.

Same
Highest bidder

9538. At the time and place stated in the notice the county treasurer shall sell each parcel of land described in the notice to the highest bidder unless prior thereto he has received payment in full of the delinquent installment or installments together with the penalty.

Minimum bid

9539. No bid for any parcel shall be accepted less than the aggregate sum then due for the installment or installments thereon, together with the penalty, except that the county treasurer may receive from any purchaser at their face value, in lieu of cash, bonds of the drainage district issued upon the assessment, or their interest coupons, if the bonds or coupons are then matured or will mature within one year after such sale.

Bonds in payment

Cancellation of bonds

9540. Any bonds or coupons so received in payment shall be canceled by the county treasurer and transmitted to the State Treasurer.

Indorsement of amount paid

9541. If the entire amount of any bond or coupon tendered in payment is not required to complete payment of the purchase money, the county treasurer shall indorse thereon as paid the amount of the purchase money credited thereon.

Credits to bond fund

9542. The bond fund of the assessment shall be credited with the amount of purchase money paid in bonds or coupons on delinquent sales, and of all sums indorsed as paid upon account of purchase money on any bonds or coupons, specifying the same, a statement of which shall be furnished by the county treasurer to the State Treasurer.

Certificate of sale
Recordation

9543. The county treasurer shall execute to each purchaser at the delinquent sale including the drainage district, a certificate of sale, which shall be recorded by the purchaser in the county recorder's office of the county in which the land is situated.

Postponement of sale

9544. The county treasurer may if directed by the board postpone the delinquent sale from time to time for not less than 10 nor more than 30 days by a written notice posted at the place of sale.

Article 2. Purchase and Sale of Land by the Drainage District

Bid by county treasurer

9550. If no bid is made for any parcel at the delinquent sale equal to the amount of installment or installments delinquent thereon, including the penalty, the county treasurer shall bid in and sell the parcel to the drainage district for the amount of the installment or installments and penalty.

Property held in trust

9551. Any parcel of land bid in and purchased by the drainage district at the delinquent sale shall be held in trust for the bond fund of the assessment upon which the land was sold and may be sold and conveyed by the board at any time after the expiration of the redemption period of one year at public or private sale, with or without notice to any person paying not less than the amount for which the parcel was bid in by the county treasurer at the delinquent sale, with interest thereon at the rate of 12 per cent per annum compounded yearly from the date of the delinquent sale, and also the amount of all subsequent installments then delinquent, with accrued interest and penalties thereon.

Sale after expiration of redemption period

Methods of payment

9552. Payment for the land purchased under the next preceding section may be made by the purchaser either in cash or matured bonds and coupons issued upon assessment taken at their face value.

Deed Encumbrances

9553. The board shall execute a deed to the purchaser at the sale conveying the property, free of encumbrances except State, county and other municipal taxes, assessments levied or assessed by statutory authority, and the unpaid balance of any assessment thereon levied by the board on lands in the drainage district.

Disposition of purchase price

9554. The purchase price received in cash shall be paid by the board to the State Treasurer and any bonds or coupons received in payment by the board shall be canceled by the board and delivered to the State Treasurer.

Fund credited

9555. All such money paid over and the canceled bonds or coupons delivered to the State Treasurer shall be credited to the bond fund of the assessment.

Public auction

Notice

9556. If any land held by the drainage district, pursuant to the provisions of this chapter, remains unsold after the final installment of the assessment has been collected by payment or sale, then the board shall sell all such lands at public auction to the highest bidder for cash, upon two weeks published notice substantially in the manner provided for notice upon delinquent sales.

Deed Encumbrances

9557. The board shall execute to the purchaser a conveyance of the land free of incumbrances except State, county and municipal taxes, and assessments levied or assessed by statutory authority.

Disposition of proceeds

9558. The board shall deposit the proceeds of the sale with the State Treasurer to the credit of the bond fund of the assessment.

Article 3. Redemption and Conveyancing of Lands

Period

9565. Any person interested in any tract of land sold at a delinquent sale, made pursuant to the provisions of this chapter, may redeem the tract of land at any time within one year after the date of sale by paying to the county treasurer for the purchaser a sum equal to the purchase price stated in the certificate of sale with interest thereon at the rate of 12 per cent per annum from the date of sale to redemption together with any and all subsequent delinquent installments of the assessment on the land with any and all penalties prescribed for delinquency.

Terms

Deed upon nonredemption

9566. If no redemption is made within one year the board upon demand and the surrender of the certificate of purchase and the delivery of a certificate of the county treasurer that no redemption has been made within the year from date of sale, shall execute to the purchaser, his heirs or assigns, a deed of conveyance of the parcel of land described in the certificate.

Encumbrances

9567. The deed shall convey to the grantee therein named the land free and clear of all encumbrances except State, county and municipal taxes, assessments levied or assessed by statutory authority, and the unpaid balance of any assessment made by the drainage district.

Collection of encumbrances

9568. Each installment of the encumbrances mentioned in the preceding section may be called and collected as provided by law.

Exemption

9569. No parcel sold and conveyed to the drainage district shall thereafter, until redeemed or until sold and disposed of by the board, be subject to sale by the treasurer for delinquent installments of any assessment as provided in this part.

Matters deemed correct

9570. Every deed by the board purporting to be executed under this chapter shall be prima facie evidence of the truth of the matters therein recited and of ownership by the grantee of the lands therein described.

Who may execute deeds

9571. All deeds required by this chapter to be executed by the board may be executed by the president and secretary thereof on behalf of the board.

Article 4. Disposition of Proceeds

Transmission of amount due

9575. Out of the proceeds of a delinquent sale, made pursuant to the provisions of this chapter, the county treasurer shall transmit to the State Treasurer the amount due on the property so sold as shown in the notice, together with the penalty thereon.

Fund credited

9576. The State Treasurer shall place the amount to the credit of the bond fund of the drainage district for the particular bond issue upon the assessment.

Surplus

9577. The county treasurer shall pay to the owner of the property any surplus remaining after the payment to the State Treasurer.

DIVISION 6. THE STATE WATER PLAN, AUTHORITIES, AND BOARDS

(Division 6 added by Stats. 1943, Ch. 370, as part of codification.)

PART 1. ADOPTION OF PLAN

State Water Plan

10000. The coordinated plan for the conservation, development, and utilization of the water resources of the State as set forth in the report thereon formulated and prepared by the department and transmitted to the Forty-ninth Session of the Legislature pursuant to Chapter 832 of the Statutes of 1929 shall be known as the "State Water Plan."

Continuance

10001. The approval and adoption of the State Water Plan by Chapter 1185 of the Statutes of 1941 are continued in effect.

No repeal

10002. The approval and adoption of the State Water Plan do not repeal any of the provisions of the Central Valley Project Act of 1933, and to the extent there may be any inconsistency or conflict, the provisions of Part 3 of this division shall prevail over the provisions of this part and of the State Water Plan.

Prevailing provisions

PART 2. APPROPRIATION OF WATER BY DEPARTMENT OF FINANCE

Applications

10500. The Department of Finance shall make and file applications for any water which in its judgment is or may be required in the development and completion of the whole or any part of a general or coordinated plan looking toward the development, utilization, or conservation of the water resources of the State.

Same Priority

10501. Any application filed by the Department of Finance within nine months after July 29, 1927 has priority as of that date and such priority shall be retained over any application made by others subsequent to that date in conflict therewith, regardless of any requirements or provisions relating to diligence in the completion of applications for water or the use thereof, until October 1, 1947.

(Amended by Stats. 1943, Ch. 693.)

[ORIGINAL SECTION]

10501. Any application filed by the Department of Finance within nine months after July 29, 1927, has priority as of that date and such priority shall be retained over any application made by others subsequent to that date in conflict therewith, regardless of any requirements or provisions relating to diligence in the completion of applications for water or the use thereof, until October 1, 1943.

Maintenance of priority

10502. Any priority under this part may be maintained and extended by further legislative enactment.

Publication of notice of intention

10503. The Department of Finance, under the requirements of Division 2 and the rules and regulations of the State Engineer relating to applications for the appropriation of water, may publish a notice that it intends to file upon an amount of water necessary to the development of any part

or unit of a general or coordinated plan and in that event the publication of the notice shall preserve, as of the date of publication, the priority of any application made and filed subsequently by the Department of Finance for the benefit of such part or unit prior to October 1, 1947 Effect

(Amended by Stats. 1943, Ch. 693.)

[ORIGINAL SECTION]

10503. The Department of Finance, under the requirements of Division 2 and the rules and regulations of the State Engineer relating to applications for the appropriation of water, may publish a notice that it intends to file upon an amount of water necessary to the development of any part or unit of a general or coordinated plan and in that event the publication of the notice shall preserve, as of the date of publication, the priority of any application made and filed subsequently by the Department of Finance for the benefit of such part or unit prior to October 1, 1943.

10504. The Department of Finance may release from priority or assign any portion of any appropriation filed by it under this part when the release or assignment is for the purpose of development not in conflict with such general or coordinated plan. Release or assignment

10505. No priority under this part shall be released nor assignment made of any appropriation that will, in the judgment of the Department of Finance, deprive the county in which the appropriated water originates of any such water necessary for the development of the county. Same Restrictions

10506. Every State department or State officer, upon request of the Department of Finance, shall furnish any service or assistance in the investigation of the need or feasibility of all or any part of such general or coordinated plan and the cost of construction, operation, and maintenance thereof, of the financing of construction and rates or returns that may be required to operate and maintain all or any part of the plan, of the amortization of bonded or other indebtedness that may be placed on all or any part of the plan for the cost of construction thereof, and shall render any other service which the Department of Finance deems necessary for the maintenance of any priority in the State for the purposes of all or any part or unit of the plan and the future development and completion of it in the public interest. Cooperation by State agencies

PART 3. CENTRAL VALLEY PROJECT

CHAPTER 1. GENERAL PROVISIONS

Article 1. Definitions

11100. The definitions in this article govern the construction of this part only. Limitation

11101. "Authority" means the Water Project Authority of the State of California. "Authority"

11102. "State agency" includes any irrigation district, reclamation district, municipal utility district, public utility district, water district, water storage district, and any public or municipal corporation, political subdivision, district, State "State agency"

agency or authority now or hereafter organized under and by virtue of the laws of the State now in effect or hereafter enacted.

(Amended by Stats. 1943, Ch. 376.)

[ORIGINAL SECTION]

11102. "State agency" except in Sections 11660 to 11664, inclusive, means any county, city, or any department or agency thereof, irrigation district, reclamation district, or other public or municipal district.

"Electric power"

11103. "Electric power" includes "electricity," "electric energy" and "electrical energy."

"Project"

11104. "Project" means the Central Valley Project.

"Construction fund"

11105. "Construction fund" means the Central Valley Water Project Construction Fund.

"Revenue fund"

11106. "Revenue fund" means the Central Valley Water Project Revenue Fund.

"Bond"

11107. Unless the context otherwise requires, "bond" means any bond or other written evidence of indebtedness which the authority may issue under this part in order to secure funds with which to carry out the purposes of this part.

Article 2. Statement of Policy

Approval and authorization

11125. The public interest, welfare, convenience, and necessity require the construction in the manner provided in this part of a system of works for the conservation, development, storage, distribution, and utilization of water, with incidental generation, transmission, and distribution of electric power which system of works is designated as the Central Valley Project and is specifically approved and authorized.

Liberal construction of provisions

11126. The construction, operation, and maintenance of the project as provided for in this part is in all respects for the welfare and benefit of the people of the State, for the improvement of their prosperity and their living conditions, and the provisions of this part shall therefore be liberally construed to effectuate the purposes and objects thereof.

Governmental function

11127. The authority and the department shall be regarded as performing a governmental function in carrying out the provisions of this part.

Article 3. Use of State Property

Consent

11130. The State hereby consents to the use and occupation of any real property now or hereafter owned by it, and not dedicated to public use, necessary for the construction, operation, or maintenance of the project, including land of the State lying beneath any navigable waters of the State.

Rights of way

11131. Whenever any land or rights of way of the State heretofore or hereafter dedicated to public use are necessary for the construction, operation, or maintenance of the project, the land or rights of way may be used therefor, but only in accordance with the terms and conditions of an agreement to be first entered into between the authority and the State department or other agency of the State having jurisdiction over or control and management of the land or rights of way.

Article 4. Aid From State Agencies or Other Sources

Advances or contributions by State agencies

11135. Any State agency may advance or contribute money, rights of way, labor, materials, and any other property for the construction, operation, or maintenance of the project or any unit thereof.

Same: Appropriations

11136. Appropriations for advances or contributions under this article may be made from any funds available for the purpose.

Same Issuance of bonds

11137. Any State agency may issue its general obligation bonds for the purpose of making advances or contributions under this article and all proceedings for the authorization, issue, and sale of such bonds shall be had under the law governing the issue and sale of bonds for public improvements by the particular State agency.

Same Transfer of money or property

11138. Money or property advanced or contributed may be immediately transferred or delivered to the authority to be used for the purpose for which the advance or contribution was made.

Agreement to repay

11139. The authority may enter into an agreement with any State agency to repay any money or the value of any rights of way, labor, materials, or other property advanced or contributed; but no repayment therefor shall be made until all obligations issued by the authority for the construction of the project have been fully redeemed and paid, and then only out of the revenues received from the operation of the project.

Limitation

Collection of revenue by authority

11140. After all bonds issued have been fully redeemed and paid, the authority may continue to collect revenues from the use and operation of the project for the purpose of reimbursing any State agency for any expenditures made by it and for the purpose of repayment of any amount the authority shall have agreed to repay for money, rights of way, labor, materials, or other property advanced or contributed for the construction of the project or unit thereof.

Use of contributions

11141. The authority may receive and accept from any and all sources money, rights of way, labor, materials, or any other property for the construction, operation, or maintenance of the project or any unit or specific portion of any unit thereof or for any of the purposes of this part, and may agree with the person or entity so contributing to apply the money or property in the manner and for the purpose for which contributed, and the contribution shall thereupon be used and applied in accordance with the agreement.

Article 5. Activities of Division of Water Resources

Aid to authority

11150. The Division of Water Resources shall prosecute efforts on behalf of the authority in aid of the construction of the project, including the preparation and formulation of surveys, plans, estimates, and other work which may be required and including cooperation with agencies of the Federal Government, in accordance with the provisions of the Central Valley Project Act of 1933 as in effect on January 1, 1938, and not otherwise.

Article 6. Record of Proceedings and Report to Governor

Records to be kept

11155. The State Controller, the State Treasurer, the department, and the authority shall keep full and particular account and record of all their proceedings under this part.

Transmission to Legislature

11156. The State Controller, the State Treasurer, the department, and the authority shall transmit to the Governor an abstract of all proceedings under this part with an annual report, to be laid by the Governor before the Legislature biennially.

Contents of report

The report may contain such suggestions for changes, alterations, or revisions of this part or for other legislation in aid of its purposes and objects as may be deemed advisable or expedient.

Article 7. Cooperation by State Officials

Cooperation

11160. The authority, the department, the officials thereof, and all State officials may do such acts and make such agreements not inconsistent with law as may be necessary or desirable in connection with the duties and powers conferred upon them respectively by law regarding the construction, maintenance, and operation of the project and the safeguarding of the funds and revenues required for such construction and the payment of the indebtedness incurred therefor.

Chapter 2. Description of the Project

Article 1. General Provisions

Unity of project

11200. The construction of the project is a single object and the units thereof collectively constitute one project.

Units

11201. The project as authorized by this part consists of the units provided for in this chapter.

Article 2. Shasta Dam

Shasta Dam

11205. The unit designated as Shasta Dam consists of the following:

(a) A dam, reservoir, and one or more hydroelectric power plants, with necessary afterbay and regulatory appurtenant works located on the Sacramento River at or near Kennett.

(b) A transmission line having capacity sufficient to transmit all the electric power which can be generated at the dam, including substations, transformer stations, and other facilities for the distribution of power from the dam to a central substation near Antioch.

Location of transmission line

11206. The transmission line shall be located in such manner and along such route as to enable the most convenient distribution of electric power to the load centers traversed thereby or capable of service therefrom

Primary purposes

11207. Shasta Dam shall be constructed and used primarily for the following purposes:

(a) Improvement of navigation on the Sacramento River to Red Bluff.

(b) Increasing flood protection in the Sacramento Valley.
(c) Salinity control in the Sacramento-San Joaquin Delta.
(d) Storage and stabilization of the water supply of the Sacramento River for irrigation and domestic use.

Secondary purposes

11208. Shasta Dam shall be constructed and used secondarily for the generation of electric power and other beneficial uses.

Specifications

11209 The dam shall be built to such height and the power plant or plants shall be of such capacity as the authority determines. The reservoir shall have such storage capacity as the authority determines but the capacity shall be not less than 2,940,000 acre-feet of water.

Article 3. Contra Costa Conduit

Contra Costa Conduit Purpose

11215. The unit designated as the Contra Costa Conduit consists of a conduit or canal equipped with all necessary pumping plants and other works to convey water and extending westerly from a diversion point near Knightsen southerly of Suisun Bay to the vicinity of Martinez.

Capacity

11216. The Contra Costa Conduit shall be of such capacity as the authority determines to be necessary to furnish an adequate supply of water for industrial, agricultural, domestic, and other beneficial uses in the area served by it.

Article 4. San Joaquin Pumping System

San Joaquin Pumping System

11220. The unit designated as the San Joaquin Pumping System consists of a channel or canal with all necessary dams, pumping plants, conduits, and other works which the authority determines to be necessary to convey a supply of water for irrigation and other beneficial uses from the lower Sacramento River into the San Joaquin Delta, and also adequate to convey and transport not less than 3,000 cubic feet of water per second from a point on the lower San Joaquin River southerly to the mouth of Fresno Slough.

Article 5. Friant Dam

Friant Dam

11225. The unit designated as Friant Dam consists of a dam, reservoir, and one or more hydroelectric power plants to be located on the San Joaquin River at or near Friant.

Primary and secondary purposes

11226. Friant Dam shall be constructed and used primarily for improvement of navigation, flood control, and storage and stabilization of the water supply of the San Joaquin River, for irrigation and domestic use, and secondarily for the generation of electric power and other beneficial uses.

Specifications

11227. The dam shall be built to such height and the power plant or plants shall be of such capacity as the authority determines. The reservoir shall have such capacity as the authority determines but the capacity shall be not less than 400,000 acre-feet of water.

Article 6. Madera Canal

Madera Canal

11230. The unit designated as the Madera Canal consists of a canal or conduit leading from the reservoir of Friant Dam northerly to a point on the Chowchilla River.

Capacity

11231. The Madera Canal shall be of such capacity as the authority determines to be necessary to furnish an adequate supply of water for beneficial purposes in the area to be served by it.

Article 7. Friant-Kern Canal

Friant-Kern Canal

11235. The unit designated as the Friant-Kern Canal consists of a canal or conduit extending from the reservoir of Friant Dam southerly to a point on Kern River near Bakersfield.

Capacity

11236. The Friant-Kern Canal shall be of such capacity as the authority determines to be necessary to furnish an adequate supply of water for beneficial purposes in the area to be served by it.

Necessary pumping plants, etc.

11237. The unit may include such pumps, supplemental dams, and other works as the authority determines to be necessary for the economical and advantageous construction, operation, and maintenance of the unit.

Article 8. Tehama-Colusa Conduit

Tehama-Colusa Conduit

11240. The unit designated as the Tehama-Colusa Conduit consists of a conduit or canal, equipped with all necessary dams, pumping plants, and other appurtenant works, extending from the Sacramento River at or near Red Bluff southerly through Tehama, Glenn, and Colusa counties.

Capacity

11241. The Tehama-Colusa Conduit shall be of such capacity as the authority determines to be necessary to furnish an adequate supply of water for industrial, agricultural, domestic, and other beneficial uses in the area to be served by it.

Article 9. Tehama-Butte Conduit

Tehama-Butte Conduit

11250. The unit designated as the Tehama-Butte Conduit consists of a conduit or canal, equipped with all necessary dams, pumping plants, and other appurtenant works, extending from the Sacramento River at or near Red Bluff southerly through Tehama, Butte, and Sutter counties.

Capacity

11251. The Tehama-Butte Conduit shall be of such capacity as the authority determines to be necessary to furnish an adequate supply of water for industrial, agricultural, domestic, and other beneficial uses in the area to be served by it.

Article 10. Additional Units

Additional units

11290. The project includes such other units as may be from time to time added by the authority to the units specifically enumerated. The authority may add additional units

which are consistent with and which may be constructed, maintained, and operated as a part of the project and in furtherance of the single object contemplated by this part.

Article 11. Additional Plants and Works

Necessity therefor

11295. In addition to the works specified, the units shall include such plants and works for the generation of electric power by steam or other power, and such electric transmission lines and facilities for the sale, use, and distribution of electric power as the authority determines to be necessary for making a reasonable, proper, and advantageous sale, use, and distribution of electric power made available by the units.

Chapter 3. The Water Project Authority

Article 1. Organization and Membership

"Authority" Powers and duties

11400. There is in the State Government a Water Project Authority of the State of California. The authority is a body politic and corporate with power of perpetual succession and with power to sue and be sued and with the further powers, duties, and responsibilities provided in this part.

Composition of authority

11401. The authority consists of five members who are the Attorney General, the State Controller, the State Treasurer, the Director of Finance, and the Director of Public Works.

Vacancy Appointment by Governor

11402. If the office of Attorney General, State Controller, State Treasurer, Director of Finance, or Director of Public Works is discontinued or abolished by law, the Governor shall appoint any qualified person or any officer of the State to fill any vacancy resulting from the abolition or discontinuance of the office.

Same During session of Legislature

11403. If a vacancy occurs during a session of the Legislature the appointment by the Governor shall be made during the session and shall not be effective until confirmed by vote of the Senate.

Same Legislature not in session

11404. If a vacancy occurs while the Legislature is not in session the appointment by the Governor shall terminate 10 days after the next legislative session begins unless within that time it is confirmed by vote of the Senate.

Expenses of members

11405. Each member of the authority shall serve as such without compensation but shall receive his actual and necessary expenses when engaged in travel upon the business of the authority.

Article 2. Administrative Provisions

Chairman

11410. The Director of Public Works is the chairman of the authority.

Executive officer

11411. The State Engineer is the executive officer of the authority.

Same Powers and duties

11412. The executive officer shall exercise such powers and perform such duties in addition to his regular duties as State Engineer as the authority prescribes and may receive and be

paid such additional salary for the additional duties as may be fixed by the authority.

Secretary Office

11413. The authority shall employ a secretary and shall establish and maintain an office in the City of Sacramento.

Seal

11414. The authority shall have and adopt a seal bearing its name. The seal shall be affixed to such records and other instruments as the authority directs. All courts shall take judicial notice of the seal.

Rules and regulations

11415. The authority may adopt from time to time, as necessary or expedient, suitable rules and regulations for the administration of this part.

Legal counsel

11416. The authority and the department are each authorized to employ such legal counsel and other persons as may be necessary to enable the authority and the department properly to perform the duties imposed upon them respectively by this part.

Employees furnished authority

11417. From its employees the department shall furnish to the authority such technical and other assistants as are required from time to time upon the order of the authority.

Action by majority

11418. A majority of the members of the authority may act for the authority.

Accounts and financial statements

11419. The authority shall keep full and complete accounts concerning all matters and things relating to the project and annually shall prepare balance sheet and income and profit and loss statements showing the financial condition of the project.

Open to public inspection

11420. All books and papers pertaining to matters provided for in this part shall at all reasonable times be open to the inspection of any party interested or any citizen of the State.

Article 3. General Powers and Duties

Provisions of Chapter 4 control

11450. The provisions of this article are subject to the provisions of Chapter 4 of this part.

Full charge and control

11451. The authority shall have full charge and control of the construction, operation, and maintenance of the project and the collection of all rates, charges, and revenues from it.

Construction of project

11452. The authority shall proceed with the construction of the project immediately upon funds being available therefor and shall carry such work to completion as rapidly as possible.

Collection of rates, etc

11453. The collection of rates, charges, and revenues shall be continued as provided in this part until all bonds issued are fully redeemed and paid.

Acts permitted

11454. Under such regulations and upon such terms, limitations, and conditions as it prescribes, the authority may do any of the following:

(a) Fix and establish the prices, rates, and charges at which the resources and facilities made available by the project shall be sold and disposed of.

(b) Enter into contracts and agreements and do any and all things which in its judgment are necessary, convenient, or

expedient for the accomplishment of the purposes and objects of this part.

Same Requirements

11455. The authority shall enter into such contracts and fix and establish such prices, rates, and charges so as at all times to provide revenue which will afford sufficient funds to pay all costs of operation and maintenance of the works authorized by this part, together with necessary repairs and replacements thereto, and which will provide at all times sufficient funds for redemption of all bonds and payment of interest thereon, as and when such costs and charges become due and payable.

Article 4. Limitation of Powers

Watershed Prior right to water

11460. In the construction and operation by the authority of any project under the provisions of this part a watershed or area wherein water originates, or an area immediately adjacent thereto which can conveniently be supplied with water therefrom, shall not be deprived by the authority directly or indirectly of the prior right to all of the water reasonably required to adequately supply the beneficial needs of the watershed, area, or any of the inhabitants or property owners therein.

Same Restrictions on authority

11461. In no other way than by purchase or otherwise as provided in this part shall water rights of a watershed, area, or the inhabitants be impaired or curtailed by the authority, but the provisions of this article shall be strictly limited to the acts and proceedings of the authority, as such, and shall not apply to any persons or State agencies.

Limitation

Creation of rights

11462. The provisions of this article shall not be so construed as to create any new property rights other than against the authority as provided in this part or to require the authority to furnish to any person without adequate compensation therefor any water made available by the construction of any works by the authority.

Watershed, etc Exchange of water

11463. In the construction and operation by the authority of any project under the provisions of this part, no exchange of the water of any watershed or area for the water of any other watershed or area may be made by the authority unless the water requirements of the watershed or area in which the exchange is made are first and at all times met and satisfied to the extent that the requirements would have been met were the exchange not made, and no right to the use of water shall be gained or lost by reason of any such exchange.

Prohibitions affecting title and ownership

11464. No water right, reservoir, conduit, or facility for the generation, production, transmission, or distribution of electric power, acquired by the authority shall ever be sold, granted, or conveyed by the authority so that the authority thereby is divested of the title to and ownership of it.

Revision of contract

11465. The authority shall not make any change, alteration, or revision of any rates, prices, or charges established by any contract entered into pursuant to this part except as provided by the contract.

CHAPTER 4. COOPERATION WITH THE UNITED STATES

Inconsistent provisions not applicable

11500. Notwithstanding anything in this part to the contrary or in conflict herewith the authority may do any or all of the following:

Acts permitted

(a) Enter into contracts with the United States for the construction, maintenance, or operation of all or any part of the project or for the financing thereof.

(b) Enter into contracts for the acquisition by the authority of the works and properties of the project or any part thereof and for the repayment by the authority of the cost thereof to the United States.

(c) Conform to such requirements, not otherwise inconsistent with the law of this State, as may be prescribed by the United States under congressional legislation now in effect or which may hereafter be adopted or under rules and regulations duly adopted thereunder.

(d) Otherwise cooperate with the United States to the end that the people of the State may receive the benefits to be derived from the construction, maintenance, and operation of the project.

CHAPTER 5. CONSTRUCTION OF PROJECT BY THE AUTHORITY

Article 1. General Provisions

Provisions of Chapter 4 control

11550. The provisions of this chapter are subject to the provisions of Chapter 4 of this part.

Design of works

11551. The authority, by and through the department, shall design all works to be constructed under this part.

Methods of construction

11552. The authority may construct the works or any portion thereof by and through the department or may contract with the United States that the works or any portion thereof may be constructed by and through the department under the supervision and subject to the approval of the United States.

Sources of funds

11553. The cost of all works authorized to be constructed under this chapter shall be paid from the proceeds of bonds issued and sold under the provisions of this part, or from contributions, appropriations, or loans as provided in this part.

Applicable provisions Stats 1909, p 656

11554. All works constructed pursuant to this chapter shall be constructed under and in accordance with the provisions of The State Contract Act in so far as the provisions of that act are applicable, except that the amount of cash bidders' bonds or certified checks required to accompany any bid submitted, when bids relating to the construction of any works are called for, shall be fixed and determined by the authority.

Exception

Contractor's bond

11555. The authority shall require of each contractor bonds for the faithful performance of any contract or subcontract and for the payment for any labor, materials, or supplies used in, upon, for, or about the performance of the work contracted to be done. The bonds shall fix such terms and

conditions and be in such amounts as the authority deems necessary.

Same Disposition of money

11556. Money realized on any such bonds shall be paid into the construction fund.

Article 2. Time of Construction

Requirements regarding sufficiency of funds

11560. The authority shall construct the project when, in its judgment, appropriations, contributions, and revenues from all sources which are available or which will be made or become available upon, during, after, or before construction of the project, including contracts which the authority may negotiate and enter into with responsible persons, public or private agencies, the United States, and State agencies for the sale or disposal of water, water flow, the use of water, water storage, electric power, or other resources and facilities to be made available by the project, are or will be available from such sources in such amounts and at such times as will afford funds sufficient to pay and discharge as and when the same become due and payable all cost and expense incurred prior to construction, and all cost and expense of construction, operation, and maintenance of the project, together with necessary repairs and replacements thereto, including funds sufficient to meet and pay, as and when they become due and payable, all bonds, with interest accruing thereon, within a period of not to exceed 70 years after the beginning of the construction of the project.

Article 3. Sequence of Units

San Joaquin Pumping System Deferment of construction

11565. The construction of all or any part of the San Joaquin Pumping System may be deferred until such time as the authority determines that the construction of it is required and is economically justified.

Same Other construction

11566. In case the construction of all or any part of the San Joaquin Pumping System is deferred, the construction of all other units of the project shall be commenced and carried to completion without reference to the construction so deferred.

Determination of completion

11567. The authority shall ascertain and determine when the project or any unit thereof is completed and thereupon the project or unit shall be deemed completed for all the purposes of this part.

Chapter 6. Acquisition and Disposal of Property

Article 1. General Provisions

Necessary property and rights

11575. For the purpose of constructing, maintaining, and operating the project the authority may acquire for and in the name of the State, by gift, exchange, purchase, or eminent domain proceedings any and all water, water rights, rights of way, easements, land, electric power, power resources and

facilities, and property or appurtenances thereto of every kind and description and any appurtenances to any such property as the authority determines to be required and necessary for the proper construction, maintenance, and operation of the project and for effectuating the purposes and objects to be accomplished by the construction, maintenance, and operation of the project.

Included in cost

11576. The cost of construction of the project includes the cost and expense of acquiring property and any such cost and expense is an integral part of the capital cost of the project.

Right of eminent domain

11577. Nothing in this chapter shall in any way interfere with or abridge the right of the authority or of any State agency to acquire any property through the exercise of the right of eminent domain.

Article 2. Eminent Domain Proceedings

When agreement impossible

11580. When the authority can not acquire any necessary property by agreement with the owner, the authority may condemn and take the property in the name of the State under the provisions of the laws of this State relating to eminent domain proceedings.

Resolution of public interest and necessity

11581. The authority has no power to commence any proceedings in eminent domain unless and until it has passed a resolution declaring that public interest and necessity require the acquisition of the property.

Same Conclusive evidence

11582. The resolution shall be conclusive evidence of all of the following:

(a) The public necessity of the acquisition.

(b) That the property is necessary.

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

Appropriation to public use Assumption

11583. Where property has been appropriated to public use by any person, the use of the property for the same purpose by the authority or by any State agency shall be deemed a more necessary public use than the use of the property by such person.

Limitations on right of eminent domain

11584. No water which, prior to January 13, 1934, was appropriated, or for which application has been filed prior to January 13, 1934, and remains in good standing, nor any tunnels, canals, dams, and appurtenant works dedicated to public use prior to July 1, 1933, may be acquired by the authority through eminent domain proceedings except, unless and until it is first determined in a court of competent jurisdiction that the use proposed to be made thereof by the authority is a more necessary public use than that to which it has already been appropriated or dedicated.

Assumption regarding use by State agency

11585. Where any water or property mentioned in the next preceding section has, prior to July 1, 1933, been filed on, appropriated, or dedicated to public use by any State agency,

the use thereof by the State agency shall be deemed a more necessary public use.

Eminent domain permitted

11586. Where any water or property mentioned in Section 11584 has, prior to July 1, 1933, been filed on, appropriated, or dedicated to a public use by any State agency and the use proposed to be made thereof by the authority is consistent with the continuance of the use thereof by the State agency for its purposes, the right to use such property for the purposes proposed by the authority is common and consistent with the use being made thereof by the State agency and may be acquired by eminent domain.

Possession on commencement of proceedings

Security

11587. The authority in the name of and for the State may take immediate possession and use of any property required for the construction, operation, or maintenance of the project upon first commencing eminent domain proceedings according to law in a court of competent jurisdiction, and thereupon giving such security in the way of money deposited as the court in which the proceedings are pending directs, and in such amounts as the court determines to be reasonably adequate to secure to the owner of the property sought to be taken immediate compensation for the taking and any damage incident thereto, including damages sustained by reason of an adjudication that there is no necessity for taking the property.

Article 3. Acquiring Facilities of Public Utilities and State Agencies

Limitation on powers

11590. The authority has no power to take or destroy the whole or any part of the line or plant of any common carrier railroad, other public utility, or State agency, or the appurtenances thereof, either in the construction of any dam, canal, or other works, or by including the same within the area of any reservoir, unless and until the authority has provided and substituted for the facilities to be taken or destroyed new facilities of like character and at least equal in usefulness with suitable adjustment for any increase or decrease in the cost of operating and maintenance thereof, or unless and until the taking or destruction has been permitted by agreement executed between the authority and the common carrier, public utility, or State agency.

Substitution of facilities

Permission

Expense part of cost

11591. The expense of the authority in complying with the requirements of this article is part of the cost of constructing the project.

Submission of controversies to Railroad Commission

11592. In the event the authority and any common carrier railroad, other public utility, or State agency fail to agree as to the character or location of new facilities to be provided as required in this article, the character and location of the new facilities and any other controversy concerning requirements imposed by this chapter shall be submitted to and determined and decided by the Railroad Commission of the State.

Article 4. Disposition of Property

Powers of authority

11595. Subject to the provisions of Section 11464, the authority may do any of the following:

(a) Sell or otherwise dispose of any rights of way, easements, or property when it determines that they are no longer needed for the purposes of this part.

(b) Lease or rent rights of way, easements, or property.

(c) Take, receive, and apply for the purposes and objects of this part the income, profit, and revenue received from the sale, lease, rental, or other disposal.

CHAPTER 7. CONTRACTS

Article 1. General Provisions

Parties

11625. Any State agency, mutual water company, political subdivision, or other entity or organization may enter into contracts with the authority for the purchase or for the use of water, water flow, water storage, electric power, or other resources and facilities made available by the project.

Preferences

11626. In entering into and awarding contracts, in case of equal or equivalent offers, including consideration of the cost of construction, operation, and maintenance of the necessary lines, plants, and other works to deliver the commodity or service which is to be delivered under the contracts, the authority shall grant preference to State agencies or other organizations not organized or doing business for profit but primarily for the purpose of supplying water or electric power to their own citizens or members.

Provision regarding default

11627. Every contract made by the authority for the sale of water, use of water, water storage, electric power, or other service shall provide that, in the event of any default in the payment of any money specified in the contract to be paid to the authority, the authority may, upon such notice as it determines, cease to furnish or deliver water, use of water, water storage, electric power, or other service under the contract.

Same Other remedies

11628. The act of the authority in ceasing on any default to furnish or deliver water, use of water, water storage, electric power, or other service under a contract shall not deprive the authority of or limit any remedy provided by the contract or by law for the recovery of money due or which may become due under the contract.

Article 2. Contracts with State Agencies

Duty of authority

11650. In case of the award by the authority of any contract or lease to any State agency for the furnishing of water, the use of water, water storage, electric power, or other service, upon demand made therefor by such State agency, the authority shall construct, acquire, or otherwise provide the necessary works and facilities for transmitting the water, electric power, or other service to a central point from which the water, electric power, or other service may be most conveniently dis-

tributed within the territory to be served under the contract or lease.

Provision for punctual payment

11651. The governing body charged with the levying of taxes or assessments in any State agency which contracts to purchase from the authority any water, use of water, water storage, electric power, or other service shall provide for the punctual payment to the authority of all amounts which become due under the contract.

Tax or assessment levy

11652. The governing body shall, whenever necessary, levy upon all property in the State agency not exempt from taxation, a tax or assessment sufficient to provide for all payments under the contract then due or to become due within the then current fiscal year.

Collection of taxes or assessments

11653. All officers of any State agency charged with the collection of the taxes or assessments levied by the State agency shall enforce and collect all taxes or assessments levied or assessed for the purpose of providing payment of the money due or to become due under a contract as provided in this article.

Disposition of moneys

11654. All money collected for taxes or assessments under this article shall be kept in a separate fund by the treasurer or other officer of the State agency charged with the safekeeping and disbursement of funds of the State agency, and, upon the written demand of the authority, the treasurer or other officer shall pay over to the authority all such money in his possession or control and the money shall be applied by the authority to the satisfaction of the amount due under the contract.

Payment to authority

Action to compel levy, collection, etc

11655. In the event of failure, neglect, or refusal of any officer of any State agency to levy any tax or assessment necessary to provide payment by the State agency under any contract with the authority, to enforce or to collect the tax or assessment, or to pay over to the authority any money collected on the tax or assessment the authority may take such action in a court of competent jurisdiction as it deems necessary to compel the performance in their proper sequence of all duties relating to the levying and collection of the taxes or assessments and the payment of the money collected therefrom to the authority.

Other remedies

11656. The use by the authority of any remedy specified in this article for the enforcement of any contract made with it is not exclusive and shall not deprive the authority of, or limit the application of, any other remedy provided by law.

Article 3. Additional Provisions Relating to Contracts with State Agencies

11660 (Repealed by Stats. 1943, Ch. 376.)

[ORIGINAL SECTION]

11660 For the purposes of this article "State agency" includes any irrigation district, reclamation district, municipal utility district, public utility district, municipality, water district, water storage district, and any public or municipal corporation, political subdivision, district, State agency or authority now or hereafter organized under and by virtue of the laws of the State now in effect or hereafter enacted.

Subject matter of contract

11661. In addition to the powers conferred by law, and not in derogation or in limitation thereof, any State agency may enter into and execute appropriate contracts with the authority for any and all the purposes and objects of this part.

Compliance with terms, etc

11662. Any State agency may comply with the terms, provisions, and conditions of any contract entered into by it pursuant to this article.

Contractual acts permitted

11663. Any State agency may, in or pursuant to a contract with the authority, do any or all of the following:

(a) Provide in the contract for the segregation and allocation of any or all revenues received by the State agency from the sale, use or distribution of any water, use of water, electric power, or other facilities to be received, used, or distributed by the State agency under the contract.

(b) Pursuant to the contract, segregate, allocate, and devote such revenues solely for the purpose of making payments to the authority for water, use of water, electric power, or other facilities to be received, used, or distributed under the contract.

(c) Provide in the contract for the pledge of any or all such revenues for the purpose of securing to the authority any payments which may become due under the contract.

(d) Pursuant to the contract, pledge such revenues for the purpose of securing to the authority any payments which may become due under the contract.

(e) Promise and agree to establish and maintain a special account to be created in and from its general fund or other appropriate fund.

(f) Pursuant to subdivision (e) create, establish, and maintain such special account.

Special account Trust fund

11664. All funds accruing to a special account established pursuant to the next preceding section, or deposited therein, in compliance with the terms and provisions of any contract with the authority constitute a trust fund for the purpose of making payments to the authority as provided in the contract.

Article 4. Contracts Other Than With State Agencies

Subject to cancellation on notice

11670. Any contract or lease made by the authority with any person, other than a State agency, providing for the furnishing by the authority of water, the use of water, water storage, electric power, or other service for resale shall be subject to cancellation by the authority upon five years' notice, and such a contract or lease shall be so canceled in whole or in part whenever the State or any financially responsible State agency makes application for the water, use of water, water storage, electric power, or other service, or any part thereof, covered by the contract or lease and enters into a contract or lease binding itself to take the water, use of water, water storage, electric power, or other service, or any part thereof, and pay for it at a rate or price at least equal to that specified in the contract or lease to be canceled

When cancellation required

and for a period at least equal to the unexpired portion of the term of such contract or lease.

Conditions precedent to cancellation

11671. The authority shall not cancel any contract or lease under the next preceding section unless and until it first determines and assures itself that notwithstanding the cancellation, it will receive and be paid a total revenue or consideration at least equal to that which would be received by it were the contract or lease not canceled, and within the unexpired portion of the term of the contract or lease.

CHAPTER 8. BONDS

Article 1. Authorization to Issue and Reduction of Aggregate Amount

Maximum amount

11700. For the purpose of providing money and funds to pay the cost and expense of construction of the project the authority may issue revenue bonds in a total sum of not to exceed one hundred seventy millions of dollars ($170,000,000).

Same Reduction to extent of United States contribution

11701. The aggregate amount of bonds authorized by this part shall be reduced by the amount appropriated and made available by the United States as its contribution toward the construction of the project or any unit thereof.

Same State contributions

11702. The aggregate amount of bonds authorized by this part shall be further reduced by all amounts appropriated and made available out of the treasury of the State in aid of the construction of the project or any unit thereof.

Article 2. General Provisions

Issuance and obligation

Identification

11705. Bonds shall be issued in the name of the authority and shall constitute obligations only of the authority and shall be identified as Water Project Authority revenue bonds.

Provisions authorizing issuance

Part of contract

11706. Any provisions not inconsistent with this part may be contained in the proceedings authorizing the issuance of bonds which limit, restrict, or regulate the holding, deposit, investment, and application of money consisting of the proceeds from the sale of the bonds or the revenues received from the operation of the project, and such provisions shall constitute a contract with the holders of the bonds and be binding upon the authority as long as the bonds are outstanding.

Diminishing or impairing powers, etc

11707. While any bonds remain outstanding, the powers, duties, or existence of the authority or any official or agency of the State shall not be diminished or impaired in any manner that will affect adversely the interests and rights of the holders of the bonds.

Bondholder's right of mandamus

11708. The holder of any bond may by mandamus or other appropriate proceedings require and compel the performance of any of the duties imposed upon any State department, official, or employee or imposed upon the authority or its officers, agents, or employees in connection with any of the following:

(a) The construction of the project.

(b) The collection, deposit, application, and disbursement of all revenues derived from the operation and use of the project.

(c) The deposit and disbursement of the proceeds received from the sale of bonds.

Other rights and remedies

11709. The enumeration of rights and remedies in the next preceding section does not exclude the exercise or prosecution of any other rights or remedies by holders of bonds.

Loans from United States, conditions of bonds

11710. The authority may contract loans and borrow money from the United States through the sale of bonds upon such conditions and terms as may be agreed to and such bonds shall be subject to all the provisions of this part except the requirement that bonds be first offered at public sale pursuant to advertisement.

Temporary bonds, etc.

11711. Temporary or interim bonds, certificates, or receipts, of any denominations and with or without coupons attached thereto, signed by the chairman of the authority, may be issued and delivered until the definitive bonds are executed and available for delivery.

11712. The purchase price of bonds shall be paid to the State Treasurer for the account of the authority.

Advertising and other expenses

11713. Notwithstanding anything otherwise provided in this part, any expense incurred by the authority for advertising, engraving, printing, clerical, legal, or other services necessary to properly perform the services and duties relating to the sale and issuance of bonds shall be paid from the proceeds of the sale of bonds.

Return of 1935 appropriation

11714. The authority shall return the appropriation made by Chapter 12 of the Statutes of 1935, or so much thereof as is used, with interest thereon at the rate of 4 per cent per annum to the General Fund in the State Treasury from the proceeds of the first sale of revenue bonds issued for the construction of the project under the provisions of this part.

Article 3. Payment from Revenue

Recital regarding payment or redemption

11720. Bonds issued under this part shall contain a recital on the face thereof that the payment or redemption of the bonds and the payment of interest thereon is secured by a first and direct charge and lien upon the revenues of any nature whatever received from the operation of the Central Valley Project for the construction of which the bonds are issued and that neither the payment of the principal or any part thereof or any interest thereon constitutes a debt, liability, or obligation of the State of California.

Nonliability of State

11721. Bonds issued under this part shall not constitute or be a debt, liability, or obligation of the State. Payment of both principal and interest of all such bonds shall be secured only by the rates, charges, and revenues established or accruing from the use or operation of the project and shall be made from such revenues or from such contributions or appropriations as may be made available under the terms of this part.

Liens

11722. All bond redemption and interest payments shall constitute a first and direct charge and lien on all revenues received from the operation of the project, on all interest accruing from such revenues, and on all sinking funds created out of such revenues.

Collection of revenue

11723. The collection of revenues shall be continued until all bonds with interest thereon are fully redeemed and paid.

Article 4. Bond Form and Terms

Determination

11730. The authority shall determine the form, conditions, and denominations of all bonds and the dates which the bonds shall bear.

Interest rate

11731. The authority shall determine the interest rate on the bonds. The rate shall not exceed 5½ per cent per annum.

Different interest rate

11732. It is not necessary that all bonds of the same authorized issue bear the same interest rate.

Place of payment

11733. Principal and interest on bonds shall be payable at such place or places as may be fixed and determined by the authority.

Registration

11734. Bonds may contain provisions for registration thereof as to principal only or as to both principal and interest.

Coupon bonds

11735. Bonds shall be issued in coupon form with interest payable at such times as may be determined by the authority and shall mature at such times and in such amounts as the authority prescribes.

Retirement of bonds

11736. The authority may provide for the retirement of bonds at any time or times prior to their maturity and in such manner and upon payment of such premiums as may be fixed and determined in the proceedings providing for the issuance of the bonds and referred to therein.

Execution

11737. All bonds shall be signed by the chairman of the authority and countersigned by the Governor.

Governor's signature

11738. The signature of the Governor may be by facsimile.

Signature on interest coupons

11739. All interest coupons shall bear the facsimile signature of the chairman of the authority.

Validity and sufficiency of signatures

11740. In case any officer whose signature or countersignature appears on the bonds or coupons ceases to be such officer before the delivery of the bonds to the purchaser, his signature or countersignature shall nevertheless be valid and sufficient for all purposes the same as if he had remained in the office until the delivery of the bonds.

Article 5. Issuance and Sale

Sales procedure

11750. Bonds may be issued and sold from time to time and in such amounts as may be deemed necessary in the judgment of the authority to provide sufficient funds for the construction of the project and to pay all costs and expenses, including interest due and payable, prior to and during the period of actual construction thereof and for a period of one year after completion thereof and the proceeds from the bonds are hereby made available for this purpose.

Sales price

11751. Bonds may be sold below the par or face value thereof, but the sale price shall not be less than that which will yield the purchaser not to exceed 5½ per cent per annum according to standard tables of bond values, and the sale price shall include the interest which has accrued thereon up to the date of delivery of the bonds.

Equal preference Different maturity dates

11752. Successive issues of bonds shall have equal preference with respect to the redemption thereof and the payment of interest thereon, but the authority may fix different maturity dates serially or otherwise for successive issues.

Negotiability

11753. All bonds issued are negotiable instruments.

Sealed proposals

11754. All bonds issued and sold shall be sold on sealed proposals to the highest and best bidder after such advertising for bids as the authority deems proper except that the authority may reject all bids and thereafter sell the bonds at private sale under such terms and conditions as the authority deems most advantageous but not at a price below that of the best bid which was rejected.

Exception

Article 6. Disposition of Proceeds from Bond Sale

Demand deposits

11760. The proceeds from the sale of bonds shall be paid to the State Treasurer to the credit of the construction fund and shall be deposited as demand deposits forthwith in a depositary authorized by law to receive deposits of State funds to the credit of the construction fund.

Disbursements permitted

11761. The proceeds shall be paid out, or disbursed solely for one or more of the following:

(a) The construction of the project.

(b) Surveys, and preparation of plans and specifications.

(c) Payment of all other costs and expenses prior to and during construction.

(d) The acquisition of the necessary water, water rights, rights of way, easements, lands, electric power, power resources and facilities, other property of every kind and description, and any appurtenances to any such property necessary therefor.

(e) The payment of interest becoming due and payable on bonds prior to and during the period of actual construction and for the period of one year after the completion of construction.

(f) All costs and expenses during a period of one year after completion of construction only as the need therefor shall arise.

Agreement restricting disbursement

11762. The authority may agree with the purchaser of bonds upon any conditions or limitations restricting the disbursement of the proceeds that may be deemed advisable for the purpose of assuring the proper application of the proceeds.

Article 7. Payment of Principal and Interest

Transfer of money to place of payment From construction fund

11770. From the money deposited in the construction fund the State Treasurer shall transfer to the place or places of payment named in the bonds the sums required to pay the interest as it becomes due on all bonds sold and outstanding

for the construction of the project during the period of actual construction and during a period of one year after completion thereof.

Same. From revenue fund

11771. After the periods mentioned in the next preceding section the Treasurer shall transfer from the revenue fund to the place or places named in the bonds the sums required to pay the interest on the bonds and redeem the principal thereof as such interest payments and bond redemptions fall due for all bonds issued and sold.

Segregation and application of funds

11772. All funds transferred for the payment of principal or interest on bonds shall be segregated and applied solely for the payment of the principal and interest.

Article 8. Retirement of Bonds

Retirement from surplus

11780. Any surplus which exists in the construction fund shall be applied to the retirement of bonds issued for construction of the project by purchase or call.

Alternative use of surplus

11781. In the event the bonds can not be purchased at a price satisfactory to the authority and are not by their terms callable prior to maturity such surplus shall be paid into the fund applicable to the payment of principal and interest of the bonds and shall be used for that purpose.

Conditions imposed on surplus

11782. The proceedings authorizing the issuance of bonds may provide limitations and conditions upon the time and manner of applying such surplus to the purchase and call of outstanding bonds.

Terms governing use of surplus

11783. The terms upon which the bonds shall be purchased or called and such limitations and conditions as are mentioned in the preceding section shall be followed and observed in the application and use of such surplus.

Cancellation

11784. All bonds retired by purchase or call shall be immediately canceled.

Chapter 9. Finances

Article 1. General Financial Provisions

Payable on demand

11800. Money required to meet the costs of construction of the project and all expenses and costs incidental thereto and to meet the costs of operating and maintaining and making necessary replacements thereto shall be paid by the State Treasurer from the proper fund upon demand of the authority. Payments shall be made after audit in the manner provided by law and upon warrants drawn by the State Controller.

Audit and warrants

Interest credit

11801. All interest received or earned on money deposited in a fund provided for in this part shall be credited to and become a part of the particular fund upon which the interest accrues.

Provisions governing use of proceeds and revenues

11802. The proceedings authorizing the issuance of bonds may contain appropriate provisions governing the use and application of bond proceeds and revenues for the purposes specified in this part.

Provisions governing deposits

11803. The authority may provide in the proceedings authorizing the issuance of bonds or may otherwise agree with the purchasers of bonds regarding the deposit of all money constituting the construction fund, and the revenue fund and may also provide for the deposit of such money at such times and with such depositaries or paying agents and upon the furnishing of such security as may meet with the approval of the purchasers of the bonds.

Depositaries and security

11804. The depositaries and security provided for or agreed upon shall be qualified and eligible in accordance with the requirements of law.

Incidental expenses out of proceeds and revenues

11805. Notwithstanding anything contained in this part, the proceeds received from the sale of bonds and the revenues received from the operation of the project may be used to defray any expenses incurred by the authority in connection with and incidental to the issuance and sale of bonds for the construction of the project, including expenses for the preparation of surveys, plans, and estimates and the making of inspections and examinations required by the purchasers of bonds.

Transfer of amounts

11806. The amounts required to be transferred by the State Treasurer as provided in this part shall be ascertained and computed by the authority and the certificate of the authority is conclusive and binding upon the State Treasurer.

Article 2. Construction Fund

Continuance

11810. There is in the State Treasury The Central Valley Water Project Construction Fund which is continued in existence.

Segregated and set apart

11811. The construction fund shall at all times be kept segregated and set apart from all other funds

Moneys deposited

11812. Any and all appropriations and contributions received from the United States, the State, any State agency, any political subdivision, or any other source for the purpose of constructing the project, or borrowed therefrom for such purpose, shall be received by the State Treasurer and deposited in and credited to the construction fund.

Costs and expenses payable out of fund

11813. All costs and expenses of the authority, including interest due and payable, incurred in performing the duties prescribed in this part prior to and during the construction of the project and for a period of one year after completion thereof, shall be paid out of the construction fund.

Appropriation for costs and expenses

11814. All the costs and expenses mentioned in the next preceding section shall be charged as a part of the cost of construction of the project and the money in the construction fund is hereby appropriated for such purposes.

Article 3. Revenue Fund

Continuation

11815. There is in the State Treasury the Central Valley Water Project Revenue Fund which is continued in existence.

Revenues to State Treasurer

11816. All revenues received from the operation of the project shall be paid over by the authority at least monthly to the State Treasurer.

Demand deposits

11817. The State Treasurer shall deposit the revenues to the credit of the revenue fund as demand deposits in a depositary authorized by law to receive deposits of State funds.

Segregation

11818. The revenue fund shall at all times be kept segregated and set apart from all other funds.

Other moneys credited to fund

11819. All appropriations and contributions received from the United States, the State, any State agency, any political subdivision, or from any other source for the purpose of maintaining or operating the project, or borrowed therefrom for such purposes, shall be received by the State Treasurer and deposited in and credited to the revenue fund.

Costs and expenses payable out of fund

11820. After the expiration of one year after the completion of the project, all costs and expenses of the authority, including interest due and payable, incurred in performing the duties prescribed in this part shall be paid out of the revenue fund.

Appropriation

11821. The money in the revenue fund is hereby appropriated for the payment of costs and expenses, for the maintenance and operation of the project, for making necessary replacements thereto, and for the payment when due of the principal and interest on all indebtedness incurred under the provisions of this part.

Costs of operation and maintenance

11822. The money remaining in the revenue fund after providing the amount required for interest and redemption of bonds shall be devoted to the payment of the costs of operation and maintenance of the project including necessary replacements thereto to the extent necessary.

Article 4. Reserve Funds

Portion of revenues in fund

11830. The proceedings authorizing the issuance of bonds may provide for the setting up of a reserve fund or funds out of the revenues not needed for the payment of operation, maintenance, and replacements, and not needed for the payment of principal and interest as they currently mature, and may provide for the preservation and continuance of such reserve fund or funds in the manner provided in the proceedings.

Retirement of bonds out of surplus

11831. Any proceedings authorizing the issuance of bonds and providing for the setting up of a reserve fund may also require the immediate application of all surplus money in the revenue fund to the retirement of such bonds prior to maturity, by call or purchase, in such manner and upon such terms and the payment of such premiums as may be deemed advisable in the judgment of the authority.

Use of remaining money

11832. The money remaining in the revenue fund after providing the amount required for interest and redemption of bonds as provided in this article shall be held and applied as provided in the proceedings authorizing the issuance of the bonds.

Article 5. Warrants

At request of State Treasurer

11835. Warrants for payments to be made on account of bonds shall be drawn by the State Controller upon request of the State Treasurer whenever the drawing of warrants is required in order to make the payments.

Article 6. Investment and Use of Surplus Money

Authorized funds

11840. All money in the construction fund not required to meet preconstruction, acquisition, or construction costs and expenses, or interest thereon, of the project, or unit thereof, for which bonds were issued and sold, and all funds constituting surplus revenues which are not immediately needed for the particular object or purpose to which they are required to be applied or are pledged shall be invested in bonds and obligations eligible for investment of surplus State money.

Binding provisions

11841. The authority may provide in the proceedings authorizing the issuance of bonds that the investment of surplus money shall be made only in particular bonds and obligations within the classifications eligible for such investment and such provisions shall thereupon be binding upon the authority and all officials having anything to do with such investment.

Incidental purposes and replacements

11842. If the proceedings authorizing the issuance of bonds do not require surplus revenues to be held or applied in any particular manner, they shall be allocated and used for such other purposes incidental to the construction, operation, and maintenance of the project and for making necessary replacements thereto as the authority may determine.

Article 7. Insurance and Indemnity Bonds

By department, authority, or both

11850. When any of the works authorized by this part are being constructed by the authority by and through the department, either the department or the authority or both may carry or cause to be carried such an amount of insurance or indemnity bonds as protection against loss or damage as the authority deems proper.

Coverage

11851. The authority may carry insurance to cover any accident or destruction in part or in whole to any works until all bonds and interest thereon have been fully redeemed and paid.

Use of insurance money

11852. All money collected on any indemnity bond or insurance policy as the result of any damage or injury to any works shall be used for the purpose of repairing or rebuilding the works, as long as there are bonds outstanding.

Loss of revenues

11853. The authority may carry insurance or indemnity bonds insuring against the loss of revenues to be derived from the project by reason of any interruption in the use of the project, or any part thereof, from any cause whatever, and the proceeds of such insurance or indemnity bonds shall be paid into the fund into which the revenues are required to be paid and shall be applied to the same purposes and in the same manner as other moneys in the fund.

11854. Insurance or indemnity bonds against loss of revenues may be in an amount equal to the probable revenues to be received from the use and operation of the project during any period of time that is determined upon and fixed by the authority, and shall be paid for out of the revenue fund. Same Amount of insurance

11855. The authority may provide in the proceedings authorizing the issuance of bonds for the carrying of insurance as authorized by this part, and the purchase and carrying of such insurance shall thereupon be obligatory upon the authority and be paid for out of the revenue fund. Obligation to carry

PART 4. THE SAN LUIS REY WATER AUTHORITY

CHAPTER 1. ORGANIZATION AND MEMBERSHIP

12000. There is in the State Government the San Luis Rey Water Authority, hereinafter referred to in this part as the authority. It consists of seven members, each appointed by the Governor. Composition of authority

12001. One member shall be appointed to represent the City of Oceanside; one, the Vista Irrigation District; one, the Fallbrook Public Utility District; one, the Carlsbad Mutual Water Company; and one, the board of supervisors of the County of San Diego. Two members shall be appointed to represent owners of land riparian to the San Luis Rey River. Representation

12002. The member appointed to represent the board of supervisors of the County of San Diego shall be a resident of the county and an owner of land situated outside of the watershed of the San Luis Rey River. The two members appointed to represent owners of land riparian to the river shall be owners of such land. Qualifications for County of San Diego and riparian owners

12003. The terms of office of the members expire as follows: Two on September 19, 1943, one on September 19, 1944, two on September 19, 1945, two on September 19, 1946, and thereafter in the same relative order. The term of each office is four years. Vacancies shall be filled for the unexpired portions of the terms in which they occur. Expiration of terms

CHAPTER 2. POWERS OF THE AUTHORITY

12010. In conducting its work, the authority may use all pertinent surveys, estimates, reports, and other information previously made or assembled, and available to it. Use of previous surveys, etc

12011. The authority may employ such engineers, attorneys, and technical, clerical, and other assistants as are necessary to enable the authority to perform its duties. Employees for administration

CHAPTER 3. DUTIES OF THE AUTHORITY

Article 1. Survey of Water Resources

12025. The authority shall make a survey of the water resources of the San Luis Rey River watershed, which survey shall include consideration of all of the following: Matters to be considered

(a) The available supply of water from whatsoever source.

(b) The most feasible method or methods of conserving that supply and of putting it to the maximum possible beneficial use, taking into account the problems of flood control, river flow control and equation, reclamation, drainage, recapture and further utilization of water after use for any purpose, domestic use, irrigation of land, municipal use, development of electric energy, and other beneficial uses.

(c) Suitable means for the equitable reconciliation and adjustment of the various conflicting claims and rights to water in the area.

(d) Feasible methods of carrying out the resultant plans recommended by the authority, whether through the medium of an irrigation district, a mutual water company, a public utility district, a water district, or other entity, or by cooperative agreement, or otherwise.

(e) Any and all other relevant matters and things.

Article 2. Cooperation with Others

Cooperation

12030. The authority shall cooperate with all entities, persons, and groups in interest to the end that the purposes of this part may the sooner be fulfilled and accomplished and the water resources of the San Luis Rey watershed be put to the fullest possible beneficial use.

Article 3. Reports of the Authority

Reports: Public inspection

12035. Copies of all reports of the authority shall be filed, kept on file, and available for public inspection at all reasonable hours at the principal office of the authority, the office of the board of supervisors of San Diego County, and the office of the State Engineer.

CHAPTER 4. PAYMENT OF EXPENSES

Use of donations

12045. The costs of carrying out the provisions of this part, including the actual and necessary expenses of the members of the authority and the compensation and expenses of appointees of the authority, are payable out of money donated to the authority for the purpose by persons, corporations, and other entities having legal capacity to make such donations.

Authority to expend

12046. The authority may receive and expend the money donated pursuant to the next preceding section.

PART 5. THE COLORADO RIVER BOARD OF CALIFORNIA

CHAPTER 1. DEFINITIONS

Definitions govern

12500. The definitions in this chapter govern the construction of this part only.

"Board"

12501. "Board" means the Colorado River Board of California.

"Commissioner"

12502. "Commissioner" means the Colorado River Commissioner.

"Fund"

12503. "Fund" means the Colorado River Fund.

CHAPTER 2. THE BOARD

Board

12510. There is in the State Government the Colorado River Board of California.

Composition

12511. The board consists of six members to be appointed by the Governor as provided in this chapter.

Appointment

12512. The legislative body of the City of San Diego shall submit to the Governor a list of not less than two persons and a similar list shall be submitted to the Governor by the governing body of each of the following: Palo Verde Irrigation District, Imperial Irrigation District, Coachella Valley County Water District, the Metropolitan Water District of Southern California, and the department of water and power of the City of Los Angeles. From each such list the Governor shall choose and appoint one member.

Reimbursement for expenses

12513. Each member of the board shall serve without compensation but shall be reimbursed for traveling and other expenses actually and necessarily incurred in the performance of his duties.

Office
Meetings

12514. The board shall maintain an office in the City of Los Angeles and shall hold meetings there or elsewhere upon call of the chairman or of three members of the board.

Records at office

12515. All of the records of the board or copies of them shall be maintained at its office.

Records confidential

12516. All information and records of the board are confidential and none of them are available to the public except upon authorization of the board.

Rules of procedure

12517. The board shall adopt such rules of procedure as may be required for the orderly disposition of its business and such regulations as may be necessary in order to carry out the provisions of this part.

Reports and recommendations to Governor

12518. The board shall make such reports and recommendations to the Governor as he requires or as the board deems proper.

CHAPTER 3. THE COMMISSIONER

Election of chairman

12525. The board shall annually elect from its members a chairman who is ex officio the "Colorado River Commissioner."

Reimbursement for expenses

12526. The commissioner shall serve without compensation, but he shall be reimbursed for traveling and other expenses actually and necessarily incurred in the performance of his duties.

Performance under direction of board

12527. The commissioner shall perform the duties imposed upon him by this chapter under the direction of the board.

Duties

12528. The commissioner shall consult and advise with the board in exercising the powers and performing the duties enumerated in this chapter and make such reports and recommendations as he deems proper or as the board requests, to the end that the rights and interests of the State, its agencies and citizens, in, to, and in respect of, the water of the Colorado River System and the use thereof may be properly safeguarded and protected.

Same

12529. The commissioner shall exercise on behalf of the State every right and power granted to the State or to any representative of it by Section 16 of the act of Congress designated the "Boulder Canyon Project Act."

43 U S C Title 43, Sec 617

Duties

12530. The commissioner shall investigate past, present, and potential uses of the water of the Colorado River System within and without the State.

Same

12531. The commissioner shall investigate, coordinate, collate, and preserve information, facts, and data bearing upon the claims of all States and of all public or private agencies within and without the State to and in respect of the water and the use of water of the Colorado River System.

Same

12532. The commissioner shall confer with representatives of other States in the Colorado River basin, representatives of the United States, and others concerning problems and measures relating to the development of the Colorado River basin, the use of the water of the Colorado River System, and the protection of the interests therein of the State and of the United States, and shall negotiate respecting such problems and measures and discuss the same and formulate and recommend to the Governor and the Legislature measures, agreements, and legislation deemed for the benefit of the State and the United States.

Other necessary or expedient things

12533. The commissioner shall do and perform all other things deemed necessary or expedient to carry out the purposes of this part.

CHAPTER 4. EMPLOYEES

Executive secretary

12540. From a list of not less than two persons submitted to it by the commissioner, the board shall appoint an executive secretary, whose duties shall be such as are required of him by the commissioner and by the board.

Compensation

12541. The board may fix the compensation of the executive secretary.

Other employees

12542. The commissioner shall appoint such other employees as may be necessary.

CHAPTER 5. THE COLORADO RIVER FUND

Contributions to fund

12550. All irrigation districts, county water districts, municipal water districts, metropolitan water districts, water conservation districts, and flood control districts, may make such contributions to the Colorado River fund as, in the exercise of the discretion of their respective governing bodies, is deemed advisable.

Acceptance

12551. The board may accept any and all contributions to the fund.

Disposition of contributions

12552. All contributions accepted by the board shall be deposited by it in the State Treasury to the credit of the fund.

CHAPTER 6. WARRANTS

Warrants

12553. The State Controller shall draw warrants upon the fund from time to time upon demand of the commissioner, and the State Treasurer shall pay the warrants.

DIVISION 10. FINANCIAL SUPERVISION OF DISTRICTS

(Division 10 added by Stats. 1943, Ch. 371, as part of codification.)

CHAPTER 1. DISTRICTS SECURITIES COMMISSION

Article 1. General Provisions

Title

20000. This chapter shall be known and may be cited as the Districts Securities Commission Law.

"Commission"

20001. As used in this chapter "commission" means the California Districts Securities Commission.

"Districts"

20002. As used in this chapter except in Section 20003 "district" means both:

(a) Every irrigation district.

(b) Every other district subject to this chapter pursuant to Section 20003 while so subject.

Resolution regarding certification of bonds

20003. Whenever the governing board of any water storage district, water conservation district, county water district, reclamation district, drainage district, or any district, other than an irrigation district, the primary function of which is the irrigation, reclamation, or drainage of land within its boundaries, which district exists under the law of this State, declares by resolution that it deems it desirable that the bonds of the district should be certified pursuant to this chapter, the governing board of the district shall file a certified copy of the resolution with the commission Then, and in that event, all of the provisions of this chapter apply to the district.

Effect of certification

If the bonds of the district are thereafter certified, then the district is subject to all of the provisions of this chapter so long as any of the bonds so certified remain outstanding.

Article 2. Administrative Provisions

California Districts Securities Commission

20015. There is in the State Government the California Districts Securities Commission.

Composition of commission

20016. The commission consists of the following five members:

(a) The Attorney General.

(b) The State Engineer.

(c) The Superintendent of Banks.

(d) Two other members appointed by the Governor.

Qualification for appointment

20017. Each member appointed to the commission by the Governor shall at the time of his appointment have had at least five years actual experience in the affairs of an irrigation district in this State as an officer or employee.

Term of office

20018. The term of office of each member appointed to the commission by the Governor shall be four years from the date of his appointment and until his successor is appointed.

Compensation. Exceptions

20019. Each member of the commission other than the Attorney General, the State Engineer, and the Superintendent of Banks shall be entitled to receive as compensation ten dollars ($10) for each day while on official business of the commission.

Necessary expenses

All members shall be entitled to receive their actual necessary expenses while on official business of the commission.

Duties

20020. The commission shall:

(a) Establish an office.

(b) Select one of its members as chairman.

(c) Appoint an executive secretary.

(d) Appoint any other employees it deems necessary to carry out its functions.

Employees' compensation

20021. The compensation of all employees of the commission shall be fixed by the commission in accordance with law.

Rules

20022. The commission shall adopt reasonable rules for the conduct of its affairs, which rules shall not conflict with law.

Time and place of meetings

20023. The commission shall by rule fix the time for its regular meetings, which shall be held at the office of the commission.

Power of examination

20024. The commission may examine the books and records of any district.

Annual report by districts

20025. Each district shall annually file with its secretary and in the office of the commission a report upon a form prescribed by the commission.

Compromising indebtedness of district

20026. Upon the written request of the governing board of any district, either before or after default in the payment of interest on or principal of its bonds, the commission may act for the district in negotiating with the holders of bonds or other evidences of indebtedness of the district for the purpose of compromising or adjusting the indebtedness.

Compensable services

20027. Any district requesting the commission to make an investigation or report authorized by this chapter shall pay to the commission for the purpose an amount agreed upon between the district and the commission. The benefit of any services performed and any data obtained by any member of the commission or any other public official in pursuance of the requirements of any law other than this chapter shall be available for the use of the commission without charge to the district whose affairs are under investigation.

Noncompensable services

Contributions

20028. The commission may accept contributions from any source to pay the cost of making investigations or reports under the provisions of this chapter.

Powers
To pass on exchange of securities

20029. The commission has been and is authorized in the instance of any application for the issuance of securities in exchange for one or more bona fide outstanding securities, claims, or property interests or partly in exchange and partly for cash to approve the terms of the issuance and exchange and the fairness of the terms after a hearing upon the fairness of the terms at which all persons to whom it is proposed to issue securities in the exchange may appear.

Same
Modification of refunding plan

20030. The commission has been and is authorized to approve the terms of any modification of any refunding plan of any district or of the terms of the refunding bonds issued thereunder and the fairness of all the terms after a hearing upon the fairness of the terms at which all persons interested, including all persons owning or holding any refunding bonds issued under the refunding plan, may appear.

Same
Provisions regarding hearing

20031. The commission has been and is authorized to fix the time and manner of giving notice and the place of hearing.

Transfer of powers and duties from another commission

20032. Whenever by any other law a duty, jurisdiction, or authority is conferred upon the California Bond Certification Commission, sometimes designated the State Irrigation District Bond Commission, the duty, jurisdiction, and authority are imposed upon the California Districts Securities Commission with the same effect as though the California Districts Securities Commission were named in the law instead of the California Bond Certification Commission.

Article 3. Bond Approval

Resolution regarding certification of bonds

20040. Whenever the governing board of any district by resolution declares that it deems it desirable that any of its bonds, whether contemplated, authorized but not issued, or outstanding, should be certified pursuant to this chapter, the board shall file a certified copy of the resolution with the commission.

Investigation and report on district

20041. The commission upon receipt of a certified copy of the resolution shall without delay make an investigation of the affairs of the district and report thereon in writing.

No previous approval Extent of report

20042. If no bonds of the district have theretofore been approved for certification by the commission or any statutory predecessor of it, the report shall be made upon each detail that may in the opinion of the commission have any bearing upon the feasibility and economic soundness of the project.

Previous approval Extent of report

20043. If bonds of the district have theretofore been approved for certification, the report shall be upon the feasibility of the specific project for which the bonds under consideration are desired or have been issued.

(Amended by Stats. 1943, Ch. 683.)

[ORIGINAL SECTION]

20043. If bonds of the district have theretofore been approved for certification, the report shall be upon the following points:

(a) The supply of water available for the project and the extent of the right of the district thereto.

(b) The nature of the soil as to fertility and susceptibility to irrigation, the probable amount of water needed for its irrigation, and the probable need of drainage.

(c) The feasibility of the specific project for which the bonds under consideration are desired or have been used.

Data report must include

20044. In either case the commission shall set forth in the report all of the following:

(a) Its estimate of the reasonable value of the water, water rights, canals, reservoirs, reservoir sites, tanks, pipe lines, machinery, irrigation and power works, and other property owned by the district or to be acquired or constructed with the proceeds of the bonds proposed to be issued by the district.

(b) Its estimate of the reasonable value of the land within the district.

(c) If bonds authorized, whether issued or unissued, are entitled to certification, the numbers, date or dates of issue, and denominations of the bonds.

Restriction on approval for certification

20045. No bond issue of any district shall be approved for certification which together with any other outstanding bonds and bonds authorized but not issued of the district exceeds 60 per cent of the aggregate value of the property owned by the district or to be acquired or constructed with the proceeds of the bonds proposed to be issued by the district and the reasonable value of the land within the district

Filing reports

20046. The written report of the commission shall be filed in the office of the State Controller, and a copy of the report shall be forwarded by the commission to the secretary of the district for which the investigation was made.

Entitled to certification

20047. If the commission finds as set out in the report that the project of a district is economically sound and feasible, the bonds of the district enumerated in the report filed with the State Controller are entitled to certification by the State Controller as provided in this chapter.

Supplementary report on unenumerated bonds

20048. If the commission is notified by the governing board of any district whose project has been found in a report of the commission to be economically sound and feasible, that the district has authorized bonds approved but not enumerated in the report, and the commission finds that the bonds are for any project approved in the report, the commission shall prepare and file with the State Controller a supplementary report giving the numbers, date or dates of issue, and denominations of the bonds. Upon the filing of the supplementary report with the State Controller, the bonds described in it shall be entitled to certification by him.

Approval of subsequent issues

20049. Subsequent issues of bonds may be approved for certification upon similar proceedings.

Restriction on further issues

20050. After any bonds of a district become entitled to certification by the State Controller, the district shall not issue bonds not entitled to certification as provided in this chapter.

Article 4. Bond Certification

Duties of State Controller

20060. The State Controller shall provide for both:

(a) Filing and preserving each report of the commission made upon an application for approval of bonds for certification.

(b) Making and preserving a record of the bonds certified by him, including in the record all of the following:

(1) The date of certification.
(2) The name of the district.
(3) The number of each bond.
(4) Its par value.
(5) The date of its issue.
(6) The date of its maturity.

Certificate attached to bond

20061. Whenever any bond entitled to certification is presented to the State Controller, he shall certify it by attaching to it a certificate in substantially the following form:

Sacramento, Cal._____ (insert date), I, _____, Controller of the State of California, certify that the within bond,

No._____ of issue No._____ of the_____ District, issued_____ (insert date), is a legal investment for all trust funds, for the funds of all insurance companies, banks, both commercial and savings, trust companies, the State school funds, and any funds which may be invested in county, municipal, or school district bonds, and it may be deposited as security for the performance of any act whenever the bonds of any county, city, city and county, or school district may be so deposited, including deposit as security for public money, it being entitled to these privileges by virtue of an examination by the California Districts Securities Commission.

Controller of State of California

Modification of certificate

20062. In case of a change in the Constitution or any laws of this State relating to the bonds of a district or any difference in them, the State Controller shall if necessary modify the certificate to conform to the facts.

Sufficiency of facsimile signature

20063. A facsimile of the Controller's signature, printed or otherwise, impressed upon the certificate is a sufficient signature if the imprint of the Controller's seal appears upon both the certificate and the bond over and through the signature.

Legal investments

20064. All bonds certified in accordance with this chapter are legal investments for all trust funds, for the funds of all insurance companies, banks both commercial and savings, trust companies, the State school funds, and any funds which may be invested in bonds of cities, cities and counties, counties, school districts, or municipalities in the State.

Bonds as security

20065. Whenever bonds of cities, cities and counties, counties, school districts, or municipalities may by any law be used as security for the performance of any act, bonds certified under the limitations in this chapter may be so used.

Article 5. Supervision of Districts

Approval for sale of certified bonds

20080. Whenever the survey, examination, drawings and plans of a district, and the estimate of cost based thereon provide that the works necessary for a completed project shall be constructed progressively over a period of years in accordance with a plan or schedule, no portion of the bonds so voted and certified shall be sold until after the written approval of the commission.

Approval of expenditures from proceeds

20081. Whenever the bonds of any district have been certified, no expenditure shall be made from the proceeds of the bonds nor shall any liability to be met from the proceeds be incurred until there has been filed with and approved by the commission a schedule of proposed expenditures of the proceeds setting forth to the satisfaction of the commission the plan proposed for carrying out the purposes for which the bonds were authorized or for any of the purposes the district may at the time of filing the schedule desire to commence to fulfill.

Restrictions on use of approved expenditures

20082. No expenditures from the proceeds of certified bonds shall be made for any purpose not specified in the approved schedule or for any approved purpose in excess of the amount allowed therefor in the approved schedule without the consent of the commission.

Inspection of work

20083. During the progress of any work to be paid from the proceeds of any certified bond issue, the State Engineer on behalf of the commission shall make from time to time an inspection of the work which will enable him to know that the plans approved by the commission are being carried out without material modification unless the modification has been approved by the State Engineer.

Article 6. Certificates of Deposit

Application

20100. No person shall issue or cause to be issued any certificate of deposit for any security certified pursuant to this chapter until application in the form prescribed by the commission has been made for and a permit to issue the certificate of deposit has been secured from the commission.

Validity

20101. No certificate of deposit for certified securities of a district issued without the consent of the commission is valid or has any effect.

Examination, audit and investigation

20102. Upon the filing of an application the commission shall examine the application and other papers and documents filed therewith and may make a detailed examination, audit, and investigation of the applicant and its affairs.

Permit

20103. The commission shall issue to the applicant a permit authorizing it to issue or cause to be issued certificates of deposit in this State for certified district securities if it finds that all of the following are true:

Conditions

(a) The proposed plan of readjustment or compromise, the agreement under which the securities are to be deposited, and the certificates of deposit issued are not unfair or contrary to public policy.

(b) The certificates of deposit proposed to be issued and the methods to be used in issuing them and in soliciting the deposit of securities in exchange therefor will not work a fraud or injustice on the depositing security holders.

Denial

20104. The commission shall deny an application not meeting the requirements set forth in Section 20103 and refuse to issue a permit and so notify the applicant in writing of its decision.

Terms of permit

20105. The permit may specify the amounts and terms for and upon which the certificates of deposit may be issued.

Amendment, revocation, etc.

20106. The commission may from time to time amend or revoke any permit for a certificate of deposit issued by it or temporarily suspend the rights of the applicant under the permit.

Provisions not applicable

20107. The provisions of this article do not apply to certificates of deposit issued by the district that has issued the securities.

CHAPTER 2. COUNTY WATERWORKS DISTRICTS SECURITIES COMMISSION

Article 1. General Provisions

Title

20200. This chapter shall be known and may be cited as the County Waterworks Districts Securities Commission Law.

Commission

20201. There is in the State Government a commission, which shall be known as the County Waterworks Districts Securities Commission.

"Commission"

20202. As used in this chapter "commission" means the County Waterworks Districts Securities Commission.

Composition of commission

20203. The commission consists of the following three members:

(a) The Attorney General.

(b) The State Engineer.

(c) The Superintendent of Banks.

"State Engineer"

20204. As used in this chapter "State Engineer" means the Director of Public Works.

Duties

20205. The commission shall:

(a) Select one of its members as chairman.

(b) Appoint any employees it deems necessary to carry out its functions.

(c) Fix the compensation of its employees in accordance with law.

To whom expenses chargeable

20206. All necessary expenses incurred in making the investigation and report in this chapter provided for shall be paid as the commission may require by the county waterworks district whose property has been investigated and reported on by the commission. The benefit of any services performed and any data obtained by any member of the commission or any other public official in pursuance of the requirements of any law other than this chapter shall be available for the use of the commission without charge to the district whose affairs are under investigation.

Noncompensable services

Article 2. Bond Approval and Certification

Applicable provisions

20225. Except as otherwise provided in this chapter all of the provisions of Articles 3 and 4 of Chapter 1 of this division apply to bonds of county waterworks districts.

"Commission"

20226. For the purposes of this chapter "commission" as used in Articles 3 and 4 of Chapter 1 of this division means the commission existing by virtue of this chapter.

"District"

20227. For the purposes of this chapter "district" as used in Articles 3 and 4 of Chapter 1 of this division means a county waterworks district.

"Secretary"

20228. For the purposes of this chapter "secretary" as used in Articles 3 and 4 of Chapter 1 of this division means board of supervisors.

Report

20229. The report of the commission shall be made on all of the matters specified in Sections 20042, 20043, and 20044 regardless of whether bonds of the county waterworks district have previously been certified or not.

Name in certificate

20230. In the certificate instead of "California Districts Securities Commission" there shall appear "County Waterworks Districts Securities Commission."

Non-applicable provisions

20231. Articles 1, 2, 5, and 6 of Chapter 1 of this division do not apply either to the construction of this chapter or to action taken pursuant to it.

DIVISION 11. IRRIGATION DISTRICTS

(Division 11 added by Stats. 1943, Ch. 372, as part of codification.)

PART 1. INTRODUCTORY PROVISIONS

CHAPTER 1. SHORT TITLE

Title

20500. This division shall be known and may be cited as the Irrigation District Law.

CHAPTER 2. DEFINITIONS

Governing provisions

20510. Unless the context otherwise requires, the provisions of this chapter shall govern the construction of this division.

Application of definition

20511. The definition of a word applies to any of its variants.

"Include"

20512. "Include" except when used in relation to the inclusion of land into a district does not necessarily exclude matters not enumerated.

"District"

20513. "District" means any irrigation district formed pursuant to any law of this State or to this division except the Palo Verde Irrigation District.

"Improvement district"

20514. "Improvement district" means an improvement district formed pursuant to the Irrigation District Improvement Act or to this division.

"Commission"

20515. "Commission" means the California Districts Securities Commission.

"Rules"

20516. "Rules" include "regulations."

"Land"

20517. "Land" except in Article 4 of Chapter 1 of Part 5 and Chapter 2 of Part 11 means land in the district or proposed district involved.

"Principal county"

20518. "Principal county" means the county in which all the land is situated, or if the land is situated in more than one county, the county in which the greatest portion of the area of the land is situated.

"Affected county"

20519. "Affected county" means any county in which land is situated.

"Office county"

20520. "Office county" means the county in which the office of a district is kept.

"Board"

20521. "Board" means the board of directors of a district.

"President"

20522. "President" means the president of the board.

"Secretary"

20523. "Secretary" means the secretary of the board.

"Elective officers"

20524. "Elective officers" irrespective of the method of selection in any particular instance are:

(a) A director from each division except as otherwise provided in this division.

(b) An assessor.
(c) A collector.
(d) A treasurer.

20525. "General election" is the district election required to be held in each odd-numbered year. "General election"

20526. "Bond election" means an election provided for in Chapter 4 of Part 4. "Bond election"

20527. "Elector," "voter," and "precinct board" have respectively the same meaning as in the Elections Code, but an "elector" or "voter" shall also be a resident of the district or proposed district involved. "Elector," "voter," and "precinct board"

20528. "Holder of title" includes a holder of evidence of title and, also, a holder of land under a possessory right acquired by entry or purchase from the United States or the State of California. "Holder of title"

20529. "Property" except in Part 10 embraces all real and personal property, including water, water rights, works, franchises, concessions and rights. "Property"

20530. "Works" includes dams, reservoirs, wells, conduits, pumps, power houses, power generating equipment, power lines, and their appurtenances. "Works"

20531. "Conduits" include canals, laterals, ditches, flumes, pipes, and their appurtenances. "Conduits"

20532. "Acquire" includes construct, purchase, lease, exchange, condemn, jointly acquire when joint acquisition is permitted, and contract to acquire. "Acquire"

20533. "Dispose" includes lease, sell, contract to lease, contract to sell, and the making of any instrument necessary therefor. "Dispose"

20534. "Operate" includes use, maintain, and repair. "Operate"

20535. "Assessee" means the person to whom property is assessed. "Assessee"

20536. "Assessment book" includes any substantial record showing the information required to be kept in it, whether in the form of bound volumes or of cards arranged and kept to provide a record of the assessments. "Assessment book"

20537. "Completion assessment" means an assessment levied pursuant to Article 2 of Chapter 2 of Part 10. "Completion assessment"

20538. "Particular purpose assessment" means an assessment levied pursuant to Article 3 of Chapter 2 of Part 10. "Particular purpose assessment"

20539. "Emergency assessment" means an assessment levied pursuant to Article 4 of Chapter 2 of Part 10. "Emergency assessment"

20540. "Limited assessments" means any or all of the following: "Limited assessments"

(a) Completion assessment.
(b) Particular purpose assessment.
(c) Emergency assessment.

20541. "Charges" includes tolls. "Charges"

20542. "Refund" includes fund. "Refund"

20543. "Road" includes streets, highways, and alleys. "Road"

CHAPTER 3. GENERAL PROVISIONS

Districts subject to provisions

20560. Districts, regardless of the date of formation, are subject to the provisions of this division.

Existing districts

20561. Nothing in this division impairs the validity of any district formed prior to the effective date of this division, its rights, or obligations.

Manner of publishing notice

20562. Whenever by this division a notice is required to be published for a designated number of weeks or once a week for a designated number of weeks, the notice need be published on only one day of each week and for only the same number of times as the number of weeks designated.

Time acts may be performed

20563. Whenever any act is required to be done or proceeding taken on the first Tuesday in any month, the act may be done or proceeding had upon the day of the month otherwise specified for the regular meeting of the board.

Effect of acknowledgment

20564. Whenever an instrument provided for in this division is acknowledged or proved, it shall have the same effect as evidence as a conveyance of real property which has been acknowledged and in case of any petition under this division is evidence of the fact of place of residence of a petitioner as stated by him on the petition.

Who shall acknowledge

20565. Whenever an instrument is by this division required to be acknowledged, each signer shall acknowledge the instrument, or his signature shall be proved, in the manner provided by law before his signature shall be effective.

Petition by guardian, executive, etc.

20566. A guardian, executor, administrator, or other person holding property in a trust capacity under appointment of court may sign any petition provided for in this division, when authorized by an order of court, which order may be made without notice.

Effect of assessment to unknown or fictitiously named owners

20567. If any land is assessed on any assessment book to unknown or fictitiously named owners, or to unnamed owners in addition to any owner or owners named thereon, the land has, for the purposes of any petition provided for in this division, but one owner in addition to any owner or owners whose true name or names may be purported to be given on the assessment book.

Petition by owner of undivided interest

20568. The holder of title to an undivided interest in any land may sign any petition provided for in this division. Undivided interests shall be counted and valued as though they were separate interests. If the assessment book fails to indicate the extent of any undivided interest, the holders of title whose undivided interests in any land are not specifically defined have, for the purposes of this division, equal shares therein.

Determination of value of land and holders of title

20569. The value of any land and the holders of title to the land are conclusively determined, for the purpose of any petition provided for in this division, by the district assessment book last equalized at the time of the presentation of the petition.

When no assessment book of the district has been equalized, the county assessment roll of the county in which the land is

situated last equalized at the time of the presentation of the petition is conclusive evidence of the value and title.

However, for the purposes of a petition to form a district the county assessment roll of the county in which the land is situated, last equalized at the time of the first publication of the petition is conclusive evidence of the value and title.

CHAPTER 4. STATE PUBLIC LAND

Limitation

20590. As used in this chapter "public land" is limited to land belonging to the State which is subject to entry or has been entered and for which no certificate of purchase has been issued.

Applicable provisions

20591. Public land is subject to all of the provisions of law relating to districts to the same extent and in the same manner as land in private ownership.

Service of notice on State Lands Commission

20592. When public land is affected, all notices required by this division shall promptly after issuance be served upon the State Lands Commission by mailing to its office a copy inclosed in a sealed envelope with postage prepaid.

Nonliability for assessments or charges

20593. Nothing in this chapter creates any obligation against the State to pay any assessments or charges.

Sale for delinquency

20594. No public land which was unentered at the time any assessment was levied against it by any district shall be sold for the delinquency of the assessment, but the assessment shall be and continue a lien upon the land, and no patent shall be issued therefor until the applicant presents a certificate from the collector stating that no unpaid assessments or charges are delinquent upon it.

Patent requirements

CHAPTER 5. INFORMATION BY DEPARTMENT

To whom given

20625. The Department of Public Works shall give information so far as it may be practicable to persons contemplating the formation of districts.

Preliminary surveys and field investigations

20626. Whenever the department deems it in the public interest that preliminary surveys and field investigations of a proposed district project should be made at the expense of the State, the department shall make the surveys and field investigations.

Same: Withholding appropriation of unappropriated water

20627. Pending the completion of the preliminary surveys and field investigations, the State Engineer may withhold from appropriation any unappropriated water likely to be needed by the district.

PART 2. FORMATION

CHAPTER 1. PETITION FOR FORMATION

Article 1. Petitioners and Land

Formation petition

20700. A majority in number of the holders of title to land susceptible of irrigation from a common source and by the same system of works, including pumping from subsurface

or other water, who are also the holders of title to a majority in value of the land may propose the formation of a district under the provisions of this division; or the formation of the district may be proposed by not less than 500 petitioners, each of whom is an elector residing in the proposed district or the holder of title to land therein and which petitioners include the holders of title to not less than 20 per cent in value of the land included within the proposed district.

Contiguity not required

20701. The land proposed to be formed into a district need not consist of contiguous parcels.

Article 2. Petition

Contents of petition

20720. A petition for the formation of a district shall contain:

(a) Generally, a description of the land.

(b) Generally, the sources, which may be in the alternative, from which the land is proposed to be irrigated.

(c) The name of a person to whom notice of the final hearing on the petition may be sent.

(d) A prayer that the land described be formed into a district.

(e) Signatures of the petitioners.

Requests

20721. A petition for the formation of a district may request any of the following:

(a) Three divisions in the proposed district.

(b) Election of the directors of the proposed district by the district at large.

(c) Consolidation of any offices allowed to be consolidated.

Duplicate instruments

20722. The petition may consist of any number of separate instruments, which shall be duplicates except as to signatures.

Undertaking

20723. The petition shall be accompanied by a sufficient undertaking, to be approved by the board of supervisors, in double the amount of the probable cost of forming the district, conditioned that the sureties shall pay all of the costs in case the formation is not effected.

Withdrawal of signatures

20724. Signatures to the petition may be withdrawn at any time before its publication is commenced, by filing a declaration, signed and acknowledged by the petitioner, with the board of supervisors of the principal county, stating that it is the intention of the petitioner to withdraw therefrom.

Article 3. Publication

Publication of petition and notice

20740. The petition and a notice of the time of the meeting at which it will be presented shall be published for at least two weeks before the time at which it is to be presented. Publication shall be in a newspaper of general circulation printed and published in the principal county and in a newspaper published in each other affected county. The notice shall be signed by the county clerk of the principal county.

20741. When the petition consists of a number of separate instruments, only one need be published, but the names attached to all of the instruments shall appear in the publication. Petition consisting of several separate instruments

20742. No defect in the form or contents of the published notice, title to it, or petition, nor failure to publish or error in publishing any signature to the petition shall vitiate the proceedings. Validity of proceedings

Chapter 2. Hearings on Formation

Article 1. Preliminary Hearing

20800. The formation petition shall be presented to the board of supervisors of the principal county. Formation petition Presentation

20801. The petition shall be presented at a regular meeting of the board of supervisors. Same When presented

20802. The board of supervisors shall hear all competent and relevant testimony offered in support of or in opposition to the sufficiency of the petition and the publication of the notice. Hearing

20803. The hearing may be adjourned from time to time, but not exceeding two weeks in all. Adjournment

20804. At the hearing the board of supervisors shall determine by resolution whether or not the petition and notice comply with Chapter 1 of this part. Compliance with Chapter 1

20805. If the board of supervisors determines that any of the requirements for the formation petition or notice were not complied with, the petition shall be dismissed without prejudice to the right of the proper number of persons to present a new petition covering the same matter or to present the same petition with additional signatures if additional signatures are necessary to comply with the requirements of Chapter 1 of this part. Noncompliance Dismissal without prejudice

20806. If the board of supervisors determines that the requirements for the formation petition and notice have been complied with, the resolution so determining shall be known as the preliminary formation resolution. Compliance Preliminary formation resolution

Article 2. Reference to Department

20820. On or before the day on which the petition is presented to the board of supervisors, a copy of the petition shall be filed in the office of the Department of Public Works. Filing copy of petition

20821. Upon the adoption of the preliminary formation resolution the board of supervisors shall send a copy of the resolution to the department. Filing copy of preliminary formation resolution

20822. Upon receiving a copy of the resolution, the department shall make such preliminary investigation as may be practicable to determine the feasibility of the proposed project. Preliminary investigation

20823. The department shall report in writing to the board of supervisors as soon as practicable, but at all events within 90 days from the date of the adoption of the preliminary formation resolution, except that upon receiving a written Time limit for report

request from the department the board of supervisors may before the expiration of the 90 days grant to the department not more than 90 days additional time in which to make the report.

Reasons for continuing hearing

20824. If the department reports within the specified time that the supply of water available for the use of the proposed district or that may be acquired by any practicable means, including the condemnation of existing rights, is not sufficient or that the project is not feasible for any other reason, the hearing of the petition shall be continued for not more than two months and shall then be dismissed unless within the period of the continuance either:

Reasons for not dismissing petition

(a) The board of supervisors is petitioned in writing by three-fourths of the holders of title to land to grant the petition.

(b) The board of supervisors, if not so petitioned, modifies the project proposed in the petition to conform to the recommendations made by the department for the proposed district.

Article 3. Final Hearing

Time of final hearing

20840. The board of supervisors not later than its first regular meeting after the occurrence of any one of the following shall set a time for the final hearing of the formation petition:

(a) Receipt of a favorable report from the department.

(b) Modification of the project by the board to conform to the recommendations made by the department.

(c) Receipt of the requisite petition after an adverse report by the department.

(d) Expiration of the time allowed for the making of a report by the department when the report has not been received within the time allowed.

Restriction on time

20841. The time set for the final hearing shall not be less than one week from the meeting at which the time is set.

Notice

20842. Notice of the time of the final hearing shall be given either by:

(a) Registered mail to the person designated for that purpose in the petition.

(b) Publication for at least three days in one daily newspaper published in the principal county.

Effect of failure to give notice

20843. Failure to give notice of the final hearing shall not affect the validity of subsequent proceedings.

Adjournments

20844. On a final hearing the board of supervisors may adjourn from time to time, but at no time for a longer period than three days, until a determination of the matter is reached.

Determination of land included

Exclusions

20845. At the final hearing the board of supervisors shall determine the land to be formed into the proposed district:

(a) Land shall be excluded which will not in the judgment of the board of supervisors be benefited by the project.

(b) No land included by the petition in the proposed district or in the modified project as the case may be which is susceptible of irrigation from any of the proposed, or if modified,

the modified sources shall be excluded unless the owner consents to the exclusion.

(c) Riparian land and land already subject to irrigation may be included if in the judgment of the board of supervisors, it will either be benefited or the rights to the water used on it should be acquired by the proposed district.

(d) Land not included in the original formation petition, susceptible of irrigation from any of the proposed sources, may in the discretion of the board of supervisors be included on application by its owner.

Newly discovered evidence

20846. At the final hearing no evidence shall be heard against the genuineness or sufficiency of the petition or notice unless it is shown to the satisfaction of the board of supervisors that new evidence which if uncontradicted would disprove the genuineness or sufficiency of the petition or notice has been discovered since the board adopted the preliminary formation resolution. In case any new evidence is admitted, full opportunity shall be given for the introduction of evidence in rebuttal.

Rebuttal

Order

20847. At the conclusion of the final hearing on the petition the board of supervisors shall make an order containing all of the following:

Contents

(a) Reaffirmance, when it is consistent with its conclusions, of the sufficiency of the petition and of the notice of the preliminary hearing.

(b) Recital that a report on the proposed district has been made by the department if it was in fact made, and if that be so, that it is on file in the records of the board.

(c) Description of the land as determined by the board.

(d) Name for the proposed district, which shall contain "Irrigation District."

Additional contents

20848. The order on final hearing shall also contain all of the following:

(a) Division of the district into the following number of divisions, which shall be as nearly equal in size as may be practicable:

(1) Five divisions unless otherwise requested, numbered from one to five respectively.

(2) Three divisions when requested in the petition, numbered from one to three respectively.

(b) Statement, when requested in the petition, that the directors of the proposed district are to be elected at large.

(c) Statement, when and as requested in the petition, of the consolidated district offices.

Entry on minutes

20849. The order on final hearing shall be entered in full upon the minutes of the board of supervisors.

Finding conclusive

Exception

20850. A finding of the board of supervisors in favor of the genuineness and sufficiency of the petition and notice shall be conclusive against all persons except the State upon suit by the Attorney General commenced within one year after the order of the board of supervisors declaring the district formed.

Chapter 3. Election on Formation

Article 1. Calling of Election

Purposes

20890. Upon making the order on final hearing of the formation petition, the board of supervisors shall call and give notice of a formation election to be held in the proposed district for the purpose of determining whether or not it shall be formed and electing persons to fill the offices of the proposed district if it is formed.

Contents of notice

20891. The notice of the formation election shall contain:

(a) Date and hours of election.

(b) Place of polls in each precinct.

(c) Description of the land.

(d) Name of the proposed district.

(e) Offices for which candidates shall be elected at the election.

Publication

20892. Notice of the formation election shall be published once a week for three weeks previous to the election, in a newspaper published in each affected county.

Article 2. Conduct of Election

Establishment of election precincts

20910. For the purposes of the formation election the board of supervisors shall establish a convenient number of election precincts in the proposed district and define their boundaries.

Appointment of precinct board, nomination of candidates, etc

20911. The precinct board for the formation election shall be appointed, candidates for the offices of the proposed district shall be nominated, ballots and other supplies shall be provided and the election shall be conducted as nearly as practicable in accordance with the provisions concerning general elections except as to:

(a) Notice of the election.

(b) Other inconsistent provisions in this chapter.

Substitution of powers

20912. The board of supervisors shall act in place of the board, and the clerk of the board of supervisors shall act in place of the secretary.

Officers to be elected

20913. At the formation election the elective officers of the district shall be elected, but only one person shall be elected to fill the offices consolidated, if any.

Form of proposition on ballot

20914. On the ballots provided for the formation election shall be printed a proposition substantially as follows: "Shall the proposed_____Irrigation District be formed?" followed by the words "Yes" and "No" with inclosed voting spaces thereafter.

Canvass of votes

20915. The board of supervisors shall meet on the second Monday following the formation election to canvass the votes cast, and only if upon the canvass it appears that a majority of all the votes cast at the formation election are "Irrigation District—Yes" shall the board canvass the votes for the candidates for the district offices and declare the persons receiving respectively the highest number of votes to be elected.

Substantial compliance

20916. No informalities in the conduct of the formation election or in any related matters shall invalidate the election or the result if notice was given substantially as provided and the election was fairly conducted.

Article 3. Contest of Election

Election contests

20930. The formation election may be contested by any person owning property liable to assessment within the proposed district.

Time limit

20931. No contest shall be brought more than 20 days after the canvass of the vote of the election by the board of supervisors.

Parties defendant

20932. The directors elected at the formation election shall be parties defendant in an election contest.

Jurisdiction of court

20933. The election contest shall be brought in the superior court of the county where the formation proceedings were had.

Consolidation of pending contests

20934. If more than one contest is pending, they shall be consolidated and tried together.

Speedy trial

20935. The court shall speedily try the election contest.

Basis of determination

20936. The determination of the election contest shall be based on whether or not the election was conducted fairly and in substantial compliance with the requirements of this chapter. Judgment shall be entered accordingly.

Appeal

20937. An appeal may be taken by any party to an election contest within 30 days from entry of judgment.

Same Hearing and determination

20938. The appeal shall be heard and determined within 60 days from the time of filing the notice of appeal.

Chapter 4. Establishment of District

Majority vote

20960. If upon the canvass of the formation election it appears that a majority of all the votes cast are "Irrigation District—Yes," the board of supervisors shall by an order entered on its minutes declare the territory formed as a district under the name designated for it.

Order

Filing copies of order

20961. The board of supervisors shall immediately file for record in the office of the county recorder of each affected county a certified copy of the order declaring the district formed and shall also immediately forward a copy to the clerk of the board of supervisors of each affected county.

Formation completed

20962. From the filing for record of the order declaring the district formed the formation of the district is complete.

Prohibition

20963. The board of supervisors of any county in which any land embraced in a district is situated shall not after its formation allow another district to be formed including any portion of the same land without the consent of the board of the district in which the land is situated.

Chapter 5. Change of Name

Change by last formed district

20980. Whenever any district has been formed under the same name as that of another district previously formed, the

board of the last formed district shall by a resolution spread on its minutes change the name of the district.

Recording resolution

20981. Certified copies of the resolution changing the name of the district shall be recorded in the office of the county recorder in each affected county and sent to the State Engineer and to the commission.

PART 3. INTERNAL ORGANIZATION

CHAPTER 1. OFFICERS

Article 1. Qualification and Tenure

Directors

21100. Each director shall, except as otherwise provided in this division, be a voter and a freeholder of the district and a resident of the division which he represents.

Elective officers

21101. Elective officers, irrespective of the method of their selection, take office as soon as they qualify, except that officers elected at a general election take office at noon on the regular monthly meeting day of the board in March next following their election.

Same: Taking and filing official oath

21102. Within 20 days after receiving his certificate of election, or being appointed, each elective officer shall take and subscribe the official oath and file it in the office of the district and execute the bond required of him.

Staggered tenure of directors

21103. The directors elected at the formation election shall at their first meeting classify themselves by lot into two classes as nearly equal in number as possible. The term of office of the class having the lesser number shall expire at noon on the regular monthly meeting day of the board in March of the first odd-numbered year thereafter. The term of office of the class having the greater number shall expire at noon on the regular monthly meeting day of the board in March of the second odd-numbered year after the year in which the first meeting was held.

Tenure of elective officers

21104. The term of office of each elective officer subsequent to the officers elected at the formation election is four years.

Assessor, collector and treasurer

21105. The terms of office of the assessor, collector, and treasurer elected at the formation election expire at the same time as the terms of the original directors of the class having the greater number.

Continuation in office

21106. Each elective officer shall hold office until his successor qualifies.

Article 2. Consolidation and Segregation

Consolidation

21120. A board may consolidate any two or more of the offices of assessor, collector, and treasurer.

Order of consolidation

21121. The order of consolidation shall be made at least 30 days prior to a general election and shall take effect at the next succeeding election.

Segregation of consolidated offices

21122. A board may at least 30 days before a general election segregate consolidated offices, and each office so segregated shall be filled at the election.

Article 3. Official Bonds

Directors' bonds

21140. Each director shall execute a bond in the sum of five thousand dollars ($5,000).

Officers' bonds

21141. When not otherwise provided by the board the bonds to be given by the following officers shall be in the following sums:

(a) Assessor: Five thousand dollars ($5,000).

(b) Collector: Twenty thousand dollars ($20,000).

(c) Treasurer: One hundred thousand dollars ($100,000).

Other officers and persons

21142. The board may fix the bonds to be given by the following officers and persons to suit the conditions of the district within the following sums:

(a) Treasurer: Five thousand dollars ($5,000) to one hundred thousand dollars ($100,000).

(b) Collector: Five thousand dollars ($5,000) to twenty thousand dollars ($20,000).

(c) Secretary: Any sum.

(d) Custodian of a special fund: Any sum.

Form and premiums

21143. All bonds shall be in the form prescribed for the official bonds of county officers, and the premiums may be paid by the district.

Approval and recordation of directors' bonds

21144. Bonds of directors shall be approved by a judge of the superior court of the county where the district's formation was effected, recorded in the office of the county recorder of the same county, and filed with the secretary.

Approval of other bonds

21145. All bonds other than bonds of directors shall be approved by the board.

Liability

21146. Each officer herein named shall be liable upon his bond for his wilful violation of any express duty.

Additional bond to United States

21147. If any district is appointed fiscal agent of or by the United States in connection with any Federal reclamation project, each officer shall execute an additional bond, in the sum required by the Secretary of the Interior, conditioned for the faithful discharge of the duties of his office and the faithful discharge by the district of its duties under the appointment; and the bond may be sued upon by the United States or any person injured by the failure of the officer or the district to perform promptly and completely his or its respective duties.

Article 4. Compensation

Fixing compensation

21165. The board shall fix the compensation to be paid to all officers.

Director per diem, traveling expense, and other expenses

21166. A director for sitting on the board or acting under its orders shall receive not exceeding:

(a) Eight dollars ($8.00) per day except in districts containing over 500,000 acres.

(b) Ten cents ($0 10) per mile for each mile actually traveled between his place of residence and the district office.

(c) Actual and necessary expenses when acting under the orders of the board.

Submission of salary schedule to voters

21167. The board shall upon the petition of 50 or more freeholders within the district, submit to the voters at any general election a schedule of salaries and fees to be paid to officers. The petition shall be presented to the board not less than 20 nor more than 40 days prior to a general election. The result of the election shall be determined and declared in all respects as general elections are determined and declared.

Article 5. Deputies

Duties of board

21185. The board shall:

(a) Employ agents, officers, and employees as required.

(b) Prescribe their duties and fix their salaries.

Further duties

21186. The board shall:

(a) Approve and reject as to number deputies of elective and appointive officers.

(b) Remove any deputies for good cause or for lack of work or funds.

(c) Fix and alter the salaries of all deputies.

Treasurer's and collector's deputies

21187. The treasurer and collector may appoint as many deputies within the number allowed by the board as may be necessary for the discharge of the duties of their offices, the deputies to hold office at the pleasure of the appointing officer and subject to the powers of the board. Appointments shall be in writing and filed in the office of the district. These deputies shall take and file an oath in the manner required of their principals before assuming the duties of office.

Assessor's deputies

21188. The board shall allow the assessor as many deputies, to be appointed by him, as will in the judgment of the board enable him to complete the assessment between the first Monday in March and the first Monday in August each year. The compensation fixed by the board shall not exceed five dollars ($5.00) per day for each deputy for the time actually engaged, nor shall any allowance be made but for work performed between the first Monday in March and the first Monday in August.

Compensation

Article 6. Misconduct

Personal interest in official contracts

21195. No officer named in this division shall in any manner be interested in any contract awarded or to be awarded by the board or in the profits to be derived therefrom. For any violation the officer is guilty of a misdemeanor. Conviction shall work a forfeiture of his office, and he shall be

Penalties for violation

punished by a fine not exceeding five hundred dollars ($500) or by imprisonment in the county jail not exceeding six months or both.

Violation of express duty

21196. For any wilful violation of any express duty herein provided for by any officer herein named he shall be subject to removal from office by proceedings brought in the superior court of the office county by any assessment payer of the district.

CHAPTER 2. SELECTING OFFICERS IN CERTAIN CASES

Article 1. Appointments to Fill Vacancies

Vacancy Office of director

21265. The board of supervisors of the office county shall fill by appointment vacancies in the offices of directors.

Assessor, collector, and treasurer

21266. A board shall fill by appointment vacancies in the offices of assessor, collector, and treasurer. If the board fails to make an appointment within 40 days, the board of supervisors of the office county shall make the appointment.

Term of appointment

21267. An appointment to fill a vacancy pursuant to this article shall be for the unexpired term of the office in which the vacancy exists.

Article 2. Appointments in Default of Election

Appointment in district with small population

21285. A petition containing all of the following may be presented to the board of supervisors of the principal county:

(a) A showing that not more than twenty-five owners of land are residents and electors in the district.

(b) A showing that no general election was held on the last date on which it should have been held and that no special election was held in its place.

(c) Verification of the showings.

(d) Prayer that the board of supervisors appoint directors.

(e) Signatures of the owners of more than one-half of the land.

(Amended by Stats. 1943, Ch. 945.)

[ORIGINAL SECTION]

21285. A petition containing all of the following may be presented to the board of supervisors of the principal county:

(a) A showing that not more than five owners of land are residents and electors in the district.

(b) A showing that no general election was held on the last date on which it should have been held and that no special election was held in its place.

(c) Verification of the showings.

(d) Prayer that the board of supervisors appoint directors.

(e) Signatures of the owners of more than one-half of the land.

Date of hearing and notice by publication

21286. The board of supervisors shall set a date for the hearing of the petition and shall give notice of the hearing by publication in at least two issues of a newspaper published in the principal county.

Date limitations

21287. The date of the hearing shall be not less than 10 nor more than 30 days from the presentation of the petition.

Establishment of facts by resolution

21288. At the hearing, if the facts alleged in the petition are established to the satisfaction of the board of supervisors, it shall so find by resolution.

Appointment of directors

21289. Upon the adoption of the resolution the board of supervisors shall appoint for the district three directors, each of whom shall be an owner of land within the district but need not be a resident of the district.

Tenure

21290. The directors so appointed shall take office as soon as they qualify and shall hold office for a period of four years and thereafter until their successors are elected or appointed and qualify.

Directors constitute board

21291. The directors so appointed shall constitute the board of the district.

Treasurer, collector and assessor

21292. Upon its organization as a board the board so constituted shall fill by appointment the offices of treasurer, collector, and assessor, and none of the persons so appointed need be residents or landowners within the district.

Article 3. Appointments When Land Tax Deeded

Appointments When land tax deeded

21310. The commission may file a report with the board of supervisors of a principal county informing the board that:

(a) Not less than 90 per cent of the land in the district is deeded for delinquent taxes or assessments to either the State or the district or both.

(b) No election of directors of the district has been held for a period of more than four years next preceding the filing of the report.

(c) In the opinion of the commission the interests of the public will best be served by the appointment of directors pursuant to this article.

Date of hearing and notice by publication

21311. Upon receipt of the report the board of supervisors shall set a date for a hearing on the report and shall promptly give notice by publication in at least two issues of a newspaper published in the principal county of the time and place at which the hearing will be held.

Date limitations

21312. The date of the hearing shall be not less than 10 nor more than 30 days from the first publication of the notice.

Appointment of directors

21313. If at the hearing it appears to the satisfaction of the board of supervisors that not less than 90 per cent of the land is deeded for delinquent taxes or assessments to either the State or the district or both and that no election of directors has been held for more than four years next preceding, the board of supervisors may appoint for the district three directors.

Directors' qualifications

21314. The directors so appointed need not be residents or landowners in the district, but each shall be a resident landowner of a county supervisorial district in which all or a portion of the land in the district is situated.

Tenure

21315. The directors so appointed shall take office as soon as they qualify and shall hold office for a period of four years and thereafter until their successors are elected or appointed and qualify.

Directors constitute board

21316. The directors so appointed shall constitute the board of the district.

Treasurer, collector, and assessor

21317. Upon its organization as a board the board so constituted shall fill by appointment the offices of treasurer, collector, and assessor, and none of the persons so appointed need be residents or landowners within the district.

Article 4. Return to Elective Method

Petition for election

21335. Not more than 60 nor less than 30 days before the first Wednesday in February of any odd numbered year a majority of the electors in a district then having directors

appointed pursuant to Articles 2 or 3 of this chapter may petition the board of the district that an election be held.

Facts to be shown

21336. The petition shall show all of the following:

(a) There are persons who could qualify under Section 21100 as directors representing each division in the district.

(b) There are more than twenty-five owners of land in the district who are residents and electors thereof.

(c) There are sufficient electors in the district to conduct an election.

(Amended by Stats. 1943, Ch. 945.)

[ORIGINAL SECTION]

21336. The petition shall show all of the following:

(a) There are persons who could qualify under Section 21100 as directors representing each division in the district.

(b) There are more than five owners of land in the district who are residents and electors thereof.

(c) There are sufficient electors in the district to conduct an election.

Order for general election

21337. If the board finds the facts alleged in the petition are true, it shall order that a general election be held, at which election a director for each division and all other elective officers shall be elected.

Staggered tenure of directors

21338. The directors elected shall at their first meeting classify themselves into two groups in the same manner and with the same effect as is provided as to directors elected at a formation election.

CHAPTER 3. THE BOARD

Organization meetings

21375. On the first Tuesday after the original directors qualify and on the day on which the board holds its regular monthly meeting in March of each year in which a general election is held the directors shall meet and organize as a board and may transact any other business of the district.

Election and appointment of officers

21376. At its organization meeting the board shall elect a president from its members and appoint a secretary, who shall each hold office during the pleasure of the board.

Time and place of regular meetings

21377. The board shall hold a regular meeting on the first Tuesday of each month at the district office.

Same Change by resolution

21378. The board, however, may by resolution entered upon its minutes fix any day of the month for its regular monthly meeting. The change shall not be effective until the resolution proposing it has been published once a week for two successive weeks in a newspaper published in the office county.

Special meetings

21379. Special meetings of the board may be held when required for the proper transaction of the business of the district and shall be ordered by a majority of the directors.

Same Order and notice

21380. The order for a special meeting shall be entered of record, and the secretary shall give five days' notice of the order to each director not joining in the order.

Limitation on purpose

21381. The order for a special meeting shall specify the business to be transacted, and no other business shall be transacted at the special meeting unless all the members of the board are present and consent.

Public meetings

21382. All meetings of the board shall be public.

Quorum

21383. The number of directors required to constitute a quorum of the board and to concur on all questions except a motion to adjourn or a motion to adjourn to a stated time is three except in districts where there are only three offices of director, in which case the required number is two.

Daily adjournments

21384. A smaller number of directors than a quorum may adjourn from day to day.

Power of board

21385. The board except as otherwise specifically provided has the power and it shall be its duty to manage and conduct the business and affairs of the district.

CHAPTER 4. DISTRICT OFFICE

Place of office

21400. The office of each district shall be established and kept at a fixed place, determined by its board, which place need not be within the district.

Time open to public

21401. The board shall fix the time during which the office of the district shall be open to the public.

Records open to public inspection

21402. All records of the district shall be open to public inspection during the hours when the office of the district is open to the public.

Seal

21403. The board shall adopt a seal for the district.

PART 4. ELECTIONS

CHAPTER 1. DIVISIONS AND PRECINCTS

Article 1. Divisions and Methods of Electing Directors

Number of divisions

21550. Each district shall contain five divisions unless otherwise provided by the more recent of:

(a) The order on final hearing on the formation petition.

(b) An order made pursuant to this article.

(c) An order made pursuant to Article 2 of this chapter.

When directors elected by divisions

21551. Directors shall be elected by the division each represents unless otherwise provided by the more recent of:

(a) The order on final hearing on the formation petition.

(b) An order made pursuant to this article.

(c) An order made pursuant to Article 2 of this chapter.

Changes in number and methods

21552. As provided in this article the number of divisions may be changed to three or five or the method of electing directors may be changed to election by the district at large or by divisions, or both changes may be made simultaneously.

Changes by petition

21553. The board shall order a change in the number of divisions or the method of electing directors or both if a petition therefor, signed by a majority of the holders of title to all of the land who are also the holders of title to a majority in value of the land, is filed in the district office at least 70 days before a general election.

Submission of proposal for change at general election

21554. The board shall submit at a general election a proposal for a change in the number of divisions or the method of electing directors or both when either:

(a) At least 70 days before the election a petition for the submission of a proposal therefor set forth in the petition,

signed by at least 500 holders of title to land who are also the holders of title to at least 20 per cent in value of all of the land, is filed in the district office.

(b) At least 50 days before the election the board adopts a resolution for the submission of a proposal therefor set forth in the resolution.

Statement in notice of election

21555. In submitting a proposal at an election the notice of election shall contain a statement of the change or changes proposed.

Method of voting

21556. Each proposal shall be stated on the ballot, and the method of voting on it shall be as nearly as practicable in conformity with the provisions relating to bond elections.

Majority approval of change

21557. If a proposal receives the approval of a majority of the voters voting on it in the district and also of a majority of the voters voting on it in each of a majority of the divisions, the board shall order the change or changes in accordance with the proposal.

Change in method of electing directors

21558. If an order made pursuant to this article changes the method of electing directors, all directors thereafter elected in the district shall be elected as provided in the order.

Change in number of divisions

21559. If an order made pursuant to this article changes the number of divisions, the board shall forthwith redivide the district into the number of divisions specified in the order.

Same Number of new directors, staggered terms

21560. If an order made pursuant to this article changes the number of divisions, the terms of office of all directors shall expire on the regular meeting day of the board in March following the next general election after the order, and the directors elected at that election shall be equal in number to the number of divisions as changed and these directors shall at their first meeting classify themselves and determine the length of their respective terms in the manner provided as to directors elected at a formation election.

Article 2. Abolition and Reestablishment of Divisions

Abolition of divisions

21575. Any district having less than 2,500 acres within its boundaries, having less than 25 electors residing within it, and having only three divisions may abolish the divisions in it pursuant to this article.

Petition to abolish

21576. The board of the district may petition the board of supervisors of the principal county for an order by the board of supervisors abolishing the divisions in the district.

Existence of conditions

21577. The board of supervisors shall thereupon find whether or not there are less than 2,500 acres in the district, less than 25 electors residing in it, and only three divisions in it.

Affirmative findings Divisions abolished

21578. If the board of supervisors finds as to all of such matters in the affirmative, it may order that there shall be no divisions in the district.

Election and appointment of directors

21579. Upon the making of the order, there shall be no divisions in the district, the directors of the district need only be voters and freeholders in the district, and the directors of

the district shall be elected, and appointed to fill vacancies, at large from the whole district.

Number of directors

21580. From the adoption of the order the district shall have three directors, and the offices of the directors shall have the numbers formerly identifying the division represented by each director, or if none, last incumbent director, and candidates for election for director shall be nominated and elected for a particular office.

No change in term

21581. The making of the order does not change any term of office.

Petition to establish divisions

21582. At least 60 days before any general election a majority of the electors in the district having no divisions may file in the district office a petition signed by them requesting the board to establish divisions.

Showing required

21583. The petition shall contain a showing that it is expedient to divide the district into three divisions as nearly equal in area and population as may be practicable and to elect the directors of the district therefrom.

Investigation by board

21584. The board may independently investigate whether or not the facts are consistent with the showing made in the petition and shall hear any evidence produced to sustain or disprove the showing.

Period for determining petition

21585. Within 30 days after the filing of the petition the board shall find whether or not it is expedient to divide the district into three divisions as nearly equal in area and population as may be practicable and to elect the directors of the district therefrom.

Affirmative finding Order

21586. If the board finds in the affirmative, it shall forthwith order the establishment of divisions in the district and divide the district into three divisions as nearly equal in area and population as may be practicable.

Election of directors

21587. At the general election next following the making of the order directors shall be elected at large in the district, one director to represent each division.

Staggered terms of office

21588. The directors so elected shall at their first meeting classify themselves into two groups in the same manner and with the same effect as provided as to directors elected at a formation election, except that the classification shall not affect the term of any offices other than those held by the directors.

Article 3. Division and Precinct Boundaries

Changes

21605. When it deems it advisable for the best interests of the district and the convenience of its voters, the board may, not less than 60 days before an election, change the boundaries of the divisions or election precincts or both. The changes shall be made to keep the divisions as nearly equal in area and population as may be practicable. The changes shall be shown on the minutes of the board.

Reestablishment of boundaries and precincts

21606. When land is excluded from a district after its formation, if the board deems it desirable, but not less than 30 days before any election in the district, it may re-establish

the boundaries of the divisions and election precincts within the district.

Inclusion of after-acquired land

21607. When land is included within a district after its formation, its board shall, not less than 30 days before any election in the district, re-establish the boundaries of the divisions and election precincts within the district so as to include the included land therein and so as to make the divisions as nearly equal in size and population as may be practicable.

Limitation on voting

21608. When land is included within a district after its formation and less than 30 days before an election, the voters in the area included shall not be entitled to vote at the election.

CHAPTER 2. GENERAL ELECTIONS

Article 1. Preliminary Procedure and Nominations

General elections

21650. A general election shall be held in each district on the first Wednesday in February in each odd-numbered year to choose a successor for each elective officer the term of whose office will expire in the following March.

Consolidated offices

21651. If any offices have been consolidated, only one person shall be elected to fill the consolidated offices.

21652. Prior to the time for giving notice of an election, the board shall by order:

Duties prior to giving notice

(a) Appoint for each precinct from its electors one inspector, two judges, and two clerks, or one inspector, one judge, and one clerk, who shall in either case constitute a precinct board for the precinct.

(b) Designate the place within each precinct for its polls.

Same Fixing opening and closing of polls

21653. The board may prior to giving the notice of election fix the hours for the opening and closing of the polls, but the polls shall be kept open for not less than six consecutive hours between 6 a.m. and 7 p.m.

Publication or posting of notice of election

21654. Not less than 30 nor more than 40 days before a general election the secretary shall commence to publish notice once a week for two successive weeks in a newspaper of general circulation published in the district, or if no newspaper of general circulation is published in the district, shall post notices in three public places in each election precinct, of the day, hours, and polling places in each precinct for holding the election.

Posting in district office

21655. In either case the secretary shall post the notice in the district office.

Ballot and supplies

21656. The ballot and all other supplies used at elections shall be provided by the board.

Contents of ballots

21657. The ballots shall have printed on them the names of all candidates properly nominated and a voting square after each name. The names shall be arranged alphabetically under the designation of the office for which each person named is a candidate.

Petition for additional candidates

21658. Not less than 15 days before the election a petition signed by 10 or more electors may be filed at the district office requesting that the names of persons specified in the petition be placed on the ballot as candidates for the offices specified.

Names on ballots, write-ins

21659. Only names of persons properly nominated shall be printed on the ballots, but a blank space shall be left after the names of the candidates for each office, in which voters may write another name if they desire.

Preservation of nominating petitions

21660. All nominating petitions shall be preserved by the secretary in the district office.

Article 2. Conduct at Precincts

No board or absent member

21675. If the board fails to appoint a precinct board or the members appointed are not present when the polls open on the day of election, a majority of the electors of the precinct present at that hour, including members of the precinct board, may appoint the precinct board or supply the place of an absent member.

Inspector is chairman

21676. The inspector is chairman of the precinct board.

Substitute judge or clerk

21677. If during the election any judge or clerk ceases to act the inspector may appoint a substitute.

Substitute inspector

21678. If the inspector ceases to act, a majority of the remaining members of the precinct board may appoint a substitute.

Administering oaths

21679. Any member of a precinct board may administer and certify oaths required to be administered during an election.

Oath by members

21680. Before opening the polls each member of the precinct board shall take and subscribe an oath to perform faithfully his duties. Any elector of the precinct may administer and certify the oath.

Polls shall be open

21681. The polls shall be open only during the following hours:

(a) During the hours fixed by the board pursuant to Section 21653.

(b) If not fixed by the board, from 6 a.m. until 7 p.m.

Voting permitted

21682. Voting may commence as soon as the polls are open and may continue during all the time the polls remain open.

Conduct and canvass
Stats 1939, p 49

21683. Voting shall be conducted and the canvass at the polls made, except as otherwise provided, as nearly as practicable in accordance with the provisions of the Elections Code pertaining to general elections.

21684. Only voters shall be entitled to vote at district elections.

One ballot

21685. A clerk of election shall deliver to each voter one ballot.

Method of marking

21686. With the rubber stamp provided, each voter shall stamp a cross in the square after the name of each candidate for whom he wishes to vote.

Certificate of votes for each candidate

21687. In each precinct as soon as all the votes are counted, a certificate shall be drawn up on or attached to at least one of the tally lists, designating for each office voted on the number of votes each candidate for the office has received.

Same Signature

21688. The certificate shall be signed by each member of the precinct board.

21689. During the counting thereof the voted ballots shall be strung upon a cord or thread by the inspector in the order in which they are entered upon the tally lists by the clerks. Voted ballots to be strung

21690. The voted ballots shall then be sealed in an envelope by the inspector in the presence of the judge and clerk. Sealed in envelope

21691. The envelope, certificate with the roster of voters, tally lists, and the marked copy of index to voters if it is used shall be: Further duties

(a) Sealed in an envelope by the inspector in the presence of the judge and clerk.

(b) Indorsed "Election returns of (naming the precinct) precinct."

(c) Directed to the secretary.

(d) Immediately delivered by the inspector or by a responsible carrier designated by him, to the secretary.

Article 3. Canvass

21705. The envelopes containing the ballots shall except for the purposes of a recount be kept unopened for at least six months from the day of the election. Preservation of envelopes

21706. If any voter by affidavit filed with the board shows facts sufficient reasonably to justify the belief that the vote of any precinct has not been correctly counted to the extent that a recount would change the result of the election, he may appear on the day appointed for the board to open and canvass the returns and demand a recount of the vote of the precinct that is claimed to have been incorrectly counted. Request for recount

21707. The board shall meet at the district office on the first Monday after each election to canvass the returns. If the returns from each precinct have been received, the board shall canvass the return. If the returns from all of the precincts have not been received, the canvass shall be postponed from day to day until all of the returns have been received or until six postponements have been had. Canvass

21708 The canvass shall be made in public and by opening the returns and determining the vote of the district for each person voted for and declaring the result thereof. Character and method of canvass

21709. No roster, tally list, or certificate returned from any election shall be set aside or rejected for want of form if it can be satisfactorily understood. Condition of records

21710. As soon as the result is declared, the secretary shall enter in the records of the district a statement of the result, which statement shall show: Statement of result Contents

(a) The whole number of ballots cast in the district and when directors are elected by divisions, the whole number of ballots cast in each division.

(b) The name of each candidate voted for and the office to fill which he was voted for.

(c) The number of votes cast in each precinct for each candidate.

(d) When directors are elected by divisions the number of votes cast in each division for each candidate for the office of director from that division.

(e) The number of votes cast in the district for each candidate for the offices of assessor, collector, and treasurer, and, when directors are elected at large of director.

Declaration of election

21711. The board shall declare elected to each office the candidate receiving the highest number of votes for that office.

Certificate of election

21712. The secretary shall immediately make and deliver to each person elected a certificate of election signed by the secretary and authenticated with the seal of the district.

Informalities in conduct

21713. No informalities in the conduct of the election or any matters related to it, including the form of ballot used, shall invalidate the election if fairly conducted.

Article 4. Special Elections for Officers

When general election not held

21725. If a general election is not held as required, upon the filing with the secretary of a petition signed by 10 per cent of the voters requesting that a special election be called for the election of officers, the board shall call a special election for the election of officers to offices which should have been filled at a general election or the terms of whose incumbents have expired.

Time of election

21726. The election shall be held not less than 15 nor more than 30 days after the filing of the petition.

Term of officers elected

21727. The term of each officer elected at a special election is the unexpired term in the office to which he is elected.

Chapter 3. Recall Elections

Article 1. Petition for Recall

Recall

21800. Any elective officer may be recalled.

Limitations

21801. A petition shall not be filed to recall any officer if either:

(a) He has not held office for six months.

(b) A recall election has been determined in his favor within six months.

Petition

21802. In order to recall an officer a petition shall be filed with the secretary containing all of the following:

(a) Request that an election be called to elect a successor to the officer.

(b) A statement solely for the information of the electors of the grounds on which the recall is sought, any insufficiency in the statement not to affect the sufficiency of this petition.

(c) Signatures of voters in the unit by which the officer or his elected predecessor was elected, at least equal in number to 25 per cent of the votes at the next preceding general election for the office to which the officer or his elected predecessor was elected, cast respectively for:

(1) The candidate receiving the greatest number of votes if the officer was elected by the district at large.

(2) All the candidates if the officer was elected by a division.

(d) The date of each signature, the signer's precinct, his place of residence, giving street and number, and if no street or number exists, then a designation of his place of residence which will enable the location to be readily ascertained, all of which shall be affixed by the signer at the time of his signing.

Form Requirements

21803. The petition may consist of any number of separate instruments, which shall be duplicates except as to signatures and matters required to be affixed by signers.

Affidavit of circulator

21804. To each duplicate recall petition shall be attached an affidavit of an elector of the district sworn to before an officer competent to administer oaths stating all of the following:

(a) Affiant circulated that copy and saw the appended signatures being written.

(b) According to the best information and belief of the affiant each is the genuine signature of the person whose name purports to be subscribed and of a voter of the district.

Several recalls in one petition

21805. One petition is sufficient to propose the recall and election of several elective officials.

Sufficiency to be ascertained

21806. Within 10 days from the filing of a recall petition the secretary shall ascertain from the records of registration whether or not the petition is signed by the requisite number of voters and shall attach to the petition his certificate showing the result of the examination.

Insufficient Supplemental recall instruments

21807. If the certificate of the secretary shows the recall petition to be insufficient, it may be supplemented within 10 days from the date of the certificate by the filing of additional recall instruments, duplicates of the petition filed except as to signatures and matters required to be affixed by signers.

Ascertainment of sufficiency

21808. The secretary shall within 10 days after the supplemental copies are filed make a certificate showing whether or not the petition as supplemented is sufficient.

Insufficient. Public record

21809. If the certificate shows that the petition as supplemented is insufficient, no action shall be taken on it; but the petition shall remain on file as a public record, and the insufficiency shall not bar the filing of a new petition.

New petition

Submission to board if sufficient

21810. If the certificate of the secretary to the recall petition shows it to be sufficient, the secretary shall submit the petition to the board without delay.

Article 2. Calling and Conduct

Order for election

21825. Upon receiving a recall petition certified as sufficient the board shall forthwith order an election to determine whether or not the voters will recall the officer named in the petition.

Time of recall election

21826. The election shall be held not less than 35 nor more than 40 days after the making of the order.

Submission at general election

21827. If a general election is to be held not less than 35 nor more than 60 days from the making of the order calling a recall election, the board may submit the recall proposal and candidates at the general election.

Recall and election together

21828. One election is sufficient for the recall and election of several officials.

Vacancy pending recall

21829. If a vacancy occurs in an office after a recall petition is filed against the vacating officer, the recall election shall nevertheless proceed.

Manner of nominations

21830. Nominations for candidates for any office to be filled at a recall election shall be made in the manner prescribed for nominations for candidates at general elections.

Requisite data on ballots

21831. The following shall appear on recall ballots for each recall petitioned:

(a) "Shall (name of person whose recall is being voted on) be recalled from the office of (title of the office)?"

(b) To the right of the foregoing question, "Yes" and "No" on separate lines with an inclosed blank space to the right of each.

(c) Names of the candidates nominated for the particular office, which shall not include the name of the incumbent officer.

Marking ballot

21832. A voter shall indicate, by stamping a cross (+) in the blank space opposite either "Yes" or "No" his vote respectively for or against the recall proposal.

Voting on recall and election

21833. No vote shall be counted for any candidate for an office if the recall proposal for that office on the particular ballot was not voted upon.

Manner of conduct, canvass, etc.

21834. A recall election shall be conducted, canvassed, and the result declared in substantially the manner provided for a general election.

Article 3. Effect of Recall

Continuation in office

21850. If one-half or more of the votes on a recall proposal are "No," the incumbent shall continue in office.

Majority vote recalls

21851. If a majority of the votes on a recall proposal are "Yes," the incumbent shall be removed from office by the qualification of his successor.

Candidate elected and term

21852. If at a recall election an officer is recalled, the candidate receiving the highest number of votes for the office shall be declared elected for the unexpired term of the recalled officer.

Failure to qualify

21853. If the candidate who received the highest number of votes fails to qualify within 10 days after receiving his certificate of election, the office to which he was elected shall be vacant.

Chapter 4. Bond Elections

Order for bond election

21925. After an order determining the amount of bonds which should be issued, the board shall call a bond election to submit to the voters a proposal of whether or not bonds in the amount determined in the order should be authorized when either:

(a) The board so determines.

(b) The board receives a petition requesting the election signed by either:

(1) A majority in number of the holders of title to land who are also the holders of title to a majority in value of all of the land.

(2) Five hundred or more persons, each of whom is either an elector or a holder of title to land and which petitioners include the holders of title to not less than 20 per cent in value of all of the land.

Notice

21926. Notice of a bond election shall be given by both:

(a) Posting notices in three public places in each election precinct in the district for at least 20 days.

(b) Publication of the notice, in some newspaper published in the office county, once a week for at least three successive weeks.

Specifications in notice

21927. Notice of a bond election shall specify:

(a) The day, hours, and polling places in each precinct for holding the election.

(b) The amount of bonds proposed to be issued.

Several proposals on same ballot

21928. At a bond election several proposals as to the issuance of bonds may be submitted separately on the same ballot if:

(a) Estimates of the cost of the respective projects have been made.

(b) The commission has reported thereon.

(c) The respective proposals have been stated in the notices of the election.

Contents of ballots

21929. The ballots shall contain a general statement of the proposals to be voted on, including the amount of bonds proposed to be issued for each purpose, but no informality in the statement shall vitiate the election. Each proposal shall be followed by the words "Yes" and "No" on separate lines with a small inclosed space after each of the two words.

Same Instructions to voters

21930. On bond election ballots there shall be printed under the heading "Instructions to voters": "To vote for a proposal, stamp a cross (+) in the voting space after the word 'Yes' following the proposal. To vote against a proposal, stamp a cross (+) in the voting space after the word 'No' following the proposal."

Marking ballots

21931. The voters shall vote for or against any proposal at a bond election by stamping a cross (+) in the voting space after the word "Yes" or "No" respectively.

Conduct

21932. Bond elections shall be held and the result determined and declared as nearly as practicable in conformity with general elections.

Result: Authorization

21933. The issuance of bonds is authorized when at a bond election either:

(a) Two-thirds of the votes cast on the proposal are "Yes."

(b) A majority of the votes cast on the proposal are "Yes" when the election was called pursuant to a petition sufficient to require it to be called.

Same: Not authorized

21934. If the number of votes for any bond proposal is less than the number required to authorize the issuance of the bonds, the result of the vote shall be entered of record. The proposal may be again submitted at a bond election upon the presentation to the board of a petition for the subsequent election signed as required for the calling of the previous election.

Resubmission of proposal

Informalities in conduct

21935. No informalities in the conduct of the election shall invalidate the election if fairly conducted.

PART 5. POWERS AND PURPOSES

CHAPTER 1. POWERS AND PURPOSES GENERALLY

Article 1. Water

Beneficial use

22075. A district may do any act necessary to furnish sufficient water in the district for any beneficial use.

Same

22076. A district may do any act in order to put to any beneficial use any water under its control.

Fire protection

22077. A district may deliver water for fire protection purposes.

Article 2. Drainage

To provide irrigation

22095. A district may provide for any and all drainage made necessary by the irrigation provided for by the district

Application of irrigation laws

22096. All laws respecting irrigation by districts or respecting districts shall also be so construed and enforced as to apply to drainage.

Powers and duties conferred

22097. The officers, agents, and employees of districts have the same powers, duties, and liabilities respecting drainage and construction, operation, and control relating to it as they have respecting irrigation.

Necessity for drainage

22098. Whenever it appears necessary to drain any land within a district on account of the irrigation which has been done or which is intended to be done by the district under laws relating to it, whether for the purpose of more beneficially carrying on the irrigation or to protect the district from liability by reason of the irrigation, its board, if it is reasonable from an economic standpoint that the drainage be provided, shall provide for the drainage.

Land excluded

22099. No drainage need be provided for land as to which the district is relieved from liability for seepage or flooding by reason of grant, waiver, prescription, statute, decree, or condemnation.

Article 3. Electric Power

Powers of district

22115. Any district heretofore or hereafter formed may purchase or lease electric power from any agency or entity, public or private, and may provide for the acquisition, operation, leasing, and control of plants for the generation, transmission, distribution, sale, and lease of electric power, including sale to municipalities, public utility districts, or persons.

Applicable provisions Stats 1897, p 254

22116. All provisions of the California Irrigation District Act, and of all acts amendatory thereof and supplemental

thereto, applying to irrigation shall, as codified in this division, also be so construed and enforced as to apply to electric power.

(Amended by Stats. 1943, Ch. 687.)

[ORIGINAL SECTION]

22116 All provisions of the California Irrigation District Act applying to irrigation shall, as codified in this division, also be so construed and enforced as to apply to electric power.

Powers and duties conferred

22117. The officers, agents, and employees of districts have the same powers, duties, and liabilities respecting electric power and the acquisition, operation, and control relating to it as they have respecting irrigation or districts.

Necessary and proper acts

22118. The board and the officers, agents, and employees of districts shall do all necessary and proper acts for the construction and operation of its electric power works.

Distribution of electric power

22119. A district may distribute power without regard to any assessments levied by it.

Sale, etc., outside boundaries

22120. A district may sell, dispose of, and distribute electric power for use outside of its boundaries.

(Amended by Stats. 1943, Ch. 687.)

[ORIGINAL SECTION]

22120. A district may sell electric power for use outside of its boundaries.

Special appropriations of water

22121. Subject to the conditions in this article a district may in the manner required by law make special appropriations of water for power purposes.

Priority of existing appropriations of municipality

22122. Any use of water for generating electric power at any given time of the year which is in excess of the water appropriated and beneficially used for irrigation purposes by the district at that period of the year shall be subject to all prior existing appropriations by any municipal corporation which is proceeding in good faith in the expenditure of money and the construction of works designed to divert the water appropriated.

Article 4. Airports and Aviation Schools

Conditions precedent

22140. This article applies only if all of the following are true:

(a) None of the land proposed to be used for airport or aviation school purposes that may be outside of the district is more than seven miles from the nearest part of the boundaries of the district.

(b) The United States agrees to improve or contribute money for the improvement for airport or aviation school purposes or both of the land proposed to be used.

(c) The board finds that there is no other public agency able and willing to cooperate with the United States in the improvement for airport or aviation school purposes or both of the land proposed to be used.

Acquisition of land

22141. A district may acquire land by gift or otherwise, or use land already acquired, for an airport or aviation school or both and may improve the land for any of these purposes.

Cooperation with United States

22142. A district may sponsor any project undertaken by the United States for the improvement of land for airport or aviation school purposes or both.

Restriction on incurring indebtedness

22143. No district shall ever issue any bonds to acquire or improve any land pursuant to this article, nor shall it incur any indebtedness therefor which can not be paid out of revenue to be derived from its airport or aviation school or the leasing thereof.

Restriction on acceptance of United States funds

22144. A district may accept the appropriation of any funds by the United States for the improvement of the land for an airport or aviation school on any conditions imposed by the United States if the use of the airport for commercial purposes is not thereby precluded.

Operation of airport, etc

22145. A district may operate an airport or aviation school or may lease either or both of them on terms its board deems proper.

Same Acceptance of money or property

22146. Any district having acquired an airport or aviation school or both pursuant to the provisions of this article may accept contributions of money or property or both to be used in connection with the airport or aviation school or both.

CHAPTER 2. POWERS

Article 1. Powers Generally

Performance of necessary acts

22225. Each district has the power generally to perform all acts necessary to carry out fully the provisions of this division.

Construction of necessary works

22226. A district may construct the necessary works for the collection of water for the district.

Storing water, etc.

22227. A district may acquire the right to store water in any reservoir or to carry water through any conduit not owned or controlled by the district and may grant to any owner or lessee of the right to the use of any water the right to store the water in any reservoir of the district or to carry the water through any conduit of the district.

Contracts for exchange, etc., of water

22228. A district may contract to perform and perform any agreement with any number of persons or public corporations or agencies for the exchange, transfer, or delivery to or by either or both parties of any water right or water.

Entry on any land

22229. A district may enter upon any land to make surveys and determine the location for its necessary works on any land which may be deemed best for their location.

Necessary contracts

22230. A district may make and perform any necessary contracts to carry out the purposes of the district.

Acquisition of equipment

22231. A district by contract may acquire and operate any needed or desirable equipment to put water under its control to any beneficial use.

Expert in agriculture and other employees

22232. A district may employ an expert in agriculture and related matters and other employees as may be deemed necessary to do any of the following:

(a) Supervise the construction of works for the irrigation or protection of land.

(b) Advise the owners of land or any persons engaged in farming the land of methods of increasing the productiveness of the land or as to any matters of husbandry.

(c) Conduct experiments as prescribed by the board.

(d) Perform duties for the general welfare of the people of the district as prescribed by the board.

Article 2. Water Distribution

Basis of apportionment

22250. All water distributed by districts for irrigation purposes shall except when otherwise provided in this article be apportioned ratably to each landowner upon the basis of the ratio which the last assessment against his land for district purposes bears to the whole sum assessed in the district for district purposes.

Assignment of right

22251. Any landowner may assign for use within the district his right to the whole or any portion of the water apportioned to him pursuant to Section 22250.

Equitable distribution

22252. When any charges for the use of water are fixed by a district the water for the use of which the charges have been fixed shall be distributed equitably as determined by the board among those offering to make the required payment.

Delivery through mutual water company

22253. When a mutual water company has been formed to furnish water to certain specified land within a district, the district may contract for the delivery of water for the specified land through the mutual water company only.

Same Equitable apportionment

22254. If a district has contracted to deliver and is delivering water to a mutual water company for distribution to territory served by the latter, the water shall be apportioned on a basis found by the board to be equitable and for the best interests of all persons concerned.

Regulation of water for irrigation

22255. When its board deems it in the best interests of the district, the district may regulate the amount of water to be used to irrigate crops within the district when seepage from the irrigation would damage adjacent land inside or outside of the district or may require as a condition precedent to the delivery of water the construction of adequate drainage facilities to prevent damage to the adjacent land.

Drainage facilities

Refusal of water

22256. A district may refuse to furnish water to any or all land to which it holds title by virtue of collector's deeds to the district.

Printed rules

22257. Each district shall establish equitable rules for the distribution and use of water, which shall be printed in convenient form for distribution in the district.

Regulation of use outside boundaries

22258. A district required by law or provisions of agreements under which all or part of the water supply of the district was acquired to furnish water outside its boundaries to consumers whose rights to service were at the time the supply of water was acquired by the district enforceable by reason of their status as persons of the class for whose benefit the water was appropriated or dedicated may regulate the use of water so furnished.

Lease or sale of surplus waters

22259. If its board deems it to be for the best interests of the district, a district may enter into a contract for the lease or sale of any surplus water or use of surplus water not then necessary for use within the district, for use either within or without the district.

Same When approval required

22260. Any lease or contract provided for in Section 22259 entered into for a period of more than three years shall not be valid unless approved by the commission.

Sale of water rights

22261. Nothing in this article authorizes the sale of any water right.

Rights not acquired

22262. No right in any water or water right owned by the district shall be acquired by use permitted under this article.

Diversion of water

22263. Nothing contained in this division authorizes any person to divert the water of any stream or conduit from its channel to the detriment of any person having any interest in the stream, conduit, or the water therein, unless previous compensation be ascertained and paid.

Compensation

Article 3. Charges

Charges in lieu of assessments

22280. Any district may in lieu in whole or in part of levying assessments fix and collect charges for any service furnished by the district, including any or all of the following:

(a) Use, sale, or lease of water, which may include a stand-by charge whether the water is actually used or not.

(b) Delivery of water for irrigation in excess of a specified quantity per unit of land.

(c) Water and the service thereof required by law or provisions of agreements under which all or part of the water supply of the district was acquired to be furnished outside its boundaries to consumers whose rights to service were at the time the supply of water was acquired by the district enforceable by reason of their status as persons of the class for whose benefit the water was appropriated or dedicated.

(d) Use of water for power purposes.

(e) Sale of electric power.

Land subject to higher rates

22281. A district may charge higher rates for the service of water to any land that is not subject to assessment by the district than is charged other land in the district for similar service.

Payment in advance

22282. Whenever any charges for any service provided for by this division have been fixed, they may be made payable in advance.

Rules

22283. A district may prescribe reasonable rules to carry out the provisions of this article.

Article 4. Bids

"Works"

22300. As used in this article "works" is limited to any works to be paid for with the proceeds of the sale of bonds or a limited assessment.

Provisions governing contracts

22301. Contracts for the construction of any works shall be made pursuant to the provisions of this article.

Publication of call for bids

22302. The board shall give notice by publication once a week for three successive weeks in a newspaper published in the office county, or if no newspaper is published in that county, in a newspaper the board deems advisable, calling for bids for the construction of the works or of any portion of them.

Requirements of notice

22303. The notice calling for bids shall contain:

(a) A statement that the plans and specifications of the works to be constructed may be seen at the district office.

(b) A particular description of the portion of the works advertised if less than the whole works are advertised.

(c) A statement that the board will receive sealed bids for the construction of the works advertised or any portion of them designated by the board.

(d) A statement that the contract or contracts for the works advertised will be awarded to the lowest responsible bidder or bidders, but that any or all bids may be rejected.

(e) A statement of the time and place for opening the bids.

Opening in public

22304. At the time and place appointed the bids shall be opened in public.

Contract to lowest bidder

22305. After opening the bids and as convenient the board shall award the contract or contracts for the works either in portions or as a whole to the lowest responsible bidder or bidders, but the board may reject any or all bids and readvertise for proposals or may proceed to construct the works or any part thereof under its own superintendence.

Rejection

Conditions for emergency work contracts

22306. In case of emergency or urgent necessity for any works, the board by unanimous vote of those present at any meeting may award a contract for the works without advertising for bids when the cost of the works does not exceed five hundred dollars ($500) and an additional amount equal to five cents ($0.05) for each acre of land.

Contracts for purchase of materials

22307. Contracts for the purchase of material to be furnished or used by the district in the works shall be awarded to the lowest responsible bidder or bidders after such notice as the board deems proper.

Surety bond Liability

22308. Any person to whom a contract may be awarded pursuant to this article shall provide a bond with good and sufficient sureties, approved by the board, payable to the district for at least 25 per cent of the estimated contract price, conditioned upon the faithful performance of the contract.

Approval of works

22309. The works shall be constructed under the direction and to the satisfaction of the engineer of the district and be subject to the approval of the board.

Article 5. Supervision by Department

Accessibility to plans, etc

22335. During the construction of any works of a district to be paid for out of the proceeds of any bond issue which has been certified by the commission, the department shall have access to all plans, specifications, and records of the construction and shall from time to time make any investigations and

reports to the board the department deems to be in the interest of the public or of the district.

Information as to construction

22336. During the construction of any work to be paid for out of the proceeds of the sale of any bonds of any district, the secretary shall within one week after each regular meeting of the board forward to the department copies of all reports made to the board as to the progress of the work and a statement of the amounts paid for any part of the work.

Papers to be forwarded by board

22337. The board immediately after the publication of the statement of the financial condition of the district each year shall send all of the following papers to the department, which shall examine them and report to the board any suggestions it deems proper:

(a) A copy of the financial statement.

(b) A report stating the general condition of any works constructed or acquired by the district.

(c) A statement of whether or not the plan of irrigation adopted by the district is being successfully carried out.

(d) A statement of any other matters which the board deems proper.

Examination of affairs

22338. The department may at any time make an examination of the affairs of any district or call upon the authorities of the district for any information it desires and make any report thereon it deems advisable.

CHAPTER 3. PROPERTY

Article 1. Acquisition of Property

Purposes of acquiring property

22425. A district may acquire by any means any property or interest in property to carry out its purposes, including any of the following:

Property included

(a) Property for the construction, improvement, and operation of works in this State or in any other State or in a foreign nation.

(b) Works being constructed.

(c) Stock of domestic or foreign corporations owning water, water rights, canals, waterworks, franchises, concessions, or rights.

(d) Works by which land has been or may be supplied with water for irrigation.

Subject to encumbrances

22426. Any property necessary for the purposes of the district may be acquired by the district and held subject to any liens, incumbrances, or obligations on it at the time of its acquisition.

Right to flood property

22427. If any road, railroad, canal, or other property subject or devoted to public use will become subject to flooding or other interference by reason of the construction or proposed construction of any works of a district, the district may acquire the right to flood or otherwise interfere with the property, whether or not it is publicly or privately owned.

Relocation of property

22428. If by a judgment or agreement a district is required to relocate any road, railroad, canal, or other property subject or devoted to public use, the district may acquire all property

necessary to comply with the agreement or judgment and make conveyances of the relocated road, railroad, canal, or other property to comply with the agreement or judgment.

Land owned by State

22429. The right is hereby granted to locate, construct, and maintain any of the works of a district on any land which is now or hereafter owned by the State.

Water and water rights belonging to State

22430. There is given, dedicated, and set apart for the uses and purposes of each district all water and water rights belonging to this State within the district.

Subject to public use

22431. A district may construct any works across any watercourse, road, railway, conduit, or other property subject or devoted to public use in a manner that will afford security to life and property. The district shall restore the property crossed as near as may be to its former state or so as not to have impaired unnecessarily its usefulness.

Deed or release from claimant

22432. A district may on terms its board deems for the best interests of the district take a deed or release from any claimant, including any other taxing or assessing agency, to any interest in any property owned or claimed by the district.

Tax sold or tax deeded to State

22433. A district may purchase pursuant to law property tax sold or tax deeded to the State on which the district has a claim, lien, or deed for unpaid assessments or any right, title, interest, or claim.

Discharge of overlapping tax or assessment liens

22434. Any district when it appears to its board to be for the best interests of the district may discharge with or without compromise any overlapping tax or assessment liens equal or superior in rank to those of the district existing on any property to which the district has title and may purchase any outstanding tax or assessment titles existing on the property equal or superior in rank to the title of the district.

Same Use of any funds

22435. A district may notwithstanding any other provisions of this division use any of its funds to carry out the provisions of Section 22434 and may with these funds purchase written evidences of indebtedness of overlapping taxing or assessing agencies for this purpose.

Indicia of title or other rights

22436. A district may in its name take conveyances, leases, contracts, or other assurances for all property acquired by it.

Title held in trust

22437. The title to all property acquired by a district is held in trust for its uses and purposes. The district may hold, use, acquire, manage, sell, or lease the property as provided in this division.

Article 2. Eminent Domain

Eminent domain procedure

22455. Eminent domain proceedings may be brought by a district pursuant to the provisions of Title 7, Part 3 of the Code of Civil Procedure.

Public use defined

22456. The use of all water, together with all property which may be acquired, which is required to carry out fully the provisions of this division is a public use and may be acquired by the district in eminent domain proceedings.

Disagreement as to payment, etc

22457. If the owner of any land, easement, or franchise to be crossed by works of a district can not agree with the district

as to payment, location of the crossing, or any other matters in connection therewith, they shall be determined as in a proceeding in eminent domain.

Order to relocate property

22458. If a right to flood or otherwise interfere with any road, railroad, canal, or other property is acquired by eminent domain, the judgment may, if the court finds that the public convenience requires it, direct the district to relocate the road, railroad, canal, or other property in accordance with plans prescribed by the court.

Article 3. Power Lines on Public Property

Construction and operation

22475. There is granted to every district the right to construct and operate in a manner affording security for life and property electric light and power lines along, over, under, or upon any road or across any railway or conduit which the route of the lines intersects or runs along.

Same Within any city

22476. A district may not construct and operate electric light and power lines along, over, under, or upon any road within any city unless permission to do so is granted by the governing body of the city, which in so doing may impose reasonable conditions upon the proposed use.

Same When permission not required

22477. Permission pursuant to Section 22476 is not necessary where the road to be used is a convenient part of the route of the lines and at the time construction of the lines was commenced or the plans for them were adopted was located in territory not within an organized city.

Restoration of road, etc

22478. A district constructing lines pursuant to this article shall restore the road, railway, or conduit intersected to its former state of usefulness as near as possible.

Article 4. Disposition of Property

Sale or lease of unnecessary property

22500. When a board determines by resolution entered upon the minutes that any property of the district is no longer necessary for district purposes, the district may for a valuable consideration sell or lease the property upon terms that appear to the board to be for the best interests of the district.

Lease of mineral rights

22501. A district may lease the right to produce any minerals or hydrocarbons in any property held by it upon the terms the board deems most beneficial to the district after the board has found by a resolution entered in its minutes that

Condition

the lease may be carried out without interfering with the use of the property for district purposes.

Execution of conveyances and leases

22502. All conveyances and leases of district property shall be executed by the secretary and president on behalf of the district in accordance with a resolution of the board.

Acquired through a collector's deed

22503. A district may sell, convey, lease, give and take options and contracts of sale upon, and otherwise deal with property acquired by it through a collector's deed, including sale to a former owner or holder, on terms and at a price approved by its board. Instruments to accomplish the same

shall be executed and acknowledged by the president and secretary.

Article 5. Lease of Works

Independent method

22525. This article provides an independent method of leasing and its provisions apply only to leases made pursuant to it.

When permitted

22526. A district may lease part or all of its works whenever the leasing will benefit the district.

Notice by publication

22527. When the board contemplates the leasing of the works of the district, it shall give notice thereof at least three weeks prior to the making of the lease, by publication at least once in some newspaper published in the principal county.

To whom

22528. The lease shall be made to the highest bidder, but any and all bids may be rejected.

Noninterference with prior rights

22529. The lease shall not interfere with any prior rights established by law.

Lessee's bond

22530. A good and sufficient bond shall be required by the board to secure the faithful performance of the lease by the lessees.

Article 6. Water Leases for Mechanical Purposes

Limitation of provisions

22550. The provisions of this article apply only to leases made pursuant to it.

Consistent with district's purposes

22551. Whenever a district in the development of its works has the opportunity without increased expenditure to lease for mechanical purposes not inconsistent with the district's purposes the use of water controlled by it, it may do so.

Resolution of intention

22552. Whenever the board desires to lease the use of water it shall pass a resolution of intention to do so.

Publication of notice

22553. Immediately after the passage of the resolution the secretary shall give notice of the intention, by publication for at least 20 days in one newspaper published in each affected county if a newspaper is published in it, and, if not, in any newspaper the board selects, and if the board thinks proper, in any other newspapers the board selects.

Contents of notice

22554. The notice of intention to lease the use of water shall state all of the following:

(a) The board will receive sealed proposals for the lease.

(b) The lease will be let to the highest responsible bidder.

(c) The time and place of opening the proposals.

Opening of proposals

22555. At the time and place appointed the board shall open in public the proposals to lease the use of water.

Leasing

22556. As soon after opening the proposals as may be convenient the board may let the lease in portions or as a whole to the highest responsible bidder or may reject any or all proposals and readvertise for proposals.

Rental

22557. The rental accruing upon a lease of the use of water may vary from year to year as specified in the lease and shall be payable semi-annually on the thirtieth day of December and thirtieth day of June of each year.

Penalty

22558. If at any time the rental is not paid on the day fixed, the amount of the rental due shall be doubled, and if not paid within the next succeeding 90 days, the lease shall

Forfeiture

be forfeited to the district, together with any and all works constructed, owned, used, or controlled by the lessee.

Disposition of moneys

22559. All money collected on a lease shall be paid into the district treasury and be apportioned to any funds the board deems advisable.

Lessee's bond

22560. Upon the letting of any lease, the board may require the lessee to execute a bond for the faithful performance of the covenants of the lease or give such other guaranty of good faith as in its judgment may be necessary.

22561. The lease may be for a period not exceeding 25 years.

CHAPTER 4. CONTROVERSIES

Article 1. Actions and Proceedings

May maintain or defend actions

22650. A district may commence and maintain any actions and proceedings to carry out its purposes or protect its interests and may defend in any action or proceeding brought against it.

In person or by attorneys

22651. In all actions or proceedings the board may sue, appear, and defend in person or by attorneys and in the name of the district.

Service of summons

22652. Service of summons upon a district may be made by serving it upon either the secretary or a majority of the directors elected.

Suit by bondholders

22653. Before an action or proceeding by the holders of bonds of a district to compel or restrain the doing of an act by the district or its board may be commenced or maintained, the holders of 10 per cent or more of the outstanding bonds of the district shall join in the action or proceeding as plaintiffs, petitioners, or applicants for the relief sought.

Article 2. Validation of Bonds and Assessments

Action in superior court of office county

22670. A district may at any time after the authorization of any bonds or the levy of any assessment bring an action in the superior court of the office county to determine the validity of the bonds or of the levy.

In rem

22671. The action is in rem.

Service by publication

22672. Jurisdiction of all parties interested may be had by publication of summons for at least once a week for three weeks in a newspaper of general circulation published in the county where the action is pending and designated by the court in which the proceedings are pending.

When jurisdiction complete

22673. Jurisdiction is complete 10 days after the completion of publication of summons.

Contest of validity

22674. Anyone interested may before the expiration of the 10 days appear and contest the validity of the bonds or assessments.

Action by district assessment payer

22675. If no proceedings have been brought by the district pursuant to this article, any district assessment payer may at any time within 30 days after the levy of any assessment or authorization of any bonds bring an action in the superior court of the office county to determine the validity of the assessment or bonds. The district shall be a defendant.

Consolidation of similar contests

22676. If more than one action is pending at the same time concerning similar contests provided for in this article, they shall be consolidated and tried together.

Applicable rules of pleading and practice

22677. The rules of pleading and practice in the Code of Civil Procedure not inconsistent with the provisions of this article are applicable to all actions or proceedings provided for by this article.

Irregularity or omission

22678. In a contest provided for by this article the court shall disregard any irregularity or omission which does not affect the substantial rights of the parties.

Speedy trial

22679. The action shall be speedily tried.

Decree of validity or invalidity

22680. The judgment shall declare the bonds or levy either valid or invalid.

Decree affecting exchanged bonds

22681. When a district has exchanged bonds or has agreed to exchange bonds for any interest in property the court in any proceeding brought by a district pursuant to this article shall by its decree determine both:

(a) The validity of all bonds issued or to be issued under any contract or contracts for the exchange of bonds for property interests.

(b) Whether or not the bonds when delivered to the person entitled to them under the terms of the contract will or do constitute valid obligations of the district as against all persons.

Motion for new trial

22682. The motion for a new trial of any action or proceeding provided by this article shall be heard and determined within 10 days from the filing of the notice of intention.

Costs

22683. The costs of any hearing or contest provided for in this article may be allowed and apportioned between the parties or taxed to the losing party in the discretion of the court.

Appeal

22684. Any party may appeal at any time within 30 days after the rendition of the judgment. The appeal shall be heard and determined within three months from the taking of the appeal.

Hearing and determination

Article 3. Limitations

No contest other than as provided

22700. No contest of any thing or matter herein provided shall be made other than in the time and manner herein specified.

Conclusiveness of findings or conclusions

22701. In any such action all findings of fact or conclusions of a board or board of supervisors upon all matters shall be conclusive unless the action was instituted within six months after the finding or conclusion was made.

Article 4. Public Liability

Official liability in administration

22725. No officer shall be personally liable for any damage resulting from the operation of the district or from the negligence or misconduct of any of its officers or employees unless the damage was proximately caused by the officer's own negligence, misconduct, or wilful violation of official duty.

Personal liability

Liability for negligence of agents or employees

22726. No officer or agent shall be liable for the negligence of any agent or employee appointed or hired by him unless he had actual notice that the person appointed or hired was inefficient or incompetent to perform the service for which he was appointed or hired or retains the inefficient or incompetent person after actual notice of the inefficiency or incompetency.

Verified claims for damages

22727. Whenever it is claimed that any person or property has been injured or damaged as a result of any dangerous or defective condition of any property under the control of any district or its officers or employees or the negligence of any officer or employee of a district, a verified claim for damages shall be presented in writing and filed with the officers or employees involved and the secretary within 90 days after the accident or injury has occurred.

Contents of claim

22728. Claims filed pursuant to Section 22727 shall specify the name and address of the claimant, the date and place of the accident or injury, and the nature and extent of the injury or damages claimed.

Condition precedent to *bringing* suit

22729. Compliance with Sections 22727 and 22728 is a condition precedent to the filing or maintaining of any action for the injury or damages.

District to pay judgment for official liability

22730. When an officer of a district is held liable for any act or omission done or omitted in his official capacity and any judgment is rendered thereon, the district shall pay the judgment without obligation for repayment by the officer.

No new liability

22731. Nothing in the preceding portion of this article shall be construed as creating any liability except as provided in Section 22730 unless it would have existed regardless of this article.

Insurance

22732. Any district may carry and pay for insurance to cover any liability of the district, its officers, employees, or any of them.

Article 5. Settlement of Damages to Water Rights of State Land

Authority of district to make final settlement

22750. In all controversies involving any damage to any and all water rights of any land which is heretofore or hereafter tax-sold or tax-deeded to the State, the State disclaims any interest in the controversy and authorizes the district within which the land is situated to make a final settlement of the controversy.

Damages involved

22751. The damages claimed in a controversy defined by this article are those occurring prior to the execution of the tax deed to the State.

Disposition of settlement money

22752. The money collected in the settlement pursuant to this article shall be paid into the treasury of the district for

district purposes and be apportioned to any funds the board deems advisable.

Satisfactory terms

22753. The settlement of a controversy defined by this article shall be upon terms satisfactory to the district.

Unimpairment of State's tax title

22754. The tax title of the State to the land involved remains wholly unimpaired by proceedings had pursuant to this article.

CHAPTER 5. PROVISIONS PERTAINING ONLY TO 500,000-ACRE DISTRICTS

Article 1. Introduction

Limitation of application

22825. The provisions of this chapter apply only to districts containing 500,000 acres or more.

Governing provisions

22826. Except as provided in this chapter every district containing 500,000 acres or more shall be governed by the provisions of this division.

Article 2. Internal Organization

Salary of directors

22840. Directors of districts subject to this chapter shall each receive a salary of two hundred dollars ($200) per month.

Additional sum to president

22841. The board may fix an additional sum to be paid to the president of the board, which additional compensation shall be subject to termination or change from time to time at the will of the board.

Powers of board

22842. The board may:

(a) Provide for and create divisions or departments for management and operating purposes.

(b) Appoint department heads.

(c) Classify and reclassify employees.

(d) Appoint any director or directors as a department head or to an executive position.

(e) Fix the duties, terms, and time of employment.

(f) Provide for and fix salaries, compensation, and expenses of department heads, executives, and employees.

Employment at will

22843. All department heads, executives, and employees shall hold their employment at the will of the board.

Same Director as employee

22844. Any appointment of a director as a department head or to an executive position or to any other employment while a director shall be subject to termination at the will of the board and shall in no event be for a period longer than the term for which the director was elected.

Limitation on increase of salary

22845. Only one director, including the president, may be paid any compensation in excess of two hundred dollars ($200) per month, exclusive of expenses and mileage, during any one period of time.

Article 3. Flood Protection

Flood protection

22875. Any district may expend sums that seem necessary to its board for the protection of its canal system or of land from damage by flood and the overflow of rivers.

Jointly with United States, or others

22876. The district may contribute funds for the purpose stated in Section 22875 to be expended by or jointly with the United States, other governments, or persons benefited by the same protective works.

Expenditures authorized without election

22877. A district may do all things necessary to insure its canal system and the land from any damage by flood or overflow without holding an election to authorize the expenditure.

Borrowing to amount of unsold bonds

22878. When the issuance of bonds by any district has been authorized by the voters for the purpose of protection against floods but the bonds have not been sold, the district may borrow for that purpose to the amount of the bond issue unsold at a rate of interest not exceeding 7 per cent per year. When the bonds have been sold, the amount borrowed under the provisions of this section shall be repaid.

Same Additional sums

22879. In addition to the powers conferred by Section 22878 any district may borrow for flood protection purposes in any one year not to exceed two hundred thousand dollars ($200,000) at a rate of interest not exceeding 7 per cent per year.

Article 4. Power Distribution

22900. (Repealed by Stats. 1943, Ch. 531.)

[ORIGINAL SECTION]

22900. No agreement having for its purpose the disposal of electric power generated in any power plant, except electric power distributed directly by a district to its inhabitants over its own transmission lines, shall be effective for any purpose until 90 days after all of the following occur:

(a) Execution of the agreement.
(b) Spreading on the minutes of the board of a copy of the agreement.
(c) First publication of notice to the voters of the district.

22901. (Repealed by Stats. 1943, Ch. 531.)

[ORIGINAL SECTION]

22901. The notice shall be published in each daily newspaper of the county in which the district is situated for five successive issues of each newspaper, the date of the first publication to be within two days after the date of the spreading of the agreement on the minutes of the board.

22902. (Repealed by Stats. 1943, Ch. 531.)

[ORIGINAL SECTION]

22902. The notice shall state in substance all of the following concerning the agreement:

(a) Its nature.
(b) Its consideration.
(c) Its effective date.
(d) Brief summary of its contents.

22903. (Repealed by Stats. 1943, Ch. 531.)

[ORIGINAL SECTION]

22903. If within the 90-day period a petition signed by voters of the district, equal in number to 20 per cent of the total number of votes cast for the office of treasurer, assessor, or collector whichever was the highest at the next preceding general election at which these offices were filled, asking that the agreement be submitted to the voters for their approval or rejection, is filed with the secretary, the board shall submit the agreement to the voters for their approval or rejection.

22904. (Repealed by Stats. 1943, Ch. 531.)

[ORIGINAL SECTION]

22904. No agreement described in Section 22900 shall after the filing of the petition go into effect until approved by a majority of the voters voting on the agreement.

22905. (Repealed by Stats. 1943, Ch. 531.)

[ORIGINAL SECTION]

22905. The agreement shall be submitted either at:

(a) The next succeeding general election to be held in the district subsequent to 30 days after the filing of the petition.

(b) An election called by the board in its discretion prior to the general election.

22906. (Repealed by Stats. 1943, Ch. 531.)

[ORIGINAL SECTION]

22906. The provisions of this article do not apply to any agreement which relates to the furnishing of funds to or the purchase of bonds of districts to be used for the development or distribution of electric power.

Article 5. Assessments

Money to be raised by levy

22950. Every district by its board, each year within 15 days after the close of its session as a board of equalization, shall levy an assessment sufficient to raise all of the following:

(a) Annual interest on any outstanding bonds of the district except to the extent that provision is otherwise made as permitted by law.

(b) Principal of outstanding bonds of the district as they mature except to the extent that provision is otherwise made as permitted by law.

(c) Obligations of the district due or to become due within the succeeding 12 months except to the extent that provision is otherwise made as permitted by law.

(d) A sum which with the other revenue of the district will meet the estimated current expenses of the district for the succeeding 12 months.

(Amended by Stats. 1943, Ch. 532.)

[ORIGINAL SECTION]

22950. Every district by its board, each year within 15 days after the close of its session as a board of equalization, shall levy an assessment sufficient to raise all of the following:

(a) Annual interest on any outstanding bonds of the district except to the extent that provision is otherwise made as permitted by law

(b) Principal of outstanding bonds of the district as they mature except to the extent that provision is otherwise made as permitted by law.

(c) Obligations of the district due or to become due within the succeeding 12 months.

(d) A sum which with the other revenue of the district will meet the estimated current expenses of the district for the succeeding 12 months

Article 6. Miscellaneous Provisions

(Article 6 added by Stats. 1943, Ch. 686.)

Borrowing money Conditions

22960. Every district by its board may, in addition to other powers, borrow funds for any lawful purpose at an interest rate not exceeding 5 per cent per year and issue warrants therefor payable at future dates. No election authorizing such

borrowing or issuance of warrants need be held but the principal amount of such indebtedness unpaid at any time shall not exceed two hundred thousand dollars ($200,000).

(Added by Stats. 1943, Ch. 686.)

Reserve fund

22961. A reserve fund from assessments or other revenues for emergencies, replacements or other lawful purpose of the district may be provided by the board.

(Added by Stats 1943, Ch. 686.)

PART 6. COOPERATION

CHAPTER 1. JOINT PROPERTY

Cooperative agreements

23100. A district may make and perform any agreement with the United States, any State, county, district of any kind, public corporation, any person, or any number of them for the joint acquisition, disposition, or operation of any property of a kind which might be acquired by the district.

CHAPTER 2. COOPERATION WITH UNITED STATES

Article 1. General Provisions

Title

23175. This chapter shall be known and may be cited as the Irrigation District Federal Cooperation Law.

Limitation on provisions

23176. The provisions of this chapter apply only to proceedings taken under it and do not apply to district operations unrelated to cooperation with the United States.

Effect on other provisions of this division

Except as required expressly or by necessary implication by this chapter all other provisions of this division are unaffected by this chapter.

Applicable definitions

23177. The definitions in Chapter 2 of Part 1 of this division are applicable to this chapter.

Nonapplicable provisions

23178. The provisions of Article 4 of Chapter 2 of Part 5 of this division do not apply in case of any contract between a district and the United States.

Performance of necessary acts

23179. The board shall perform all acts necessary to carry out the enlarged powers enumerated in this chapter.

Article 2. Contracts With United States

Title 43, U S C. Sec 391

23195. Districts may cooperate and contract with the United States under the Federal Reclamation Act of June 17, 1902, and all acts amendatory thereof or supplementary thereto or any other act of Congress heretofore or hereafter enacted permitting cooperation.

Purposes

23196. The cooperation and contract may be for any or all of the following purposes:

(a) Acquisition, extension, or operation of works for irrigation or drainage or development and distribution of electric power or any or all of these purposes.

(b) A water supply.

(c) Assumption as principal or guarantor of indebtedness to the United States on account of district land.

(d) Borrowing or procuring money from the United States to finance any of the operations of the district.

(e) Financing or refinancing obligations of the district, including outstanding warrants or other indebtedness.

(f) Purchasing or refunding bonds of the district.

(g) Accomplishing any of the purposes of the district.

Contract provisions

23197. In a contract made pursuant to Section 23196 a district may include provision for either or both of the following:

(a) Delivery and distribution of water for the land in the district under the relevant acts of Congress and the rules and regulations established thereunder.

(b) Conveyance to the United States as partial consideration for the privileges obtained by the district under the contract of any property of the district.

Transfer of district bonds to United States

23198. When a contract has been made with the United States, if so provided by the contract and authorized pursuant to this chapter, bonds of the district may be transferred to or deposited with the United States, at not less than 95 per cent of their par value, to the amount or any part thereof to be paid by the district to the United States. The interest or principal or both on the bonds shall be raised by assessment and levy as prescribed in this chapter and shall be regularly paid to the United States and applied as provided in the contract. The bonds may provide for the payment of interest at a rate not exceeding 6 per cent per year, be of the denominations, and call for the repayment of the principal at the times, all as agreed upon.

Further provision regarding payment

23199. The contract with the United States may likewise call for the payment of the amount or any part thereof to be paid by the district to the United States, at the times, in the installments, and with interest charges not exceeding 6 per cent per year, all as may be agreed upon, and for assessment and levy as provided in this chapter.

Laws governing distribution of water

23200. All water, the right to the use of which is acquired by a district under any contract with the United States shall be distributed and apportioned by the district in accordance with the applicable acts of Congress, the rules and regulations of the Secretary of the Interior thereunder, and the provisions of the contract, and provision may be made in the contract for the refusal of water service to any or all land which may become delinquent in the payment of any assessment levied for the purpose of carrying out the contract.

Permitted sale or lease of water

23201. A district may pursuant to the contract sell or lease water for private land, to entrymen, or to municipalities, in the neighborhood of the district.

Dissolution of district or change in boundaries

23202. When a contract pursuant to this chapter has been entered into between the United States and any district, the district shall not be dissolved, nor shall its boundaries be changed, except upon written consent of the Secretary of the Interior filed with the official records of the district. If consent is given and land is excluded, the areas excluded shall be

free from all liens and charges for payments to become due to the United States.

May act as fiscal agent of United States

23203. A district may accept an appointment to collect money for or to act as fiscal agent of the United States in connection with any Federal reclamation project, and the district may assume the duties and liabilities incident to this action and do any and all things related to the appointment required by the Federal statutes now or hereafter enacted and by the applicable rules and regulations now or hereafter established by any department of the Federal Government.

Conveyance of property to United States

23204. Any property owned or acquired by a district may be conveyed by it to the United States in so far as the property may be needed for the construction or operation of works by the United States for the benefit of the district pursuant to the contract.

Article 3. Approval of Federal Contracts

When approval election required

23220. A proposal to enter into a contract with the United States shall be authorized at an election if the contract is for any or all of the following:

(a) Repayment of construction money.

(b) Repayment of the cost of acquiring any property.

(c) Issuance of bonds.

Conduct of election

23221. Proceedings at the election shall be had in so far as applicable in the manner provided in the case of the ordinary issuance of district bonds.

Commission to examine proposal

23222. The proposal and, if any, the plan of the project, including a copy of the estimate of cost and the engineer's report, shall be submitted to the commission for its examination and report. The proceedings in that regard shall be in accord with the proceedings provided in Chapter 1 of Part 9 of this division as far as they may be applicable.

Additional statements in notice of election

23223. Notice of the election shall contain in addition to the information required in the case of ordinary bond elections a statement of the maximum amount of money to be payable to the United States for construction purposes and cost of water supply and acquisition of property, exclusive of penalties and interest, and a general statement of the property, if any, to be conveyed by the district pursuant to the contract.

Contents of ballots

23224. The ballots at the election shall contain a brief statement of the general purpose of the contract substantially as stated in the notice of election and the extent of the obligation to be assumed with the words "Contract—Yes" and "Contract—No" or "Contract and bonds—Yes" and "Contract and bonds—No" whichever may be applicable.

Submission of contract and bond issue to superior court

23225. A district may submit any contract or proposed contract and bond issue to the superior court of the county in which is situated the office of the board to determine the validity thereof, the authority of the district to make the contract, and the authority for and validity of the issuance and deposit or transfer of the bonds. The validation pro-

ceedings shall be had as in the ordinary case of the judicial determination of the validity of district bonds and with like effect.

Article 4. Federal Contract Assessments

Source of revenue

23240. All payments to the United States under any contract between a district and the United States, including payments of interest and principal on bonds deposited with or transferred to the United States, shall be paid, unless otherwise provided by the contract, from revenue derived from annual assessments, apportioned pursuant to this chapter, upon real property within the district assessable for district purposes under the laws of the State, and the real property shall be and remain liable to be assessed and levied upon for the payments.

Annual levy

23241. The district by its board shall annually levy an assessment sufficient to raise the money necessary to meet all payments when due as provided in the contract.

Ascertainment of benefits

23242. The assessment required in any year to meet the payment due to the United States for all purposes under the contract may be apportioned in accordance with the benefits. In the ascertainment of the benefits there shall be taken into account:

(a) The provisions of the contract, the applicable Federal laws, and the notices and regulations issued in pursuance of those laws.

(b) In addition, in case the contract is for the assumption by the district as principal or guarantor of indebtedness to the United States theretofore existing on account of district land, the provisions of existing contracts carrying the indebtedness and the amounts of the liens that may be released in pursuance of the contract.

Public lands of United States assessable Title 43, U S C, Sec 621, et seq

23243. Public land of the United States within any district shall be subject to assessment for all purposes of this chapter to the extent provided for by the act of Congress approved August 11, 1916, entitled "An act to promote reclamation of arid lands," or any other law which may hereafter be enacted by Congress in the same relation, upon full compliance therewith by the district.

District's obligation to pay

23244. Nothing in this chapter relieves any district from its obligation to pay as a district in case of the default of any land unless so provided by the contract.

Disposition of money

23245. All money collected in pursuance of the contract shall be paid into the district treasury and held in a fund to be known as the "United States Contract Fund" to be used for payments due to the United States under the contract.

Article 5. Construction of Works for United States

District may contract or submit bids

23260. When the United States is authorized to construct works for the benefit of any district and the district is obligated to repay the construction cost in whole or in part to

the United States, the district may by resolution of its board enter into a contract with the United States for the construction of the works or may submit bids for the construction of the works the same as any other person may submit bids for the construction of the works.

District's bond for performance

23261. If a district is the successful bidder for the construction of the works or any part of them, the district may execute at its expense a bond for the faithful performance of the work and do any and all things required by the United States as would be required of any other successful bidder.

Manner and regulation of performance

23262. A district upon the execution with the United States of a contract for the construction of works by the district shall proceed with the work in the same manner and under the same laws and rules and regulations as would apply to the district in the construction of any works which it is authorized to construct.

District may borrow money

23263. For the purpose of providing the necessary money to carry on the construction work the district may borrow money for a term not exceeding five years at rates of interest, to be fixed by its board, not exceeding 7 per cent per year and issue notes, warrants, or other evidences of indebtedness therefor. The aggregate amount of the indebtedness shall at no time exceed one-half of the total construction cost as provided in the construction contract.

Application of installments under contract

23264. Any money received by a district from the United States under the contract shall first be applied to the retirement of notes, warrants, or other evidences of indebtedness issued pursuant to this article.

Article 6. Borrowing from United States

Purposes

23280. In addition to other powers conferred by this chapter districts may pursuant to this article borrow or procure money from the United States for any of the following purposes:

(a) Financing any operations or purposes of the district.

(b) Financing or refinancing any or all of the obligations of the district.

(c) Refunding or purchasing bonds of the district.

Agreement regarding amount of levy

23281. When the United States has appraised the security underlying the indebtedness of any district or loans any district money to refund any of its indebtedness or to finance any of its operations, the district may in contracting for the loan agree that it will not during the life of the loan levy any assessment for an amount less than required by the contract.

Execution of contract

23282. Any district, upon being authorized so to do as provided by Article 3 of this chapter as modified in this article, may as evidence of the loan execute a contract with the United States.

Issuance of bonds

23283. A district may issue bonds if required by the contract or without a contract.

23284. The bonds shall contain any terms and be payable in any manner and from any source of revenue that may be agreed upon between the district and the United States and may bind the district for the payment of the bonds according to the terms thereof. Same: Terms and conditions

23285. The bonds may be serial or sinking fund bonds, may be made callable either by number or by lot, and may be made payable to bearer or to the United States. They shall be in the form and authorized and issued in the manner substantially as provided for refunding bonds of districts. Same: Types; how callable

23286. A proposal to enter into any contract with the United States pursuant to this article need not be submitted to the commission. Proposal need not be submitted to commission

23287. A majority vote at an election shall be sufficient to authorize the execution of the contract. Authorization by majority of electors

23288. The notice of election and ballot need contain only the information required in the case of ordinary bond elections. Contents of notice of election and ballot

23289. Proposals both to enter into a contract and to issue bonds may be voted upon as a single proposition. Single proposition

Article 7. County Water Districts as Irrigation Districts

23300. As used in this article "county water district" means a county water district which has heretofore executed or shall hereafter execute a contract with the United States for any or all of the following purposes: "County water districts"

(a) Acquisition, extension, or operation of works for irrigation or drainage or flood control or the development of electric or other power. Purposes of contract

(b) A water supply.

(c) Assumption as principal or guarantor of indebtedness to the United States

23301. Every such county water district shall, within the meaning of the act of Congress approved August 11, 1916, entitled "An act to promote the reclamation of arid lands" and of the act of Congress approved May 15, 1922, entitled "An act to provide for the application of the reclamation law to irrigation districts," be deemed to be an irrigation district organized and created under the irrigation district laws of this State. Title 43, U.S.C., Sec 511

23302. Public land of the United States within any such county water district is subject to assessment and taxation for all purposes of such district to the extent provided in said acts of Congress upon full compliance therewith by the county water district. Public lands of United States subject to assessment and taxation

Chapter 3. Cooperation With Other Districts

Article 1. Cooperation With Districts in Other States

23375. The provisions of this chapter do not extend the right of eminent domain to any public use in behalf of which it may not otherwise be exercised. Right of eminent domain not extended

Joint acquisition

23376. Districts may enter into agreements with irrigation districts in adjoining States for the joint acquisition, management, and control of diverting, impounding, or distributing works for irrigating or draining land within the boundaries of the respective districts.

Same: Evidence of agreements

23377. Agreements pursuant to this article may be evidenced by written contracts executed on behalf of the board of directors or trustees of each respective district or by resolutions entered upon their respective minutes.

Same Recordation of contracts and resolutions

23378. The contracts or certified copies of them and certified copies of the resolutions shall be recorded in the office of the county recorder in each county in which is situated any of the land of the districts or any of the reservoir sites or other real property owned by the districts or acquired pursuant to this article.

Same Types of ownership, terms and proportions

23379. Agreements made pursuant to this article may provide for joint ownership, several ownership, or ownership in common of the property convenient for their joint purposes and may provide for the terms under which or the respective proportions in which the property shall be held.

Jurisdiction of courts

23380. Any rights or disputes arising out of or from the agreements may be tried before and enforced by any court of competent jurisdiction in this State.

Place of meetings

23381. Any meeting of a board regularly adjourned to or called substantially in the manner for calling special meetings may be held in conjunction with the board of the cooperating district in the cooperating district in the adjoining State with the same validity as if held at the district office in this State.

Use of water

23382. For the purposes of cooperative action pursuant to this article either district may divert water from either or both States for either or both impounding in the adjoining State or for distribution to the land of either or both cooperating districts.

Title to property outside State

23383. So far as necessary for carrying out the purposes of this article a cooperating district in an adjoining State may hold title to property in this State, and a cooperating district in this State may hold title to property in the adjoining State.

Article 2. Cooperation With County Water Districts

"Districts"

23450. As used in this article "districts" means one or more irrigation districts together with one or more county water districts.

"Contract with the United States"

23451. As used in this article "contract with the United States" means a contract made under the provisions of the Federal Reclamation Law for any or all of the following purposes:

(a) Acquisition, extension, or operation of works for irrigation, drainage, flood control, or development of electric or other power.

(b) A water supply.

(c) Assumption as principal or guarantor of indebtedness to the United States.

"Power rights"

23452. As used in this article "power rights" includes power possibilities, power resources, and power privileges.

Requisites for contracting

23453. Districts may contract with each other pursuant to this article only when both:

(a) Each of the districts before or after contracting pursuant to this article makes a contract with the United States.

(b) All of the contracting districts propose to divert or carry water for use in the districts by means of a single main canal or system of works.

When contracts effective

23454. Any contract between districts made before each of the districts has made a contract with the United States shall be effective when all of the districts have so contracted with the United States.

Compromise and settlement of water disputes

23455. In any contract between districts they may contract to compromise and settle any controversies existing between them as to the extent or priority of their respective rights and claims to the use of water and agree upon the limitation and definition of the areas within them respectively upon which such water shall be beneficially used.

Amendment of applications previously filed

23456. Districts may also contract that applications theretofore filed by either of them with the Division of Water Resources shall be amended to conform to the provisions of the contract between them and that permits and licenses be issued accordingly.

Compromise and settlement of disputes over power rights

23457. Districts may also contract to compromise and settle any controversies existing between them as to power rights upon the canal or other water system, and for these purposes any of the districts may demise to another of the districts all of the power rights which the demising district has or thereafter obtains.

Term of lease of power rights

23458. The lease may be made for any term not exceeding 99 years and may vest in the lessee the operation, management, development, and control of the power rights and the use, sale, and control of power produced therefrom. The lease may provide for the payment of rentals and any other matters relevant to the leasing of the power rights as the districts may in their discretion deem advisable not in conflict with the Constitution of this State nor with the express terms of the statutes under which the districts are respectively organized and exist.

Further contractual obligations of lessor

23459. Districts may also contract that when the lease has been executed, the lessor may be required upon any terms agreed upon to procure for the lessee district contracts or applications for electric power signed by consumers in the lessor district and that the lessee district shall serve electric power in the lessor district at rates and upon terms and conditions prescribed in the contract.

Obtaining permits and licenses

23460. Districts may also contract that they shall cooperate to obtain permits and licenses to appropriate water for power purposes and to construct power facilities from the Division

of Water Resources of this State or any Federal agency or both in the manner prescribed in the contract.

Other subject matter

23461. Districts may also contract for any other matters authorized by law.

Power to perform contracts

23462. Districts so contracting have full power to perform and observe the contracts in accordance with the tenor and spirit thereof.

Liberal construction

23463. Contracts made pursuant to this article shall be liberally construed to effectuate them according to their true intent.

Authorization of contract by resolution

23464. The execution of a contract between districts may be authorized by resolution of their respective boards.

Retroactive provisions

23465. Any and all such contracts executed prior to September 13, 1941, by and between such districts and all acts of boards of directors and other officers of such districts leading up to and including the execution of such contract or contracts, are hereby legalized, ratified, confirmed and declared valid to all intents and purposes, and the power of such districts to execute, carry out, perform and observe such contracts and every provision thereof is hereby ratified, confirmed and declared valid and such contracts are hereby declared to be in all respects the legal and binding obligations of, against and in favor of each of such contracting districts.

PART 7. IMPROVEMENT DISTRICTS IN IRRIGATION DISTRICTS

CHAPTER 1. FORMATION

Article 1. Petition for Formation

Requirements of contiguity

23600. Contiguous land may be formed into an improvement district for one or more of the following:

Purposes

(a) Irrigation or domestic water service by a system of pumps or conduits or both.

(b) Drainage.

(c) Acquisition of existing works incidental to a water distribution system separate from or supplemental to the works of the district.

(d) Change or improvement of the water distribution system of the district.

(e) Maintenance of irrigation works of the district and works for water supply or drainage or both in or for the improvement district.

(f) Control of weeds in or along conduits.

Definitions

23601. As used in connection with improvement districts:

(a) "Improvement" includes acquisition of existing works, construction of new works, and change of existing works and excludes operation, maintenance, and weed control.

(b) "Construction" includes change of existing works.

(c) Both "operation" and "maintenance" include weed control.

Petitioners

23602. The formation of an improvement district may be proposed and the petition therefor shall be signed by two-

thirds or more in number of the holders of title to the land in the proposed improvement district.

Petition Contents

23603. A petition for the formation of an improvement district shall contain all of the following:

(a) Statement of the plans of the proposed improvement.

(b) Description of the land in the proposed improvement district.

(c) Names of the owners of all land within the proposed improvement district with their last known addresses.

(d) Description of the land owned in the proposed improvement district by each owner, which shall be according to the next preceding equalized assessment book of the district.

(e) Signatures of the petitioners.

Same: Designation by number

23604. The petition, all proceedings in reference to it, the improvement district, and the land in it shall be designated by a number.

Same Form

23605. The petition may consist of any number of separate instruments, which shall be duplicates except as to signatures.

Same Filing and inspection

23606. A petition to form an improvement district shall be filed with the secretary in the office of the district and may be inspected by all persons interested.

Article 2. Plans and Estimate of Assessment

Survey

23625. Upon receipt of a petition to form an improvement district the board shall cause a survey to be made of the proposed improvements, if any.

Other data if improvements feasible

23626. If the survey shows that the improvements are feasible, the board shall cause to be prepared the following:

(a) Plans and specifications of the improvements proposed to be constructed when the petition proposes the construction of improvements.

(b) An estimate of the cost of the proposed improvements.

(c) Statement of the proposed assessment for the cost of the proposed improvements apportioned to each tract of land in the proposed improvement district as the tracts appear on the last equalized district assessment book, which apportionment shall be according to the benefits that will accrue to each tract by virtue of the proposed improvements.

Same Filing and inspection

23627. If there are any, the plans and specifications, estimate of cost, and the statement of the proposed assessment shall be filed with the secretary in the office of the district and may be inspected by all persons interested.

Article 3. Hearing on Formation

Notice of hearing—Contents

23645. After the filing of the formation petition, and if any, the plans and specifications, the estimate of cost, and statement of the proposed assessment, the board shall give notice of a hearing upon the petition, and if a special assessment is to be levied in the improvement district pursuant to Article 4 of this chapter, the notice shall also state that the

hearing is called to determine whether or not the special assessment should be levied.

Manner of giving notice

23646. Notice of the hearing shall be given by all of the following:

(a) Posting a notice in three public places within the proposed improvement district.

(b) Publication of the notice once a week for two weeks in a newspaper published in the office county.

(c) Mailing a copy of the notice to the last known address of all of the owners of land in the proposed improvement district to the addresses appearing in the petition.

Time

The notices shall be posted and mailed not less than 20 days prior to the date set for the hearing.

Hearing Objections to petition, etc

23647. At the hearing the board shall hear any objections coming before it to any of the following:

(a) The petition.

(b) The formation of the improvement district.

(c) The land to be included within the improvement district.

(d) The plans and specifications.

(e) The estimate of cost.

(f) The proposed assessment.

(g) The apportionment of the assessment.

Same Changes in petition, etc

23648. At the hearing the board shall make any changes in reference to the matters set forth in Section 23647 as it considers proper. The board may exclude any part of the land described in the petition from the proposed improvement district and may include additional land.

Same Continuance if additional land included and notice

23649. If any additional land is included in the proposed improvement district, the hearing shall be continued and the owners of the added land given personal notice of not less than 20 days of the addition of the land to the improvement district.

Article 4. Formation and Assessment

When petition must be denied

23665. Regardless of any findings made by the board if more than one-third in number of the holders of title to land within a proposed improvement district object at the hearing to its formation or the levy of the proposed assessment, the board shall deny the petition, and no further proceeding shall be had on it.

Dismissal without prejudice

23666. If at the hearing the board finds that it would not be for the best interests of the district and the proposed improvement district to form the improvement district the board shall order the proceedings dismissed without prejudice to their renewal.

Order and contents

23667. If the board finds that it would be for the best interests of the district and the proposed improvement district to form the improvement district, it shall make and enter in its minutes a final order:

(a) Approving the petition.

(b) Forming the improvement district.

(c) Levying the assessment if any is provided for and if the assessment is necessary.

(d) Apportioning the assessment, if levied, to the land in the improvement district according to benefits.

Description of land

23668. The order shall contain a description of the land in the improvement district.

Sums included in assessment

23669. Any assessment levied pursuant to Section 23667 shall include both of the following sums:

(a) An amount equal to interest on any deferred payments at a rate not exceeding 7 per cent each year.

(b) An amount equal to 10 per cent more than all other sums to be raised by the assessment, in order to provide for anticipated delinquencies.

Maximum number of installments

23670. The assessment may be made payable in not more than 10 annual installments.

Recording of creating order

23671. The secretary shall cause a certified copy of the order creating the improvement district to be recorded in the office of the county recorder in each county in which any land of the improvement district is situated.

Lien on land

23672. The assessment and each installment of it shall be and remain a lien on the land in the improvement district in the same manner as and be a part of the annual assessment of the district.

Reapportionment of assessment

23673. Upon a change or resubdivision upon the assessment book of the district of any parcel of land in an improvement district, the board upon a petition of the owner of the parcel so changed or resubdivided, may reapportion the improvement district assessment upon the parcel, and the order of reapportionment shall be recorded in the same manner as the order levying the original assessment.

Order to be recorded

CHAPTER 2. ALTERNATIVE PROCEDURE FOR FORMATION

Article 1. Proposal by Board

Limited in cost and acreage

23750. This chapter provides an alternative procedure for forming an improvement district within a district for the purpose of the construction of improvements in it, or the acquisition, installation, replacement, or extension of existing works for the production and distribution of water, or any number of these if the cost thereof will not exceed the sum of five thousand dollars ($5,000) and the area of the land to be included in the improvement district does not exceed 100 acres.

Applicable provisions

23751. Unless otherwise expressly provided the formation proceedings provided by this chapter shall be conducted in accordance with the provisions of the next preceding chapter.

No petition required

23752. No petition is required for the formation of an improvement district pursuant to this chapter.

Survey by resolution of board

23753. The board may by resolution cause a survey of the proposed improvement to be made, which survey shall include each of the following:

(a) Detailed plans and specifications.

(b) An estimate of the total cost of the improvement.

(c) A description of the land to be benefited.

Article 2. Hearing and Formation

Requisites to holding hearing

23770. If the cost of the improvements does not require a special assessment in excess of a total of fifty dollars ($50) per acre over an area to be improved not in excess of 100 acres, the board may by resolution set a time for a hearing on whether or not to form the improvement district.

Notice of time and place of hearing

23771. The board shall give notice of the time and place of the formation hearing in the same manner as provided for the giving of notice for the hearing of a formation petition pursuant to Chapter 1 of this part except that the notice to be mailed to the property owners shall be addressed to their last known address as shown on the assessment book or other records of the district.

Owners may oppose or support

23772. Owners of the property proposed to be included within the improvement district may be heard either in opposition to or in support of the formation of the improvement district.

Conduct of proceedings

23773. Proceedings at the hearing shall be the same as provided for at a hearing upon the formation petition pursuant to Chapter 1 of this part.

Order of formation, or dismissal of proceedings

23774. Upon the conclusion of the hearing to form an improvement district an order shall be made by the board either dismissing the proceedings or ordering the improvement to proceed in the same manner and with the same effect as provided in Article 4 of Chapter 1 of this part.

Limitation on amount of assessment

23775. If a formation order is made pursuant to this chapter, the land formed into the improvement district shall, for a period not to exceed five years, be assessed in an amount not to exceed ten dollars ($10) per acre per year in addition to the regular assessments levied on the same land annually for district purposes.

Procedure for levy, collection, etc.

23776. Assessments in an improvement district formed pursuant to this chapter shall be levied, collected, and enforced at the same time and in the same manner as annual assessments for district purposes.

CHAPTER 3. FURTHER ASSESSMENTS AND INCLUSION

Article 1. Supplemental Assessments

Insufficiency of funds

23850. If the assessments levied upon land in an improvement district are insufficient to pay the cost of improvements or the warrants issued for the improvements, a supplemental assessment shall be levied upon all of the land in the improvement district sufficient to pay the cost or the warrants.

Procedure to be followed

23851. The procedure followed in making the supplemental levy shall be substantially the same as for making the original levy, except that no petition is required.

Article 2. Assessment for New Purposes

Petition by title holders

23865. Whenever it is desired to do additional work or acquire additional property in or for an improvement district,

upon the petition of two-thirds in number of the holders of title to the land in the improvement district an additional assessment may be levied substantially in the same manner as the original assessment.

Article 3. Inclusion of Land

Petition for inclusion

23875. If at any time it is desired to include additional land in an improvement district, a petition for inclusion signed by the owners of the land to be included and by two-thirds in number of the holders of title to the land in the improvement district may be filed with the board.

Contents of petition

23876. The inclusion petition shall describe the land in the improvement district as enlarged by the proposed inclusions and give the names and addresses of the owners of the additional land in substantially the same manner as in the original petition for forming an improvement district.

Proceedings

23877. The same proceedings shall be had on the improvement district inclusion petition as upon the original petition for the formation of an improvement district.

Chapter 4. Functioning of Improvement Districts

Article 1. Improvement District Management

Rights, powers and privileges

23950. In a district containing an improvement district the board and all of the officers of the district each respectively has all the rights, powers, and privileges as to the improvement district, its land, and the proceedings in relation to the improvement district that each respectively has for the district of which the improvement district is a part, including the right of the district to acquire, own, and hold property.

May hold property as trustees

23951. The board may also hold property used or acquired in connection with the improvement in the name of the directors and their successors in office as trustees for the improvement district.

Agreement regarding use of water

23952. The board of a district in which an improvement district exists may allow on terms that may be agreed upon any person to carry water through any conduit for the improvement of which the improvement district was formed and may cancel the right in the event that payments are not made in accordance with the agreed terms.

Work and materials

23953. The work of improvement provided for in this part and the purchase of all supplies, material, and equipment therefor shall be performed by the district, or in the discretion of the board contracts may be made for the work and material after notice calling for bids, as prescribed by the board.

Charges for water, etc., in lieu of assessments

23954. The board of the district may in lieu in whole or in part of levying assessments for the operation of improvement district works fix and collect charges for the use of water or for any other service furnished by means of the improvement district works in the same manner and with the

same effect as charges are made and collected by districts for the use of water or for services.

Article 2. Improvement District Warrants

Limitations on amount of warrants

23975. A district may issue improvement district warrants signed by its president and secretary in face amount not exceeding in the aggregate the cost of the improvements exclusive of interest and amounts paid prior to the issuance of these warrants on the assessment levied to pay for the improvement.

How payable

23976. Improvement district warrants shall be made payable in amounts and at the times corresponding substantially to the amounts and times of payment of the installments of the improvement district assessment.

Interest

23977. Improvement district warrants shall bear interest at the rate fixed at the time of the levy of the improvement district assessment, and the interest may be made payable semiannually.

Interest coupons

23978. Coupons for the interest on these warrants may be attached to them.

Payees

23979. Improvement district warrants may be made payable to any of the following:

(a) Bearer.

(b) Persons furnishing work, labor, or material.

(c) The contractor if the work of improvement is to be done under contract.

Sale by district

23980. Improvement district warrants may be sold by the district for not less than par at either public or private sale.

Investment by district

23981. Any money held by a district in a sinking or depreciation fund may in the discretion of its board be invested in the warrants of any improvement district within the district.

Article 3. Advance Payment of Assessments

Prepaying of assessments

24000. At any time before improvement district warrants are issued, the amount of any improvement district assessment on any land, exclusive of interest and the 10 per cent added for anticipated delinquencies, may be paid in money.

Remaining liability

24001. Land on which the amount of the improvement district assessment has been paid pursuant to Section 24000 shall not be subject to the annual installments of the assessments levied for the purposes of the improvement, but it shall be and remain liable for any assessments levied for operation and for any supplemental or additional improvement district assessments levied.

Assessment warrants as payment

24002. Any landowner of an improvement district who desires at any time to lessen or remove the lien upon his land of any improvement district assessment may deliver to the district treasurer for cancellation warrants payable out of the assessment.

Same: Requirement as to maturity

24003. The board may require warrants delivered to lessen or remove an improvement district assessment lien to be

substantially of the average maturities of the issue of warrants.

Cancellation, and record of payment

24004. The treasurer shall notify the board of the amount of the principal and interest due and to become due on the warrants delivered for cancellation. The board shall thereupon cause the proper cancellation and proper record and credit to be made against the improvement district assessment on the land of the person delivering the warrants.

Article 4. Actions and Proceedings

Conclusiveness of acts, etc

24020. All acts, proceedings, conclusions, and findings of fact, including the levy of an assessment, by a board of a district concerning an improvement district therein shall be conclusive except in an action or proceeding instituted within six months after the acts, proceedings, conclusions, or findings were had or made.

Exception

Action to determine validity

24021. The board of a district in which an improvement district is located may, at any time after the levy of any assessment or the issuance of any warrants for the improvement district, bring an action to determine the validity of the assessment or the issuance of the warrants in the same manner and with the same effect as provided for the determination of the validity of district bonds and assessments.

Irregularities or omissions

24022. No irregularity or omission not affecting the substantial rights of the landowners within an improvement district shall affect the validity of any act done or proceeding taken in relation to the improvement district.

Chapter 5. Dissolution of Improvement Districts

Petition for dissolution

24100. At any time prior to the incurring of any indebtedness or upon the full payment of all indebtedness of an improvement district, a petition, signed and acknowledged by not less than the number of holders of title to land constituting the improvement district required to sign a petition to form the improvement district, may be filed with the board requesting that the improvement district be dissolved.

Hearing

24101. A hearing on dissolution shall be had in the same manner and after the same notice as is required for the formation of an improvement district.

Order of dissolution

24102. The board may, after the hearing, order the improvement district dissolved.

Same Recordation

24103. The order of dissolution shall be recorded in the same manner as the order forming the improvement district.

PART 8. FINANCIAL ORGANIZATION

Chapter 1. General Financial Provisions

Article 1. Creation of Liabilities

Limiting provisions Void debt or liability

24250. A district may not incur any debt or liability whatever in excess of the express provisions of this division. Any debt or liability so incurred is absolutely void.

Organization expenses

24251. For the purposes of formation or for any other of its purposes a district may, before the levying of the first

assessment, incur indebtedness in a total amount not to exceed two thousand dollars, ($2,000) or, if the district contains more than 4,000 acres, one-half as many dollars as there are acres of land in the district.

Rights not affected

24252. Nothing contained in this article shall be construed to limit the right of a district to enter into any contract or lease for any property necessary in the judgment of its board for any of the uses or purposes of the district and by the lease or contract to bind the district for the payment of the consideration specified in the lease or contract as may be provided therein.

When approval by commission necessary

24253. If the largest payment to be made under any one lease or contract for any property exceeds in any year an amount equal to one-fourth of one per cent of the total valuation of the land in the district according to the assessment next equalized before the making of the lease or contract, the lease or contract shall not be valid unless it is approved by the commission or unless a particular purpose or emergency assessment sufficient to meet all of the principal payments to become due under the lease or contract is authorized.

Further requirement

Article 2. Settlements and Statements

Duties of collector

24270. On the first Monday in each month the collector shall do all of the following:

(a) Settle with the secretary for all money collected for assessments during the month next preceding.

(b) Pay the money to the treasurer.

(c) File in the district office with the secretary the receipt of the treasurer for the money paid.

24271. The collector shall be credited in his settlement with both:

(a) The amount due to the district on property he sells to the district for delinquent assessments.

(b) The amount by which any assessment is canceled or modified by order of the board.

Same Further duties

24272. Within six days after he settles with the secretary, the collector shall file in the district office with the secretary a statement under oath, showing:

(a) An account of all his transactions and receipts during the period for which the settlement was made.

(b) Payment to the treasurer of all money collected by him as collector during the period for which the settlement was made except redemption money held for assignees of certificates of sale.

(c) The respective sums of redemption money held by him for assignees of certificates of sale and the names of the persons entitled to receive this money if known to him.

Duties of treasurer

24273. The treasurer shall on the first Monday in each month file in the district office with the secretary a verified written report to the board showing all of the following:

(a) The amount of money in the district treasury at the close of the month next preceding.

(b) The amount of receipts for the month next preceding.

(c) The amount and items of expenditures for the month next preceding.

Duties of board

24274. The board on or before its regular monthly meeting in March of each year shall render and immediately publish a verified statement of the financial condition of the district showing particularly:

(a) Receipts of the next preceding year and their sources.

(b) Disbursements of the preceding year and their purposes.

Publication of annual financial statement

24275. Publication of the annual financial statement shall be made at least once a week for two weeks in a newspaper published in the office county.

CHAPTER 2. DEPOSITS

Article 1. Deposits Generally

Laws governing deposits

24350. Any money belonging to a district may be deposited by the officer of the district who has legal custody of the money, in accordance with the general laws governing the deposit of public money.

When security not required

24351. Where the deposit of money is insured by the Federal Deposit Insurance Corporation no additional security need be required from the bank for the portion of the district's deposits so insured.

Same

24352. Where arrangements have been made by the district with the Reconstruction Finance Corporation for deposit of district funds in the Federal Reserve Bank of the United States, such deposits may be made in that bank or any branch of it without requiring any security or interest.

Designation of agent

Purposes

24353. A district may with the approval of the commission designate any bank or trust company to act as its agent for any or all of the following purposes:

(a) Making payment of the principal or interest or both of any of its bonds.

(b) Receiving any revenue allocated by the board to the payment of either or both the principal and interest, or any part of either, of any bonds for which the allocation was made.

(c) Applying the revenue to the payment of the principal or interest designated.

Substitution of agent

24354. A district with the consent of the commission may from time to time substitute another bank or trust company in the place of the bank or trust company designated pursuant to Section 24353 and may similarly make resubstitutions.

Article 2. Deposits in County Treasury

Excess in construction fund

24370. The board may draw from time to time from the construction fund and deposit in the county treasury of the office county any money in the construction fund in excess of twenty-five thousand dollars ($25,000).

County treasurer's responsibility

24371. The county treasurer shall receive and receipt for district money deposited with him and place it to the credit of the district, and he shall be responsible upon his official bond for the safe-keeping and disbursing of the money.

Restrictions on county treasurer

24372. The county treasurer shall pay out district money or any portion of it only to the treasurer of the district and only upon the order of the board signed by the president and attested by the secretary.

Reports by county treasurer

24373. A county treasurer having charge of district money shall report as to it in writing on the second Monday in each month all of the following:

(a) Amount in the county treasury at the close of the month next preceding.

(b) Amounts received in the month next preceding.

(c) Amounts paid out in the month next preceding

The report shall be verified and filed with the secretary.

Article 3. Special Accounts

Special accounts from general fund

24390. The board may by resolution establish special accounts from the general fund when they are convenient for the efficient and economical operation of the district and designate the person or officer to have custody of the several accounts so established.

Supplied by warrant

24391. Special accounts from the general fund shall severally be supplied from the general fund by warrant in the same manner as in the payment of any claim against the district.

Report by custodian of fund

24392. The person in custody of any special account shall make a verified report in writing to the board between the first and tenth of each month showing all of the following for the month next preceding:

(a) Amount of money received by him for the account in his charge.

(b) Amount and items of expenditures from the account.

The report shall be filed with the secretary.

Restrictions on disbursements

24393. No payment shall be made from any special account except upon the written order of a person designated for the purpose by the board, which order shall indicate the purpose for which and the person to whom payment is to be made.

Chapter 3. Funds

Article 1. Funds Generally

Creation of funds

24475. The following funds are created to which district money properly belonging shall be apportioned:

(a) Bond principal fund.

(b) Bond interest fund.

(c) Construction fund.

(d) General fund.

Reserve fund

24476. A district may provide for a reserve fund to be used for the payment of the interest or principal of any outstanding bonds.

Funds required by bond plan

24477. A district may establish any fund required to comply with the terms of any plan by which any bonds are to be paid.

Withdrawals for sinking funds

24478. To the extent that any fund contains money applicable to a sinking fund provided for in a refunding plan or modification of it, the treasurer shall withdraw the sinking fund money from the fund to the amount and at the times required by the terms of the refunding plan or modification of it and apply the money pursuant to those terms.

Payments into refunding bond sinking fund

24479. Surplus funds on hand and available for payment into a refunding bond sinking fund may on order of the board be paid into it.

Investment in government or State bonds

24480. Any money in a refunding bond sinking fund may be invested in bonds of the United States or of this State.

Part of sinking fund

24481. Federal and State bonds so purchased with the sinking fund money together with the income from them shall be held as part of the sinking fund until the board determines that it is for the best interests of the district that the bonds or any of them be sold.

Deposit: Proceeds of sale of bonds

24482. The proceeds from the sale of any bonds in which any part of the sinking fund was invested shall be deposited in the sinking fund.

Same Annual assessments

24483. The proceeds of the annual assessment shall be paid into the district treasury and be apportioned to the several proper funds.

Same Limited assessments

24484. The proceeds of limited assessments shall be paid into the district treasury for the purpose for which the assessments were respectively authorized.

Same Lease or sale of allocated property

24485. The proceeds from the lease or sale of any property specifically allocated to the payment of warrants shall be placed in a separate fund and shall not be diverted to any other purpose until the warrants are paid in full.

Transfer and use of unexpended money

24486. Whenever an object for which money has been specifically provided by district assessment or by bond issue has been accomplished and any money provided therefor remains unexpended, it may be transferred by the board to the general fund and thereafter be available for any district purposes.

Article 2. Payment and Purchase of Bonds

Payments from bond principal fund

24500. Upon presentation of any matured bond of the district, the treasurer shall pay it from the bond principal fund.

Matured interest coupon

24501. Upon presentation of any matured interest coupon of any bond of the district, the treasurer shall pay it from the bond interest fund.

Interest payable from proceeds of bond sale

24502. If the estimate of the amount of the bond issue includes any amount for the payment of interest on the bonds of the issue, on order of the board there may be used for the payment of that interest so much of the proceeds of the sale of the bonds as was approved for that purpose in the report of the commission approving the issuance of the bonds.

From special or sinking fund

24503. If the principal or interest of any bonds is payable from any special or sinking fund, it shall be payable from that fund.

Interest after maturity

24504. If money is not available in the fund designated for the payment of any matured bond or interest coupon, it shall draw interest at the rate of 7 per cent per year from the date of its presentation for payment until notice is given that funds are available for its payment.

Procedure on non-payment of bond

24505. A bond presented but not paid shall be stamped and provision made for its payment as in the case of a warrant payable on demand for the payment of which funds are not available on its presentation.

Purchase of outstanding bonds out of surplus

24506. Whenever there is in any fund of the district money in excess of that required for the purposes of the fund up to the time when any part of the next annual assessment levied or to be levied in the district will become delinquent, the district may purchase with this surplus money or any part of it any of its outstanding bonds not yet due.

May be canceled or held

24507. Bonds so purchased may be canceled or held as a part of the district assets until the board determines that it is for the best interests of the district that the bonds or any of them be sold. Bonds not resold prior to the date of their maturity shall be canceled.

Article 3. Improvement District Funds

Cost of improvements

24525. The cost of improvement district improvements shall be paid only out of the proceeds of an improvement district assessment levied upon and collected from the land in the improvement district for improvement purposes.

Improvement district warrants

24526. Improvement district warrants shall be paid only out of the proceeds of an improvement district assessment levied upon and collected from the land within the improvement district for improvement purposes.

Same
Sole use

24527. Improvement district warrants or their proceeds shall be used solely for making the improvements for which the improvement district was formed and the necessary incidental expenses.

Formation under alternative procedure

24528. The cost of the improvement for an improvement district formed pursuant to the alternative procedure may be paid immediately from either the general fund of the district

Funds available

or from any special or construction fund available, the money advanced to be returned to the fund from which taken upon the collection of assessments for the improvement district.

Disposition of excess assessments

24529. If the proceeds from any improvement district assessment levied for improvement purposes exceeds the final amount necessary for the purposes for which it was levied, the excess may either be held in a special fund to be used for the operation of the works of the improvement district or be transferred to the general fund of the district to be used as the board deems proper for the benefit of the land in the improvement district.

Disposition of other receipts and charges

24530. Receipts from assessments levied for the operation of improvement districts and charges in lieu of the assessments, when collected, shall be deposited in a separate fund for the benefit of the improvement district to be used for its operation.

CHAPTER 4. WARRANTS

Article 1. Payment of Claims

Manner of paying claims

24600. No claim shall be paid by the treasurer until allowed by the board, and only upon a warrant signed by the president and countersigned by the secretary.

Mileage, personal expenses, etc

24601. All claims against any district presented by any officer or employee for mileage, personal expenses, or for money expended by the claimant for the district shall be filed with the board upon a form furnished by the district.

Same Requisite data

24602. Claims set forth in Section 24601 shall be itemized in detail to show:

(a) Date of each expenditure.

(b) Place where the expenditure was made.

(c) Purpose for which any money claimed was expended.

(d) Miles traveled and purposes of trips for which mileage is claimed.

(e) Any other matters the board may require.

Same Verification

24603. The officer or employee presenting any claim provided for in Section 24601 shall verify it before the secretary, who is authorized to administer oaths for that purpose, or before any person authorized by law to administer oaths.

Statements in verification

24604. The verification shall state in substance all of the following:

(a) The money claimed was actually expended or the mileage stated was actually traveled for the district in pursuance of the duties of the officer or employee presenting the claim.

(b) The claim is presented in good faith and has not been previously paid.

Article 2. Warrants Payable at Future Times

Future payments under contract or lease

24625. If any contract or lease for the acquisition of property provides for any future payments by the district, warrants may be issued, on order of the board, for the payments, which warrants shall be made payable at the times provided in the contract or lease.

Particular purpose or emergency assessments

24626. When a particular purpose or emergency assessment has been authorized, warrants in an amount equal to the amount of the assessment may be issued on order of the board to carry out the purpose for which the assessment was authorized. These warrants shall be made payable at the time or times that the board estimates that they can be paid from the proceeds of the assessment.

Registered warrants

24627. Any outstanding registered warrants and their accrued interest may be refunded by the issuance of warrants payable at stated times fixed by the board. These warrants may be exchanged for the registered warrants or sold for not less than their par value to provide funds for the payment of the registered warrants or any of them and their accrued interest.

Consideration for which issuable

Interest requirement

24628. Warrants payable at a future time or times may be issued in consideration of money loaned to the district for the purchase of any of its outstanding bonds or the refinancing or retiring of any outstanding contract. The annual interest payable on these warrants shall be less than the annual interest on the bonds purchased or contract refinanced or retired with the proceeds of the warrants.

Purpose for which issuable

Limitation

24628.5. Warrants payable at a future time or times may also be issued to obtain funds or property for any lawful purpose of the district; provided, that, unless approved by the commission, the total amount of warrants payable in any one year shall not exceed one-fourth of 1 per cent of the total valuation of the land in the district according to the last equalized assessment roll.

(Added by Stats. 1943, Ch. 685.)

Interest rate

24629. Any warrant authorized in the preceding sections of this article shall draw interest at a rate to be fixed by the board not to exceed 6 per cent per year payable annually or semiannually as the board may prescribe.

Bearer interest coupons

24630. Coupons payable to bearer in a form and signed as prescribed by the board may be attached to warrants payable at a future date to evidence their interest.

Issuable prior to levy of first district assessment

24631. Warrants of any district may be issued to evidence the indebtedness allowed to be incurred prior to the levy of the first district assessment, bearing interest fixed by the board at not more than 7 per cent per year. These warrants shall be made payable on a date not later than the first day of July next after the first annual assessment in the district is levied.

Payment out of proceeds of sale or lease

24632. If any district owns any property which it is authorized to lease or sell, its board may in the contract providing for the issuance of warrants payable at a future time, agree that the proceeds of the lease or sale of the property, not required by law to be used for other purposes, shall be allocated to the payment of these warrants.

Limitation on maturity

When election required

24633. No warrants issued pursuant to this article made payable more than five years from the date of issuance shall be valid unless their issuance is authorized by a majority of the voters voting at an election called by the board for the purpose of determining whether or not the warrants shall be authorized.

Conduct of election

24634. Notice of the election shall be given and the election shall be held and the result determined as nearly as practicable in the manner provided for bond elections.

Article 3. Registration of Warrants

Types affected

24650. The provisions of this article are applicable only to the following types of warrants:

(a) Warrants made payable on demand.

(b) Warrants issued to evidence the indebtedness allowed to be incurred prior to the levy of the first district assessment.

Presentation when funds unavailable; Interest

24651. Whenever any warrant of a district is presented to the treasurer for payment when funds are not available for its payment, it shall thereafter draw interest at a rate determined by resolution of the board but not exceeding 7 per cent per year until public notice is given that funds are available for its payment.

Same; Indorsement by treasurer

24652. Upon the presentation of any warrants for payment when funds are not available to pay them, the treasurer shall indorse on them all of the following:

(a) "Funds not available for payment."

(b) Date of presentation.

(c) Rate of interest that the warrants will thereafter bear.

(d) His signature.

Effect of indorsement

24653. A warrant so indorsed is a registered warrant.

Duty of treasurer

24654. The treasurer shall keep a record showing all of the following:

(a) Number and amount of each registered warrant.

(b) Date of its issuance.

(c) Person in whose favor it was issued.

(d) Date of its presentation for payment.

Notice of available funds

24655. Whenever there is sufficient money available in the treasury to pay all outstanding registered warrants or whenever the board orders all registered warrants presented for payment prior to a certain date to be paid and there is sufficient money available for the payments, the treasurer shall give notice to that effect.

Statement in notice

24656. The notice shall state that the treasurer is prepared to pay all registered warrants or all registered warrants presented for payment prior to the date fixed by the board.

No further description of the warrants entitled to payment need be made in the notice.

Publication of notice

24657. The notice shall be published in a newspaper published in the district, or if none is published in the district, in a newspaper published in any affected county, or if none is published in any affected county, the treasurer shall post the notice conspicuously at the office of the district.

Interest ceases

24658. All warrants designated in the notice shall cease to draw interest at the time of the first publication or posting of the notice.

Payment on presentation

24659. Upon the presentation of any warrant designated in the notice, the treasurer shall pay it together with the interest due on it from the date of its original presentation for payment to the date of the first publication or posting of the notice.

Entries by treasurer

24660. The treasurer shall enter all of the following in the record of registered warrants he is required to keep:

(a) Dates of the payment of the warrants.

(b) Names of the persons to whom payments are made.

(c) Amount paid to each person.

Limitation on action to enforce payment

24661. No action or proceeding shall be maintained to enforce the payment of any registered warrant or to require the levy of an assessment therefor unless the action or proceeding is commenced within four years from the date of the original presentation of the warrant to the treasurer for payment.

Agreement regarding payment

Waiver of limitation on action

24662. A district may, subject to the consent of the commission, enter into agreement either individually or collectively with the holder or holders of any registered warrants fixing the time of, method of, and allocation of funds for the payment of the warrants and may in this agreement or otherwise waive the time of commencing any action or proceeding thereon.

CHAPTER 5. PROVISIONS APPLICABLE TO BONDS AND WARRANTS

Article 1. Surrender of Bonds and Warrants

Surrender for cancellation

24735. Any owner of any bonds or warrants of a district may surrender them to the district by giving the bonds or warrants to the secretary for cancellation.

Order to cancel

24736. The board shall then order the bonds or warrants canceled.

Obligation of district ceases

24737. Upon the making of the order, the bonds or warrants shall cease to be an obligation of the district as of the time of their presentation to the secretary.

Other methods of releasing obligations

24738. This article does not restrict any other method of releasing obligations of a district to it.

Article 2. Modification of Bonds and Warrants

Purposes

24760. If a district desires to extend the time or times of maturity of any or all of its bonds or warrants payable at stated times or to reduce the rate of interest thereon or to effect any combination of these, it may either:

Methods

(a) Enter into an agreement in writing with the holders of the bonds or warrants affected, specifying the changes in dates of maturity, rate or rates of interest, or both.

(b) Propose a plan of composition of its outstanding indebtedness which involves changes in dates of maturity, rate or rates of interest, or both.

Maximum interest rate

24761. The rate of interest specified in the agreement or plan shall not exceed 6 per cent per year.

When interest payable

24762. All interest coupons shall be payable on the first day of January or the first day of July.

Submission of agreement

24763. The agreement or plan may be submitted to the commission.

Election on question

24764. If the commission approves the agreement or plan, the board may call an election to submit to the voters the question whether or not the bonds or warrants shall be modified as provided in the agreement or plan.

Conduct of election

24765. Notice of the election shall be given and it shall be held and its result declared as nearly as practicable as in the case of bond elections.

Result of vote

24766. If a majority of the votes cast for and against the proposal is in favor of modifying the bonds or warrants, the proposal is approved.

Conditions of carrying out plan

24767. An agreement or plan may not be carried out pursuant to this article until a proposal therefor is approved by the voters, and a plan may not be carried out until it is either:

(a) Agreed to in writing by all of the holders of bonds and warrants affected.

(b) Confirmed by a decree of any United States District Court in accordance with the provision of the National Bankruptcy Act, as amended.

Indorsement of new terms

24768. Upon the presentation to the secretary of any of the bonds or warrants covered by the agreement or plan, he shall indorse on them the date to which their maturity is extended and shall attach to them coupons with his signature or a facsimile of it to evidence the semiannual interest from the time or times of the original maturity of the bonds or warrants to the new maturity date or dates.

Reduction in interest rate

24769. If the agreement or plan provides for a reduction in the rate of interest on the bonds or warrants before the original time or times of their maturity, new coupons shall be attached to the bonds or warrants to evidence the reduced interest. Any old coupons evidencing the interest originally provided shall be detached by the secretary from the bonds or warrants and canceled.

Date of maturity

24770. Each bond or warrant presented and indorsed shall continue as an obligation of the district and shall not become due until the date specified in the agreement or plan.

Effect on other provisions of law

24771. This article does not amend, modify, or limit any other provision of law for changing the date or dates of maturity of outstanding obligations of a district, but provides an alternative method of extending any obligations whose date or dates of maturity may be changed under any other provision of law.

PART 9. BONDS

CHAPTER 1. CONSTRUCTION BONDS

Authorized purposes

24950. Construction bonds may be authorized for the purposes of acquiring necessary irrigation, drainage, and power development and distribution works, acquiring the necessary property for these works, acquiring any property necessary

for the purposes of the district, and otherwise carrying out the provisions of this division.

Estimation of amount required

24951. The board shall at any of the following times estimate the amount of money it is necessary to raise for the purposes for which construction bonds may be issued:

(a) As soon after the district has been formed as may be practicable.

(b) Whenever the board finds that the construction fund raised by the next preceding bond issue is insufficient or has been exhausted by expenditures therefrom and it is necessary to raise additional money for the purposes for which construction bonds may be authorized.

Surveys, examinations, etc

24952. The board shall cause any surveys, examinations, and drawings, to be made which will furnish the proper basis for making an estimate of the amount of money necessary to be raised.

Same Who shall direct

24953. The surveys, examinations, and drawings shall be made under the direction of a competent engineer and shall be certified by him.

Same Provisions for completion of work

24954. The surveys, examinations, drawings, and estimate may provide that the works necessary for a completed project shall be constructed progressively during a period of years.

Payment of interest

24955. The estimate may include a sum sufficient to pay the interest on the proposed construction bonds for three years or less.

Estimated cost of inspection

24956. The estimate shall include the estimated cost of inspection required by law of works in course of construction.

Data submitted to commission

24957. The board shall then submit to the commission the plan of the project, including a copy of the estimate and the engineer's report.

Duty of commission

24958. The commission shall forthwith examine the plan and any data in its possession or in the possession of the district and shall make any additional surveys and examinations it deems proper or practicable.

Report of commission

24959. As soon as practicable thereafter the commission shall make to the board a report, which shall contain any matters which in the judgment of the commission may be desirable.

Conclusions in report

24960. The report may state generally the conclusions of the commission regarding all of the following:

(a) The supply of water available for the project.

(b) The nature of the soil proposed to be irrigated as to fertility and susceptibility to irrigation, the probable amount of water needed for its irrigation, and the probable need of drainage.

(c) The cost of property necessary for a complete and satisfactory project.

(d) The proper dates of maturity for the bonds proposed to be issued.

(e) Its opinion as to whether or not it is advisable to proceed with the proposed bond issue.

24961. If after examination and investigation the commission deems any of the following to be advisable, it shall so state in its report to the board:

(a) The plans submitted should be modified.

(b) The amount of the bonds proposed to be issued should be changed.

(c) Certain conditions should be prescribed to insure the success of the project.

(d) The proposed bond issue should not be authorized.

Order by board determining amount

24962. After receiving the report of the commission or failing to receive it within 90 days after the submission of the plan, estimate, and engineer's report to the commission, the board, if it declares by resolution that the proposed plan of the project or a modified plan recommended by the commission is satisfactory and that the plan or modified plan is feasible, shall make an order determining the amount of bonds that should be issued in order to raise the money necessary to complete the proposed project.

Bond election

24963. Construction bonds in an amount fixed in the order determining the amount in which they should be issued shall not be issued unless their issuance is authorized at a bond election, and the bonds in the amount fixed shall be issued when their issuance is authorized at a bond election.

Consent to change plans

24964. When any district issues bonds to carry out any plans approved by the commission pursuant to this chapter, the district shall not make any material change in the plans without the consent of the commission.

Chapter 2. Refunding Bonds

Article 1. General Refunding Provisions

Purpose

25035. Any district may issue refunding bonds for the purpose of refunding any or all of the outstanding bonds and warrants of the district.

(Amended by Stats. 1943, Ch. 684.)

[ORIGINAL SECTION]

25035. Any district may issue refunding bonds for the purpose of refunding any or all of the outstanding bonds of the district

Procedure

25036. To issue refunding bonds no survey, examination, drawing, plan, estimate, or report of the commission nor any resolution of the board that the proposed plan of the project is satisfactory is required, but in lieu thereof the board desiring to refund any bonds of the district shall submit to the commission its proposed plan for refunding the bonds.

Payment of incidental expenses

25037. Any district may make any expenditures or with the approval of the commission may incur indebtedness and issue warrants therefor for the purpose of paying the expenses incident to the making and execution of any refunding plan or any modification of it.

Election

25038. If the refunding plan is approved by the commission, the board shall call an election for the purpose of authorizing the issuance of the refunding bonds.

Conduct of election

25039. Notice of the election shall be given and it shall be held and its result determined and declared substantially in the manner provided for a bond election, except that a majority vote only is required for the authorization of refunding bonds.

Necessary vote

Maturity

25040. Any issue of refunding bonds may in the discretion of the board mature serially or at one time.

Same: Subject to approval

25041. The maturities of refunding bonds shall be fixed by the board subject to the approval of the commission.

Article 2. Refunding Bond Sinking Fund

Creation

25060. If any issue of refunding bonds are made to mature at one time, the board prior to or at the time of their issuance shall provide for the creation of and payments into a sinking fund for the payment of the bonds in amounts determined by the board with the approval of the commission.

Modification of amount

25061. The amount of sinking fund payments may be modified from time to time by the board with the approval of the commission.

Redemption: Amount in fund, publication of notice

25062. Whenever the sinking fund contains at least ten thousand dollars ($10,000), the board may publish notice of redemption at least once a week for three successive weeks in some newspaper published in the office county and may publish it in any other newspaper.

Contents of notice

25063. The notice shall set forth all of the following:

(a) The amount available for the redemption of the bonds.

(b) An invitation for sealed proposals for the sale to the district of any of its outstanding refunding bonds for the payment of which the sinking fund was created.

(c) The time and place when the proposals will be opened.

Opening of proposals

25064. All proposals received in response to the notice shall be opened by the board in open meeting at the time specified in the notice or at a time to which the meeting is adjourned.

Rejection

25065. Any or all of the proposals may, in the discretion of the board, be rejected.

Purchase by district at private sale

25066. If no bids are received or if the bids received and accepted are not sufficient to exhaust the money on hand and available for the purpose, the district through its board may purchase at private sale with any available money in the sinking fund any bonds for the payment of which the sinking fund was created.

Maximum sales price

25067. No proposal to sell bonds to the district pursuant to this article at a price in excess of their par value shall be accepted.

Cancellation

25068. All bonds purchased from sinking fund money shall be forthwith canceled.

Article 3. Authorized Refunding Modification

Submission of proposed modification

25090. When one of the terms of a refunding plan approved by the commission reserves the right to modify the plan one or more times and the board thereafter desires to modify the plan, the board shall submit the proposed modification to the commission for approval.

Election upon approval

25091. If the modification of a refunding plan is approved by the commission, the board shall call an election for the purpose of authorizing the modification of the plan.

Conduct of election

Necessary vote

25092. Notice of the election shall be given and it shall be held and its result determined and declared substantially in the same manner as a bond election, except that a majority vote only is required for the approval of the modification.

Article 4. Unauthorized Refunding Modification

Refunding plans affected

25110. The provisions of this article are applicable only to refunding plans which both:

(a) Were adopted prior to January 31, 1939.

(b) Then contained no provisions for modification.

Approval necessary for modification

25111. The terms of any refunding plan and of the refunding bonds outstanding thereunder may be modified from time to time provided the modification is approved in the manner provided in this article by all of the following:

(a) The commission.

(b) The district.

(c) The holders of all of the outstanding refunding bonds affected.

Approval by district and voters

25112. The approval of the modification by the district shall be given by a resolution of its board and by its voters at an election called by the board.

Conduct of election

25113. Notice of the election shall be given and it shall be held in substantially the same manner as a bond election, except that a majority vote only is required for approval of the modification.

Approval of commission

25114. The approval of the commission shall be given by an order of the commission upon application of the board of the district.

Approval of holders of outstanding refunding bonds

25115. The approval of the holders of outstanding refunding bonds affected by the modification shall be evidenced by either of the following:

(a) The written consent of all of the owners and holders of the bonds.

(b) A decree of any United States District Court in accordance with the provisions of the National Bankruptcy Act, as amended, which decree provides that the modification is binding upon the holders and owners of all of the outstanding refunding bonds affected.

Indorsement of modification

25116 If the modification is approved in the manner provided in this article, the district need not issue new refunding bonds and coupons in exchange for outstanding bonds and coupons the terms of which have been modified, but in lieu thereof the district may provide for the indorsement on the outstanding refunding bonds and coupons affected of the terms of the modification or a reference to its terms if contained in an instrument of modification or modified refunding plan, all as provided in the modification.

Indorsement of new maturity date

25117. If the modification or modified refunding plan provides for the extension of the time of maturity of all or any

of the refunding bonds, the district in lieu of issuing new refunding bonds may indorse upon the face of the refunding bonds extended the new date of their maturity and attach to them new interest coupons to evidence interest payments to become due to the extended date of maturity of the refunding bonds.

Effect of indorsements

25118. All refunding bonds the terms of which have been modified shall continue to be binding outstanding bonds of the district and negotiable instruments irrespective of any indorsement of the terms of the modification or of the extension of the time of payment and shall be payable in accordance with their terms and the provisions of the modification.

Provision for subsequent modification

25119. Any modification of any refunding plan adopted pursuant to the provisions of this article may provide for its subsequent modification with the consent of the holders of any specified percentage of the refunding bonds affected by the modification in the manner provided in it.

CHAPTER 3. GENERAL BOND PROVISIONS

Article 1. Bond Terms

"Bonds"

25200. As used in this chapter "bonds" includes both construction and refunding bonds except as otherwise expressly provided.

Form

25201. Subject to the provisions of this article the board shall prescribe the form of the bonds issued by the district and of the attached interest coupons.

"Issue of bonds"

25202. An issue of bonds means all of the bonds issued in accordance with a single proposal approved at an election.

Numbering of issue and bonds

25203. Each issue of bonds shall be numbered consecutively as authorized, and the bonds of each issue shall be numbered consecutively.

Fixing dates

25204. The board shall fix the date of each issue of bonds and may divide any issue into two or more divisions and fix different dates for the bonds of each respective division.

Same Requisites

25205. The date of any bond shall be subsequent to the date of the election at which its issuance was authorized and prior to that of its delivery to a purchaser from the district.

Presumption as to date of issue

25206. The date of issue of any bond shall be deemed to be the date of the bond appearing on its face.

Denominations

25207. The board shall fix the denominations of the bonds, which shall be not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

Interest

25208. The bonds shall bear interest at a rate not to exceed 6 per cent per year to be fixed by the board.

Same Payment

25209. The interest shall be payable on the first day of January and the first day of July of each year.

Places of payment

25210. The board shall designate the places at which the bonds and the interest thereon shall be payable.

Legal tender

25211. The bonds shall be payable in lawful money of the United States.

25212. Each bond shall be made payable at a given time for its full face value and not for a percentage thereof. When and how payable

25213. The principal on bonds shall be payable on the first day of January or the first day of July of the years designated by the board. Principal payments

25214. In no case shall the maturity of any bond be more than 50 years from its date. Maximum maturity

25215. When bonds are made callable, a statement to that effect shall be set forth on the face of the bond. Callable bonds

25216. Each bond shall be signed by the president and secretary then in office at any time between the date of the bond and its delivery to a purchaser from the district. Signature on bonds

25217. The seal of the district shall be impressed on each bond. Seal

25218. The interest coupons shall be signed by the secretary then in office at any time between the date of the bond and its delivery to a purchaser from the district. The signature of the secretary may be made by facsimile. Signature on interest coupons

25219. Unless otherwise provided in the proceedings for the issuance of the bonds, they and the interest on them shall be paid from money derived from an annual assessment upon land or charges which in the discretion of the board are fixed and collected in lieu thereof and all land shall be and remain liable to be assessed for these payments. Methods of providing payments

Article 2. Payment Solely from Revenue

25240. As used in this article and Article 3 of this chapter "revenue" means all or any part of any source or sources of payment excluding assessments but including the proceeds of any existing or proposed contract or contracts. "Revenue"

25241. If in the judgment of the board it is desirable that the principal or interest or both of any bonds or any part of the principal or interest be payable solely from revenue designated by the board, the board with the approval of the commission may so provide by resolution adopted at or prior to the time of the issuance of the bonds. Provision by resolution

25242. If any or all of the principal of any bonds is made payable only from revenue, the board shall cause a brief statement of the limitations upon the payment of principal or portion thereof to be set forth in the bonds. Statement of payment limitation in bond

25243. If the limitations affect the payment of the interest of the bonds or any part thereof, a brief statement of the limitations shall be set forth in the interest coupons representing the interest and also in the bonds to which the interest coupons are appurtenant. Same in interest coupons

25244. If the limitations affect the payment of only a portion of the interest which will accrue on any bonds, the board may provide either that: Limitation on portion of interest payment

(a) The entire installment of interest payable on any interest payment date shall be represented by a single coupon which shall contain a brief statement as to the portion of interest subject to the limitations.

(b) The portion of interest not subject to the limitations and the portion of interest subject to the limitations shall be represented by separate interest coupons, the coupons representing the portion of the interest as to which limitations exist containing a brief statement of the limitations.

Restricted liability for payment

25245. If any board with the approval of the commission provides that the principal or interest or both of any bonds or any portion of the principal or interest or both shall be payable solely from designated revenue, neither the district nor any officer thereof shall be held for payment otherwise.

Article 3. Allocation of Revenue to Bond Payment

Allocation of revenue

25260. Any designated revenue may by resolution of the board be allocated to the payment of the whole or any portion of the principal or interest or both of any bonds.

Purposes

25261. The allocation may be for either or both:

(a) Payment of the whole or any part of the principal or interest or both of any bonds payable solely from revenue.

(b) As additional security for the payment of the whole or any part of the principal or interest or both of any bonds payable from assessments.

Sole use of revenue

25262. Until the payment or retirement of the bonds for the benefit of which an allocation was made, the revenue allocated shall be applied solely to the payment of the obligation specified in the allocating resolution.

For whose benefit

25263. An allocation may be made for the exclusive benefit of any one or more issues or portions of issues of bonds of a district designated in the allocating resolutions or in the discretion of its board for the benefit of any bonds of the district at any time issued or outstanding.

Period of irrevocability

25264. Any allocation shall be irrevocable until all of the bonds for which the allocation was made and their appurtenant coupons have been paid or retired.

Article 4. Allocation of Revenue to Reserve Fund

Irrevocable allocation to reserve fund

25280. Any sources of revenue of any district may by order of its board with the approval of the commission be irrevocably allocated to a reserve fund established to pay the interest or principal of any bonds.

Article 5. Callable Bonds

Redemption prior to maturity

25300. With the approval of the commission a district may by resolution of its board adopted at or prior to the time of issuing any bonds then proposed to be issued, provide for the call and redemption prior to their fixed maturity of any of the bonds.

Manner of redemption

25301. Callable bonds may be redeemed in addition to other methods permitted in the following manner:

(a) In numerical order or by lot as prescribed in the resolution.

(b) On any interest payment date prior to their fixed maturity.

(c) At not exceeding their par value and accrued interest or on the terms provided in the resolution.

(Amended by Stats. 1943, Ch. 1054.)

[ORIGINAL SECTION]

25301. Callable bonds may be redeemed in addition to other methods permitted in the following manner:

(a) In numerical order or by lot as prescribed in the resolution.

(b) On any interest payment date prior to their fixed maturity.

(c) At not exceeding their par value and accrued interest.

Notice by publication

25302. Notice designating the bonds called for redemption shall be published once a week for three successive weeks in a newspaper of general circulation printed and published in the office county.

Date of first publication

25303. The first publication of the redemption notice shall be not less than 30 days nor more than 90 days prior to the date fixed for redemption.

When interest ceases

25304. If on the date fixed for redemption the district has provided funds available for the payment of the principal and interest of the bonds called, interest on them ceases.

Article 6. Bond Issuance

Authorized purposes

25325. A district may sell any bonds from time to time in such quantities as may be necessary and most advantageous to raise money for the purposes for which they were authorized.

Contents of resolution

25326. Before any sale the board shall by resolution entered on its minutes set forth all of the following:

(a) Its intention to sell a specified amount of the bonds.

(b) The day, hour, and place of sale.

Notice of sale by publication

25327. The board shall give notice of the sale by publication for at least three weeks in some newspaper published in the office county and in any other newspaper at its discretion.

Contents of notice

25328. The notice shall state that sealed proposals will be received by the board at the district office for the purchase of bonds until the day and hour specified in the resolution.

Awarding purchase

25329. At the time specified the board shall open the proposals and award the purchase of the bonds or any portion of them to the highest responsible bidder or bidders.

Deposit

25330. No proposal shall be accepted which is not accompanied by a certified check for a reasonable percentage of the amount of the bid as determined by the board, but in no event less than two per cent, to apply on the purchase price of the bonds. The amount of the check shall be forfeited if after the acceptance of his proposal the bidder refuses to complete his purchase on the terms stated in his proposal.

Forfeiture

Rejection of bids

25331. The board may reject any or all bids.

Readvertisement or private sale

25332. In case no award is made, the board thereafter may either readvertise the bonds or any part of them for sale or sell them at private sale.

Private sale Approval by commission

25333. No sale of bonds at private sale shall be valid unless approved by the commission.

Exchang of construction bonds

25334. A district may exchange its construction bonds for any property or interest in property which the district might acquire with the proceeds of the bonds, if sold, or for the capital stock of any corporation owning the property, upon terms the board deems best.

Disposit on of refunding bonds

25335. Any refunding bonds may be either:

(a) Sold from time to time in the same manner as other bonds of the district.

(b) Exchanged for other bonds or warrants of the district upon terms approved by the commission.

(Amended by Stats. 1943, Ch. 684.)

[ORIGINAL SECTION]

25335 *Any refunding bonds may be either:*

(a) Sold from time to time in the same manner as other bonds of the district.

(b) Exchanged for other bonds of the district upon terms approved by the commission.

Cancellation

25336. Any outstanding bonds refunded or exchanged shall be immediately canceled by the treasurer.

Article 7. Bond Cancellation

Resolution

25350. Whenever the whole or any portion of any issue of bonds of any district remains unissued for more than one year after the date of the election at which the bonds were authorized, the board, by a resolution adopted by a two-thirds vote of the membership of the board, may cancel all or any of those bonds and all coupons appurtenant to them.

Same Date of consideration

25351. Whenever a resolution to cancel bonds is offered, its consideration shall be postponed to a date fixed by the board which is subsequent to final publication of the resolution.

Same Publication

25352. The resolution together with a notice stating the time fixed by the board for the consideration of the resolution shall be published once a week for at least two successive weeks in a newspaper published in the office county.

Same Effect of adoption

25353. After the adoption of a resolution to cancel bonds no other bonds shall be issued in pursuance of the proceedings taken in relation to the issuance of the bonds so canceled.

Destruction

25354. Any bonds and coupons so canceled shall be destroyed under the direction of the board.

PART 10. ASSESSMENTS

CHAPTER 1. ASSESSMENT

Article 1. Assessment Book

"Land"

25500. As used in this part "land" includes city and town lots and excepts improvements.

"Improvements"

25501. As used in this part "improvements" includes trees, vines, alfalfa, all growing crops, and all buildings and structures.

Time

25502. Annually, between the first Mondays in March and June the assessor shall assess all land in his district to the

Exception

persons owning, claiming, possessing, or controlling it, except

that if all funds required to be raised are raised other than by assessment, no assessment need be levied and no assessment roll need be prepared or equalized.

(Amended by Stats. 1943, Ch. 916.)

[ORIGINAL SECTION]

25502. Annually, between the first Mondays in March and June the assessor shall assess all land in his district to the persons owning, claiming, possessing, or controlling it.

Land valuation

25503. All of the land shall be assessed at its full cash value as of the first Monday in March of that year.

Assessment book

25504. The assessor shall prepare an assessment book with appropriate headings, in which shall be listed all of the land.

Contents

25505. The book shall contain:

(a) The name of the assessee if known to the assessor, and if the name is not known to the assessor, "unknown owners."

(b) A description of the land sufficient to identify it.

(c) An estimate of the number of acres except in the case of city or town lots.

(d) The cash value of the land.

(e) A separate designation and description of any land subject to a different rate of assessment from other land.

(f) A column for showing the changed valuations after equalization.

(g) Any other things required by the board.

Columns

25506. Columns with the headings "Lot" and "Block" or either of them may be provided in the assessment book for the designation of lots and blocks or either of them in any city, town, or recorded subdivision.

Partially redeemed land

25507. Land as to which a partial redemption has been effected shall thereafter be separately described on the assessment book.

Completion and delivery

25508. On or before the first Monday in August in each year the assessor shall complete his assessment book and deliver it to the secretary.

Article 2. Land Escaping Assessment

Assessing escaped land

25525. Any land which should have been assessed escaping the payment of any assessment for any reason shall in addition to its current assessment be entered in the assessment book by the assessor at the valuation which he deems proper for the year of the escaped assessment.

Equalization of additional assessment

25526. The additional assessments on land escaping the payment of an assessment shall be equalized as provided in this part for current assessments.

Rate of additional assessment

25527. At the time of levying the current assessment the district by its board shall levy on land escaping the payment of an assessment an additional assessment at the rate fixed in the year of the escaped assessment. If no rate was legally fixed in that year, the district shall levy an assessment on the land at the rate which should have been computed in that year to raise the amount of money then required by the district.

When payable

25528. The additional assessments shall be payable at the same times as the current assessment, and if not paid, shall be subject to like penalties and proceedings to enforce collection.

Article 3. Equalization

Notice of meeting

25550. Upon receiving the assessment book from the assessor the secretary shall immediately give notice of its receipt and of the time, fixed by the board, when the board acting as a board of equalization will meet to equalize assessments.

Publication of notice

25551. The notice shall be given by publication at least twice in a newspaper published in each affected county and if the office county is not an affected county, also in a newspaper published in the office county.

Date of first publication

25552. The notice shall be first published at least 20 days and not more than 30 days before the time fixed for the first meeting of the board as a board of equalization.

Failure to publish

25553. Failure to publish the equalization notice in any county other than the office county shall not affect the validity of any assessment on land in a county in which notice was published.

Inspection of assessment book

25554. Until the equalization is finished, the assessment book shall remain in the district office in the possession of the secretary for the inspection of all persons interested.

Hearing as board of equalization

25555. On the day specified in the notice of equalization, the board shall meet as a board of equalization to hear and determine objections to the valuation, acreage, or any matter pertaining to the assessment coming before it.

Duration

25556. The board acting as a board of equalization shall continue in session from time to time as long as may be necessary but not to exceed 10 days exclusive of Sundays.

Change in assessment

25557. The board acting as a board of equalization shall order any changes in the assessment that it deems just.

Secretary to make changes

25558. The secretary shall be present during the equalization proceedings and shall make all changes ordered in the assessment book.

Determination of gross assessed valuation

25559. Within 10 days after the close of the equalization session the secretary shall add the total values and determine the gross assessed valuation of the lands after final equalization by the board.

Chapter 2. Levy

Article 1. Amount of Assessments Generally

Time of levy

25650. Each district by its board each year within 15 days after the close of its session as a board of equalization shall levy an annual assessment upon the land within the district in an amount sufficient to raise all of the following:

Amounts

(a) Interest due or that will become due on all outstanding bonds of the district and interest which the board believes will become due on district bonds authorized but not sold, all respectively before the close of the next ensuing calendar year.

(b) Principal of all bonds of the district that have matured or that will mature before the close of the next ensuing calendar year.

Extent of levies

To the extent that provision is otherwise made as permitted by law for the payment of bond principal and interest, levies for principal and interest pursuant to this section need not be made.

Under refunding bond plan

25651. (a) If a refunding bond plan or modification of it provides for the raising of a fixed amount each year to be applied to the payment of interest on or redemption of refunding bonds in the manner provided in the refunding plan or modification of it, the annual assessment shall include a levy in the amount required to be raised by assessment in that year pursuant to the plan or modification of it.

When amount paid into sinking fund

(b) If the proceedings in connection with the issuance of refunding bonds or modification of them provides for the raising of an amount to be paid annually into a sinking fund to pay the principal or interest of the refunding bonds, the annual assessment shall include a levy in an amount sufficient to provide the sinking fund payments for the current year. The amount required to be raised for the sinking fund shall be reduced by the amount of surplus funds from other sources in the sinking fund in excess of the amount required to be therein at the time of levying the current annual assessment.

Additional amounts to be included

25652. The annual assessment shall also include a levy sufficient to pay all of the following:

(a) Sums due or that will become due from the district before the close of the next ensuing calendar year on account of rentals or charges for property acquired by the district under lease or contract.

(b) Sums due or that will become due from the district before the close of the next ensuing calendar year on account of contracts for power or fuel for the pumping of water for irrigation within the district, the payment of the cost of which power or fuel has not been provided for in any other manner.

(c) All outstanding warrants of the district due or to become due before the close of the next ensuing calendar year.

(d) All obligations of the district which have been reduced to judgment.

Additional amounts that may be included

25653. The annual assessment may include a levy sufficient to raise any or all of the following:

(a) The amount that the board determines is necessary for a depreciation fund for the replacement or reconstruction of any specific units of its works.

(b) The amount that the board determines is needed to be raised by assessment for any district purposes not exceeding 2 per cent of the aggregate value of the land according to the latest equalized assessment.

(c) An amount not exceeding 1 per cent of the total assessed value of the land that the board deems proper to pay

into the bond fund to be used for the purchase of bonds of the district not yet due or for payment into a fund to pay such bonds as they become due.

Same

25654. The annual assessment may include a levy on land included by inclusion proceedings subsequent to formation of the district sufficient to pay the obligations as they accrue assumed by the included land in the proceedings including it.

Charges in lieu of assessments

25655. A district may in lieu either in whole or in part of levying the annual assessments for district purposes use any revenue derived prior to or during the next ensuing calendar year from charges which the district may fix and collect pursuant to Section 22280.

Amounts added to assessment

25656. At the time of levying the annual assessment, there shall be added by the board to the annual assessment on land within any improvement district within any district:

(a) The installment, if any, for which the land is liable in that year by reason of an improvement district assessment levied pursuant to Chapter 1 or 2 of Part 7 of this division.

(b) An amount which the board may consider necessary for the operation of the works in or for the improvement district for the ensuing year.

Article 2. Completion Assessments

Conditions for levy

25670. A district shall by levy of a completion assessment provide for the completion of a plan of works adopted and the acquisition of necessary property, water, and water rights therefor when either:

(a) The money raised by the sale of authorized bonds is insufficient and additional bonds are not voted for these purposes.

(b) Bonds voted are unavailable for these purposes and additional bonds are not voted therefor.

Prerequisites

25671. A completion assessment shall not be levied until both:

(a) An estimate of the amount required to complete the plan has been made by the board.

(b) A proposal for making the levy has been approved by the voters.

Order of submission

25672. Before a completion assessment proposal is submitted to the voters, an order of submission shall be entered in the minutes of the board, stating:

(a) The amount to be levied.

(b) The purpose of the levy.

(c) The day of the election.

Notice of election

25673. Notice of the election shall be given by both:

(a) Posting notices in three public places in each election precinct in the district for at least 20 days.

(b) Publication in a newspaper published in the office county, once a week for at least three successive weeks.

Same Contents

25674. The notice of the election shall specify both:

(a) The day, hours, and polling places in each precinct for holding the election.

(b) The amount of assessment proposed to be levied.

Contents of ballots

25675. At the election the ballots shall contain the words "Assessment—Yes" and "Assessment—No" or equivalent words.

Conduct of election

25676. The election shall be held and the result determined and declared as nearly as practicable in conformity with the provisions governing general elections.

Levy upon approval by voters

25677. If a majority of the votes cast at the election are "Assessment—Yes," the district by its board shall levy an assessment in the amount stated in the order of submission.

Vote against levy

25678. If a majority of the votes cast are "Assessment—No," the result of the election shall be entered of record.

Informalities in conduct

25679. No informalities in the conduct of the election shall invalidate the election if fairly conducted.

Article 3. Particular Purpose Assessments

Amounts not limited

25700. The amount of an assessment levied under this article is not limited by any other provision of this part. The levy of an assessment under this article does not limit the amount of any other assessment levied under this part.

Submission of proposal at election

25701. The board may at any time call an election to submit to the voters a proposal to levy a particular purpose assessment to be applied to any of the purposes of the district.

Notice of election

25702. The notice of the election shall set forth the following:

(a) The day, hours, and polling places in each precinct for holding the election.

(b) The amount of money proposed to be raised by the assessment.

(c) A general statement of the purposes for which it is intended to be used.

(d) If the board so determines, a statement both that the assessment shall be levied in two or three annual installments and the amount of the installment to be levied each year

Contents of ballots

25703. At the election the ballots shall contain the words "Assessment—Yes" and "Assessment—No," or equivalent words.

Conduct of election

25704. The election shall be held and the result determined and declared as nearly as practicable in conformity with the provisions governing bond elections.

Action on approval by voters

25705. If a majority of the votes cast at the election are "Assessment—Yes," the district by its board shall at the time of the levy of the annual assessments levy a sum sufficient to raise the amount voted or if the notice of election provides for annual installments, then a sum sufficient to raise the amount of the installment provided in the notice to be raised in the particular year.

Article 4. Emergency Assessments

Conditions of levy

25725. In cases of emergency by which the flow of water in a canal or other supply is interrupted, the amount of the cost of the repairs not to exceed in any one year forty thousand dollars ($40,000) may, in addition to any other assessments, be levied by the adoption of a resolution by at least

four-fifths of the members of the board at the time of the levying of the annual assessment, without the submission of a proposal for the levy to the voters.

CHAPTER 3. ASSESSMENT RATE

Article 1. Regular Rate

Where entered

25800. The secretary annually prior to delivering the assessment book to the collector shall compute and enter in a separate column of the assessment book the respective sums in dollars and cents to be paid as an annual district assessment on the land listed.

How computed

25801. The annual rate of assessments shall be equal to the sum to be raised for district purposes divided by 85 per cent of the aggregate equalized assessed value of the land as it appears on the assessment book for the assessment year, the 15 per cent being deducted for anticipated delinquencies.

Special rate adjustment

25802. If any land is subject to a special rate of assessment for district purposes, the rates of assessment shall be adjusted to produce the sum to be raised computed upon the 85 per cent of the aggregate equalized assessed value.

Limited assessments

25803. Limited assessments shall be computed and entered by the secretary and collected as a part of the annual assessment.

Improvement district assessment

25804. Annual installments of an improvement district assessment shall be entered in the assessment book by the secretary.

Same Operation assessments

25805. Operation assessments for an improvement district shall be computed upon the same valuation on land within the improvement district and entered in the same manner as the district annual assessment.

Unpaid charges for water, etc

25806. In case any charges for water and other services or either remain unpaid at the time specified for the delivery of the assessment book to the collector, the amount of the unpaid charges may be added to and become a part of the annual assessment levied upon the land upon which the water for which the charges are unpaid was used and upon the land subject to the charges for any other district services and shall constitute a lien on that land.

Lien

Same: Addition to first installment

25807. If the annual district assessment is payable in two installments the unpaid charges may be added to and become a part of the first installment.

Date of delivery of assessment book

25808. On or before the first day of November the secretary shall deliver the assessment book to the collector.

Article 2. Special Rate

Petition Allegations

25825. Any person having an interest in any land within the district may file with the secretary a verified petition alleging all of the following:

(a) His land or a described portion of it was when it became a part of the district irrigated from another system of works than the works of or proposed for the district.

(b) It has continued ever since to be exclusively so irrigated.

(c) It is entitled to a special rate of assessment.

Same. Request

25826. The petition shall request that the board determine what proportion of the regular rates of assessment in the district should be used in levying assessments on the land described in the petition.

Same Fee and its disposition

25827. A fee of ten dollars ($10) shall be paid to the secretary before the filing of each petition for a special rate of assessment. The money shall be applied to the cost of the publication of the notice and other expenses of the hearing. If there is any balance after the conclusion of the hearing, it shall be returned to the petitioner or divided among the petitioners contributing thereto in proportion to the respective areas described in their petitions.

Same. Publication of notice of hearing

25828. The board shall set a time and place for the hearing of a petition for a special rate of assessment or of all the petitions if more than one has been filed and shall give notice of it in a newspaper published in the office county.

Contents of notice

25829. The notice for a special rate of assessment hearing shall state all of the following:

(a) Petitions have been presented to the board praying for a determination that certain land, which need not be described in the notice, is entitled to a special rate of assessment.

(b) The names of the petitioners.

(c) The time and place set for the hearing.

Hearing

25830. The board shall meet at the time and place set for the hearing and proceed in the order it deems proper to hear the petitions and shall hear all competent and relevant evidence offered in support of any petition or in opposition to it and may adjourn the hearing from time to time.

Findings

25831. After the conclusion of the hearing, if the board finds that any of the land described in any petition has been irrigated as alleged and is not and will not be benefited by the operations of the district in a manner that would justify its assessment at the regular rate of assessment, the board shall reduce the rate of assessment on the land in an order entered in full upon its minutes.

Action of board

Contents of order

25832. The order shall:

(a) Describe the land entitled to a special rate of assessment or the respective parcels of it if separate parcels are to be assessed.

(b) Fix the proportion of the regular rate of assessment which shall be applied in levying assessments on the land described or on each parcel of it if various parcels are found to be entitled to different special rates in order that the assessments to be levied on this land will be proportionate with the benefits which it receives or will receive from the operations of the district.

Copy to assessor

25833. A certified copy of an order determining that any land is entitled to a special rate of assessment shall be delivered to the assessor, and thereafter, until notified of a change

Duties of assessor

in the determination, he shall enter the land described in the order separately in the assessment book and designate it so that it may readily be distinguished from other land not entitled to a special rate.

When land can not be separately described

25834. If a determination that any land is entitled to a special rate of assessment is made in any year too late for the land to be separately described in the assessment book but before the annual assessment has been levied, the board shall direct the secretary to make entries in the assessment book that will enable him to compute the assessments at the special rates determined by the board.

Changes in determination of board

25835. The determination of the board granting or denying a special rate of assessment shall not be changed unless the board on petition of a party affected consents to another hearing or on its own motion causes notice to be served on the owner of the land to show cause why the determination should not be changed, in either of which cases another hearing shall be advertised and held as provided in this article.

CHAPTER 4. COLLECTION

Article 1. Collection Generally

When lien attaches

25925. The annual district assessment upon land is a lien against the property assessed from and after the first Monday in March of the year in which the assessment is levied.

Publication of notice by collector

25926. The collector within 20 days after receiving the assessment book from the secretary shall start the publication of a notice specifying all of the following:

(a) The assessments are due and payable.

(b) The times when these assessments will be delinquent.

(c) The penalties for delinquency.

(d) The time and place at which payment of assessments may be made.

Period of publication

25927. The assessment notice shall be published at least once a week for two successive weeks in a newspaper published in the office county and in a newspaper published in each other affected county.

Failure to publish

25928 Failure to publish the assessment notice in any county other than the office county shall not affect any assessment on land in a county in which notice was published.

Duty of collector

25929. The collector shall attend at the time and place specified in the assessment notice to receive assessment payments.

Legal tender

25930. Assessments shall be paid in lawful money of the United States.

Entry of date of payment

25931. The collector shall mark the date of payment of any assessment in the assessment book opposite the name of the assessee.

Contents of receipt

25932. The collector shall give a receipt to the person making payment, specifying:

(a) The amount of the assessment.

(b) The amount paid.
(c) The description of the property assessed.

Article 2. Installments

Resolution for installment payments

25950. The board may when it so desires and shall, when a written petition signed by a majority of the assessment payers in the district is filed requesting it, pass a resolution providing that thereafter annual assessments, including improvement district assessments or installments thereof but excepting completion assessments, shall be payable in two installments.

Amount of installments

25951. The two installments shall be equal unless the resolution specifies different percentages to be paid in each installment, in which case the installments shall be payable as specified in the resolution.

Time for adopting resolution

25952. The resolution shall be adopted at or prior to the time of the levy of any annual assessment it is to affect.

Restrictions on rescission or modification

25953. The resolution may be rescinded or modified only so as to affect any assessment levied subsequent to the rescission or modification.

Article 3. Segregation before Delinquency

Application and sufficient descriptions

25975. Any person claiming an interest in any parcel of land described on the current assessment book against which there are no delinquent assessments who desires to have the parcel segregated into two or more portions and separately valued and assessed on the current assessment book may file with the collector of the district an application so requesting, with descriptions sufficient for assessment purposes of each portion into which the applicant desires the parcel to be segregated, valued, and assessed.

Time for filing

25976. The application may be filed at any time after the current assessment is due but not later than five days prior to the regular meeting of the board in December of the year in which the assessment was levied.

Signatures required

25977. The application shall be signed, as evidence of their approval, by each of the persons assessed on the current assessment book with the parcel to be segregated.

Fee

25978. Each application shall be accompanied by a fee of fifty cents ($0.50) for each separate portion into which the applicant desires the parcel to be segregated.

Basis for current assessment by collector

25979. If the portions into which the applicant desires the land to be segregated have separate valuations shown on the current assessment book, the collector shall upon these valuations determine the amount of the current assessment due on each portion.

Descriptions to assessors

25980. If the portions into which the applicant desires the land to be segregated do not have separate valuations shown on the current assessment book, the collector shall submit the descriptions of the portions to the assessor.

Valuation by assessor

25981. The assessor shall place a valuation on each described portion, and upon these valuations the collector

Duty of collector

shall determine the amount of the current assessment due on each portion as segregated.

Reference of data to board

25982. In either case, upon estimating the assessments due on the segregated portions, the collector shall refer to the board the segregated descriptions, valuations, and estimated assessments due.

Action of board

25983. The board may either:

(a) Confirm, modify, or set aside the same.

(b) Refuse to authorize the segregation, separate valuation, and assessment.

Aggregate valuations of segregated portions

25984. The aggregate of the valuations of the segregated portions shall be the same as the valuation of the parcel before segregation.

Board's decision final

25985. The decision of the board shall be final, and the collector shall conform with it.

Duties of collector upon board's action

25986. If the segregation and separate valuations and assessments are confirmed or modified, the board shall notify the collector, who shall cause the assessment book to be changed to show the segregation and separate valuations and assessments as confirmed or modified by the board, and he shall separately number the portions as segregated.

Assessments payable separately

25987. The assessment may thereafter be paid separately on any of the portions.

Article 4. Modification and Refund of Assessments

Order to collector

26000. A board shall order the collector to cancel or modify, as may be proper, an assessment when it finds that any property has been either:

(a) Assessed in any year more than once.

(b) Assessed by reason of a clerical error for more than its full cash value.

(c) Computed for assessment on an excessive acreage.

(d) Assessed while not in the district.

Order to treasurer

26001. On order of the board any assessments, penalties or costs thereon, or portions thereof, shall be refunded by the treasurer if they were either:

(a) Paid more than once.

(b) Erroneously or illegally collected.

Conditions of order for refund

26002. No order for a refund under this article shall be made except upon a claim both:

(a) Verified by the person who paid the assessments, penalties, or costs, his guardian, executor, or administrator.

(b) Filed within one year after the making of the payment sought to be refunded.

CHAPTER 5. DELINQUENCY

Article 1. Date and Penalties for Delinquency

Date

26075. Unpaid assessments not payable in installments are delinquent at 5 p.m. on the last Monday in December of the year in which they are levied.

Dates for first and second installments

26076. Whenever assessments are payable in installments, the first installment if unpaid is delinquent at 6 p.m. on the last Monday in December of the year in which the assessment was levied, and the second installment if unpaid is delinquent at 6 p.m. on the last Monday of the following June. The whole amount of completion assessments if unpaid shall become delinquent on the last Monday in December notwithstanding that assessments in the district are payable in installments.

Penalties

26077. The collector shall collect on delinquent assessments for the use of the district the following penalties:

(a) When assessments are not payable in installments, 5 per cent.

(b) When assessments are payable in installments:

(1) On the first installment, 10 per cent.

(2) On the second installment, 5 per cent.

Costs

26078. Upon the assessment, if not payable in installments, or the second installment of it, if payable in installments, becoming delinquent, the collector shall collect, in addition to the assessments due on the delinquent list and the penalties added, costs in the sum of fifty cents ($0.50) on each parcel of land separately assessed.

Late performance of duty

Effect on other consequent duties

26079. If any duty relating to the assessment, levy, and collection of assessments is performed subsequent to the latest time it should have been performed, the time within which all duties consequent upon the performance of the preceding duty are to be performed shall be extended to allow the elapsing of the intervals required to elapse between the performance of the duties, and assessments shall not become delinquent for at least 30 days after the first publication of notice that the assessments are due and payable.

Delinquency date

Prima facie evidence

26080. The assessment book, a copy of any portion of it certified by the collector, or the published list of delinquencies, showing unpaid assessments against any property is prima facie evidence of the assessment, the property assessed, the delinquency, the amount of assessments due and unpaid, and compliance with all forms of law relating to the assessment, equalization, and levy of the assessments.

Suit to enforce collection

26081. At any time after any assessment has become delinquent the board may direct the collector not to proceed with the sale of any delinquent property, but to bring suit against the delinquent in the proper court in the name of the district to enforce collection.

Same: Applicable provisions

26082. The provisions of the Code of Civil Procedure relating to pleadings, proofs, and trials are applicable to proceedings to enforce collection of assessments.

Amounts recoverable

26083. In a suit for assessments the district may recover the amount of the delinquent assessments, penalties, and costs of suit.

Article 2. Publication of List of Delinquencies

Commencement when not payable in installments

26100. When assessments are not payable in installments, the collector shall commence to publish the list of delinquencies on or before the first day of February.

Commencement when payable in installments

26101. When assessments are payable in installments, the first publication of the list of delinquencies shall not be made before the first day of July nor after the first day of August.

Contents

26102. The published list of delinquencies shall contain all of the following information relating to each parcel of land separately assessed on which the assessment is delinquent:

(a) The name of the assessee.

(b) The description of the land.

(c) The total amount due, which shall be the aggregate of the assessments, penalties, and costs due thereon.

Only list required

26103. There need be no delinquent list other than the published list of delinquencies.

Notice published with list

26104. The collector shall publish with the list of delinquencies a notice, specifying:

(a) That each parcel separately assessed on which the amount due as shown on the list is not paid will be sold to the district.

(b) The time and place of the sale.

Period and method of publication

26105. The list of delinquencies and notice shall be published once a week for three successive weeks in a newspaper published in the county in which the delinquent property is situated but only information pertaining to and descriptions of land situated in the county need be set forth in the publication in that county.

Land lying in more than one county

26106. If any land assessed to the same person lies in more than one county, publication may be made in any county in which any portion of the land lies.

Designation of newspaper

26107. Publication of the list of delinquencies and notice shall be made in the newspaper designated by the board. If assessments are not payable in installments, the designation of the newspaper shall be made by the board on or before the fifteenth day of December of the year in which the assessment was levied. If assessments are payable in two installments, the designation shall be made by the board on or before the fifteenth day of June following the year in which the assessment was levied. If the designation is not made by the board within the time provided in this section, the collector shall select the newspaper.

Republication due to error

26108. If any error should occur in the publication of the notice of the sale of any delinquent property or the list of delinquencies which might invalidate a sale and the error is discovered prior to sale, the collector shall at once republish the notice of the sale and the items of the list of delinquency as to the property affected by the error, making the republication conform to this article.

Article 3. Assessment Sale

Place of sale

26125. The place of the delinquent sale shall be at a point, designated by the collector, within the district or at the district office.

Time

26126. The time of the delinquent sale shall be not less than 21 nor more than 28 days from the date of the first publication of the list of deliquencies or first republication as to property republished.

Limitation on postponement

26127. The collector may postpone the day of the delinquent sale from day to day, but the sale shall be made within three weeks from the day fixed in the notice of the sale. If any sale is stayed by legal proceedings, the time during which the sale is stayed shall not be a part of the time limited for making the sale.

Property to be sold to district

26128. On the day fixed for the sale in the published notice or on a subsequent day to which the collector may have postponed it the collector shall sell to the district the whole amount of each parcel of property separately assessed upon which the assessments remain unpaid.

Entry of sale

26129. Thereupon the collector shall as to each parcel sold make an entry "sold to the district" in the assessment book.

Certificate of sale

26130. After the delinquent sale the collector shall make out in duplicate and sign a certificate of sale for each parcel separately assessed and sold, setting forth all of the following:

(a) A description of the property sold.

(b) The amount for which it was sold.

(c) A statement that it was sold for a delinquent assessment.

(d) When the purchaser will be entitled to a deed.

Form

26131. The certificate of sale may be in substantially the following form, the blanks being filled to show the facts in each case:

Certificate of Sale No. __

_____Irrigation District

I, the collector of _____ Irrigation District, certify that on the _____ day of _____, 19___, after giving the required notice, I sold to _____ Irrigation District, the purchaser, for the sum of _____ dollars ($_____) real property in the county of _____, State of California, described as follows:

(Insert description.)

This land was assessed to _____.

This property was sold for a delinquent assessment levied on it in the year _____ by the district, and the sale price was the sum due and unpaid on the assessment and the penalties and costs.

The purchaser will be entitled to a deed to the property at any time after three years from the date of the sale unless in the meantime the property is redeemed.

Witness my hand and the seal of the district this _____ day of _____, 19___.

(District Seal.)

_____

Collector of _____ Irrigation District

Disposition of duplicates

26132. Of each of the duplicate certificates of sale one shall be retained by the collector and the other shall be filed in the office of the county recorder of the county in which the property is situated.

Duty of county recorder

26133. On receiving the certificate of sale, the county recorder shall file it and prepare an index in which in separate columns he shall enter all of the following:

(a) Name of the assessee recited in the certificate.

(b) Name of the assessing district.

(c) Date of sale.

Assignment of certificate

26134. The district as purchaser may assign any certificate of sale for a consideration of not less than the amount of the assessment, penalties, and costs.

Notice of assignments

26135. The secretary shall notify the collector of assignments of certificates of sale.

Mistake relating to ownership

26136. When property is sold for assessments imposed on it as the property of a particular person, no misnomer of the owner or supposed owner or any other mistake relating to the ownership of it affects the sale or renders it void or voidable.

CHAPTER 6. REDEMPTION AND ITS TERMINATION

Article 1. Redemption Generally

Time and manner of redemption

26225. Property sold for delinquent assessments may be redeemed within three years from the date of sale, or thereafter before a collector's deed of the property has been delivered, by payment in lawful money of the United States to the collector of the amount for which the property was sold plus a penalty of three-fourths of 1 per cent per month from the date of sale until redemption.

Certificates of redemption

26226. On receipt of the redemption money plus the amount of the recorder's fee fixed in this article the collector shall make out duplicate certificates of redemption reciting the payment and stating the date and number of the certificate of sale to which the redemption applies.

Same To redemptioner

26227. One of the duplicate certificates of redemption shall be given to the redemptioner.

Same Redemption of part of property

26228. In case of a redemption of part of any property described in a certificate of sale, the part redeemed shall be described in the certificate of redemption.

Same To county recorder

26229. The collector shall present the other duplicate certificate of redemption to the county recorder in whose office the certificate of sale is on file, and the recorder shall either:

(a) Attach the certificate of redemption to the certificate of sale to which it relates.

(b) File the certificate of redemption and mark the word "redeemed" or "partially redeemed," as the case may be, and the date and by whom redeemed on the margin of the certificate of sale.

Same Fee

26230. The county recorder shall collect a fee of fifty cents ($0.50) for filing each certificate of redemption and making the marginal notations.

Right of assignee of certificate of sale

26231. When a certificate of sale has been assigned, the collector shall hold the redemption money for and on demand pay it to the holder of the certificate.

When incorrect statements binding on district

26232. No incorrect statement or estimate of assessments due or amount required to redeem is binding upon a district or its officers unless the incorrect statement or estimate was in writing signed by the collector and relied upon in good faith by the party paying the amount designated.

(Added by Stats. 1943, Ch. 648.)

Article 2. Partial Redemption

Time limit

26250. Redemption of a portion of any parcel of property separately from the whole parcel of which it is a part may be made as provided in this article at any time prior to the expiration of the period of redemption.

Separate valuation on assessment book

26251. If the portion to be separately redeemed has a separate valuation shown on the assessment book, the collector shall determine the amount due according to the valuation shown on the assessment book, and redemption of the portion may be made in the manner provided for in Article 1 of this chapter.

When description submitted to assessor

26252. If the portion to be separately redeemed does not have a separate valuation shown on the assessment book, the collector shall submit the description of the portion to the assessor.

Valuation by assessor

26253. The assessor shall place a valuation on the described property.

Determination of amount due

26254. The collector shall determine the amount due according to the valuation so placed upon the portion upon which separate redemption is requested and shall then refer the proposed redemption to the board.

Reference to board

Decision of board

26255. The board may either:

(a) Confirm, modify, or set aside the valuation of the assessor.

(b) Refuse to authorize the separate redemption.

Decision final

26256. The decision of the board shall be final, and the collector shall conform with it.

Manner of separate redemption

26257. Separate redemption, if authorized by the board, may be made in the manner provided for in Article 1 of this chapter.

Payment of part of current assessment

26258. The redemptioner of a portion of a parcel of property may also pay that part of the current assessment levied against the parcel of land out of which the portion was separately redeemed, as may be determined by the board to be fair, based upon the valuation placed on the parcel as shown on the current assessment book.

Same: Duty of collector

26259 Upon payment of the amount fixed as the sum to be paid as the current assessment on the portion of land separately redeemed, the collector shall enter on the current assessment book a reference to the order of the board authorizing payment of part of the assessment, the amount paid, and date of payment.

Article 3. Deed on Termination of Redemption

Deed to district or its assignee

26275. If property sold for delinquent assessments has not been redeemed and three years have elapsed from the date of its sale, the collector, upon demand, shall deliver a collector's deed to the property to the district or to the assignee holding the certificate of sale.

Contents

26276. Collector's deeds shall contain all of the following:

(a) Date of the sale.

(b) Statement that no person redeemed the property during the time allowed for its redemption.

Form

26277. The deed made by the collector may be in substantially the following form, the blanks being filled to show the facts in each case:

Collector's Deed

_____Irrigation District

On the_____day of_____, 19____, the collector of_____Irrigation District sold to_____ Irrigation District for a delinquent assessment real property situated within the district and in the county of_____, State of California, described as follows:

(Insert description.)

No person has redeemed the property from the sale; the time for redemption has elapsed; and the purchaser has demanded a deed to the property.

Wherefore, I, the collector of_____Irrigation District, grant to_____all of the real property aforesaid.

Witness my hand and the seal of the district this _____day of_____, 19____.

(District Seal.)

_____

Collector of _____ Irrigation District

Deed to assignee

26278. If a collector's deed is demanded by an assignee of a certificate of sale, the form of deed shall be amended by striking out the words "the purchaser" and inserting in lieu thereof substantially the following: "_____ to whom the certificate of sale has been assigned."

Deed on partial redemption

26279. In case partial redemption has been made, the form of the collector's deed shall be modified to conform to the facts.

Fee for making deed

26280. The collector shall receive from the purchaser for the use of the district two dollars ($2.00) for making the deed except when the deed is to the district.

District as grantee

26281. When a district is the grantee, the collector shall make duplicate deeds to the property.

Article 4. Effect of Deed

Vests absolute title Exceptions

26300. A collector's deed conveys to the grantee free of all encumbrances the absolute title to the property described in it except when the land is owned by the United States or

this State, in which case it is prima facie evidence of the right of possession.

Rights of district

26301. Where property has been conveyed to a district by a collector's deed, the district shall have the same rights in respect to the property and its rents, issues, and profits as a private purchaser.

Prima facie evidence

26302. A collector's deed when acknowledged or proved is prima facie evidence that:

(a) The land was assessed as required by law.

(b) The land was equalized as required by law.

(c) The assessments were levied in accordance with law.

(d) The assessments were not paid.

(e) At a proper time and place the property was sold as prescribed by law.

(f) The property was not redeemed.

(g) The person who executed the deed was the proper officer.

Conclusive evidence

26303. Except as against actual fraud a collector's deed acknowledged or proved is conclusive evidence of the regularity of all of the proceedings from the assessment by the assessor, inclusive, up to the execution of the deed.

Statute of limitations On collector's deed

26304. An action, proceeding, defense, answer, counterclaim, or cross-complaint based on the alleged invalidity or irregularity of any collector's deed executed to the district or based on the alleged ineffectiveness of the deed to convey the absolute title to the property described in it may be commenced or interposed only within one year after the recordation of the deed.

Same On instruments affecting acquired property

26305. An action, proceeding, defense, answer, counterclaim, or cross-complaint based on the alleged invalidity or irregularity of any agreement of sale, deed, lease, or option executed by a district in connection with property deeded to it by its collector or based on the alleged ineffectiveness of the instrument to convey or affect the title to the property described in it may be commenced or interposed only within one year after the execution by the district of the instrument.

Same Exceptions

26306. The provisions of Sections 26304 and 26305 do not apply in the following cases:

(a) Where the assessments for which the property was sold were paid before the sale.

(b) Where the property was redeemed after the sale.

(c) Where the land was not subject to assessment at the time it was assessed.

(d) Where no assessments were due on the land at the time of sale.

(e) Where fraud is established.

(f) Where the deed is void on its face

(g) Where the owner of the land was at the time of the sale a minor or insane person, in which case the earliest time that the statute of limitations begins to run is when the disability is removed.

Burden of proof

23307. The burden of proof shall be upon the party urging the invalidity, irregularity, or ineffectiveness of an agreement, deed, lease, or option described in Sections 26304 and 26305 or of any assessments, sales, or assessment deeds of which he complains to show the invalidity, irregularity, or ineffectiveness, and he shall be required to plead specifically the grounds upon which he urges the invalidity, irregularity, or ineffectiveness.

Article 5. Recordation of Deed to District

Requirement for recording deed

26325. A certificate of the secretary on a collector's deed stating that it has been accepted by the board entitles the deed to be recorded.

Manner

26326. A collector's deed to a district may be recorded in the usual manner of recording deeds or as provided in this article.

Delivery of duplicate deeds to recorder

26327. Both of the duplicate deeds shall be delivered by the collector to the secretary, and the secretary shall deliver them to the county recorder of the county where the property is situated.

Retention of one duplicate

26328. The county recorder shall retain one of the duplicate deeds and use it as a printed form for the purpose of making a record in his office of the recorded collector's deed. This duplicate is a printed form of deed within the meaning of Section 4130 of the Political Code.

Notations

26329. The recorder shall note on the duplicate deed retained in his office all of the following:

(a) Its filing number.

(b) Exact time of its reception.

(c) Name of the person at whose request it was recorded.

(d) Notation by the comparer that the record has been compared.

Deemed recorded

26330. The duplicate collector's deed retained by the recorder when properly noted as provided by this article and securely placed in the record books of his office is recorded within the meaning of the law and is constructive notice to all persons.

Other duplicate returned

26331. The recorder shall on the other duplicate of each collector's deed make the same notations as on the one retained in his office and return the unrecorded duplicate to the district.

Chapter 7. Assessment and Collection by County

Article 1. Assessment and Levy by County

Levy by board of supervisors

26500. If a board neglects or refuses in any year to levy assessments pursuant to this part, the board of supervisors of the office county shall, as provided in this article, perform the duties of the board of the district in respect to levying assessments in the same manner and with the same effect as if they were performed by the board.

Basis of assessment

26501. The applicable part of the equalized county assessment rolls of the affected counties shall be the basis of

assessment for the district when its assessments are levied pursuant to this article.

Land not appearing on county assessment roll

26502. If any land subject to assessment for the purposes of the district does not appear upon a county assessment roll used as the basis of assessment for the district, the land omitted shall be forthwith assessed by the county assessor of the county in which it is situated upon an order of the board of supervisors making the assessment, and a description of the property omitted shall be written in the roll prepared for the district assessments.

Equalization

26503. The board of supervisors shall meet and equalize each assessment made pursuant to this article with the assessment of other land in the district. The same notice shall be given by the board of supervisors of a meeting for the purpose of equalizing the assessment to be made as herein directed as is provided to be given by a district secretary when a board is to meet to equalize assessments.

Expenses of levy Action for non-payment

26504. All expenses incurred in levying the assessment shall be borne by the district concerned. Unless the expenses are paid within 60 days from the time when a demand for them is made, they shall be collected by an action commenced by the district attorney of the county whose board of supervisors prepared the assessment roll.

Article 2. Collection by County

Collection by county tax collector

26525. In case of the neglect or refusal of the collector of any district to perform the duties imposed upon him, the tax collector of the office county shall perform his duties and be accountable therefor upon his official bond.

Disposition of assessments collected

26526. When any county tax collector collects any assessments for any district, he shall pay the proceeds to the county treasurer of the office county.

Duties of county treasurer

26527. As to money collected by the county tax collector and paid to the county treasurer, the county treasurer shall perform the duties ordinarily imposed on the treasurer of a district and be accountable therefor upon his official bond.

Same

26528. The county treasurer shall place the money of the district in a special fund to the credit of the district and shall disburse it to the proper persons for the purposes for which the assessments raising it were levied.

Restrictions on payment to district treasurer

26529. The county treasurer shall not pay any part of the money to the treasurer of the district until the county treasurer is satisfied that all of the valid obligations for which the assessments were levied and for which payment has been demanded have been paid.

Article 3. Supervision by District Attorney and Attorney General

Duties of district attorney

26550. The district attorney of each office county shall ascertain each year whether the duties relating to the levying and collection of assessments in districts have been performed

or not, and if he learns that the board or any official of any district has neglected or refused to perform any of these duties, he shall notify the board of supervisors or the county official required to perform the duty in the circumstances.

Action to compel performance

26551. Unless the board of supervisors or county official proceeds to perform the duties he has been notified to perform within 30 days after the receipt of notice, the district attorney shall take action in court to compel performance.

Notice to other officials

26552. The district attorney shall give notice to other officials and take any action necessary to secure the performance in their proper sequence of subsequent duties relating to the levying and collection of assessments.

Duty of Attorney General

26553. For the enforcement of the levying and collection of any assessment required to be levied and collected for the payment of any debt incurred, when complaint is made to the Attorney General that the district attorney of any county has not performed any duty devolving upon him by the provisions of this article or is not proceeding with due diligence or in the proper manner in the performance of the duty, the Attorney General shall make an investigation. If he finds the charge to be true, the Attorney General shall take any action necessary to enforce the performance of the duties relating to the levying and collection of assessments.

PART 11. CHANGES IN ORGANIZATION

CHAPTER 1. EXCLUSION

Article 1. Petition and Notice

Exclusion petition

26700. The owners in fee of not less than one-half in area of a tract of land that is a portion of a district may jointly or severally file with the board a petition, praying that the tract be excluded from the district.

Executor, etc., may sign

26701. An executor, an administrator, or a guardian of an estate appointed under the laws of this State may on behalf of his ward or the estate which he represents, upon being authorized by the proper court, sign and acknowledge a petition to exclude land.

Acknowledgment

26702. The petition shall be acknowledged.

Contents

26703. A petition for exclusion shall set forth all of the following:

(a) The reasons why it is claimed that the tract should be excluded.

(b) A description of the tract.

(c) A description of the land of each petitioner which is proposed to be excluded, which need not be more particular than is required when the land is entered in the assessment roll by the county assessor.

(d) A description of the land in the tract proposed to be excluded of each owner of record who does not sign the petition together with the name of its owner according to the

records of the county recorder of the county in which the land is situated.

Publication of notice of filing

26704. The secretary shall publish a notice of the filing of an exclusion petition for at least two weeks in some newspaper published in the office county and in a newspaper published in each other county containing land proposed to be excluded. If no newspaper is published in any one or more counties in which publication is required, notice shall be posted for the same time in at least three public places in the district, one of which notices shall be posted on the land proposed to be excluded.

Contents of notice

26705. The notice shall contain:

(a) A statement that a petition for exclusion of land has been filed.

(b) A description of the land proposed to be excluded.

(c) The names of the petitioners.

(d) The time of the hearing.

(e) An announcement that any persons interested in the proposed exclusion may appear at the district office at the time of the hearing and file objections in writing showing cause, if any they have, why the land or any of it should not be excluded.

Time of hearing

26706. The time of the hearing specified in the notice shall be the regular meeting of the board next after the giving of the notice is complete.

Effect of failure to object

26707. Persons who do not at or before the hearing file objections in writing showing cause why the land should not be excluded and the petitioners assent to excluding the land in whole and in part.

Article 2. Hearing and Order

Matters heard

26725. At the time and place mentioned in the notice or at the time to which the hearing of the petition may be adjourned the board shall hear the petition, all of the objections to it presented in writing, and all evidence introduced in support of the petition and objections.

Shorthand record of evidence

26726. The evidence at an exclusion hearing shall be taken down in shorthand and a record made of it and filed with the board.

Payment of expenses

26727. The expense of giving the notice and of the aforesaid proceedings on exclusion shall be paid by the persons filing the exclusion petition.

Grounds for denial

26728. Upon the hearing of an exclusion petition the board shall order that the petition be denied:

(a) Entirely when no evidence in support of the petition is introduced.

(b) As to any land described in the petition as to which the evidence introduced fails to sustain the petition.

(c) As to any land described in the petition which the board deems it not for the best interests of the district to exclude except when the board judges that the land will not be benefited by the operations of the district.

Grounds for order of exclusion

26729. The board after the hearing of any exclusion petition shall order the exclusion of all or any part of the land described in it when as to the land to be excluded either:

(a) The board judges that the land will not be benefited by the operations of the district.

(b) The board deems the exclusion to be for the best interest of the district and one of the following is true:

(1) No interested person has filed objections in writing showing cause why the land should not be excluded.

(2) All written objections made to the exclusion have been withdrawn.

(3) No written objection made to the exclusion is sustained at the hearing.

Entry describing change

26730. When a board excludes any land from a district, the board shall make an entry in its minutes describing the change so that the new boundary of the district can be ascertained.

Survey

26731. For the purpose of describing the change the board may cause any survey to be made it deems necessary.

Recordation of copy of entry of exclusion

26732. A copy of the entry in the minutes excluding any land, certified by the president and secretary, shall be filed for record in the recorder's office of each affected county.

Effect of exclusion On property rights

26733. No exclusion of land from any district impairs its existence, its rights, including those in or to property, or its obligations.

Same On office of director from the division

26734. If the land excluded from any district embraces the greater portion of any division of the district, the office of director from the division shall be vacant at the expiration of 10 days from the final order of the board excluding the land. The vacancy shall be filled by appointment by the board of supervisors of the office county from the district at large. A director so appointed shall hold office until the next general election for the district. A director then elected shall hold office for the unexpired term in the office of director from the division involved.

Article 3. Bondholders' Assent to Exclusion

Bondholders' assent

26750. If there are outstanding bonds of the district at the time of the filing of an exclusion petition, the holders of the outstanding bonds may severally assent in writing to the exclusion of the land described in the petition or any portion of it that may be excluded from the district by order of its board.

Acknowledgment

26751. The assent shall be acknowledged by each bondholder.

Recording in minutes

26752. The assent shall be filed with the board and recorded in its minutes.

Minutes as evidence of assent

26753. The minutes containing the assent or a copy of them certified by the secretary shall be admissible in evidence with the same effect as the assent.

Recordation

26754. A certified copy of the assent may be recorded in the office of the county recorder of the county in which the land to be excluded is situated.

Effect of assent

26755. When an assent to the exclusion of any land has been given by any bondholder, no assessments shall thereafter be levied on the land excluded on account of the bonds held by him at the time he gave his assent.

Article 4. Liability of Excluded Land

Application of article

26775. To the extent provided in Section 26755 the provisions of this article do not apply to outstanding bonds the holders of which have assented to the exclusion of the land from the district.

Outstanding obligations

26776. Land excluded from a district shall be subject to assessment and be otherwise chargeable for the payment and discharge of all of the obligations outstanding at the time of the filing of the petition for the exclusion of the land as fully as though the land had not been excluded.

Same: How considered

26777. For the purpose of discharging the obligations outstanding at the time of the filing of the petition for its exclusion, land excluded shall be considered as part of the district the same as though the land had not been excluded.

Applicable provisions to compel payment

26778. All provisions which could be used to compel the payment by excluded land of its portion of the outstanding obligations had the exclusion not occurred may be used to compel the payment on the part of the land of the portion of the outstanding obligations of the district for which it is liable.

Nonliability

26779. Excluded land is not subject to assessment or otherwise chargeable for any obligation of any nature or kind incurred after the filing with the board of the petition for the exclusion of the land from the district.

Same: Exception

26780. If within 10 days of the time of any order excluding any land from a district other land of equal or greater assessable value is included within the district, the excluded land is no longer subject to future levy of assessment by the district, except in the event of proceedings on behalf of bondholders to enforce the payment by the excluded land of its proportionate share of any principal or interest due and unpaid on the district's bonded indebtedness incurred while the excluded land was part of the district.

Article 5. Exclusion of District-Owned Land

Resolution

26800. If any land has been deeded to the district and the district still holds title to it, the board may by resolution declare its intention to exclude the land if the board determines that the exclusion will be for the best interests of the district.

Contents of resolution

26801. The resolution of intention to exclude district-owned land shall:

(a) Describe the land proposed to be excluded.

(b) Give the reasons for the proposed exclusion.

(c) Fix the time for the hearing of the matter, which time shall be not less than 28 days after the date of the adoption of the resolution.

Notice

26802. Thereupon, the secretary shall give notice of the resolution of intention to exclude district-owned land in the manner prescribed for giving notice of a hearing to exclude other land.

Contents of notice

26803. The notice shall:

(a) State the time of the hearing.

(b) Describe the land proposed to be excluded.

(c) Give the reasons for the exclusion stated in the resolution of intention.

(d) Notify all persons interested in the proposed exclusion that they may appear at the district office at the time fixed and file objections in writing showing cause, if any they have, why the land or any part of it should not be excluded as proposed in the resolution.

Conduct of hearing and other proceedings

26804. The proceedings at the hearing and thereafter shall be as provided for in the case of the exclusion of other land from the district, but no evidence need be taken except proof of the giving of the notice unless an objection in writing to the exclusion of all or part of the land is filed with the board at or before the time of the hearing.

CHAPTER 2. INCLUSION

Article 1. Petition and Notice

Land that may be included

26875. Land not a part of the district whether or not contiguous to it may be included within the district.

Qualified petitioners

26876. A majority of the holders of title to any tract of land who are also the holders of title to one-half or more of the area of the tract may file in the district office a petition praying that the tract of land be included within the district.

Owner of undivided interest

26877. If a petitioner is the owner of an undivided interest in land, he shall be deemed to be the owner of that fraction of the total area of the land which his interest bears to the whole.

Signature and acknowledgment by executor, etc

26878. An executor, an administrator, or a guardian of an estate appointed under the laws of this State may on behalf of his ward or the estate which he represents, upon being authorized by the proper court, sign and acknowledge a petition to include land.

Acknowledgment required

26879. The petition shall be acknowledged.

Statements in petition

26880. A petition for inclusion may either or both:

(a) State that if the land described in it is included within the district, it shall not become liable by assessment or otherwise for any of the outstanding obligations of the district and that the land then within the district shall not be liable by assessment or otherwise on account of any expenses for the acquisition of property then used or to be used for the irrigation of the land to be included, but that the land to be included shall be subject to any assessments and charges that may be necessary to provide for all or part of the cost of property

necessary to provide for its irrigation and the cost of maintaining and operating the property or the liability of the land to be included may be limited solely to the fixing and collecting of charges for the use of water on the included land.

(b) Set forth any other terms or conditions with respect to the inclusion of the land described in the petition and the liability of the land for any expenses to be incurred thereafter.

Manner of giving notice

26881. The secretary shall give notice of the filing of an inclusion petition in the same manner and for the same time as notices of bond elections are required to be given.

Contents of notice

26882. The notice shall contain:

(a) A statement of the purpose of the petition.

(b) A description of the land proposed to be included.

(c) The names of the petitioners.

(d) The time of the hearing.

(e) An announcement that any persons interested in the proposed inclusion may appear at the district office at the time of the hearing and file objections in writing showing cause, if any they have, why the land or any of it should not be included as proposed in the petition.

Time of hearing

26883. The time of the hearing specified in the notice shall be the regular meeting of the board next after the giving of the notice is complete.

Publication expenses

26884. The petitioners shall advance to the secretary sufficient money to pay for the publication of the notice of the inclusion hearing.

Effect of failure to object

26885. Persons who do not at or before the hearing file objections in writing showing cause why the land should not be included and the petitioners assent to including the land in whole and in part.

Article 2. Hearing and Order

Matters heard

26900. At the time and place mentioned in the notice or at the time to which the hearing of the petition may be adjourned the board shall hear the petition, all of the objections to it presented in writing, and all evidence introduced in support of the petition and objections.

Determination as to irrigation

26901. No land shall be included within a district unless the board after an inclusion hearing determines that it can be irrigated by means of some of the works of the district or by means of practicable works connecting therewith and will be benefited by the irrigation.

Conditions precedent to granting petition

26902. The board to which an inclusion petition is presented may require as a condition precedent to granting it:

(a) Payment by the petitioners severally to the district such respective sums, as nearly as they can be estimated by the board, as the petitioners or their predecessors in title would have been required to pay to the district as assessments had the land of the petitioners been included in the district at the time it was originally formed.

(b) The performance of any other conditions that the board may consider proper.

Grounds for inclusion

26903. The board after the hearing of any inclusion petition shall order the inclusion of all or any part of the land described in it, subject to any conditions that may be prescribed in any manner specified in this chapter, when as to the land to be included the following are true:

(a) The board finds that the petition complies with Article 1 of this chapter.

(b) The board finds that the inclusion of the land will be for the best interests of the district.

(c) Either that:

(1) No sufficient protest against the inclusion has been made by owners of land within the district.

(2) If a sufficient protest has been made, enough signatures have been withdrawn from it so that it is no longer sufficient.

Inclusion subject to conditions

26904. In making an order including land the board may provide that land included within the district shall be subject to the terms and conditions contained, pursuant to Section 26880, in the petition for inclusion.

Dismissal of petition

Excepted parts

26905. If the board determines that only a part or parts of the land described in an inclusion petition should be included, the petition shall be dismissed except as to each part the board determines to include as to which either:

(a) The petitioners include a majority of the holders of title to land in it who also are the holders of title to at least one-half of the area in it.

(b) Within 60 days from the time the determination is made, there is filed with the board the consent in writing of a majority of the holders of title to land in it who also hold title to at least one-half of the area in it.

Consent to inclusion of part of land

26906. A consent to the inclusion of a part of the land originally petitioned to be included shall be acknowledged.

Public lands of United States

26907. Any public land of the United States which can be irrigated by means of any of the works of the district or by any practicable works connecting therewith and will be benefited by the irrigation may be included within any district by order of its board without any petition therefor except as may be required by the laws of the United States.

Same Conditions of inclusion

26908. Agreeable to the laws of the United States and the proper regulations or consent of any authorized department thereof or the laws of this State, as the case may be, any conditions the board deems just may be imposed upon any public land of the United States or of this State as a part of the order of inclusion without the agreement or hearing provided for in Article 3 of this chapter.

Several petitions

26909. If more than one petition for the inclusion of land has been presented, the board may in one order include within the district any number of separate tracts of land.

Description of land in inclusion order

26910. An inclusion order shall describe the land included within the district by the inclusion proceeding.

Same Survey may be made

26911. For the purposes of describing the land the board may cause any survey to be made it deems necessary.

Recordation of inclusion order

26912. A copy of the inclusion order, certified by the president and secretary, shall be filed for record in the recorder's office of each affected county.

Minutes as evidence of petition

26913. Upon the filing for record of the copies of the inclusion order, the secretary shall record the inclusion petition in the minutes of the board, and the minutes or a certified copy of them shall be admissible in evidence with the same effect as the petition.

Effect of inclusion

26914. No inclusion of land into any district impairs its existence, its rights, including those in or to property, or its obligations.

Applicable provisions

26915. Included land is subject to the provisions of this division except to the extent of any changes made by the conditions of inclusion.

Article 3. Inclusion Subject to Conditions

Inclusion with conditions

26930. When the board finds that the inclusion of any land without condition would work an injury as to the land already within the district, the board may prescribe any conditions upon the inclusion of the land that the board deems just, which may include:

(a) Priority of right to water for the land already in the district.

(b) Payment of an additional annual charge upon the land included.

When conditions become effective

26931. If any conditions are prescribed by the board, they shall not be effective until adopted in the manner provided by either the main or alternative procedure for including land subject to conditions.

Main procedure

26932. Sections 26933 to 26936 constitute the main procedure for inclusion of land subject to conditions.

Agreement by owners

26933. All of the owners of the land subject to the conditions shall before an order for its inclusion is made sign an agreement with the district describing the land so to be included and specifying the conditions.

Acknowledgment

26934. The agreement shall be acknowledged.

Recordation

26935. The agreement shall be filed for record in the office of the county recorder of the county in which the land included is situated.

When land becomes part of district

26936. Upon the filing for record of the agreement and upon the filing for record of a copy of the order including the land, the land shall become a part of the district subject to the conditions in the agreement.

Alternative procedure

26937. Sections 26938 to 26948 constitute the alternative procedure for inclusion of land subject to conditions.

Adjournment of hearing

26938. The board may adjourn the hearing for not less than 30 nor more than 60 days.

Publication of notice of time and place

26939. The board shall give notice of the time and place of the adjourned hearing by publication for not less than once a week for three consecutive weeks in a newspaper of general

circulation published in the office county and in a newspaper of general circulation published in each other county containing land proposed to be included.

Contents of notice

26940. The notice shall set out at length the conditions proposed to be imposed and direct all persons interested to appear at the time and place specified in the notice and show cause in writing, if any they have, why the conditions should not be imposed.

Contents of order

26941. At the hearing or at any further adjournment thereof entered upon the minutes the board may by resolution adopt, reject, or modify the conditions as it deems just, and the order for inclusion shall contain the conditions the board finally adopts.

Final order

26942. The order shall be final when each copy required to be filed for record is filed for record.

Limitation on recording

26943. No certified copy of the order shall be filed for record for a period of 30 days after the making of the order.

Period for filing objections

26944. During the 30 days a majority of the holders of title to the land described in the petition for inclusion who also hold title to more than one-half of the area of that land may file with the secretary a statement or statements in writing signed by them objecting to the inclusion of the land with the conditions imposed thereon.

Acknowledgment of statement

26945. The statement shall be acknowledged.

Objections presented to board

26946. The secretary shall present the objections to the board.

Dismissal of petition

26947. If the board finds the objections to be in the required form and signed by the required number of holders of title, the board shall enter in its minutes an order dismissing the petition for inclusion, and no further proceedings shall be had thereon.

Same Without prejudice

26948. The order of dismissal shall be without prejudice to the filing of other petitions for the inclusion of the same land or any part of it.

Article 4. Protest Against Inclusion

Protest by landholders in district

26965. A protest against the inclusion of land, signed by not less than 3 per cent of the holders of title to the land within the district who are also the holders of title to not less than 3 per cent in value of the land within the district according to the last equalized assessment of the district, may be presented to the board prior to the hearing of the inclusion petition.

Withdrawal of protest or signatures

26966. Prior to or at the hearing of the inclusion petition the protest or any signatures to it may be withdrawn.

Protest or signatures not withdrawn

26967. If prior to or at the hearing the protest is not withdrawn or sufficient signatures to it are not withdrawn so that those remaining constitute less than 3 per cent of the holders of title to all of the land within the district or hold less than 3 per cent in value of the land within the district according to the last equalized assessment of the district, or if the board deems it not for the best interests of the district to include

in it any of the land described in the petition for inclusion, the board shall adopt a resolution stating the facts and describing the land proposed to be included in the district. Resolution

26968. Upon the adoption of the resolution, the board shall order that an inclusion election be held within the district to determine whether or not the land described in the resolution shall be included. Order of inclusion election

26969. Before calling an inclusion election the board may require an undertaking, with sufficient sureties, from the petitioners for the inclusion of the land conditioned that the petitioners or the sureties will pay all the costs of holding the election in case the inclusion is denied. Petitioners' undertaking with sufficient sureties

26970. When a sufficient protest against the inclusion is presented to the board, which is not withdrawn nor made ineffective by the withdrawal of signers from it, but the board declares that the inclusion of the land or a portion of it with conditions imposed will be for the best interest of the district, the proceedings shall continue as if no protest were filed, and the order of inclusion shall be made but shall not be filed for record nor become effective until after both of the following occur in the following order: Order of inclusion despite protest

(a) The conditions are adopted by the owners of or holders of title to the land to be included in the manner provided by either the main or alternative procedure for including land subject to conditions. Conditions for recordation and effectiveness

(b) An inclusion election is ordered and the inclusion upon conditions is approved by a majority of the votes cast at the election.

Article 5. Inclusion Elections

26985. The board shall fix the day for holding an inclusion election and cause notice of it to be given Notice of election

26986. The notice of an inclusion election shall describe the land to be included. Description in notice

26987. The notice of an election upon the inclusion of land with conditions, in addition to other requirements, shall contain a brief statement of the conditions imposed. Statement of conditions

26988. Notice of an inclusion election shall be given, and the election shall be held and conducted, its returns made and canvassed, and its result ascertained and declared in substantially the manner prescribed for a bond election. Manner of conducting election

26989. The ballots at an inclusion election shall contain "For inclusion" and "Against inclusion" or words equivalent thereto. Contents of ballots

26990. When the election is upon the inclusion of land with conditions the ballot shall contain "For inclusion with conditions" and "Against inclusion with conditions" Same Inclusion with conditions

26991. If at an inclusion election a majority of all the votes cast are against the inclusion, the board shall order that the petition be denied and shall proceed no further in the matter. Majority vote against

26992. If a majority of the votes at an inclusion election are in favor of the inclusion, the board, except when the inclusion is subject to conditions imposed pursuant to the main or Majority vote for

alternative procedure for including land subject to conditions, shall thereupon order that the land be included in accordance with the resolution adopted by the board.

Land subject to conditions

26993. When the inclusion of land subject to conditions imposed pursuant to the main or alternative procedure is approved at an inclusion election, a certified copy of the order declaring the result of the election shall be filed for record with the order of inclusion.

Recordat on of order

CHAPTER 3. CONSOLIDATION

Article 1. Resolutions for Consolidation

Consolidation

27150. Two or more districts may be consolidated as provided in this chapter.

Preliminary consolidation resolution

27151. The board of a district shall pass a preliminary consolidation resolution when either:

(a) In the judgment of the board it is for the best interest of the district that it be consolidated with one or more other districts.

(b) There is presented to the board a petition requesting consolidation signed by signers equal in number to and possessing the qualifications of signers required to sign a petition for the formation of the district with its then boundaries.

Same Contents

27152. The preliminary consolidation resolution shall contain all of the following:

(a) Recital of the facts requiring the passage of the resolution.

(b) Declaration of the advisability of the consolidation and the willingness of the board to consolidate.

(c) Specification of the elective offices for the consolidated district agreed upon by the board.

(d) Name for the consolidated district agreed upon by the boards.

Same Certified copy to department

27153. Each board passing a preliminary consolidation resolution shall forward a certified copy of it to the department.

Article 2. Reference to Department

Investigation

27175. Upon the receipt of certified copies of the preliminary consolidation resolution adopted by two or more districts, the department shall forthwith make or cause to be made any investigation that it deems necessary.

Report

27176. Upon the completion of the investigation but not more than 90 days after the receipt by the department of a copy of the resolution from the board last adopting it, the department shall submit to each board its report thereon.

Same Contents

27177. The department shall include in the report:

(a) If the department considers advisable the elimination of a portion of the land in any of the districts to be consolidated, a recommendation to that effect and a statement of the reasons of the department therefor.

(b) A description of the land recommended to constitute the proposed consolidated district.

(c) A description of the divisions in the proposed consolidated district, which divisions shall be five in number.

27178. The department shall also include in the report: Same. Further contents

(a) If any of the land recommended to be eliminated has theretofore received water from the district in which it is situated, a recommendation of the portion, if any, of the assessments theretofore paid upon the land to the return of which the respective owners are equitably entitled.

(b) A recommendation as to the apportionment to the land in the respective districts of any outstanding indebtedness as the department deems equitable.

Article 3. Consolidation Elections

27200. A consolidation election to submit to the voters in each district the question of the consolidation shall be called by each board which has adopted a preliminary consolidation resolution by an order made either: Order for election

(a) Within 10 days after receiving the report on the consolidation from the department in which the department states the consolidation to be desirable.

(b) Upon the adoption by each board of a resolution declaring its determination that the proposed consolidation is desirable after either:

(1) Receiving the report on the consolidation from the department in which the department states the consolidation not to be desirable.

(2) Not receiving the report on the consolidation from the department within 90 days after the submission to it of the copy of the preliminary consolidation resolution from the board last adopting it.

27201. Notice of a consolidation election shall be given for the time and in the manner provided for notice of bond elections. Notice

27202. The ballots shall contain "Consolidation—Yes" and "Consolidation—No" or words equivalent thereto. Contents of ballots

27203. At a consolidation election there shall be elected the directors and other officers of the consolidated district, who shall be nominated and voted for as provided for a general election. Elective officers

27204. A consolidation election shall be conducted and the returns canvassed so far as practicable in accordance with the requirements for a general election. Conduct and canvass

27205. If a majority of the votes cast in each district at a consolidation election are "Consolidation—Yes," the consolidation is approved. Majority vote required

Article 4. Consolidation Order and Its Effect

27225. If the consolidation is approved at a consolidation election, the consolidation is effective, and the consolidated district under the name specified for it in the preliminary Effect of consolidation

consolidation resolutions succeeds to all of the rights, privileges, and properties of all of the districts participating in the consolidation and shall be subject to all of their indebtedness, bonded and otherwise, as respectively apportioned.

Powers and duties

27226. When consolidated, the consolidated district possesses all of the powers of, is governed by, and is subject to all of the provisions of this division except as in this chapter otherwise provided as though originally formed pursuant to Part 2 of this division.

Qualification and organization of elective officers

27227. If the consolidation is approved at a consolidation election, the directors and other officers elected at the election shall thereupon become the officers of the consolidated district and shall qualify and organize in the manner provided for a newly formed district.

Order and contents

27228. Within 10 days after a consolidation is made, the board of the consolidated district shall make an order:

(a) Declaring the consolidation effective.

(b) Setting out the date that the consolidation became effective.

(c) Describing the land in the consolidated district.

Recordation

27229. A copy of the order, certified by the president and secretary of the consolidated district, shall be forthwith filed for record in the office of the county recorder of each affected county.

Right of owners of eliminated land

27230. If any land eliminated from the proposed consolidated district never received water from the district in which it was situated, its owners are entitled to the return of all assessments theretofore paid upon the land.

Apportionment of outstanding indebtedness

27231. The board of a consolidated district within 60 days after the consolidation shall act upon the recommendation of the department as to the apportionment of any outstanding indebtedness, and the board shall apportion to the lands in the consolidated district any outstanding indebtedness as it deems equitable.

Same Levy of future assessments

27232. All future assessments necessary to retire the indebtedness shall be levied in accordance with the apportionment.

Sale of bonds

27233. Any bonds of any districts which have been consolidated, which bonds were authorized prior to the consolidation but which were not issued, may by order of the board of the consolidated district be sold or disposed of in the manner provided in this division, and the proceeds of the sale or disposition shall be applied to the purpose for which the bonds were authorized.

CHAPTER 4. VOLUNTARY DISSOLUTION

Article 1. Petition for Dissolution

Dissolution

27400. Any district may be dissolved in the manner provided in this chapter.

Assent of Secretary of Interior required

27401. When a contract authorized by law has been made between a district and the United States for the construction and operation of necessary works for the delivery of water

or for a water supply, the district shall not be dissolved and no proceedings had in any court or otherwise for the dissolution of the district until the written assent of the Secretary of the Interior is given to the dissolution.

Petition

27402. A majority in number of the holders of title to all of the land who are also the holders of title to a majority in value of all of the land according to the equalized assessment of the district for the year next preceding upon which any assessment has been made may propose the dissolution of the district by a petition signed by them.

Contents

27403. The petition for dissolution shall set forth all of the following:

(a) The amount of the outstanding indebtedness, if any, which need not include any obligations for the enforcement of which a suit was barred by law prior to filing the petition with the board.

(b) A general description of the indebtedness, showing the amount of each description of indebtedness and the names of the respective owners so far as known.

(c) The estimated cost of the dissolution of the district.

(d) The assets of the district, including works and water rights.

Further contents

27404. The petition shall also set forth all of the following:

(a) A detailed statement of all the land sold to the district for assessments.

(b) The amount of the assessments on each parcel of land sold.

(c) All assessments unpaid.

(d) The amount of assessments unpaid upon each parcel of land.

(e) If any proposition has been made by the holders of the indebtedness to settle it, the proposition together with any plan proposed to carry it into execution.

Filing petition

27405. The petition shall be filed with the board.

Article 2. Alternative Petition for Dissolution

Alternative petition

27420. A petition to dissolve a district pursuant to this chapter shall conform to the provisions of this article if as to the district all of the following are true:

(a) It has no indebtedness except indebtedness a suit for which is barred by law.

(b) It has no assets.

(c) It has ceased to be a going concern.

(d) It has no irrigation system by which it conveys water for irrigation or domestic purposes to any of the residents in it.

Qualified petitioners

27421. The petition shall be signed by two-thirds of the voters residing in the district and by the holders of title to at least 50 per cent of the acreage within the district and 50 per cent in value of all of the land, the value of the land to be determined by the next preceding equalized assessment of the district.

Contents of petition

27422. The petition for dissolution shall contain all of the following:

(a) Statements showing the facts described in Section 27420.

(b) A statement that it is the desire of the signers of the petition to have the district dissolved.

(c) A recital that an application will be made to the superior court in and for the principal county for a decree of dissolution of the district under the provisions of this chapter.

The petition need not contain any other matter.

No plan required

27423. In a petition prepared pursuant to this article no plan of dissolution is required.

Filing petition

27424. The petition shall be filed with the board.

Article 3. Dissolution Elections

Calling dissolution election

27440. Upon the filing of a petition for dissolution the board shall call a dissolution election.

Questions submitted

27441. At a dissolution election there shall be submitted to the voters of the district the question of whether or not the district shall be dissolved, its indebtedness liquidated, and its assets distributed in accordance with the plan proposed in the petition for dissolution, or if no plan has been proposed, then in accordance with a plan proposed by the board in the notice of the election.

No plans required

27442. It is not necessary that any plan for the dissolution of a district or any plan for the liquidation of its indebtedness or the distribution of its assets be proposed by the board if the petition for its dissolution was prepared pursuant to Article 2 of this chapter.

Assent of, or provision for, creditors

27443. If the district has any oustanding indebtedness a suit for the enforcement of which is not barred by law, the dissolution election shall not be called until the assent of all the known holders of valid indebtedness against the district is obtained or provision is made in the plan for the payment of nonassenting holders.

Notice of election

27444. Notice of a dissolution election shall be given by both:

(a) Posting notices in three public places in each election precinct in the district for at least 20 days.

(b) Publication of notice in some newspaper published in the principal county, once a week for at least three successive weeks before the election.

Contents of notice

27445. The notice of the dissolution election shall set forth all of the following:

(a) The time of holding the election.

(b) The fact that it is proposed to dissolve the district.

(c) A brief summary of the plan, if any, proposed for liquidating the indebtedness of the district and disposing of its assets.

Conduct and canvass

27446. A dissolution election shall be held and its result determined and declared as nearly as practicable in conformity with the provisions governing general elections.

Contents of ballots

27447. At a dissolution election the ballot shall contain "Dissolution of the district—Yes" and "Dissolution of the district—No" or equivalent words.

Article 4. Court Proceedings Upon Dissolution

Validation of proceedings and plan

27465. If upon the canvass it is found and declared by the board that two-thirds of the votes cast at the election are in favor of dissolution of the district the district shall file a petition in the superior court of the principal county to determine the validity of the proceedings had and of the proposed plan, if any, for the dissolution of the district.

By district assessment payer

If no petition is filed by the district within 30 days after the canvass of the vote, then any district assessment payer may file a petition for the same purpose in the superior court of the principal county.

Conduct and effect

27466. Proceedings brought by an assessment payer shall be had in the same manner and with the same effect as if brought by the district.

Requisite facts in petition

27467. The petition to the superior court shall set forth the facts required to be set forth in the petition for dissolution to the board and all of the proceedings thereon.

Acquiring jurisdiction

27468. Jurisdiction of all parties interested may be had by publication of a notice of the pendency of the proceeding for at least once a week for three weeks in a newspaper of general circulation published in one newspaper in each affected county. The newspapers shall be designated by the court in which the proceeding is pending.

When jurisdiction completed

27469. Jurisdiction shall be complete 30 days after the completion of the publication of the notice.

Procedure in assessment payer's proceedings

27470. When the proceeding is brought by an assessment payer, the district shall be a defendant. Instead of service of summons upon the district notice shall be served personally on all directors who can be found in the State. As to any director who can not be found in the State, service by publication as provided in this article is sufficient.

In rem

27471. The proceeding is in rem.

Applicable rules

27472. The rules of pleading and practice in the Code of Civil Procedure not inconsistent with the provisions of this chapter are applicable to the proceeding.

Irregularities or omissions

27473. The court shall disregard any irregularity or omission which does not affect the substantial rights of the parties.

Article 5. Dissolution Contests

Dissolution contests

27490. In the proceeding in the superior court contests may be had as provided in this article.

Time within which to appear and contest

27491. Within 30 days after the completion of publication of notice of the proceedings anyone interested may appear and contest the validity of any or all of the following:

(a) The proceedings for dissolution had prior to his appearance.

(b) The plan or any portion of it proposed for the dissolution of the district.

(c) The validity of any portion of the indebtedness set out in the petition for dissolution filed with the board.

Contest barred

27492. No contest of any matter which may be contested pursuant to this article shall be made other than in the time and manner specified in this article.

Speedy trial

27493. Contests shall be speedily tried and judgment rendered.

Costs

27494. The costs of any contest may be allowed and apportioned between the parties or taxed to the losing party in the discretion of the court.

Appeal

Time of hearing and determination

27495. Any party to a contest may appeal at any time within 30 days after the entry of judgment. The appeal shall be heard and determined within three months from the taking of the appeal.

Article 6. Dissolution Decree

Determination of regularity, etc. of proceedings

27510. At the hearing on a petition for dissolution the court shall hear and determine the regularity, legality, and correctness of all proceedings.

Matters determined

27511. The court may determine all of the following:

(a) The validity of any sales for assessments.

(b) The amount of any assessment or assessments due upon the various parcels of real estate within the district.

(c) The amount of any assessment or assessments theretofore paid upon the various parcels and lots of real estate therein.

(d) The rights and liabilities of all parties.

Acts to be performed by court order

27512. The court in its decree may make the orders necessary to do any or all of the following:

(a) Carry out the plan for the discharge of the indebtedness and distribution of the property of the district.

(b) Apportion any indebtedness found due and declare the portions to be liens upon the various parcels and lots of land within the district.

(c) Sell the assets of the district in such manner as may effectuate the plan and as the court may judge best, either in one lot or in parcels as may be provided.

(d) Convey the works, water rights, and any other assets of the district, including certificates of sale held by it and assessments due it.

Lien

27513. The amounts of any assessments found due upon the various parcels of land, other than assessments for which sales have been made to the district, together with legal interest from the time when the assessments became delinquent are liens respectively on the parcels affected thereby.

Same: Foreclosure

27514. A purchaser of the assessments at the sale ordered by the court and the holders of liens apportioned by the court may foreclose the same by action in the superior court and shall in the action join all these assessments and liens held by him and which remain unredeemed.

Redemption

27515. A redemption from these assessments and liens may be made at any time before foreclosure sale by payment of

the amount due to the clerk of the court for the use of the then holders of the assessments and liens and the clerk shall thereupon enter a minute of the payment, which payment shall discharge the lien. Discharge of lien

27516. When land has been assessment sold by the collector, the manner of its redemption is provided for in Article 7 of this chapter. Manner of redemption

27517. A corporation may be formed under the general corporation law for the purpose of acquiring the assets of a district, including the irrigation system, if any, dams, reservoirs, canals, franchises, and water rights, which corporation shall have all the powers, rights, and franchises of corporate bodies formed under the general corporation law, and in addition shall have any further powers as may be necessary to possess and carry on the irrigation system and exercise the franchises and water rights. Formation of corporation to acquire assets

27518. Whenever all the property of a district has been disposed of and all the obligations thereof, if any, have been discharged, the balance of the money of the district shall be distributed to the assessment payers in the district upon the last assessment book in the proportion in which each has contributed to the total amount of the last assessment levied, and the court shall enter a final decree declaring the district to be dissolved. Distribution of assets Final decree of dissolution

27519. It shall not be necessary in winding up the affairs of a district to pay any portion of an obligation of the district for the enforcement of which a suit is barred by law. Payment of barred obligations

Article 7. Redemption and Its Termination Upon Dissolution

27540. The period prescribed for the redemption of property sold for delinquent assessments does not bar the dissolution of any district. Dissolution not barred

27541. If any land has been sold for delinquent assessments of a district in process of dissolution or in a district which has been dissolved and the time allowed for redemption has not expired, the owner of the property or anyone in interest may redeem it by paying the amount due on it to the county treasurer of the principal county, who shall issue his receipt therefor. Procedure by owner

27542. The amount due shall be computed as if redemption were being made in a district not dissolved nor being dissolved. Computation of amount due

27543. Upon the presentation of the receipt and filing fee of fifty cents ($0.50) the county recorder shall attach it to the certificate of sale to which it relates or file it and mark the word "redeemed," the date, and by whom redeemed on the margin of the certificate of sale. Duty of county recorder upon payment

27544. When any property has been sold for nonpayment of assessments, and no redemption has been made within the time allowed therefor, and the district has been dissolved before Deed to purchaser

the expiration of the redemption period, a deed for the property sold and described in the certificate of sale shall upon demand be made to the purchaser by the county treasurer of the county in which the district or the greater part of it is or was situated.

Recitals in deed

27545. The deed shall contain all the recitals of the certificate of sale and a recital that the district has been dissolved and a deed executed in pursuance of the authority given in this article.

Effect of deed

27546. A deed so executed shall have the same effect as if executed by the collector of a district not dissolved.

CHAPTER 5. INVOLUNTARY DISSOLUTION

Article 1. Commencement of Proceeding

Involuntary dissolution

27700. This chapter provides an alternative method for the dissolution of districts and does not prevent dissolution of a district by any other means.

Limited application

27701. This chapter is limited in application to any district as to which either:

(a) All of the following are true:

(1) Has been organized for more than three years.

(2) Has neglected to secure an adequate water supply.

(3) Does not have a reasonable prospect of securing an adequate water supply for the land of the district without prohibitive cost.

(4) Has neglected to obtain the approval of the State Water Commission or the department of the water supply of the district.

(5) Has neglected to obtain the approval of the State Engineer or the department of the plans of the district.

(6) Has neglected to acquire a system of works or finance them.

(7) Has neglected to obtain the approval of the Irrigation District Bond Commission or the commission.

(b) Or all of the following are true:

(1) Has been organized for more than 10 years.

(2) For more than five years after the acquisition of a system of works has neglected to maintain the works or for more than five years after the works have been acquired has neglected to supply or make available water for the irrigation of more than 10 per cent of the land in the district.

Proceeding by Attorney General

27702. Any district may be dissolved by the superior court of the principal county by a proceeding brought by the Attorney General upon his own information in the name of the people of the State of California.

Prior publication of notice of intention to start suit

27703. Before proceeding by the Attorney General to dissolve a district can be commenced, the Attorney General shall publish for two consecutive weeks in some newspaper published in the principal county a notice to all parties in interest that it is his intention to commence a proceeding for the dissolution of the district.

27704. The rules of pleading and practice in the Code of Civil Procedure not inconsistent with the provisions of this chapter are applicable to the proceeding provided in this chapter. Applicable rules

Article 2. Reference to Department

27725. Before the trial of a proceeding commenced by the Attorney General to dissolve a district the court may direct the department to investigate all the affairs of the district, including: Reference to Department of Public Works

(a) The water supply that may be obtained by the district without prohibitive cost. Matters of investigation

(b) The feasibility and practicability of irrigating all or a reasonable amount of the land.

(c) All other matters which the court may direct or the department may deem pertinent as affecting the possible success or failure of the district as an irrigation enterprise and which may be necessary to enable the court to determine the question of dissolution.

27726. For the purpose of making the investigation, the department shall have access to all the records of the district, and all officers and employees and other persons in any manner connected with or employed by the district shall furnish information which the department may require which has already been obtained or determined, including maps, plans, estimates, field notes, and other data. Access to records, official cooperation

27727. The department shall report its findings and conclusions to the court as soon as practicable and within 90 days or within any further time not exceeding 90 days granted by the court. Findings and conclusions

Article 3. Procedure upon Dissolution

27750. In the judgment of dissolution the court shall determine the amount of indebtedness outstanding against the district, including the costs of the court action in which the district is dissolved. Judgment of dissolution

27751. Upon final judgment of dissolution in a proceeding commenced by the Attorney General to dissolve a district the district shall be dissolved. When district dissolved

27752. Thereafter, the appropriate county officers of the principal county shall act as ex officio officers of the district. The county treasurer shall perform the duties of the district treasurer. The county tax collector shall perform the duties of the district collector. The county assessor shall perform the duties of the district assessor. The county clerk shall perform the duties of the secretary. The board of supervisors shall perform the duties of the board of directors. Ex officio officers

27753. The records and papers of every kind belonging to the district shall be turned over to the appropriate county officers. Disposal of records

Payment of outstanding indebtedness by taxation

27754. The appropriate county officers shall proceed to levy and collect as much taxes as may be necessary upon the land formerly embraced within the district, in the same manner and with the same procedure for nonpayment that county taxes are levied and collected, for the purpose of paying any outstanding indebtedness not provided for by previous assessments.

Sale or distribution of property

27755. All property of every kind belonging to the district, including land sold to the district for assessments, shall be sold at public sale or shall be distributed to the owners of land within the district upon the terms and for the consideration the court may impose.

Use of proceeds

27756. The proceeds, if any, from the public sale or the distribution together with all other moneys of the district on hand shall be used to discharge and pay any and all indebtedness of the district.

Disposition of surplus funds

27757. All funds remaining after all outstanding indebtedness has been paid shall be apportioned and paid to the assessment payers according to the last equalized assessment of the district.

Dissolution not barred by debts

27758. The outstanding indebtedness of any district shall not operate as a bar to dissolution by the superior court when provision is made for the payment of the indebtedness in the manner provided in this article.

PART 12. REPEALS

Repeals

29975. The following acts are hereby repealed:

Yr.	Ch.	Pg.	Yr.	Ch.	Pg.
1854	57	76	1893	211	295
1860	220	182	1897	189	254
1863–4	89	87	1903	5	3
1863–4	174	167	1907	298	569
1865–6	470	609	1915	1	1
1865–6	556	777	1917	160	243
1867–8	435	112	1917	591	905
1871–2	634	945	1919	356	751
1873–4	214	312	1919	370	778
1875–6	110	79	1921	600	1018
1875–6	347	486	1923	225	449
1875–6	396	547	1927	748	1415
1875–6	491	731	1929	64	136
1877–8	300	374	1931	53	46
1877–8	306	387	1933	75	513
1877–8	345	468	1937	24	92
1877–8	526	820	1941	466	1765
1887	34	29			

Repeals

29976. The following acts are hereby repealed:

Yr.	Ch.	Pg.
1917	606	936
1933	994	2557
1935	833	2250

Notwithstanding the repeal of said acts the provisions thereof as codified in this division shall continue to apply to the Palo Verde Irrigation District. Exception

29978. The repeals effected by this part shall not be construed to deprive any district or any person or other entity of any substantial right which would have existed or hereafter exist had such repeals not been effected. Construction of repeals

150001. The following sections of the Civil Code are repealed: Repeals

551	844	1411
842	1410	1412
843	1410b	1413

150002. Sections 2692, 3486 and 3487 of the Political Code are repealed. Repeals

150003. The following acts are repealed: Repeals

Year	Ch.	Pg.	Year	Ch.	Pg.
1901	222	660	1921	411	604
1907	101	122	1921	854	1638
1909	704	1079	1921	889	1685
1913	586	1012	1925	477	1013
1919	423	826	1929	766	1505
			1935	692	1891

150005. The following acts and sections, together with all acts amendatory thereof or supplemental thereto, are hereby repealed: Repeals

Political Code 4042.

Secs. 1-5, 5a, 6-12, 12.3, 13-15, 15a, 16, 16½, 17, 18, 18a, 19-33, 33a, 35, 36, 37a and 38 of 1911 (1st Ex. Sess.): 25:117.

Year	Ch.	Pg.	Year	Ch.	Pg.
1895	106	95	1925	176	325
1917	418	536	1925	303	498
1919	463	851	1925	304	499
1919	519	1091	1927	517	860
1919	520	1092	1927	568	953
1921	314	420	1927	582	971
1921	419	608	1927	774	1503
1921	421	610	1927	809	1610
1921	815	1493	1929	274	579
1921	816	1493	1929	656	1094
1923	432	1005	1931	47	26
1923	437	1013	1935	365	1318
1925	112	256	1939	389	1721
1925	129	281			

(Added by Stats. 1943, Ch. 369, as part of codification.)

Repeals

150006. The following acts are repealed:

Yr.	Ch.	Pg.	Yr.	Ch.	Pg.
1933	1042	2643	1939	420	1753
1935	12	68	1939	670	2143
1935	747	2101	1941	1185	2943
1937	838	2350			

(Added by Stats. 1943, Ch. 370, as part of codification.

Repeals

150010. The following acts are hereby repealed:

Yr.	Ch.	Pg.
1915	627	1211
1931	1073	2263

(Added by Stats. 1943, Ch. 371, as part of codification.)

CHAPTER 369

Stats 1943, Ch 368, amended

An act to add Division 5 and Section 150005 to the Water Code, relating to flood control by cities, counties, and the State, including provisions relating to the Reclamation Board, the Sacramento and San Joaquin Drainage District, and to repeal certain acts specified herein.

In effect August 4, 1943

[Approved by Governor May 13, 1943 Filed with Secretary of State May 13, 1943.]

Note.—See Stats. 1943, Ch. 368.

CHAPTER 370

Stats 1943, Ch 368, amended

An act to add Division 6 to the Water Code, relating to the conservation, development and utilization of the water resources of the State, including provisions relating to the State Water Plan, the Central Valley Project, the San Luis Rey Water Authority, the Colorado River Board, and to repeal certain acts specified herein.

In effect August 4, 1943

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

Note.—See Stats. 1943, Ch. 368.

CHAPTER 371

An act to add Division 10 and Section 150010 to the Water Code, thereby revising and consolidating the law relating to the financial supervision of irrigation and other public districts, including provisions relating to the approval and certification of bonds of such districts as legal investments and as security for the deposit of public money, provisions relating to the obligations and finances of such districts, and provisions relating to the California Districts Securities Commission and other State agencies having powers similar to said commission, and to repeal certain acts specified herein.

Stats 1943, Ch 368, amended

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

In effect August 4, 1943

Note.—See Stats. 1943, Ch. 368.

CHAPTER 372

An act to add Division 11 to the Water Code, thereby revising and consolidating the law relating to irrigation districts, including provisions for the supervision, regulation, and conduct of such districts, and to repeal certain acts specified herein.

Stats 1943, Ch 368, amended

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

In effect August 4, 1943

Note.—See Stats. 1943, Ch. 368.

CHAPTER 373

An act to add Sections 202, 203, 1050.5 and 1050.6 to, to amend Sections 228 and 275 of and to repeal Article 5, of Chapter 1 of Part 2 of Division 2 of the Water Code, relating to the administration of the provisions of said code.

Stats 1943, Ch 368, amended

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

In effect August 4, 1943

Note.—See Stats. 1943, Ch. 368

CHAPTER 374

An act to add Section 8710.5 to the Water Code, relating to approval of works of reclamation proposed by public districts within the Sacramento and San Joaquin Drainage District.

Stats 1943, Ch 368, amended

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

In effect August 4, 1943

Note.—See Stats 1943, Ch. 368.

CHAPTER 375

Stats 1943, Ch 368, amended

An act to add Section 4028.5 to the Water Code, relating to distribution of water in water master service areas.

In effect August 4, 1943

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

Note.—See Stats. 1943, Ch. 368.

CHAPTER 376

Stats 1943, Ch 368, amended

An act to amend Section 11102 and to repeal Section 11660 of the Water Code, relating to the Central Valley Project.

In effect August 4, 1943

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

Note —See Stats. 1943, Ch. 368

CHAPTER 377

Stats 1939, p. 1274, amended

An act to amend Section 2614 of, and to add Section 5137.5 to, the Revenue and Taxation Code, relating to payment of taxes under protest.

In effect August 4, 1943

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

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

Stats. 1939, p 1274 See also Stats 1943, Ch. 409

SECTION 1. Section 2614 of the Revenue and Taxation Code is hereby amended to read as follows:

Recordation of payment

2614. The tax collector shall mark the fact and date of payment on the roll or delinquent list, opposite the name of the assessee and if paid under protest, as provided in Section 5136 of this code, shall mark that fact and the number of the written protest accompanying such payment.

New section

SEC. 2. Section 5137.5 is hereby added to the Revenue and Taxation Code, to read as follows:

Entry of fact of protest

5137.5. The written protest shall be numbered by the tax collector and filed in his office and the fact of such protest and the number thereof shall be marked on the roll or delinquent list, opposite the name of the assessee, as provided in Section 2614 of this code.

CHAPTER 378

An act to add Sections 333.7 and 333.8 to the Agricultural Code, relating to cattle brands.

Stats. 1933, p. 60, amended

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 333.7 is added to the Agricultural Code, to read:

New section

333.7. No brand shall be recorded for use upon the right jaw of bovine animals.

Right jaw brands

SEC. 2. Section 333.8 is added to said code, to read:

New section

333.8. Venting a brand consists of rebranding a branded animal for the purpose of canceling a prior brand on the animal. A permit from the director is required to vent a brand by rebranding with the same or another brand of the owner of the animal. Such permit shall be granted when such use of a venting brand will not, in the judgment of the director, conflict with another recorded brand used in the same or any adjacent district, and shall specify the place upon the animal where the venting brand shall be applied, which shall be a place on the same side of the animal as the brand vented thereby. Notwithstanding any provision in this article it shall be lawful to use a brand in conformity with a permit issued pursuant to this section.

Venting brands

CHAPTER 379

An act to repeal an act entitled "An act to regulate motor boats of less than 15 gross tons capacity, operating in California waters and carrying passengers for hire and providing a penalty for violation thereof," approved June 19, 1931, relating to motor boat regulation and the disposition of money in the Boat Fund.

Stats 1931, p. 2284, repealed

[Approved by Governor May 13, 1943 Filed with Secretary of State May 13, 1943.]

In effect August 4, 1943

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

SECTION 1. The act cited in the title hereof is repealed.

Repeal

SEC. 2. The Boat Fund is abolished. Any unexpended balance remaining in the fund shall be transferred to the General Fund in the State Treasury.

Boat Fund

CHAPTER 380

Stats 1939, p 1274, amended

An act to repeal Section 3001 of the Revenue and Taxation Code, relating to real property taxes.

In effect August 4, 1943

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

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

Stats 1939, p 1274

SECTION 1. Section 3001 of the Revenue and Taxation Code is hereby repealed.

CHAPTER 381

Stats 1943, Ch 134, amended

An act to amend Section 9608 of the Government Code, relating to the termination or suspension of a law and the effect thereof upon penalties for violations committed during the operative period of the law.

In effect August 4, 1943

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

Note.—See Stats. 1943, Ch. 134.

CHAPTER 382

Stats 1943, Ch 368, amended

An act to amend Sections 4356 and 4357 of the Water Code, relating to disbursements from the State Water Master Service Fund.

In effect August 4, 1943

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

Note.—See Stats. 1943, Ch. 368.

CHAPTER 383

An act to add Section 1.5 to an act entitled "An act regulating the use of public highways for commercial purposes by certain motor vehicles operated thereon for the transportation of property for compensation; preventing discriminations between various forms of transportation; conferring powers upon the Railroad Commission with respect to the transportation of property for compensation by said motor vehicles; providing penalties for the violation of this act, and repealing all acts inconsistent with the provisions of this act," approved May 27, 1935, relating to highway carriers.

Stats 1935, p 878, amended

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 1.5 is added to the act cited in the title hereof, to read:

New section

Sec. 1.5. "Highway carrier" does not include the following:

Farmer transporting for neighbor

Any farmer who, occasionally or for a total annual compensation from all sources for providing such transportation for hire, of not more than six hundred dollars ($600), transports from the place of production to a warehouse, regular market, place of storage, or place of shipment the farm products of neighboring farmers. Such farmer shall keep available an account of each time he has transported farm products and the compensation received therefor.

CHAPTER 384

An act to add Section 9603.5 to the Revenue and Taxation Code, relating to the taxation of vehicles.

Stats 1939, p 1271, amended

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 9603.5 is added to the Revenue and Taxation Code, to read:

New section

9603.5. "Occasionally" as used in the second subdivision (b) of Section 9603 shall be construed to mean occasionally or for a total annual compensation from all sources for providing such transportation for hire of not more than six hundred dollars ($600), and provided that such transportation shall constitute the sole transportation of persons or property for hire or compensation. Any person excluded from the definition of "operator" under that subdivision shall keep available

Definition "Occasionally"

an account of each time he has transported property or laborers and the compensation received therefor. If during any month of a calendar year the sum of the gross receipts of any farmer derived from transportation operations defined in this section shall exceed six hundred dollars ($600) for the calendar year, the farmer shall not be entitled to the exemption herein provided but shall be an operator as defined in Section 9603 (a) of this part. The entire sum of his gross receipts earned during that year shall be subject to the tax imposed in this part and the amount of the gross receipts earned in prior months of the year shall be added to the gross receipts of the month in which the sum of the gross receipts for the year exceeded six hundred dollars ($600) and shall be deemed to be gross receipts of that month for the purpose of computing the amount of the tax due under this part.

CHAPTER 385

Stats 1943, Ch 134, amended

An act to add Section 9611 to the Government Code, relating to interpretation of statutes.

In effect August 4, 1943

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

Note.—See Stats. 1943, Ch. 134.

CHAPTER 386

An act to amend Section 605e of the Civil Code, relating to the disposition of assets of nonprofit corporations upon dissolution or winding up.

In effect August 4, 1943

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

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

Stats 1939, p 1262

SECTION 1. Section 605e of the Civil Code is amended to read:

Disposition of assets

605e. Upon the dissolution or winding up of a nonprofit corporation, after paying or adequately providing for the debts and obligations of the corporation, the directors or persons in charge of the liquidation shall divide any remaining assets among the members in accordance with their respective rights therein, or dispose of the same in such other manner as may be provided in the articles; provided, however, that if the corporation holds its assets on any trust, such assets shall be disposed of in such manner as may be directed by decree of the superior court of the county in which the dissolved corporation had its principal office, upon petition filed for that purpose by the Attorney General or any party concerned in

the liquidation. The provisions of this section shall not apply where the charter of a subordinate body which has been incorporated is surrendered to or taken away or revoked by the head or national body. Subordinate body

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CHAPTER 387

An act to amend Sections 736.14 and 737.6 of the Agricultural Code, relating to the stabilization and marketing of fluid milk and fluid cream and to assessments and refunds thereunder, declaring the urgency of this act, to take effect immediately. Stats 1933, p 60, amended

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.] In effect immediately

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

SECTION 1. Section 736.14 of the Agricultural Code is amended to read: Stats 1941, p 3008 See also Stats 1943, Ch 615

736.14. Distributors who are subject to the provisions of this article shall pay to the director on all milk fat contained in fluid milk and fluid cream purchased from producers, including their own production, if any, a fee in mills per pound of milk fat equal to that required to be deducted from the payments due producers of fluid milk under Section 737.6 of this code. Such assessed fees received by the director shall be used in the administration and enforcement of this chapter or any stabilization or marketing plan established by this chapter. Fee

At the close of each fiscal year any amounts which have been collected and which the director finds are in excess of those which may reasonably be required for the administration and enforcement of this chapter shall be refunded pro rata to all distributors from whom such sums were due and collected pursuant to the provisions of this section. Refund

Any assessments which may have been collected for a period when a stabilization and marketing plan was not actually in full operation for a period in excess of one year for any particular marketing area shall be refunded by the director and any assessments which were not collected for such period and area shall be deemed waived.

SEC. 2. Section 737.6 of the Agricultural Code is hereby amended to read as follows: Stats 1943, Ch 274 See also Stats 1943, Ch 615

737.6. The fees for all licenses shall be as follows, based on the volume of fluid milk and fluid cream handled for the previous year, provided that any distributor who has not previously engaged in such business during such prior year shall pay such minimum license fee as provided by this chapter. Distributor's license fee

(a) Distributors purchasing or handling an average daily quantity of fluid milk of less than 50 gallons shall pay a license fee of three dollars ($3); distributors purchasing or

handling an average daily quantity of 50 gallons and less than 100 gallons shall pay a license fee of five dollars ($5); distributors purchasing or handling an average daily quantity of 100 gallons, and less than 200 gallons, shall pay a license fee of ten dollars ($10); distributors purchasing or handling an average daily quantity of 200 gallons, and less than 300 gallons, shall pay a license fee of fifteen dollars ($15); distributors purchasing or handling an average daily quantity of 300 gallons, and less than 500 gallons, shall pay a license fee of twenty-five dollars ($25); distributors handling an average daily quantity of 500 gallons or more shall pay a license fee of fifty dollars ($50).

Deduction from producers

(b) Distributors who are subject to the provisions of any stabilization and marketing plan made effective by this chapter, shall deduct from payments due producers for fluid milk, fluid cream or both, including each distributor's own production, the sum of two mills ($0.002) per pound milk fat on all milk fat contained in fluid milk, fluid cream or both, or in the case of distributors who do not purchase or receive fluid milk, fluid cream or both, in milk fat pounds, the sum of seven mills ($0.007) for each 10 gallons of fluid milk sold. The amount of the assessment so deducted shall be paid to the director on or before the fifteenth of the month following the month during which such fluid milk or fluid cream was received. The amounts of all such assessments so received by the director shall be used in the administration and enforcement of this chapter, or any stabilization and marketing plan established by this chapter.

Producer assessments

Refunds

At the close of each fiscal year any amounts which have been collected and which the director finds are in excess of those which may reasonably be required for the administration and enforcement of this chapter shall be refunded pro rata to all producers and/or distributors from whom such sums were due and collected pursuant to the provisions of this section.

Any assessments which may have been collected for a period when a stabilization and marketing plan was not actually in full operation for a period in excess of one year for any particular marketing area shall be refunded by the director and any assessments which were not collected for such period and area shall be deemed waived.

Urgency

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

The following is a statement of facts constituting such necessity:

Immediate action is necessary relative to refunds now being attempted with reference to accumulations of receipts from the beginning of the operation of the law and the difficulties of computing these refunds over this period of time indicates the necessity for such action each fiscal year.

Return of assessments paid in during the period that a stabilization and marketing program was inoperative pending dissolution of a restraining order through court procedure is necessary as soon as possible in order that persons entitled to same may be paid before further complications arise, e.g., transfers, consolidations, and discontinuances of businesses.

CHAPTER 388

An act to amend Section 86 of the Agricultural Code, relating to the powers of district agricultural associations, declaring the urgency of this act, to take effect immediately.

Stats 1933, p. 60, amended

[Approved by Governor May 13, 1943 Filed with Secretary of State May 13, 1943.]

In effect immediately

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

SECTION 1. Section 86 of the Agricultural Code is amended to read:

Stats 1941, p. 2610

86. Each district agricultural association is a State institution. Each association by its name has perpetual succession, may have a seal, be sued and, with the approval of the Department of Finance, may:

Powers of association

(a) Contract, and sue.

(b) Purchase, acquire, hold, sell, exchange or convey any interest in real or personal property and beautify or improve such property.

(c) Lease, let or grant licenses for the use of its real estate or personal property or any portion thereof for any agricultural, horticultural, viticultural or live stock fairs or expositions, floral displays, exhibitions of industries and industrial products, or Federal or State armories; to school organizations or associations thereof for the purpose of conducting athletic events participated in by such schools or associations; or to civic, patriotic, benevolent, or fraternal corporations or associations, for the purpose of holding conventions, assemblies, or public meetings on subjects of public or community interest; or for the sale of tangible personal property, or for concessions and services incidental to any of such purposes; or to nonprofit athletic organizations for athletic activities or to municipal corporations for use or reletting for any or all of the foregoing purposes.

(d) Rent or permit the use of its premises for the holding of sales or auctions of cattle or other live stock, or for other purposes beneficial to the agricultural industry.

(e) Contract with any county or county fair association for holding a fair jointly with the same. Such joint fair shall constitute a district fair of the association.

(f) Do any and all things necessary to carry out the above powers and the objects and purposes for which the association is formed.

Urgency

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

Many district agricultural associations throughout the State own property conveniently located for the establishment of agricultural labor camps and susceptible to other uses beneficial to the agricultural industry of the State. In the interest of aiding agriculture in the production of essential products for civilian and military purposes all of the resources of the State must be made available for the maximum possible use. This act removes certain restrictions on the use of publicly owned property and the removal of such restrictions will tend to promote the war effort and the production of essential farm products for the benefit of the people of the State.

CHAPTER 389

Stats 1933, p 60, amended

An act to amend Section 787.5 of the Agricultural Code, relating to markings on containers of fruits, nuts and vegetables, declaring the urgency hereof and that this act take effect immediately.

In effect immediately

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

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

Stats 1941, p 1774

SECTION 1. Section 787.5 of the Agricultural Code is amended to read:

Markings on containers of nuts, fruits and vegetables

787.5. Unless otherwise required in the standards established in this chapter, all containers of fruits, nuts and vegetables specifically mentioned in Section 790 and offered for sale and distribution in California shall bear upon them in plain sight and in plain letters on one outside end of each box, lug or carton and either on one side or the top cover of each basket, barrel, sack or other similar containers, the name of the buyer, packer, or other person who authorized the packing of the fruits, nuts or vegetables, together with a sufficiently explicit address to permit ready location of such packer. Such marking requirements shall not apply to any subcontainers of fruits, nuts and vegetables.

When the name and address of any person is required by any of the specific commodity standards of this chapter to be placed on any container, the address shall be a California address, unless the section of this code establishing the standard specifies otherwise.

Suspension of provisions

The provisions of this section shall not apply to containers of fruits, nuts, or vegetables packed or offered for sale or dis-

tribution, or sold between the effective date of this amendatory act and September 30, 1945, both dates inclusive.

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

Containers used for the transportation and sale of fruits and vegetables, primarily wooden boxes and sacks, are made from materials vital to the war effort, and there has developed a critical shortage of such containers, which will become more critical as the war continues. Consequently, it is necessary that such containers be returned and reused for additional shipments, and the presence of name and address markings on the containers applicable to the previous transaction makes such containers of no value or of much less value for the next transaction. The shortage of containers threatens to cause serious and unnecessary losses to the producers of fruits and vegetables in California, and the temporary suspension of the marking requirements as provided in this act will aid this situation materially. The shortage of containers is now affecting California producers and therefore in order to prevent great loss, distress and hardship to a large number of people, it is necessary that this act take immediate effect.

CHAPTER 390

An act to add to Chapter 2 of Division 5 of the Agricultural Code a new section to be numbered 790.5, relating to emergency standards, and declaring the urgency thereof to take effect immediately. Stats. 1933, p. 60, amended

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.] In effect immediately

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

SECTION 1. Section 790.5 is hereby added to Chapter 2 of Division 5 of the Agricultural Code, to read: New section

790.5. Whenever the director finds that any provision of this chapter relating to standards for any commodity or type of container, or relating to any markings required on any container, or any arrangement of the produce within a container, is difficult or impossible of performance by reason of laws or orders promulgated under the war power of the Government of the United States, or because of scarcity of materials or equipment used in the production or marketing of any commodity regulated by this chapter, or that any such provision of this chapter results in serious waste of useful produce otherwise available for human consumption, he may Emergency standards

establish emergency standards for any such commodity or container, or for the marking of containers, or for the arrangement of produce within the container; and until the date of expiration of this section, unless sooner rescinded by the director, such emergency standards shall be in full force and effect, notwithstanding any other provision of this chapter, and all provisions of this chapter applying to standards shall apply to such emergency standards in lieu of the standards set forth in this chapter.

Limitations

All emergency standards established under the provisions of this section shall be reasonably calculated to effectuate the purposes of the standards which they supersede. No emergency standards shall be established which tend to lower any standards relating to carrying or keeping quality of any commodity, and no emergency standards shall be construed to modify in any respect any provision of this chapter designed to prevent deception or mislabeling, or designed to prevent the marketing of produce which is unwholesome or which would fail to give consumer satisfaction.

Notice and hearing

All emergency standards issued under the provisions of this section shall be published in a bulletin of the Department of Agriculture not less than 30 days before the date on which they are to become effective together with a notice of the time and place for hearing objections. Such hearing shall be not less than 10 nor more than 20 days from the date of publication. Notice of hearing shall be mailed not less than 10 days prior to the date of the hearing to all persons who theretofore have filed with the director a request for notice of such hearings. If at the hearing it shall be developed by competent testimony that additional time will be required to produce further essential evidence, the director shall continue the hearing to a date which will allow sufficient time for the production of such evidence. At the hearing, interested parties shall be heard and a record kept of the proceedings for determination by the director of the facts shown at the hearing. The director, upon his findings on the facts shown at the hearing, shall rescind, modify or affirm the emergency standards as published; and such emergency standards, unless rescinded or postponed by the director, shall take effect on the date appointed therefor.

Duration

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section; but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

Existing law

Urgency

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

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

Emergency wartime conditions have brought about regulations promulgated under the war power of the Federal Government affecting many of the commodities regulated by this chapter, and in many instances conflicting with the standards prescribed herein, and have created serious shortages of both materials and labor, thereby making it impossible in many instances to comply fully with such standards; furthermore, the temporary modification of certain provisions of these standards would result in fuller utilization of the food resources of this State, and directly aid the war effort by preventing serious waste of useful produce otherwise available for human consumption. It is therefore necessary that provisions be made at once for the adoption of emergency standards in the place of many of the standards now in force, and that this act take immediate effect.

CHAPTER 391

An act to add to Chapter 4 of Division 4 of the Agricultural Code a new article to be numbered Article 9, including a new section to be numbered Section 690, relating to the disposition of moneys, declaring the urgency of this act, to take effect immediately.

Stats 1933, p 60, amended

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

In effect immediately

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

SECTION 1. Article 9 is hereby added, to read:

New article

Article 9. Disposition of Moneys

690. Until September 30, 1945, any moneys in the Department of Agriculture Fund derived under any provisions of the Milk and Milk Products Act of 1941 may be expended for the enforcement of any or all of the provisions of said act, notwithstanding any other provision of law limiting the expenditure of any such moneys to some specific purpose or to the enforcement of some specific section, article or chapter of said act.

Authorized expenditures Stats 1941, p 475

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public health, peace, and safety and shall, therefore, under the provisions of Section 1 of Article IV of the Constitution take effect immediately and become operative July 1, 1943.

Urgency

The facts constituting such necessity are as follows:

In order that the moneys in the Department of Agriculture Fund available for expenditure for the enforcement and administration of the provisions of the Milk and Milk Products

Act of 1941 may be utilized interchangeably between the several functions of the department thereunder, and in order to make fully effective the purposes of this measure, namely, to permit staff members engaged in dairy and dairy products inspection to be of service in more than one specific function in the interest of conserving manpower, automotive equipment, and traveling expense, it is necessary that this act become operative at a time when the provisions of a new biennial budget become operative.

CHAPTER 392

Stats 1937, p 1229, amended

An act to amend Section 4170 of and add Section 4174 to the Business and Professions Code, relating to temporary certificates to practice pharmacy, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

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

New section

SECTION 1. Section 4174 is added to the Business and Professions Code, to read:

Temporary certificates

4174. (a) Any member of the board may examine applicants orally or in writing, and issue a temporary certificate to practice pharmacy, which authorizes such practice for a period not to exceed six months from its date, if the applicant possesses the qualifications prescribed in this chapter.

Number

(b) Only two temporary certificates shall ever be issued consecutively to the same applicant, and no temporary certificate shall be granted to any person whose application has been denied by the board.

Duration

(c) This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature, or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect it shall supersede Sections 4170 and 4172, but Sections 4170 and 4172 are not repealed by this section and after this section is no longer effective, Sections 4170 and 4172 shall have the same force as though this section had not been enacted.

Existing law

Stats 1937, p 1382

SEC. 2. Section 4170 of said code is amended to read:

Temporary certificates

4170. Any member of the board, or an inspector duly authorized by him, may examine applicants orally, or in writing, and issue a temporary certificate to practice pharmacy, which authorizes such practice for a period not to exceed four months from its date but a temporary certificate shall not be issued to an applicant who does not possess the qualifications required in this chapter.

Urgency

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public

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

There is a severe shortage of regularly licensed pharmacists. In order to alleviate this severe shortage this act provides for the immediate issuance of temporary certificates to qualified pharmacists for the duration of the war emergency. If this act does not take effect immediately, the existing shortage will grow more acute and the public peace, health and safety will thereby be endangered.

CHAPTER 393

An act to amend Section 67.5 of the Alcoholic Beverage Control Act, relating to alcoholic beverages.

Stats 1935, p 1123, amended

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 67.5 of the Alcoholic Beverage Control Act is amended to read:

Stats 1941, p. 1544

Sec. 67.5. No tax under this act shall be imposed upon the sale of alcoholic beverages by a licensee in this State to a common carrier or to a person licensed to sell alcoholic beverages on boats or trains operated by a common carrier when such alcoholic beverages are to be used without this State; nor in such case need such common carrier procure a license under this act for purposes of purchasing such alcoholic beverages from a licensed manufacturer, rectifier, importer or wholesaler.

Sales to common carriers

Whenever distilled spirits are sold by manufacturers, rectifiers, importers or wholesalers to common carriers engaged in interstate or foreign passenger service for use or sale by such carriers partly within the State and partly without the State on board boats or trains, or to persons licensed to sell distilled spirits on board such boats or trains, the tax imposed by Section 24 of this act shall not be levied on the sales made by manufacturers, rectifiers, importers or wholesalers.

An excise tax is hereby levied on sales of distilled spirits made by common carriers on board boats and trains, or by persons licensed to sell distilled spirits on board such boats and trains, in California at the same rates as set forth in Section 24. On or before the first day of each month such common carriers and such other licensed persons shall forward to the board a verified report of the sales of distilled spirits made by such common carriers, or by such other licensed persons, on board boats and trains in California in the calendar month preceding the previous calendar month, in such detail and form as the

Excise tax

board may prescribe, together with a payment sufficient to pay the distilled spirits excise tax at the rate set forth in Section 24 on such sales made in said month.

Examinations

The board shall from time to time make examinations to determine the accuracy of the reports of sales submitted by common carriers, and by persons licensed to sell distilled spirits on board boats and trains operated by common carriers. The board shall have the power and is hereby authorized to make such rules and regulations for the enforcement of the provisions of this section as it shall deem necessary to adequately insure the collection of the excise tax.

CHAPTER 394

Stats 1937, p 1229, amended

An act to amend Section 4094 of the Business and Professions Code, relating to pharmacy.

In effect August 4, 1943

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

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

Stats 1937, p 1229

SECTION 1. Section 4094 of the Business and Professions Code is amended to read:

Equivalents

4094. The time spent attending a school or college of pharmacy or a department of pharmacy of a university shall be counted the equivalent of pharmaceutical experience for a period of not more than 40 months.

CHAPTER 395

Stats 1937, p 2085, amended

An act to amend Sections 150 and 151 of and to add Section 96.6 to the State Civil Service Act, relating to the State Civil Service, declaring the urgency thereof, and providing that this act shall take effect immediately.

In effect immediately

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

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

New section

SECTION 1. Section 96.6 is hereby added to the State Civil Service Act, to read as follows:

Certification of employees in armed forces

Sec. 96.6. Any person away from State service under the provisions of Section 152.5, whose name appears on a promotional list and which name is retained on such list subject to the provisions of Section 96.5, shall have his name certified to fill any vacancy which may occur during the period his name

is retained on said list under said Section 96.5, and if it is the desire of an appointing power to appoint such person, he shall be so appointed to fill the position to take effect upon his return to State service within the time provided in Section 152.5.

SEC. 2. Section 150 of the State Civil Service Act is hereby amended to read as follows: Stats 1943, Ch. 20

Sec. 150. Each employee shall be entitled to a vacation of not to exceed 15 days' duration, excluding time during which he is not regularly assigned to work, with pay, during each year of continuous service. The time when such vacations shall be taken shall be determined by the appointing power of such employee. The board shall provide by rule for the regulation and accumulation of vacations and may provide for vacations for employees who have been employed for a period of at least six months and less than one year. For the purpose of computing vacation time, each employee shall be considered to work not more than five and one-half days each week. Vacations

SEC. 3. Section 151 of the State Civil Service Act is hereby amended to read as follows: Stats 1943, Ch 20

Sec. 151. Employees shall be entitled to 12 days sick leave, excluding time during which they are not regularly assigned to work, with pay for a calendar year of service, or one day of sick leave with pay for a calendar month of service, on the submission of satisfactory proof thereof as provided by rule of the board. The board shall, by rule, provide for the granting of additional sick leave, with or without pay, or with reduced pay, or for accumulation of sick leave. For the purpose of computing sick leave, each employee shall be considered to work not more than five and one-half days each week. Sick leave

SEC. 4. This act is hereby declared to be an urgency measure within the meaning of Section 1 of Article IV of the State Constitution, necessary for the immediate preservation of the public peace, health and safety. The statement of facts constituting such necessity is as follows: It is important particularly during the present war emergency with increasing manpower shortage that working conditions for State employees be made as uniform and equitable throughout the service as possible, which is not true in so far as computing sick leave and vacation time is concerned, and which would be made so as provided in this act by computing such time in all cases on a five and one-half day week. Similarly, conditions should be maintained as uniformly as possible for those who leave the State service and enter the military forces which is not true in the case of the possibilities of promotion and can only be made so by permitting as provided in this act the "token" certification of persons on promotional lists who have entered the armed forces. This uniformity should be established as soon as possible and therefore this act should go into effect immediately. Urgency

CHAPTER 396

An act to amend Sections 3043 and 3045 of the Penal Code, relating to paroles, and to add Article 4 to Chapter 8 of Title 1 of Part 3 of the Penal Code, to permit paroles of men from State prisons, county jails and city jails into the armed forces of the United States during the war emergency and to create a new form of parole for such persons to be known as special service parole, declaring the urgency of this measure and providing that it should take effect immediately.

In effect immediately

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

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

New article

SECTION 1. Article 4 is hereby added to Chapter 8 of Title 1 of Part 3 of the Penal Code, to read:

Article 4. Special Service Paroles

Purpose and creation

3100. In order to assist in meeting the growing crisis in manpower in the present war emergency and also to further the rehabilitation of men in the several prisons and jails in this State, there is hereby created for the duration of said war emergency a system or form of parole to be known as special service parole for release of such men into the armed forces of the United States through the facilities of National Selective Service.

Cooperation with selective service

3101. The agencies charged with administering the provisions of this article shall at all times work in cooperation with National Selective Service and be familiar with the rules and regulations thereof and with the type of men acceptable thereto.

Rules and regulations

3102. The agencies charged with administering the provisions of this article shall make such rules and regulations, not inconsistent with law, as it may deem necessary in relation to the granting of selective service paroles in order to effectuate the purposes of this article.

Administration

3103. The Division of Prison Terms and Paroles is hereby charged with the administration of the provisions of this article with respect to selective service paroles of prisoners in State prisons. The board of parole commissioners of each county is hereby charged with similar duties with respect to prisoners under their control. Said county boards, however, shall in the exercise of said duties cooperate with and conform to the pattern or system of selective service parole prescribed by the rules and regulations of the Division of Prison Terms and Paroles to the end that the functions of all said agencies shall be coordinated into a uniform system that will best meet the needs of National Selective Service.

Definition

3104. Special service paroles are paroles granted by the Board of Prison Terms and Paroles or by a county board of

parole commissioners, as the case may be, to men in State prisons and county or city jails, who are qualified for service in the armed forces according to the National Selective Service Act and rules and regulations made pursuant thereto. Persons given this parole shall go directly from custody into the hands of military authorities and shall in no case be paroled to civilian life.

Duration

3105. Special service paroles shall be conditional in nature and shall continue in force, unless sooner revoked, for a period of time equal to the maximum term of imprisonment theretofore fixed for the parolee.

Eligibility for pardon

3106. Such persons given such paroles who complete their service in some branch of the armed forces and receive an honorable discharge therefrom may then be eligible for full pardon from the Governor even though they have not served their full period of parole by the end of their period of service, or such person may petition the authority granting his parole for a full discharge from parole and the paroling authority may consider the honorable discharge from any branch of the armed services as ground for granting such discharge.

Should no pardon or discharge be granted then the parole shall continue according to law.

Confidential information

3107. The names and records of all men granted special service paroles shall be kept in the confidential files of the administrative agency, but shall be available to the Governor, the Attorney General, the Advisory Pardon Board, National Selective Service and the military authorities, including the commanding officer of any such parolee.

Eligibility Cumulative or consecutive sentences

3108. With respect to State prisoners, no prisoner who has had imposed upon him two or more cumulative or consecutive sentences shall be eligible for special service parole, until he has served, at least one calendar year, of the aggregate of such cumulative or consecutive sentences

Escape

3109. No prisoner confined in the State prison, and no prisoner under sentence to the State prison, who is convicted of an escape or an attempt to escape from the prison or the guards shall be eligible for special service parole, until he has served at least one calendar year from and after the date of his return to the prison after such conviction.

Previous sentence

3110. No prisoner who has served a previous sentence in a State prison, in this or any other State, or in a Federal penitentiary shall be eligible for special service parole, until he has served at least one calendar year.

Life sentence

3111. No prisoner under a life sentence shall be eligible for special service parole, until he has served at least five calendar years.

Other cases

3112. In all other cases not specially provided for in the sections immediately preceding, no prisoner shall be eligible for special service parole until he has served in a State prison either the minimum term of imprisonment provided by law for the crime of which he was convicted, or one year, whichever may be deemed best within the discretion of the paroling

Special merit authorities In special meritorious cases special service parole may be granted a prisoner who has served six months with benefit of credits.

Revocation 3113. The Board of Prison Terms and Paroles and the Governor shall have, over persons granted special service paroles, the same rights and powers of revocation as are now possessed in all other paroles as provided under this title.

Dishonorable discharge 3114. The dishonorable discharge of a special service parolee from the armed forces shall be sufficient cause for revocation of parole, whether such dishonorable discharge occurs either during or after the present war.

Reports 3115. All persons granted special service paroles shall report in writing by mail directly to the agency which paroled him at such intervals as that agency may prescribe. Such report shall consist of a statement that said parolee is still serving in the armed forces, and, so far as military regulations will permit, shall designate the particular military organization with which he is serving together with such other matters as the paroling agency shall prescribe. Such report shall be approved by the unit commander of the parolee.

Now on parole 3116. It shall be permissible for any and all men who, at the time this article becomes law, are on parole from any State prison or county jail in California, to apply to the authority which placed them on parole for permission to be placed on the special service parole for the purpose of entering the armed forces. Any and all such persons who then enter the armed forces become subject to all of the duties, obligations and rights embodied in the article in relation to discharge, pardon, reporting, and revocation of parole.

Stats 1941, p 1080 SEC. 2. Section 3043 of the Penal Code is hereby amended to read as follows:

Consecutive sentences 3043. No prisoner who has had imposed upon him two or more consecutive sentences may be paroled until he has served at least two calendar years of the aggregate of such consecutive sentences

Stats 1941, p 1080 SEC. 3. Section 3045 of the Penal Code is hereby amended to read as follows:

Prisoner with prior conviction 3045. No prisoner who has served a previous sentence in a State prison in this or any other State, or in a Federal jail, correctional institution, prison camp, reformatory, prison, penitentiary or Army or Navy prison or disciplinary barracks, under a felony conviction may be paroled until he has served at least two calendar years.

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

There are now many able bodied men serving time in State prisons, county jails and city jails who, if given an opportunity to serve in the armed forces could materially assist the

military manpower needs of this Nation. This legislation would not only provide men for armed service but would also provide a method of rehabilitation. Time is of the essence in providing manpower for the armed forces and this act should therefore go into effect immediately.

CHAPTER 397

An act to add Section 1760.7 to the Welfare and Institutions Code, to amend Sections 112, 643, and 644 thereof, and to amend Section 1203.11 of the Penal Code, transferring the power of supervision over adult and juvenile probation and probation officers from the State Department of Social Welfare to the Youth Authority.

Stats. 1937, p. 1005, amended

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 1760.7 is added to the Welfare and Institutions Code, to read:

New section

1760.7. The authority shall investigate, examine, and make reports upon adult and juvenile probation.

Duties of authority

SEC. 2. Section 112 of the Welfare and Institutions Code is amended to read:

Stats. 1937, p. 1005

112. The department shall investigate, examine, and make reports upon:

Investigations and reports

(a) The charitable institutions of the State and of the counties and cities of the State, other than institutions under the jurisdiction of another State department.

(b) The public officers who are in any way responsible for the administration of public funds used for the welfare, relief or maintenance of the poor.

SEC. 3. Section 643 of the Welfare and Institutions Code is amended to read:

Stats. 1941, p. 1249

643. Every probation officer, within 15 days after the thirty-first day of December, of each year, shall make in writing and file as a public document a report to the judge of the juvenile court of the county in which such probation officer is appointed, and shall furnish to the board of supervisors of such county and to the Youth Authority a copy thereof. Such report, without giving names, shall show the exact number of wards of such juvenile court that remain under the care and supervision of the court on such thirty-first day of December, segregating such wards as to sex, the subdivision of Section 700 under which they were adjudged wards and the commitment or disposition order as such existed on said thirty-first day of December.

Annual report

SEC. 4. Section 644 of the Welfare and Institutions Code is amended to read:

Stats. 1937, p. 1005

644. All juvenile and adult probation officers shall make monthly and annual reports to the Youth Authority, on forms

Reports to Youth Authority

furnished by it, containing such information as may be required by the authority.

Stats 1935, p 1706

SEC. 5. Section 1203.11 of the Penal Code is amended to read:

Semiannual reports of probation officers

1203.11. Every probation officer, within 15 days after the thirtieth day of June, and within 15 days after the thirty-first day of December, of each year, shall make in writing and file as a public document with the county clerk a report to the superior court of the county or city and county in which such probation officer is appointed to serve, and shall furnish a copy of such report to each judge in said county or city and county who has released any person on probation, who at the time of such report remains on probation, and a further copy to the Youth Authority. Such report shall state, without giving names, the exact number of persons, segregating male and female, and segregating misdemeanors and felonies, who have been released on probation to such probation officer as such number exists, deducting all cases of expiration, discharge, dismissal, and restoration of rights, on said thirtieth day of June, and said thirty-first day of December; and such report shall further segregate such person as having been released on probation, as the case may be, in 1903, 1904, 1905, and so on, up to and including the calendar year in which such report is made and filed.

CHAPTER 398

An act to amend Section 1554.2 of the Penal Code, relating to proceedings against fugitives from justice, and authorizing the Youth Authority to apply to the Governor for requisitions for the return of persons committed thereto.

In effect August 4, 1943

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

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

Stats 1937, p 1581

SECTION 1. Section 1554.2 of the Penal Code is amended to read:

Application for return

1554.2. (a) When the return to this State of a person charged with crime in this State is required, the district attorney shall present to the Governor his written application for a requisition for the return of the person charged. In such application there shall be stated the name of the person so charged, the crime charged against him, the approximate time, place and circumstances of its commission, and the State in which he is believed to be, including the location of the accused therein at the time the application is made. Such application shall certify that, in the opinion of the district attorney, the ends of justice require the arrest and return of the accused to this State for trial and that the proceeding is not instituted to enforce a private claim.

(b) When the return to this State is required of a person who has been convicted of a crime in this State and who has escaped from confinement or has violated the terms of his bail, probation or parole the district attorney of the county in which the offense was committed, the Board of Prison Terms and Paroles, the Board of Prison Directors, the Youth Authority, or the sheriff of the county from which escape from confinement was made, shall present to the Governor a written application for a requisition for the return of such person. In such application there shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape or of the violation of the terms of his bail, probation or parole, and the State in which he is believed to be, including the location of such person therein at the time application is made.

Execution of application, accompanying documents, etc

(c) The application shall be verified, shall be executed in duplicate, and shall be accompanied by two certified copies of the indictment, the information, or the verified complaint made to the magistrate stating the offense with which the accused is charged, or the judgment of conviction or the sentence. The officer or board requesting the requisition may also attach such affidavits and other documents in duplicate as are deemed proper to be submitted with such application. One copy of the application, with the action of the Governor indicated by endorsement thereon, and one of the certified copies of the indictment, verified complaint, information, or judgment of conviction or sentence shall be filed in the office of the Secretary of State. The other copies of all papers shall be forwarded with the Governor's requisition.

CHAPTER 399

An act to amend Sections 15 and 18 of the Agricultural Prorate Act, relating to the selection and appointment of marketing program committee members, their terms and duties.

Stats 1933, p 1969, amended

[Approved by Governor May 13, 1943 Filed with Secretary of State May 13, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 15 of the Agricultural Prorate Act is amended to read:

Stats 1941, p 2858

Sec. 15. After the approval of the petition by the commission, the director shall divide the proposed zone into as many districts as may appear convenient or necessary, and allot to each district the number of producers to be appointed to serve as members and alternate members upon a program committee. Members and their respective alternate members

Districts

Appointments to program committee

shall be appointed by the director with the approval of the commission from lists of producers eligible to serve on the program committee. Eligible lists shall be established by the director either by means of a meeting or meetings of producers in each district or by means of mail ballot or by a combination of meetings and mail ballot. The method to be used shall be determined by the director with the approval of the commission; provided, that a mail ballot shall be granted upon a written request of 10 per cent of the producers. Each producer shall be entitled to one vote and voting by proxy shall not be permitted. From nominations made, not less than three eligible persons shall be selected for each member of the committee. Persons nominated must be producers with producing properties located within the district for which nominated. In the event a corporation or a partnership is a producer, it may designate a representative who may be a nominee. Each respective alternate shall be appointed from the same eligible list from which the member is appointed. Each district in the zone shall be entitled to at least one member and one alternate member on said committee. The program committee may at any time invite handlers or other persons to their meetings to serve in an advisory capacity and may authorize, subject to the approval of the director, the payment of compensation and necessary expenses to persons serving in such advisory capacity at rates not to exceed those granted to program committee members. The director may, if requested by the producer members appointed, appoint on said committee, in addition to said producer members, not more than three handler members and their respective alternates who are handlers of the commodity affected by the marketing program of the zone.

Advisors

Program

The persons so appointed by the director as the program committee shall formulate a marketing program which shall be submitted to the commission. The commission after a hearing or hearings on the proposed program held within the zone shall make written findings as to whether the program is reasonably calculated to carry out the objectives of this act and based upon said findings shall approve or disapprove the program, or may modify it and approve it as modified. If the producing factor is to be determined by the commission such determination shall be made and shall become a part of the program. The commission shall fix a date prior to which the program, in order to become effective, must be consented to by producers as provided in this act.

Stats. 1941, p 2858

SEC. 2. Section 18 of the Agricultural Prorate Act is amended to read:

Proration program committee

Sec. 18. In the event of the institution of a marketing program in a proration zone, the committee chosen under

Section 15 shall be the program committee. The members of said committee shall serve for two years. The marketing program may, however, fix the date upon which the two-year term of the program committee members will terminate. The members of such program committee shall be entitled to compensation at the rate of ten dollars ($10) each for each day while engaged on official business; provided, that such compensation shall not be paid for more than five days in any month unless approved by the director, and members shall be reimbursed for their necessary traveling expenses. Compensation

It shall be the duty of any alternate member of a program committee to sit as a regular member of the committee in case the member for whom he is an alternate fails for any reason to attend any meeting of the committee, and he shall be compensated and reimbursed for his necessary traveling expenses in the same manner and to the same extent as a regular member when so serving. Alternates

Vacancies on the program committee occasioned by the expiration of term of office shall be filled from eligible lists of producers selected in each district obtained as set forth in Section 15 hereof. Vacancies occasioned by the death or resignation of any member, or by removal for incompetence or inattention or neglect of duties as a member of the program committee, by the director, with the approval of the commission, or by a member ceasing to qualify as a producer or handler of the commodity concerned, shall be filled from persons remaining on the eligible lists of producers from which the appointments for the current term were made, or from new lists obtained as set forth in Section 15 hereof. Vacancies

The program committee shall appoint an agent, subject to the approval of the director, who shall administer the marketing program under the direction of the program committee and who may be removed from office in the same manner as he was appointed. The salary or compensation of such agent shall be fixed by the program committee subject to the approval of the director. Administrative agent

Such agent shall appoint such deputy agents and other assistants as may be necessary to direct the program, which appointments shall be subject to the approval of the program committee. Such agents, deputy agents and other assistants are employees of the zone and not of the State of California. No officer or employee shall receive compensation based on a percentage of volume involved in a marketing program, or in any manner that would lend encouragement to the promotion of a marketing program for the purpose of increasing salaries and income. Deputies, agents and assistants

CHAPTER 400

An act to add Chapter 3.5, comprising Sections 4852.01 to 4852.2, inclusive, to Title 6 of Part 3 of the Penal Code, relating to persons convicted of felony, providing a procedure whereby such persons may, after completion of their sentences, demonstrate their rehabilitation, obtain restoration of rights of citizenship, and apply for pardon; prohibiting the solicitation or acceptance of fees for representing such persons in such proceedings and in applications for pardon; declaring the urgency of this act and providing that it shall take effect immediately.

In effect immediately

[Approved by Governor May 13, 1943 Filed with Secretary of State May 13, 1943.]

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

New chapter

SECTION 1. Chapter 3.5, comprising Sections 4852.01 to 4852.2, inclusive, is added to Title 6 of Part 3 of the Penal Code, to read:

CHAPTER 3.5. PROCEDURE FOR RESTORATION OF RIGHTS AND APPLICATION FOR PARDON

Notice of intention to apply

4852.01. Any person convicted of a felony who has been released from the State prison or other State institution or agency to which he was committed, whether discharged upon the completion of the term for which he was sentenced or released upon parole, may, as provided in Section 4852.18, file with the county clerk of the county in which he resides a notice of intention to apply for a certificate of rehabilitation and to apply for a pardon in accordance with the provisions of this chapter. No fee shall be charged for filing the notice of intention.

Service of notice

4852.02. Such person shall within 10 days thereafter:

(a) Serve upon the chief of police of the city in which he resides, or upon the sheriff of the county if he resides in unincorporated territory, a certified copy of the notice of intention filed with the county clerk.

Fingerprints, etc.

(b) Give to the peace officer his photograph and fingerprints, full information concerning his residence and occupation, and any other information concerning his conduct and manner of living which the peace officer may require.

Agreement

(c) Agree to submit to the supervision of the peace officer and conform to any reasonable requirements by the peace officer during the period of rehabilitation.

Change of residence

However, if after the filing and serving of the notice the person filing it changes his residence to another county he shall file with the county clerk of such other county a notice of intention similar in form and substance to that previously filed, which second notice shall state the date and place where the previous notice was filed and the name and title

of the peace officer upon whom the same was served. A certified copy of such second notice shall be served upon the chief of police of the city into which he has moved, or upon the sheriff of the county if the changed residence is in unincorporated territory, and the person filing the notice shall give to such peace officer the information described in this section. Upon the filing of such second notice the county clerk shall transmit notice of that fact to the county clerk with whom the previous notice was filed and said last-mentioned county clerk shall transmit the said previous notice to the county clerk with whom the second notice was filed.

Period of rehabilitation

4852.03. The Judicial Council shall, by general rules, determine the length of the period of rehabilitation for the purposes of this chapter. Different periods shall be provided for different classes of persons, according to the maximum penalties prescribed for the crimes of which the persons have been convicted, and provision shall be made for appropriate periods of rehabilitation for persons convicted of multiple crimes.

Counsel and assistance

4852.04. Each person who may initiate the proceedings provided for in this chapter shall be entitled to receive counsel and assistance from all rehabilitative agencies, including the adult probation officer of the county and all State parole officers, and, in the case of persons under the age of 30 years, from the Youth Correction Authority.

Conduct

4852.05. During the period of rehabilitation the person shall live an honest and upright life, shall conduct himself with sobriety and industry, shall exhibit a good moral character, and shall conform to and obey the laws of the land.

Petition

4852.06. Except as provided in Section 4852.18, after the expiration of the minimum period of rehabilitation applicable to him (and, in the case of persons released upon parole, after the termination of parole), each person who has filed a notice of intention pursuant to Section 4852.01 and has complied with the requirements of Sections 4852.02 and 4852.05 may file in the superior court of the county in which he then resides a petition for ascertainment and declaration of the fact of his rehabilitation and of matters incident thereto, and for a certificate of rehabilitation under this chapter. No such petition shall be filed until and unless the petitioner has continuously resided in the county in which it is filed for a period of not less than three years immediately preceding the date of filing the petition and until and unless the same period has elapsed since the service of the notice required by Section 4852.02 upon the appropriate peace officer in the county in which the petition is filed.

Notice

4852.07. The petitioner shall give notice of the filing of the petition to the district attorney of the county in which the petition is filed, to the chief of police and sheriff upon whom a certified copy of the notice of intention was last served, to the district attorney of each county in which the petitioner was convicted of a felony, and to the office of the

Governor, together with notice of the time of the hearing of the petition, at least 30 days prior to the date set for such hearing.

Counsel

4852.08. During the proceedings upon the petition, the petitioner may be represented by counsel of his own selection; if he has no such counsel he shall be represented by the public defender, if there is one in the county, and if there is none, by the adult probation officer of the county or if in the opinion of the court the petitioner needs counsel, the court shall assign counsel to represent him.

No fee

4852.09. No filing fee nor court fees of any kind shall be required of a petitioner in proceedings under this chapter.

Evidence

4852.1. The court in which the petition is filed may require such testimony as it deems necessary, and the production, for the use of the court and without expense of any kind to the petitioner, of all records and reports relating to the petitioner and the crime of which he was convicted, including the record of the trial, the report of the probation officer, if any, the records of the prison from which the petitioner has been released showing his conduct during the time he was there imprisoned, the records of the prison doctor and the prison psychiatrist, the records of the parole officer concerning him if he was released on parole, the records of the Youth Correction Authority concerning him if he has been committed to the authority, the records of the chief of police or sheriff upon whom the notice of intention was served, and written reports or records of any other law enforcement agency concerning the conduct of the petitioner since his release on parole or discharge from custody. All persons having custody of any such records shall make them available for the use of the court in the proceeding.

Report on violations of law

4852.11. Any peace officer under whose supervision such petitioner comes as provided in Section 4852.02, shall report to the court, upon receiving a request as provided in Section 4852.1, all violations of law committed by said petitioner which may come to his knowledge. Upon receiving satisfactory proof of such violation the court may deny the petition and determine a new period of rehabilitation not to exceed the original period of rehabilitation for the same crime. In that event, before granting the petition, the court may thereafter require the petitioner to fulfill all the requirements provided to be fulfilled before the granting of the certificate under the original petition.

Report of district attorney and chief of police or sheriff

4852.12. In any proceeding for the ascertainment and declaration of the fact of rehabilitation under this chapter, the court shall require from the district attorney and the chief of police or sheriff having jurisdiction as provided in subdivision (a) of Section 4852.02 written reports setting forth all matters within their knowledge relating to the conduct of the petitioner during his period of rehabilitation, including all matters mentioned in Section 4852.11.

Certificate of rehabilitation

4852.13. If, after hearing, the court finds that the petitioner has demonstrated by his course of conduct his rehabilitation and his fitness to exercise all of the civil and political rights of citizenship, the court shall make an order declaring that the petitioner has been rehabilitated, and recommending that the Governor grant a full pardon to the petitioner. Such order shall be filed with the clerk of the court, and shall be known as a certificate of rehabilitation.

Copies

4852.14. The clerk of the court shall immediately transmit certified copies of the certificate of rehabilitation to the Governor, to the Advisory Pardon Board, and, in the case of persons twice convicted of felony, to the Supreme Court.

Effect of certificate

4852.15. From the time it is filed, the certificate of rehabilitation shall operate to restore to the person to whom it is issued his civil rights, except the right to act as a trustee and the right to hold public office. However, nothing in this chapter shall be construed to abridge or impair the power or authority conferred by law on any officer, board, or tribunal to revoke or suspend any right, privilege, or franchise for any act or omission not involved in his conviction, or to require the reinstatement of the right or privilege to practice or carry on any profession or occupation the practice or conduct of which requires the possession or obtaining of a license, permit, or certificate. Nothing in this chapter shall affect any provision of Chapter 5 of Division 2 of the Business and Professions Code or the power or authority conferred by law on the Board of Medical Examiners therein, or the power or authority conferred by law upon any board that issues a certificate permitting any person to practice or apply his art or profession on the person of another. Nothing in this chapter shall affect any provision of Chapter 4 of Division 3 of the Business and Professions Code or the power or authority in relation to attorneys at law and the practice of the law in the State of California conferred by law upon or otherwise possessed by the courts, or the power or authority conferred by law upon the State Bar of California or any board or committee thereof.

Pardon

4852.16. The certified copy of a certificate of rehabilitation transmitted to the Governor shall constitute an application for a full pardon upon receipt of which the Governor may, without any further investigation, issue a pardon to the person named therein, except that, pursuant to Section 1 of Article VII of the Constitution, the Governor shall not grant a pardon to any person twice convicted of felony, except upon the written recommendation of a majority of the judges of the Supreme Court.

Report for criminal record

4852.17. Whenever a person is issued a certificate of rehabilitation or granted a pardon from the Governor under this chapter, the fact shall be immediately reported to the State Division of Criminal Identification and Investigation by the court, Governor, officer, or governmental agency by whose official action the certificate is issued or the pardon granted.

The State Division of Criminal Identification and Investigation shall immediately record the facts so reported on the former criminal record of the person, and transmit such facts to the Federal Bureau of Investigation at Washington, D. C. When the criminal record is thereafter reported by said division, it shall also report the fact that the person has received a certificate of rehabilitation, or pardon, or both.

Time for filing notice

4852.18. Any person heretofore convicted of a felony who has been discharged from the State prison or other State institution or agency to which he was committed, after the completion of the term for which he was sentenced, and has complied with the requirements of Section 4852.05 since his discharge, may immediately file the notice of intention provided for in Section 4852.01. Such person may file the petition provided for in Section 4852.06 at any time after the expiration of one year from the date of his discharge from custody.

Any person heretofore convicted of a felony who is on parole on the effective date of this chapter, may file such notice of intention at any time after the effective date of this chapter, and may file his petition at any time after one year from the date of his release on parole, but in no event prior to his discharge from custody upon the termination of his parole.

However, no petition shall be filed under the foregoing provisions of this section until and unless the petitioner has continuously resided in the county in which it is filed for a period of not less than three years immediately preceding the date of filing the petition.

Any person heretofore convicted of a felony who on the effective date of this chapter is confined in a State prison or other institution or agency to which he was committed, and any person hereafter convicted of a felony, may file the notice of intention at any time after his parole or his discharge from custody. Any such person may file the petition after the expiration of the periods mentioned in Section 4852.06 of this code.

Construction

4852.19. This chapter shall be construed as providing an additional, but not an exclusive, procedure for the restoration of rights and application for pardon. Nothing in this chapter shall be construed as repealing any other provision of law providing for restoration of rights or application for pardon.

Soliciting fees

4852.2. Every person who solicits or accepts any fee, money, or anything of value for his services, or his purported services, in representing, whether as an attorney or otherwise, a petitioner in any proceeding under this chapter, or in any application to the Governor for a pardon under this chapter, is guilty of a misdemeanor.

Urgency

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

into immediate effect. The facts constituting such necessity are as follows:

There are many able-bodied men who, by reason of previous convictions of felonies, are not accepted for induction into the armed forces of the Nation or for employment in essential war industries. Said armed forces and war industries are in urgent need of men. The provisions of this act will enable men who have suffered previous felony convictions and who have rehabilitated themselves by exemplary conduct to establish the fact of such rehabilitation by judicial action and earn restoration to the rights of citizenship and thus become eligible for service with the armed forces and for employment in essential war industries. It is essential that every opportunity be afforded as soon as possible to the armed forces and the war industries to augment their personnel in order that the present world-wide conflict may be brought to an early and successful conclusion, and this act should therefore go into effect immediately.

CHAPTER 401

An act to amend Section 4 of the California Water Storage District Act, relating to giving of notice of proposed organization of a water storage district to landowners.

Stats 1921, p 1727, amended

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 4 of the California Water Storage District Act is amended to read:

Stats 1941, p. 2922

Sec. 4. In order to propose the organization of a water storage district, a petition signed as provided in the preceding section setting forth generally the boundaries of the proposed district or describing the lands situated therein, and the proposed source or sources of water supply, the location proposed for the storage of water to be used for such irrigation, if storage is proposed, any drainage or reclamation connected therewith, and any incidental development of hydroelectric energy, and the nature of the proposed works, and praying that the territory embraced within said proposed district may be organized as a water storage district under the provisions of this act, shall be presented to the State Engineer. Accompanying the petition there shall be presented to the State Engineer a list of the names and addresses of all persons holding title or evidence of title to lands within the proposed district as shown by the last equalized assessment roll of the county in which the land is situated. The petition may consist of any number of separate instruments, and must be accompanied with a good and sufficient undertaking, to be approved by the State Engineer, in double the amount of the probable cost of organizing such district as estimated by said State Engineer, conditioned that the sureties shall pay all of said

Petition to State Engineer

Name of landowners

Bond for costs

costs in case said organization shall not be finally effected, and said State Engineer shall have power to require the furnishing of any additional undertaking, or undertakings, or payments of money, in case he should deem the same necessary.

Time and place of hearing

Upon the presentation and filing of said petition and undertaking in the office of the said State Engineer the said Engineer shall forthwith fix a time and place at which he will hear said petition, which place shall be either the office of the State Engineer at Sacramento or some place within the county, or one of the counties, within which any portion of the lands of said proposed district are situated and which time shall be not less than 30 nor more than 60 days after the presentation and filing of said petition.

Publication of petition and notice

Said petition, together with a notice stating the time and place of the hearing so fixed by said Engineer, shall be published in each county in which any of the lands of said proposed district are situate by said State Engineer once a week for three successive weeks before said hearing. Said notice shall be issued by said State Engineer, shall refer to said petition, and shall be directed to the persons named as petitioners therein, and to all other persons holding title or evidence of title to any lands included within the water storage district proposed in said petition, and to all other persons who may be interested in or affected by the project contemplated in said petition, and shall be substantially in the following form:

Before the State Engineer, State of California.

Form of notice

To the persons named as petitioners in the foregoing petition, to all persons holding title or evidence of title to lands included within the water storage district proposed therein; and to all other persons who may be interested in or affected by the project contemplated in said petition:

You, and each of you, are hereby notified that the foregoing petition was filed with the State Engineer on the _____ day of _____ and will be heard by said Engineer at _____ on the _____ day of _____ at the hour of _____ m. of that day, at which time and place said Engineer will hear and receive evidence in support of said petition or any objections which may be presented thereto, and will hear and determine the right of all parties holding title or evidence of title to lands not included in the water storage district proposed in said petition, but which lands are already irrigated or susceptible of irrigation from the same common source and by the same system of storage and irrigation works as are particularly referred to and described in said petition, to have said lands included in said district.

This notice is given pursuant to the provisions of an act, approved June 3, 1921, and known as California Water Storage District Act, to which said act particular reference is hereby made.

Dated_____

_____

State Engineer

The State Engineer shall also give personal notice by registered mail to all landowners in the proposed district whose names and addresses appear on the list presented to him. He shall make and keep for public inspection an affidavit giving the date of mailing and the names and addresses of landowners to whom notices were sent. Notice to landowners

When contained upon more than one instrument one copy only of said petition need be published but the names attached to all said instruments must appear in such publication. Signatures to the petition may be withdrawn at any time before the publication is commenced as in this section required by filing a declaration signed by the petitioner, with the State Engineer, stating that it is the intention of the petitioner to withdraw therefrom, which declaration shall be acknowledged in the same manner as conveyances of real estate are required to be acknowledged. Withdrawal of signature

The notice herein in this section provided to be published, shall not be published until five days after the presentation and filing of said petition and undertaking in the office of said State Engineer as herein provided. Time for commencing publication

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CHAPTER 402

An act to amend Sections 5245 and 5252 of the Streets and Highways Code, relating to special assessment proceedings and the calling for bids. Stats. 1935, p 248, amended

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.] In effect August 4, 1943

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

SECTION 1. Section 5245 of the Streets and Highways Code is hereby amended to read as follows: Stats 1941, p 751

5245. If the bids are rejected or no bids are received the legislative body may readvertise for proposals or bids for the performance of the work as in the first instance, without further proceedings, and thereafter proceed in the manner provided in this chapter. Readvertisement for bids after one call

SEC. 2. Section 5252 of the Streets and Highways Code is hereby amended to read as follows: Stats 1941, p 751

5252. If no bids are received in response to this second call for bids, the legislative body may again advertise for and receive bids under the same proceedings at any time and let the contract to the then lowest bidder, and such delay shall in no way affect the validity of any of the proceedings or assessments levied thereunder. Readvertisement for bids after second call

SEC. 3. The limitation with respect to the advertisement and readvertisement for bids, which is repealed by this act, shall not constitute a bar to the advertisement or readvertisement for bids in any proceedings, the ordinance of intention for which was passed subsequent to January 1, 1941, and no Proceedings commenced after January 1, 1941

such proceedings shall be invalid by reason of failure to advertise or readvertise for bids within said six (6) months period, nor shall the validity of any assessments levied thereunder be affected by any such failure or delay.

CHAPTER 403

Stats 1939, p 49, amended

An act to repeal Section 3715 of the Elections Code, relating to ballots.

In effect August 4, 1943

[Approved by Governor May 13, 1943 Filed with Secretary of State May 13, 1943.]

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

Stats 1939, p. 49

SECTION 1. Section 3715 of the Elections Code is hereby repealed.

CHAPTER 404

Stats 1939, p 49 amended

An act to amend Section 3714 of the Elections Code, relating to ballots.

In effect August 4, 1943

[Approved by Governor May 13, 1943 Filed with Secretary of State May 13, 1943.]

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

Stats 1939, p 49

SECTION 1. Section 3714 of the Elections Code is amended to read:

Binding and recording of ballots

3714. When printed all ballots shall be bound in stub books, of such size as the clerk or registrar may determine. A record of the number of ballots printed shall be kept by the officer authorizing the printing.

CHAPTER 405

An act to amend Section 341a of the Code of Civil Procedure, relating to personal property left by tenants, guests or patients.

In effect August 4, 1943

[Approved by Governor May 13, 1943 Filed with Secretary of State May 13, 1943.]

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

Stats 1927, p 1657

SECTION 1. Section 341a of the Code of Civil Procedure is amended to read:

Limitation of actions for recovery of property left in hotels, etc

341a. All civil actions for the recovery or conversion of personal property, wearing apparel, trunks, valises or baggage alleged to have been left at a hotel, hospital, rest home, sani-

tarium, boarding house, lodging house, furnished apartment house, or furnished bungalow court, shall be begun within 90 days from and after the date of the departure of the owner of said personal property, wearing apparel, trunks, valises or baggage from said hotel, hospital, rest home, sanitarium, boarding house, lodging house, furnished apartment house, or furnished bungalow court.

CHAPTER 406

An act to amend Section 10 of the Municipal Court Act of 1925, relating to clerks and attaches.

Stats 1925, p 648, amended

[Approved by Governor May 13, 1943 Filed with Secretary of State May 13, 1943.]

In effect August 4, 1943

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

Stats 1939, p 2049 See also Stats 1943, Ch 691

SECTION 1. Section 10 of the act cited in the title is amended to read:

Municipal courts cities of second and one-half class (Long Beach)

Sec. 10. The municipal court in a city or city and county of the second and one-half class shall be constituted, and the judges, officers and attaches thereof shall receive compensation as follows:

(a) There shall be five judges, each of whom shall receive seven thousand five hundred dollars ($7,500) per annum, payable in equal monthly installments;

(b) There shall be one clerk who shall also be secretary to the court, to be appointed by the judges thereof, who shall receive four hundred twenty dollars ($420) per month;

(c) The clerk shall appoint the following:

One chief deputy who shall receive three hundred twenty-five dollars ($325) per month; five deputy court clerks, who shall each receive two hundred fifty dollars ($250) per month; one cashier-bookkeeper, who shall receive two hundred seventy-five dollars ($275) per month; one chief clerk of the civil department, who shall receive two hundred seventy-five dollars ($275) per month; one chief clerk of the criminal department, who shall receive two hundred seventy-five dollars ($275) per month; eight deputy clerks, who shall each receive two hundred twenty-five dollars ($225) per month; one deputy judgment clerk, who shall receive two hundred twenty-five dollars ($225) per month; one stenographic secretary, male, who shall receive two hundred dollars ($200) per month; two stenographers, who shall each receive one hundred sixty dollars ($160) per month, one typist, who shall receive one hundred

fifty dollars ($150) per month; two file index clerks, who shall each receive one hundred fifty dollars ($150) per month;

(d) There shall be one marshal to be appointed by the judges of the court who shall receive four hundred twenty dollars ($420) per month. The marshal shall appoint the following:

One assistant marshal, who shall receive three hundred twenty-five dollars ($325) per month; one deputy, who shall also act as secretary, who shall receive one hundred seventy-five dollars ($175) per month; one chief deputy of the civil department who shall receive two hundred seventy-five dollars ($275) per month; one deputy, who shall act as assistant chief of the civil department, who shall receive two hundred fifty dollars ($250) per month; four deputies of the civil department, who shall receive two hundred twenty-five dollars ($225) per month; three deputies of the civil department, who shall receive two hundred dollars ($200) per month; one deputy, who shall act as bookkeeper, who shall receive two hundred twenty-five dollars ($225) per month; one deputy, who shall act as counter clerk and return clerk, who shall receive two hundred dollars ($200) per month; one deputy who shall act as stenographer, who shall receive one hundred sixty dollars ($160) per month; one chief deputy of the criminal department, who shall receive two hundred seventy-five dollars ($275) per month; one deputy, who shall act as assistant chief of the criminal department, who shall receive two hundred fifty dollars ($250) per month; two deputies of the criminal department, who shall receive two hundred twenty-five dollars ($225) per month; two deputies of the criminal department, who shall receive two hundred dollars ($200) per month; five deputies to act as bailiffs of the courts, who shall each receive two hundred dollars ($200) per month; one deputy, who shall act as record clerk, who shall receive one hundred seventy-five dollars ($175) per month; 50 deputies, who shall act as custodians, who shall receive five dollars ($5) per day. The deputy marshals serving as custodians shall be paid only for their actual services as keepers of property taken under the legal process, and shall be paid out of the funds deposited by the parties to the action in which services are rendered. All marshals, assistants and deputies, excepting those designated herein as custodians, shall be allowed in addition to their salaries, their actual and necessary incidental expenses incurred in the actual performance of their duties, including traveling expenses to be allowed at the rate per mile fixed by the county board of supervisors for the operation of automobiles actually used in performance of their business on public duty or to pay for such other mode of transportation as they may adopt.

CHAPTER 407

An act to amend Section 1215 of the Health and Safety Code, relating to applicability of clinic and dispensary licensing provisions.

Stats 1939, p 482, amended

[Approved by Governor May 13, 1943 Filed with Secretary of State May 13, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 1215 of the Health and Safety Code is amended to read:

Stats. 1939, p 482

1215. The provisions of this chapter do not apply to hospitals or hospital departments wholly or partly maintained by an employer for the purpose of furnishing his employees with medical or surgical examination or treatment or to any hospital corporation organized and operated exclusively for charitable purposes, or to any teaching or educational institution exempt from income taxation under the Federal revenue acts.

Exempt hospitals, etc.

CHAPTER 408

An act to amend Section 4.965 of the School Code and to amend Section 7406 of the Education Code, relating to the canvassing of votes cast at elections for the issuance of school district bonds.

Stats 1943, Ch. 71, amended

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 4.965 of the School Code is amended to read:

Stats 1931, p. 718

4.965. On the seventh day after the election, if the returns have been made to the governing board of the school district, the board must meet at its usual meeting place and publicly canvass the returns. If all the returns have not then been received, the board must adjourn from day to day until the returns are all received, and must then proceed to canvass them. The canvass may be continued from day to day until completed.

Canvass of returns

Note.—See Stats. 1943, Ch. 71.

SEC. 3. Section 2 of this act becomes operative only if the Education Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said code takes effect; at which time Section 4.965 of the School Code amended by this act is hereby repealed.

Effect Stats 1943, Ch 71

Repeal

CHAPTER 409

Stats 1939, p 1274, amended

An act to add Sections 569, 3794.2, 3807.3, 3811, 3812, 3813, 3814, to, to amend Sections 1834, 1901, 2614, 2621, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2634, 3351, 3437, 3439, 3480, 3513, 3712, 3716, 3717.5, 3718, 3797, 3805, 4109, 4109.5, 4337, 4834, 4837, 4838, 4880, 4946, 4948, 4989, 4990, 4991, and 4992 of, and to repeal Section 3707.5 of the Revenue and Taxation Code, relating to property taxation.

In effect August 4, 1943

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

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

New section

SECTION 1. Section 569 is added to the Revenue and Taxation Code, to read:

Notification of default

569. Whenever delinquent taxes on tax-deeded property are being paid in installments, and there has been a default in the payment of any installment, the redemption officer shall notify the county assessor of such default on or before the first Monday in March of the year following said default.

Stats 1939, p 1274

SEC. 3. Section 1834 of the said code is amended to read:

Entry of changes

1834. As soon as the auditor receives from the board the statement of its equalization, he shall enter the corresponding changes in a column provided with a proper heading on the roll, counting any fractional sum when more than fifty cents ($0.50) as one dollar ($1), and omitting it when fifty cents ($0.50) or less, so that no separate valuation contains a fraction of a dollar, and he shall add the column to show the total value of property in the county as corrected by the board.

Stats 1939, p 1274

SEC. 4. Section 1901 of the said code is amended to read:

Equalization of State assessed property in city

1901. Where property in a city is not assessed for city purposes by the county assessor the board shall equalize the assessed value of State assessed property in the city with the assessed value of other property in the city as prescribed in this article.

Stats 1943, Ch 377

SEC. 6. Section 2614 of the said code is amended to read:

Recording payment

2614. The tax collector shall mark the fact and date of payment on the roll or delinquent roll, opposite the tax to which the payment relates.

Stats 1941, p 3111

SEC. 7. Section 2621 of the said code is amended to read:

Cost of publishing delinquent roll, etc

2621. After the second half of taxes on real property is delinquent, the tax collector shall collect a cost of fifty cents ($0.50) for preparing the delinquent roll and published delinquent list on each separate valuation on the secured roll of:

(a) Real property, except possessory interests.

(b) Possessory interests.

(c) Personal property.

The cost shall be collected even though the property appears on the roll due to a special assessment and no valuation of the property is given.

SEC. 8. Section 2624 of the said code is amended to read: Stats. 1939, p 1274

2624. After the second half of taxes on real property is delinquent, the tax collector shall prepare a delinquent roll. In numerical or alphabetical order, the delinquent roll shall show all information on the secured roll relating to property the taxes on which are delinquent. Delinquent roll

SEC. 9. Section 2625 of the said code is amended to read: Stats 1939, p 1274

2625. Annually, on May 10th, the tax collector shall attend at the auditor's office with the secured roll and the delinquent roll. Attendance at auditor's office

SEC. 10. Section 2626 of the said code is amended to read: Stats 1941, p 3111

2626. The auditor shall compare the delinquent roll with the secured roll. If satisfied the delinquent roll is correct, he shall: Settlement on secured roll, etc

(a) Foot the unpaid taxes and penalties.

(b) Credit the tax collector with the unpaid taxes and penalties on the secured roll.

(c) Make a final settlement with him of all taxes and penalties charged against him on the secured roll.

The tax collector shall deliver the treasurer's receipt to the auditor, unless the treasurer is the collector, and shall immediately account for any deficiency.

SEC. 11. Section 2627 of the said code is amended to read: Stats 1939, p 1274

2627. Within three days after this settlement, the auditor shall: Charging tax-collector with amount due on delinquent roll

(a) Compute and enter the penalties and costs on the delinquent roll.

(b) Charge the tax collector with the amount due on the delinquent roll.

(c) Deliver the delinquent roll duly certified, to the tax collector.

SEC. 12. Section 2628 of the said code is amended to read: Stats 1939, p 1274

2628. On or before June 30th or immediately after the time when real property is sold to the State for taxes, whichever is later, the tax collector shall attend at the auditor's office with the delinquent roll. Attendance at auditor's office

SEC. 13. Section 2629 of the said code is amended to read: Stats 1939, p. 1274

2629. The auditor shall then administer an oath to the tax collector, to be written and subscribed on the delinquent roll, that all property on the delinquent roll on which taxes have been paid has been credited with the payment on the delinquent roll. Tax collector's oath

SEC. 14. Section 2630 of the said code is amended to read: Stats 1939, p. 1274

2630. The auditor shall foot the amount unpaid on the delinquent roll, credit the tax collector with the amount, and have a final settlement with him. The delinquent roll shall remain on file in the auditor's office. Settlement on delinquent roll

SEC. 15. Section 2631 of the said code is amended to read: Stats 1939, p 1274

2631. If the roll or delinquent roll is transferred from one collector to another, the auditor shall credit the one and charge the other with the amount outstanding. Transfer New collector

Stats. 1939, p. 1274 Roll or copy as evidence

SEC. 16. Section 2634 of the said code is amended to read:

2634. The roll or delinquent roll or a copy certified by the redemption officer, showing unpaid taxes against any property, is prima facie evidence of the assessment, the property assessed, the delinquency, the amount of taxes due and unpaid, and that there has been compliance with all forms of law relating to assessment and levy of the taxes.

Stats. 1939, p. 1274 "Published delinquent list"

SEC. 17. Section 3351 of the said code is amended to read:

3351. Annually, on or before June 8th, the tax collector shall:

(a) Make an affidavit, indorsed on the delinquent roll, that the taxes not marked "paid" have not been paid.

(b) Publish the following information relating to each assessment of property on the delinquent roll:

(1) The name of the assessee, and where there is more than one valuation the name of the assessee need be listed only once.

(2) The description of the property.

(3) The total amount due which is a lien on the property as shown on the delinquent roll.

This information required to be published is the "published delinquent list."

If the amount due on any property on the published delinquent list is paid, the information relating to the property may be omitted from any subsequent publication.

Stats. 1939, p. 1274 Payment by owner or person in possession

SEC. 18. Section 3437 of the said code is amended to read:

3437. Until the time of sale the owner or person in possession of any property in the published delinquent list may pay the amount due, if it was separately valued on the secured roll.

Stats 1939, p. 1274 Delinquent roll entries

SEC. 19. Section 3439 of the said code is amended to read:

3439. In appropriate columns on the delinquent roll, opposite each parcel separately valued on the delinquent roll and sold, the tax collector shall enter "Sold to the State," the date of sale, and the total amount for which the property was sold.

Stats 1939, p. 1274 Contents of deed

SEC. 20. Section 3480 of the said code is amended to read:

3480. In addition to the usual provisions of a deed conveying real property, the deed shall specify:

(a) The year the property was assessed for taxation and the name of the assessee for that year.

(b) That the property was duly assessed for taxation and the tax legally levied.

(c) The name of the purchaser at this tax sale and the fact and date that the property was sold to him for nonpayment of delinquent taxes which were a lien on the property.

(d) The amount for which the property was sold to the purchaser.

(e) That the property has been redeemed.

(f) That the property is therefore conveyed to the purchaser according to law.

SEC. 21. Section 3513 of the said code is amended to read: Stats 1939, p. 1274

3513. In addition to the usual provisions of a deed conveying real property, the deed shall specify: Contents of deed

(a) The date of sale to the State.

(b) That the property was duly assessed for taxation and the tax legally levied.

(c) The year the property was assessed for taxation and the name of the assessee for that year.

(d) That the property was sold to the State for nonpayment of delinquent taxes which were a lien on the real property.

(e) The amount for which the property was sold.

(f) That five years have elapsed since the sale to the State and no person has redeemed the property.

(g) That the property is therefore conveyed to the State according to law.

SEC. 22. Section 3707.5 of the said code is repealed. Stats 1941, p 1423

SEC. 23. Section 3712 of the said code is amended to read: Stats 1941, p 2463

3712. The deed conveys title to the purchaser free of all encumbrances of any kind existing before the sale, except: Title conveyed

(a) Any lien for installments of special assessments, which installments will become due after the time of the sale.

(b) The lien for taxes or assessments or other rights of any taxing agency which does not consent to the sale under this chapter.

(c) Liens for special assessments levied upon the property conveyed which were, at the time of the sale under this chapter, not included in the amount necessary to redeem the property from the sale to the State, and, where a taxing agency which collects its own taxes has consented to the sale under this chapter, not included in the amount required to redeem from sale to such taxing agency.

(d) Easements constituting servitudes upon or burdens to the property; water rights, the record title to which is held separately from the title to the property; and restrictions of record.

SEC. 24. Section 3716 of said code is amended to read: Stats 1939, p. 1274

3716. Within 10 days after the sale, the tax collector shall report to the assessor and recorder the following: Tax collector's report

(a) The name of the purchaser.

(b) The date of sale and, if executed, of the deed to the purchaser.

(c) The amount for which the property was sold.

(d) The description of the property conveyed.

(e) The numbers and dates of the certificate of sale to the State and of the deed to the State.

SEC. 25. Section 3717.5 of said code is amended to read: Stats 1939, p 1917

3717.5. The redemption officer shall note the fact and date of a sale under this chapter on the margin of each delinquent and current roll on which the property appears, opposite the property sold. Any charges against the officer having Notations on roll

custody of the delinquent and current rolls shall be reduced accordingly.

Stats 1939, p 1274
Deposit

SEC. 26. Section 3718 of the said code is amended to read:

3718. The tax collector shall deposit the money received from the sale, including any installment of the purchase price, like tax collections and shall immediately transmit a report of sale to the county treasurer and a duplicate of the report to the county auditor. The report shall show:

Report to auditor and treasurer

(a) The expenses of the county in making the sale.

(b) The sums received for individual parcels.

(c) Identification of the parcels by year, page and number of the delinquent and current roll.

New section
Comparison with records

SEC. 26.5. Section 3794.2 is added to said code, to read:

3794.2. Before any agreement is presented to the board of supervisors for final approval and execution it shall be submitted to the tax collector to be compared with the records of the county relating to the real property described in the agreement.

Stats. 1939, p. 1274
Contents of notice

SEC. 27. Section 3797 of the said code is amended to read:

3797. The notice of agreement shall state:

(a) A description of the property substantially as described in the agreement.

(b) For each year in which there may be delinquent taxes against all or any portion of the property, the name of the assessee of all or such portion of the property.

(c) That an agreement for the sale of the property or for an option to purchase it, or both, as the case may be, has been made by the board of supervisors of the county with the taxing agency named in the agreement and has been approved by the Controller.

(d) That a copy of the agreement is on file in the office of the board of supervisors.

(e) If the right to redeem the property has not already been terminated, there shall also be a statement that unless the property is redeemed or an installment plan of redemption is initiated before it is sold, the right of redemption will cease.

Stats 1939, p. 1274
Contents of deed

SEC. 28. Section 3805 of the said code is amended to read:

3805. In addition to the usual provisions of a deed conveying real property, the deed shall specify:

(a) That the real property was duly sold and conveyed to the State for nonpayment of taxes which had been legally levied and were a lien on the property.

(b) That the right of redemption of the property has been terminated according to law.

(c) The name of the purchaser.

New section
Report on resale

SEC. 29. Section 3807.3 is added to the said code, to read:

3807.3. If the agreement contains provisions for the pro rata division of the proceeds of the sale of the property, upon resale of the property the taxing agency shall immediately report the following to the tax collector:

(a) The name of the purchaser.

(b) The date of sale and, if executed, of the deed to the purchaser.

(c) The amount for which the property was sold.

(d) The description of the property conveyed.

SEC. 30. Section 3811 is added to said code, to read: New section

3811. On execution of the deed to the taxing agency and on receipt of a notice of resale of the property by the taxing agency the tax collector shall report the following within 10 days to the State Controller, assessor, redemption officer, auditor and recorder: Tax collector's report

(a) The name of the purchaser.

(b) The date of the deed to the taxing agency, or the date of a resale by the taxing agency.

(c) The amount for which the property was sold.

(d) The description of the property conveyed.

(e) The numbers and dates of certificate of sale to the State and of the deed to the State.

SEC. 31. Section 3812 is added to said code, to read: New section

3812 The recorder shall note the following on the margin of the certificate of sale to the State, if any, and on the margin of the deed to the State: Marginal notations

(a) The name of the purchaser.

(b) The date of sale and if executed, of the deed to the purchaser.

(c) The amount for which the property was sold.

SEC. 32. Section 3813 is added to said code, to read: New section

3813. The redemption officer shall note the fact and date of a sale under this chapter on the margin of each delinquent and current roll on which the property appears, opposite the property sold. Any charges against the officer having custody of the delinquent and current rolls shall be reduced accordingly. Notations on roll

SEC. 33. Section 3814 is added to the said code, to read: New section

3814. The tax collector shall deposit the money received from the sale, including any installment of the purchase price, like tax collections, in the delinquent tax sale trust fund. Deposit

SEC. 34. Section 4109 of the said code is amended to read: Stats 1941, p 3111

4109. The redemption officer shall note the fact and date of redemption on the margin of each delinquent roll opposite the description of the property sold. Notation on delinquent roll

In the event that part of the property is redeemed, the redemption officer shall also note:

(a) A description of the parcel redeemed.

(b) The value of the parcel redeemed.

(c) The value of the remainder of the property

SEC. 35. Section 4109.5 of the said code is amended to read: Stats 1941, p 2854

4109.5. If delinquent taxes are paid in installments, the redemption officer may stamp or write "See Supplemental Record" on the margin of the delinquent roll. On a supplemental record set up by the redemption officer for the purpose, he shall show the name of the person making the payments, a description of the property, the amount paid, the year or years Supplemental record

of delinquency, and the number of the certificate of redemption, if any, issued.

Stats 1941, p 409
Credit on starting new install ment plan

SEC. 36. Section 4337 of the said code is amended to read:

4337. When payment of delinquent taxes in installments on any property was started under any provision of law and payment of delinquent taxes in installments on the property is later started under another provision of law providing for such payment, or under the same provision of law after default in payment, there shall be credited on the amount payable the total amount of back taxes paid under the same or previous provision, without an allowance for interest on it. This credit is in addition to and not a substitute for the payment of any part of any installment payable and shall be allowed after the first installment is paid. If the last payment made of delinquent taxes in installments was under a provision of law which requires that payments be made on or before April 20th in each fiscal year or which expressly allows quarter-annual payment of installments, no credit shall be allowed under this section after five years succeeding April 20th of the first fiscal year when no payment was made as required.

Stats 1939, p. 1274
Correction procedure

SEC. 37. Section 4834 of the said code is amended to read:

4834. Corrections authorized under this article shall be made on the roll and delinquent roll by the auditor, with the written consent of the district attorney.

Stats 1939, p. 1274
Entry and accounting for correction

SEC. 38. Section 4837 of the said code is amended to read:

4837. The date and nature of the correction shall be entered on the roll opposite the description of property and the written authority for it shall be filed and preserved by the auditor as a public record. The auditor shall make any necessary changes in his account with the tax collector.

Stats. 1939, p. 1274
Loss of roll by public calamity

SEC. 39. Section 4838 of the said code is amended to read:

4838. If the roll of any taxing agency in course of preparation is lost or destroyed because of public calamity and is reconstructed from available data, at any time before the sale to the State the assessor may correct any erroneous assessment. The assessor shall:

(a) Send certified notices of the correction to the tax collector, the auditor, and the Controller.

(b) Enter opposite the description of property on the roll the date and nature of the correction.

Stats 1939, p. 1274
Entry and accounting for correction

SEC. 40. Section 4880 of the said code is amended to read:

4880. The auditor shall enter the correction on the roll of the county or city opposite the description of property, and shall file and preserve the statement of the correction as a public record. The auditor shall make any necessary changes in his account with the tax collector.

Stats. 1939, p. 1274
Cancellation of tax

SEC. 41. Section 4946 of the said code is amended to read:

4946. All or any portion of any uncollected tax, penalty, or costs, heretofore or hereafter levied, may on satisfactory proof submitted by the tax collector be canceled by the auditor on order of the board of supervisors with the written consent of the district attorney upon a showing that the collection of

the delinquent tax can not be enforced because of any errors in description, assessment, equalization, levy, or any other proceeding. If all or any portion of the property was taxable for the year or years for which the cancellation is made, the clerk shall send a notice to the last assessee of the property respecting the cancellation. A similar notice shall be sent to the last assessee, except that the grounds of cancellation need not be stated, in the event that any tax, penalty or costs, or any portion thereof, is ordered canceled or held void or ordered refunded by a final judgment of a court of competent jurisdiction. Notice

SEC. 42. Section 4948 of the said code is amended to read: Stats 1939, p. 1274

4948. If the board of supervisors orders that collection of the tax should be enforced, the assessor shall assess the property at its value on the lien date of the year for which cancellation was made. Enforcement of tax

The property shall be entered on the roll prepared or being prepared in the assessment year when the cancellation is made. The entry shall be followed with "Taxes canceled for year 19___ and collection ordered enforced by Board of Supervisors _____19___." Entry on roll

The amount charged against the property on the roll on which it is entered shall be the corrected tax for the year for which the cancellation was made. No penalties or other charges shall be charged on this assessment except those which may attach to other property assessed for the year in which this property is placed on the roll. If the tax rate for the year for which the cancellation is made has not been held invalid by a court, the tax rate to be applied shall be the rate fixed for such year. If the tax rate or any portion of it has been held invalid by a final judgment of a court, the corrected tax shall be determined by the auditor by applying all such judgments in the manner prescribed by the Controller. Corrected tax

Any revenue received on this assessment for the year for which cancellation is made shall be treated like revenue received from delinquent taxes for such year. Revenue received

The collection of the tax shall be enforced in the same manner as the tax on other property on the roll on which it is entered. Manner of enforcement

SEC. 43. Section 4989 of the said code is amended to read: Stats 1939, p. 1274

4989. If a property owner has paid all the taxes on an assessment of his real property heretofore made in any county, on proof of the payment by production of a tax receipt or certificate of the redemption officer of the county in which the payment was made, the board of supervisors of any other county, the assessor of which has also heretofore assessed the property, shall order the auditor to cancel the assessment by an entry on the margin of the roll and, if carried there, the delinquent roll. Assessments heretofore made

SEC. 44. Section 4990 of the said code is amended to read: Stats 1941, p 409

4990. On discovery that any property is assessed by the same taxing agency more than once for the same year, after Double assessment

payment of all charges justly due on the property the person having custody of the roll shall certify the facts to the board of supervisors. The board of supervisors shall then order the auditor to cancel the other charges and assessments by an entry on the margin of the roll and, if carried there, the delinquent and current roll.

Stats 1939, p 1274
Erroneous sale or deed

SEC. 45. Section 4991 of the said code is amended to read:

4991. If the tax collector erroneously sells or deeds to the State property for the taxes which were a lien on the property for any year and the taxes for that year have been paid or were not legally a lien on the property, the auditor and the tax collector shall certify the facts to the board of supervisors. The board of supervisors shall then order:

(a) The county recorder to cancel the erroneous certificate or deed.

(b) The auditor to cancel the sale and enter the fact and date of the cancellation on the margin of the delinquent roll opposite the description of the property.

Stats 1939, p. 1274
Cancellation where property sold or deeded

SEC. 46. Section 4992 of the said code is amended to read:

4992. When an assessment or taxes are legally canceled, if the property has been sold or deeded for the taxes and the right of redemption has not been terminated, the board of supervisors shall order:

(a) The recorder to cancel the certificate of sale and the deed to the State.

(b) The auditor to cancel the sale and enter the fact and date of the cancellation on the margin of the delinquent roll opposite the description of the property.

CHAPTER 410

Stats 1939, p 49, amended

An act to add Section 1514.5 to the Elections Code, relating to ballot pamphlets.

In effect August 4, 1943

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

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

New section

SECTION 1. Section 1514.5 is added to the Elections Code, to read:

Provisions not required

1514.5. The ballot pamphlet need not contain:

(a) An index to the arguments;

(b) An index to the measures;

(c) A list of the ballot titles as they will appear on the ballot;

(d) A recapitulation of amendments to the Constitution, new laws and amendments to existing laws;

(e) A summary of measures submitted to electors; or

(f) A list showing the order of measures on the ballot and page in the pamphlet.

CHAPTER 411

An act to repeal an act entitled "An act making an appropriation for the administrative expenses of the State Department of Social Welfare and establishing a revolving fund for the purposes of distributing goods and commodities in accordance with Federal goods and commodities distribution plans by the State Department of Social Welfare, declaring the urgency thereof, to take effect immediately," approved July 1, 1941, relating to State and county participation in Federal work, stamp and surplus commodity programs, providing for the termination thereof and the disposition of the proceeds, transferring powers, duties, responsibilities and jurisdiction and all records, books, papers and property connected therewith and repealing acts specified therein.

Stats 1941, p 2456, repealed

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

In effect August 4, 1943

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

SECTION 1. The State Department of Finance shall succeed to and is hereby invested with all the powers, duties, purposes, jurisdiction, and responsibilities of the State Department of Social Welfare in respect to the operation of Federal stamp and surplus commodity distribution plans, and all records, books, papers, equipment, supplies, moneys, funds, appropriations, and all other property, both real and personal, belonging to or held by or for the State Department of Social Welfare under or for the purposes of the act cited in the title hereof are hereby transferred to the State Department of Finance, for the purpose of terminating any participation by this State in the operation of Federal stamp and surplus commodity distribution plans, and discharging any and all obligations incurred by this State or any agency thereof in connection with such plans.

Transfer of powers, etc.

SEC. 2. Subject to any conditions or restrictions imposed by the Federal Government in making such commodities available to this State, all equipment and commodities, including articles of clothing and yardage of cloth, which are received by the Department of Finance under Section 1 of this act, and which are suitable for use in the State institutions subject to the jurisdiction of the Department of Institutions, or in the State prisons, or any of them, shall be distributed by the Department of Finance to those State institutions and State prisons, which, in the opinion of the Director of Finance, can best use them.

Distribution of commodities

SEC. 3. Any commodities or other property made available to this State on conditions restricting the disposition thereof shall be disposed of in accordance with the conditions upon which they were received; and all other commodities and property shall be sold, and the proceeds thereof deposited in the State Treasury to the credit of General Fund.

Restrictions on disposition

Proceeds

Validation of prior commitments

SEC. 4. (a) The commitments made by the State Department of Social Welfare on or before April 8, 1943, with respect to the distribution of articles of finished clothing to the various counties are hereby validated and approved.

Validation of prior distribution

(b) The distribution to the various counties in accordance with the ratio of contribution of each county to the Works Projects Administration Sewing Projects as such bears to the total contributions of all counties of the State to the Works Projects Administration Sewing Projects of not more than 48 per cent of the finished garments in the custody of the State Department of Social Welfare on April 9, 1943, after distribution under the commitments ratified by subdivision (a) is hereby validated.

Validation of transfer of commodities to State Department of Finance

(c) The transfer by the State Department of Social Welfare to the State Department of Finance of all textiles and unfinished garments in the possession of the Department of Social Welfare on April 9, 1943, and an amount of finished clothing of not less than 52 per cent of the garments in the possession of the State Department of Social Welfare on April 9, 1943, after the distribution in accordance with commitments ratified by subdivision (a) is hereby validated.

Repeal

SEC. 5. The act cited in the title hereof is repealed.

CHAPTER 412

Stats 1933, p. 60, amended

An act to repeal Article 1 of Chapter 5 of Division 5 of the Agricultural Code, and to add to said chapter a new article, to be numbered Article 1, relating to seeds.

In effect August 4, 1943

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

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

Repeal

SECTION 1. Article 1 of Chapter 5 of Division 5 of the Agricultural Code, comprised of Sections 911 to 920, inclusive, is hereby repealed.

New article

SEC. 2. A new article, to be numbered Article 1, is hereby added to Chapter 5 of Division 5 of the Agricultural Code, comprised of Sections 910 to 919, inclusive, to read:

Article 1. Agricultural and Vegetable Seeds

Short title

910. This article shall be known and may be cited as the "California Seed Law."

Construction

910.5. This article and the terms used herein shall be construed so as to conform in so far as possible with the construction placed upon the Federal Seed Act and regulations issued thereunder, and to effectuate its purpose to make uniform the laws of the States adopting it.

"Agricultural seeds"

911. "Agricultural seeds," as used in this article, means the seeds of all domesticated grasses and cereals, and of all

legumes and other plants grown as turf, cover crops, forage crops, fiber crops, or field crops, and mixtures of such seeds, but does not include varieties which are generally known and sold as flower seeds or vegetable seeds.

"Vegetable seeds"

911.1. "Vegetable seeds," as used in this article, means the seeds of crops which are or may be grown in gardens or on truck farms and are generally known and sold under the name of vegetable seeds.

"Weed seeds"

911.2. "Weed seeds," as used in this article, means any and all noxious weed seeds, and any and all seeds not included in the definition of agricultural seeds, when occurring incidentally in agricultural seed.

"Noxious weed"

911.21. "Noxious weed" means any species of plant which is or is liable to be detrimental or destructive and difficult to control or eradicate. Noxious weeds are of two classes, primary noxious-weeds and secondary noxious-weeds, which are defined in Sections 911.22 and 911.23, respectively.

"Primary noxious-weeds"

911.22. "Primary noxious-weeds," as used in this article, means perennial noxious-weeds such as not only reproduce by seed, but also spread by underground roots or stems, and which, when established, are highly destructive and difficult to control in this State by ordinary good cultural practice. Exception is made for certain of such species which because of wide distribution in the State are classified herein as secondary noxious-weeds.

Primary noxious-weeds include the following:

Austrian fieldcress (Rorippa austriaca).

Blueweed (Helianthus ciliaris).

Camelthorn (Alhagi camelorum).

Canada thistle (Cirsium arvense).

Horsenettle, meaning Carolina horsenettle (Solanum carolinense), and white horsenettle (Solanum elaeagnifolium).

Klamath weed (Hypericum perforatum).

Leafy spurge (Euphorbia Esula).

Perennial gaura, meaning hairy gaura (Gaura villosa), scarlet gaura (Gaura coccinea), scented gaura (Gaura odorata), and wavy-leaf gaura (Gaura sinuata).

Perennial peppercress (Lepidium latifolium).

Perennial sowthistle (Sonchus arvensis).

Quackgrass (Agropyron repens).

Russian knapweed (Centaurea repens).

Whitetop or hoary cress, meaning pepperweed whitetop (Cardaria Draba), and hairy whitetop (Cardaria pubescens).

Any other species which the director, as provided in Section 917.2, finds and declares to be a primary noxious-weed.

"Secondary noxious-weeds"

911.23. "Secondary noxious-weeds," as used in this article, means all species of noxious weeds not classified as primary noxious-weeds.

Secondary noxious-weeds include the following:

Alkali mallow (Sida hederacea).

Bermuda grass (Cynodon Dactylon), except as provided in Section 911.25.

Dodder, meaning clover dodder (Cuscuta Epithymum), field dodder (C. pentagona), flax dodder (C. Epilinum), bigseed alfalfa dodder (C. indecora), and little-seed alfalfa dodder (C. planiflora).

Johnson grass (Sorghum halepense).

Nutgrass, meaning chufa nutgrass (Cyperus esculentus) and yellow nutgrass (Cyperus rotundus).

Poverty weed (Iva axillaris).

Puncture vine (Tribulus terrestris).

Russian thistle (Salsola Kali).

Sandbur grass (Cenchrus pauciflorus).

Wild morning glory or European glorybind (Convolvulus arvensis).

Yellow starthistle (Centaurea solstitialis).

Any other species which the director, as provided in Section 917.2, finds and declares to be a secondary noxious-weed.

Noxious weeds within Federal law

911.24. All primary and secondary noxious-weeds enumerated in this article or in any regulation promulgated by the director in accordance with the provisions of this article are hereby recognized as noxious within the meaning of the Federal Seed Act.

Other weed seeds

911.25. Certain seeds shall be classed as weed seeds when occurring incidentally in agricultural seeds and shall be regarded as agricultural or vegetable seeds only when sold alone or as a specific constituent of a definite seed mixture; and shall include, for example, the following:

Bermuda grass (Cynodon Dactylon).

Black medick (Medicago lupulina).

Cardoon (Cynara Cardunculus).

Lupine (Lupinus species).

Mallow (Malva parviflora).

Mustard (Brassica species).

Pigweed (Amaranthus species).

Radish (Raphanus sativus).

Any other agricultural or vegetable seed added to the foregoing list by rules and regulations of the director as provided in Section 917.2 of this code.

"Labeling"

911.3. "Labeling," as used in this article, includes all labels, and other written, printed, or graphic representations, in any form whatsoever, accompanying and pertaining to any seed whether in bulk or in containers, and includes invoices.

"Advertisement"

911.4. "Advertisement," as used in this article, means representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the scope of this article.

Labels on agricultural seed containers

912. Each container of agricultural seed which is sold within this State for sowing purposes shall bear thereon or have attached thereto in a conspicuous place a plainly written or printed label or tag in the English language, giving the following information:

Information on labels

(1) Commonly accepted name of (a) kind, or (b) kind and variety, or (c) kind and type, of each agricultural seed com-

ponent in excess of 5 per cent of the whole, and the percentage by weight of each in the order of its predominance. Where more than one component is required to be named, the word "mixture" or the word "mixed" shall be shown conspicuously on the label.

(2) Lot number or other lot identification.

(3) Percentage by weight of all weed seeds.

(4) The name and approximate number of each kind of secondary noxious-weed seed, per ounce in groups (A) and (B) and per pound in groups (C) and (D), when present singly or collectively in excess of:

(A) One seed in each five grams of Agrostis species, Poa species, Rhodes grass, Bermuda grass, timothy, orchard grass, fescues (except meadow fescue), alsike clover, white clover, reed canary grass, Dallis grass, and other agricultural seeds of similar size and weight, or mixtures within this group;

(B) One seed in each ten grams of ryegrass, meadow fescue, foxtail millet, alfalfa, red clover, sweetclover, lespedezas, smooth brome, crimson clover, Brassica species, flax, Agropyron species, and other agricultural seeds of similar size and weight, or mixtures within this group, or of this group with (A);

(C) One seed in each 25 grams of proso, Sudan grass and other agricultural seeds of similar size and weight, or mixtures not specified in (A), (B), or (D);

(D) One seed in each 100 grams of wheat, oats, rye, barley, buckwheat, sorghums (except Sudan grass), vetches, and other agricultural seeds of a size and weight similar to or greater than those within this group, or any mixtures within this group.

All determinations of noxious weed seeds are subject to tolerances and methods of determination prescribed in the rules and regulations under this article.

(5) Percentage by weight of agricultural seeds other than those required to be named on the label.

(6) Percentage by weight of inert matter.

(7) For each named agricultural seed (a) percentage of germination, exclusive of hard seed, (b) percentage of hard seed, if present, and (c) the calendar month and year the test was completed to determine such percentages. Following (a) and (b) the additional statement "total germination and hard seed" may be stated as such, if desired.

(8) Name and address of the person who labeled said seed, or of the person who sells said seed within this State.

Labels on vegetable seed containers

913. Each container of vegetable seed which is sold within this State for sowing purposes shall bear thereon or have attached thereto in a conspicuous place a plainly written or printed label or tag in the English language, giving the following information:

Information on labels

(1) Name of kind and variety of seed;

(2) For seeds which germinate less than the standard last established by the director under this article:

(A) Percentage of germination, exclusive of hard seed;

(B) Percentage of hard seed, if present;

(C) The calendar month and year the test was completed to determine such percentages;

(D) The words "Below Standard" in not less than eight-point type; and

(3) Name and address of the person who labeled said seed, or of the person who sells said seed within this State.

Unlawful sales

914. It is unlawful to sell any agricultural or vegetable seed within this State:

(1) Unless the test to determine the percentage of germination required by Section 2 shall have been completed within a nine-month period exclusive of the calendar month in which the test was completed; except that seed in packages consisting of one pound or less may be sold if the test to determine the percentage of germination was completed within a 15-month period, exclusive of the calendar month in which the test was completed, immediately prior to sale.

(2) Not labeled in accordance with the provisions of this article, or having a false or misleading labeling.

(3) Pertaining to which there has been a false or misleading advertisement.

(4) Containing primary noxious-weed seeds, subject to tolerances and methods of determination prescribed in the rules and regulations under this article.

(5) Represented to be certified seed or registered seed, unless it has been produced and labeled in accordance with the procedures and in compliance with the rules and regulations of a seed-certifying agency officially recognized under the provisions of this article, if produced in this State, or under the provisions of the Federal Seed Act and rules and regulations thereunder, if produced outside of this State.

Unlawful acts

914.5. It is unlawful:

(1) To detach, alter, deface, or destroy any label provided for in this article or the rules and regulations made and promulgated thereunder, or to alter or substitute seed, in a manner that may defeat the purposes of this article.

(2) To disseminate any false or misleading advertisement concerning agricultural or vegetable seed in any manner or by any means.

(3) To hinder or obstruct in any way any authorized person in the performance of his duties under this article.

(4) To fail to comply with a "stop-sale" order.

Exceptions to labeling

915. The provisions of Sections 912 and 913 do not apply:

(1) To seed or grain not intended for sowing purposes.

(2) To seed in storage in, or consigned to, a seed cleaning or processing establishment for cleaning or processing; provided, that any labeling or other representation which may be made with respect to the unclean seed shall be subject to this article.

Exemption

915.5. No person shall be subject to the penalties of this article, for having sold in this State any agricultural or vegetable seeds which were incorrectly labeled or represented as

to kind, variety, or type, which seeds can not be identified by examination thereof, unless he has failed to obtain an invoice or grower's declaration giving kind, or kind and variety, or kind and type, and to take such other precautions as may be necessary to insure the identity to be that stated.

Enforcement

916. The duty of enforcing this article and carrying out its provisions and requirements is vested in the director, and in the commissioner of each county acting under the supervision and direction of the director. It is the duty of such officer to sample, inspect, make analysis of and test agricultural and vegetable seeds transported or sold within this State for sowing purposes, at such time and place and to such extent as he may deem necessary to determine whether said agricultural or vegetable seeds are in compliance with the provisions of this article, and to notify promptly the person who transported or sold the seed of any violation.

Access to seeds

For the purpose of carrying out the provisions of this article, such officer is authorized to enter upon any public or private premises during regular business hours in order to have access to seeds subject to this article and the rules and regulations thereunder.

"Stop-sale" order

916.5. The director or the commissioner may issue and enforce a written or printed "stop-sale" order to the owner or custodian of any lot of agricultural or vegetable seed which he finds is in violation of any of the provisions of this article, which shall prohibit further sale of such seed until such officer has evidence that the law has been complied with and upon compliance such order shall be removed. The owner or custodian of such seeds upon demand shall have the right to a hearing before the director or the commissioner as to the justification of any such order, and may appeal to the director from any order of the commissioner made under the provisions of this section. The provisions of this section shall not be construed as limiting the right of the enforcement officer to proceed as authorized by other sections of this article. Any decision of the director in accordance with this section is subject to review by any court of competent jurisdiction.

Hearing

Appeal

Review

Testing laboratory

917. The director shall maintain a properly equipped laboratory for making the tests required by this article.

Cooperation with other agencies

917.1. The director may cooperate with the United States Department of Agriculture and other agencies in the enforcement of this article.

Publication of data

917.2. The director, in rules and regulations promulgated as provided in Section 917.5, from time to time may publish in a bulletin of the Department of Agriculture:

(a) A list of the plants and crops which he finds are or may be grown in this State from agricultural and vegetable seeds.

(b) A list of the plants and crops which he finds are detrimental to agriculture when occurring incidentally in other crops, and which therefore are classed as weed seeds except when sold alone or as a specific constituent of a definite seed mixture.

(c) A list of noxious weeds which he finds are primary noxious-weeds, as defined in this article.

(d) A list of those noxious weeds which are not classified as primary noxious-weeds, and which therefore are classed by this article as secondary noxious-weeds.

(e) A list of seed-certifying agencies which he finds qualified to certify as to the variety, purity, quality, or other matter of agricultural or vegetable seeds. The director shall consult with the director of the University of California Agricultural Experiment Station before approving the qualifications of any agency to certify as to variety, type, strain or other genetic character of agricultural or vegetable seeds.

Standards, tolerances, etc

917.3. The director, by rules and regulations promulgated as provided in Section 917.5, shall:

(a) Adopt germination standards for vegetable seeds.

(b) Adopt tolerances to be applied in all enforcement procedure required by this article.

(c) Prescribe methods of procedure in the examination of lots of agricultural and vegetable seeds, and in securing samples thereof.

(d) Fix the maximum number of samples that may be tested free of charge for any one person in any period of time.

(e) Fix a schedule of charges for tests or samples in excess of those tested free of charge.

(f) Adopt a procedure for hearings to show cause why complaint should not be filed for alleged violation of any provision of this article.

(g) Issue such other orders, schedules, and announcements as will assist in carrying out the purposes of this article.

Conformity with Federal law

917.4. All standards and tolerances promulgated hereunder shall be as nearly as practicable like those established under the Federal Seed Act.

Rules and regulations

917.5. All rules and regulations issued under the provisions of this article shall be published in a bulletin of the Department of Agriculture not less than 30 days before the date on which they are to become effective, together with a notice of the time and place for hearing objections. Such hearing shall be not less than 10 nor more than 20 days from the date of publication. Notice of hearing shall be mailed not less than 10 days prior to the date of the hearing to all persons who theretofore have filed with the director a request for notice of such hearings. If at the hearing it shall be developed by competent testimony that additional time will be required to produce further essential evidence, the director shall continue the hearing to a date which will allow sufficient time for the production of such evidence. At the hearing, interested parties shall be heard and a record kept of the proceedings for determination by the director of the facts shown at the hearing.

Hearing on objections

Adoption, etc., of rules

917.6. The director, upon his findings on the facts shown at the hearing, shall rescind, modify or affirm the rules and regulations as published; and such rules and regulations,

unless rescinded or postponed by the director, shall take effect on the date appointed therefor.

Judicial proceedings

918. When the director or the commissioner shall find that any person has violated any of the provisions of this article, he may institute proceedings in the court of competent jurisdiction in the area in which the violation occurred, to have such person convicted therefor, or he may file with the district attorney with the view of prosecution such evidence as may be deemed necessary; provided, that no prosecution under this article shall be instituted by the director or the commissioner without first having given the defendant an opportunity to appear at a hearing to introduce evidence either in person or by agent or attorney. If, after such hearing, or without such hearing in case the defendant fails or refuses to appear, the director or the commissioner is of the opinion that the evidence warrants prosecution, he shall order proceedings to be instituted as herein provided. The defendant, at any time prior to the filing of the complaint, may appeal to the director from any order of the commissioner made under the provisions of this section.

Prior hearing

Appeal

Seizure

919. Any lot of agricultural or vegetable seed not in compliance with the provisions of this article shall be subject to seizure on complaint of the director or the commissioner to a court of competent jurisdiction in the area in which the seed is located. In the event that the court finds the seed to be in violation of this article, it may order the seed to be condemned and denatured, processed, destroyed, relabeled, or released upon such conditions as the court in its discretion may impose to insure that the seed will be disposed of in compliance with the laws of this State.

Condemnation, etc

CHAPTER 413

An act amending Section 2356 of the Civil Code, relating to the revocation of an agent's powers, declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 13, 1943 Filed with Secretary of State May 13, 1943.]

In effect immediately

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

SECTION 1. Section 2356 of the Civil Code is hereby amended to read as follows:

1872 Code

Termination of agency

2356. Unless the power of an agent is coupled with an interest in the subject of the agency, it is terminated by: (1) Its revocation by the principal; (2) his death; or, (3) his incapacity to contract;

Provided, that any bona fide transaction entered into with such agent by any person acting without actual knowledge of such revocation, death or incapacity shall be binding upon the principal, his heirs, devisees, legatees and other successors

in interest; and provided, further, that nothing herein contained shall affect the provisions of Section 1216 of this code.

Urgency

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

Great numbers of the citizens of this State, who have or will enter the military service, have granted or will grant powers of attorney to trusted persons in order that their business and personal affairs may be carried on during their absence for the benefit of themselves and their families. Widespread doubt exists upon the question of whether or not the agents so appointed have any power to act if at the time the person giving the power of attorney should be dead. In a great many cases, it is impossible to determine whether the man in the service is alive or not and as a result the agents appointed by him find it impossible to consummate transactions on behalf of such absent person. The families of many men now in the service are dependent upon the power of the agents appointed by such men to sell property, withdraw funds, cash checks and the like. Widespread difficulty has arisen by the reason of this fact. For these reasons, this act is declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety and shall go into immediate effect.

CHAPTER 414

An act making an appropriation for the contingent expenses of the Assembly for the Fifty-fifth Session of the Legislature including committee expenses, to take effect immediately.

In effect immediately

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

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

Appropriation: Assembly contingent expenses

SECTION 1. The sum of fifty thousand dollars ($50,000), or so much thereof as may be necessary, is hereby appropriated out of any money in the State Treasury not otherwise appropriated for the contingent expenses of the Assembly for the Fifty-fifth Session of the Legislature including expenses of committees composed in whole or in part of Members of the Assembly.

Current expenses

SEC. 2. This act, inasmuch as it makes an appropriation for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately.

CHAPTER 415

An act to amend Sections 14½ and 15 of, and to add Section 13⅝ to, the Highway Carriers' Act, relating to the use of public highways for commercial purposes and the powers and duties of the Railroad Commission in respect thereto.

Stats. 1935, p. 878, amended

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 13⅝ is added to the Highway Carriers' Act, to read:

New section

Sec. 13⅝. For the purpose of service of decisions and orders of the commission issued pursuant to Section 10 of this act, the following classification of decisions and orders is hereby established:

Classification of decisions and orders

1. Household Goods: Decisions and orders prescribing rates for the transportation of property commonly used in a household when a part of such household equipment or supply; furniture, fixtures, equipment, and the property usual in an office, museum, institution, hospital, or other similar establishment when a part of the stock, equipment, or supply of such office, museum, institution, hospital, or other similar establishment; furniture, fixtures, and equipment of a store; works of art, furniture, musical instruments, display exhibits, and articles requiring the specialized handling and special equipment usually employed in moving household goods.

2. Liquid Petroleum Products: Decisions and orders prescribing rates for the transportation of liquid products having a petroleum base, in tank motor vehicles.

3. Live Stock: Decisions and orders prescribing rates for the transportation of live stock.

4. Dump Trucks: Decisions and orders prescribing rates for the transportation of road building materials, sand, gravel, stone, dirt, debris, coal, and kindred commodities, in dump trucks.

5. Agricultural Commodities: Decisions and orders prescribing rates for the transportation of unmanufactured or unprocessed agricultural commodities.

6. Forest Products: Decisions and orders prescribing rates for the transportation of logs, poles, piling, posts, shingle bolts, pulpwood and wood fuel.

7. Commodities Not Otherwise Specified: Decisions and orders prescribing rates for transportation of a character that does not fall within classes numbered 1 to 6, inclusive, as specified in this classification.

Designation of orders to be served

At the time of filing an application for a permit the applicant shall designate in writing the class or classes of decisions and orders to be served upon him. Every highway carrier subject to this act shall file with the commission a written designation of the class or classes of decisions and orders to be

served upon him and may from time to time designate in the same manner any other or additional class or classes of decisions and orders to be so served. No class or classes of decisions and orders shall be required to be served upon any such highway carrier other than the class or classes so designated.

Public inspection

Every decision and order, or a certified copy thereof, issued pursuant to Section 10 of this act shall be on file in the commission's offices in San Francisco and Los Angeles and open to public inspection.

Notice

The service of decisions and orders in the class or classes designated by an applicant or a highway carrier, or the filing of decisions and orders or a certified copy thereof, as the case may be, as provided herein, shall constitute notice upon every highway carrier subject to this act of the terms, conditions, and provisions of such decisions and orders, and every such highway carrier shall be bound thereby.

Service of orders

Each highway carrier subject to this act shall be served, without charge therefor, with any such one of the above-numbered classes of decisions and orders as may have been designated pursuant to the provisions hereof.

Fee

A fee of three dollars ($3) per year for each additional class of decisions and orders so designated shall be paid to the commission at the time of such designation.

Disposition of fees

All fees charged and collected under this section shall be deposited at least once a month in the State Treasury to the credit of the Railroad Commission Transportation Rate Fund.

Stats 1937, p 2006

SEC. 2. Section 14½ of said act is amended to read:

Cancellation or revocation of permit

Sec. 14½. (a) The commission may in its discretion cancel, revoke, or suspend the operating permit or permits of any highway carrier whenever it shall appear that said highway carrier has conducted any highway carrier operations illegally, or has violated any of the provisions of this act, or of any operating permit issued thereunder, or of any order, decision, rule, regulation, direction, demand or requirement, or any part or portion thereof, established by the commission pursuant to the provisions of this act; or has been convicted of any misdemeanor under this act; or has suffered a judgment for any penalty imposed under this act; or has failed to pay within the time required by law any fee imposed upon such highway carrier.

(b) After the cancellation or revocation of said permit, or during the period of its suspension, it shall be unlawful for such carrier to conduct any operations as said carrier. The commission may, in its discretion, either grant or deny an application for a new permit or permits whenever it appears that a prior permit of the applicant has been canceled or revoked pursuant to paragraph (a) hereof, or whenever it appears, after hearing, that as a prior permit holder, the applicant engaged in any of the unlawful activities set forth in paragraph (a) hereof for which his permit might have been canceled or revoked.

SEC. 3. Section 15 of said act is amended to read: Stats 1937, p 2006

Sec. 15. (a) Every highway carrier other than a highway common carrier and every officer, director, agent or employee of any such highway carrier who violates or who fails to comply with, or who procures, aids or abets, any violation by any such highway carrier of any provision of this act, or who fails to obey, observe or comply with any order, decision, rule, regulation, direction, demand or requirement, or any part or provision thereof, of the commission, or of any operating permit issued hereunder to any such highway carrier, or who procures, aids or abets any such highway carrier in his or its failure to obey, observe or comply with any such order, decision, rule, regulation, direction, demand, requirement, or operating permit, or any part or provision thereof, is subject to a penalty of not more than five hundred dollars ($500) for each offense. Civil penalties

(b) Every corporation or person other than a highway carrier who knowingly and wilfully, either individually, or acting as an officer, agent or employee of a corporation, copartnership or any other person other than a highway carrier, violates any provision of this act or fails to observe, obey or comply with any order, decision, rule, regulation, direction, demand or requirement, or any part or provision thereof, of the commission, or who procures, aids or abets any such highway carrier in his or its violation of this act, or in his or its failure to obey, observe or comply with any such order, decision, rule, regulation, direction, demand or requirement, or any part or provision thereof, is subject to a penalty of not more than five hundred dollars ($500) for each offense.

CHAPTER 416

An act to amend Section 1035 of the Fish and Game Code, relating to domesticated fish. Stats 1933, p 394, amended

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.] In effect August 4, 1943

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

SECTION 1. Section 1035 of the Fish and Game Code is amended to read: Stats 1933, p 394

1035. Upon obtaining a permit from the commission, for which a fee of five dollars ($5) per calendar year or part thereof shall be charged, domesticated fish raised in a hatchery regularly licensed under the laws of any other State may be imported into this State, transported, or sold. Such imported hatchery raised domesticated fish shall be duly tagged as provided in this article, and in accordance with the rules and regulations prescribed by the commission; provided, however, that live domesticated fish raised outside this State may be imported, brought into, or sold within this State subject to the Importation

provisions of Sections 560 to 570, inclusive, of the Fish and Game Code. Such fish imported into this State shall be tagged as provided above only when killed or dressed for sale for human consumption. The provisions of this section shall have no application to the importation of fish eggs to be used for propagation within this State.

CHAPTER 417

Stats 1943, Ch 71, amended

An act to add Section 13099.2 to the Education Code, relating to classification of persons as permanent employees of school districts, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

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

Note.—See Stats. 1943, Ch. 71.

Urgency

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

A grave shortage of teachers has arisen because of conditions created by the wars in which the United States of America is now engaged. As a result, school districts have of necessity been compelled to employ many persons as teachers who in normal times, because of lack of training and experience, would not be employed. Such persons are the ones coming within the bill. In order that persons without normally adequate qualifications shall not become permanent employees of school districts by reason of service already rendered, it is necessary that this act take effect immediately.

CHAPTER 418

An act relating to bases for allocation of money to county and district agricultural fairs.

In effect August 4, 1943

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

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

Ratification

SECTION 1. The maximum bases of allocation heretofore determined by the Department of Finance for the several county and district agricultural fairs under the provisions of Section 92 of the Agricultural Code are hereby ratified and confirmed.

CHAPTER 419

An act to amend Section 6 of the Corporate Securities Act, to provide for renewal of licenses to brokers and agents.

Stats 1917, p 673

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 6 of the act cited in the title hereof is amended to read:

Stats 1933, p. 2308

Sec. 6. No person or company shall act as an agent or broker until such person or company shall have first applied for and secured from the commissioner a certificate, then in effect, authorizing such person or company so to do. Every such certificate shall expire on the thirty-first day of December next after its issuance, unless sooner suspended or revoked, or unless the holder of such certificate shall file an application for a renewal thereof and pay the annual license fee for the next succeeding calendar year on or before the fifteenth day of December prior to the expiration of said certificate. To secure such certificate, the applicant shall make and file in the office of the commissioner an application therefor in writing, verified by or in behalf of the applicant. In such application, the applicant shall set forth, in addition to such other information as may be required by the commissioner:

Certificate of agent or broker

Application

1. The name and address of the applicant, and if it be a corporation, association, or joint stock company, the name and address of each of its managing officers and agents, and, if it be a partnership, the name and address of each of the partners;

2. A succinct statement of facts showing that the applicant, and its managing officers and agents, if it be a corporation, or members, if it be a partnership, have a good business reputation;

3. If the applicant is a broker, the general plan and character of the business of the applicant.

At the time of filing an application for a broker's certificate, the applicant shall file and thereafter maintain with the Commissioner of Corporations a good and sufficient bond in the aggregate penal sum of five thousand dollars ($5,000), payable to the people of the State of California, for the use and benefit of interested persons, executed by said applicant and by sufficient surety or sureties, and to be approved by the Commissioner of Corporations. The total aggregate liability on said bond shall be limited to the payment of five thousand dollars ($5,000). Said bond shall be conditioned upon the strict compliance with the provisions of this act, and the honest and faithful application of all funds received and the faithful and honest performance of all obligations and undertakings in the purchase or sale of securities, by said broker, his agents and employees.

Broker's bond

Term of bond

Said bond shall remain in force and effect until the surety is released from liability by said commissioner, or until said bond is canceled by the surety. The surety may cancel said bond and be relieved of further liability thereunder by delivering 30 days' written notice to the commissioner. Such cancellation shall not affect any liability incurred or accrued thereunder prior to the termination of said 30-day period.

Action on bond

Any person who sustains an injury covered by such bond, may in addition to any other remedy that he may have, bring an action in his own name upon said bond for the recovery of any damages sustained by him; provided, however, that no such action may be brought after the expiration of two years from and after the time when the act or default complained of may have occurred.

New bond

Upon such action being commenced the Commissioner of Corporations may in his discretion, require the filing of a new bond, and immediately upon the recovery in any action on such bond, such broker shall file a new bond, and upon failure to file the same within 10 days in either case such failure shall constitute sufficient grounds for the suspension or revocation of such broker's certificate.

Where applicant is foreign corporation or association

For filing such application, the applicant shall pay a fee as hereinafter provided. If the applicant is a corporation or association organized under the laws of any other State, Territory, or government, it shall file with its application a copy of its articles of incorporation or association, together with a certificate executed by the proper officer of such State, Territory, or government not more than 30 days before the filing of such application, showing that such applicant is authorized to transact business in such State, Territory, or government, and also in such form as the commissioner may prescribe, its written instrument, irrevocably appointing the commissioner and his successor in office its true and lawful attorney upon whom all process in any action or proceeding against it, arising out of or founded upon the fraud of such applicant in the sale of securities within this State, or in any action upon any bond provided by this section, may be served, with the same effect as if said corporation or association were organized or created under the laws of this State and had been lawfully served with process therein.

CHAPTER 420

Stats 1933, p 894, amended

An act to add Section 887 to the Fish and Game Code, relating to nets.

In effect August 4, 1943

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

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

New section

SECTION 1. Section 887 is added to the Fish and Game Code, to read:

Mullet or carp Revocable permit

887. The commission may issue a revocable permit to take with set gill nets, or seines, mullet or carp in the waters of

the Salton Sea and in those portions of the New and Alamo rivers up stream one mile from their mouths as marked by the commission, under commercial license, subject to such restrictions as the commission deems advisable.

(a) No fish other than mullet or carp and no mullet less than 14 inches in length may be taken or possessed by a licensed commercial fisherman while fishing in Salton Sea, and the Alamo and New rivers. Restrictions

(b) No commercial fishing under this section shall be carried on within the boundaries of any State or Federal game refuge.

(c) Commercial fishing in Salton Sea and the Alamo and New rivers shall be carried on only between January 1st and June 30th of each year.

CHAPTER 421

An act to amend Section 193 of the Penal Code and to repeal Section 500 of the Vehicle Code, relating to crimes involving the operation of vehicles. Stats 1935, p. 93, amended

[Approved by Governor May 13, 1943 Filed with Secretary of State May 13, 1943.] In effect August 4, 1943

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

SECTION 1. Section 500 of the Vehicle Code is repealed. Stats 1941, p. 1414

SEC. 2. Section 193 of the Penal Code is amended to read: 1872 Code

193. Manslaughter is punishable by imprisonment in the State Prison for not exceeding 10 years, except that a violation of subdivision 2 of Section 192 of this code resulting from the operation of a vehicle is punishable by imprisonment in the county jail for not more than one year or in the State Prison for not more than five years. Punishment of manslaughter

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CHAPTER 422

An act to amend Section 647 of the Agricultural Code, relating to conveyances transporting milk or cream or containers therefor. Stats 1933, p. 60, amended

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.] In effect August 4, 1943

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

SECTION 1. Section 647 of the Agricultural Code is amended to read: Stats 1941, p. 475

647. All conveyances, while transporting milk or cream or clean empty containers intended for milk or cream, and all shipping platforms or premises where such containers are held waiting shipment, shall either be inclosed or provided Inclosure, etc., of milk conveyances

with canvas covering or otherwise afforded protection from the direct rays of the sun, from warm air, dust, mud, rain and other sources of contamination when in the judgment of the director it is necessary. No milk or cream or product thereof shall be transported in connection with or close to any other commodity from which it may absorb foreign flavors or which may contaminate it, and no milk or cream or empty containers used for milk or cream shall be hauled in any vehicle used for hauling manure, or garbage, or in any other unclean conveyance. All milk or cream cans or other shipping containers for products of milk shall be handled carefully, and while containing milk, cream or other products of milk, shall be kept right end up. Nothing herein shall be construed to derogate from any powers or authority of the Railroad Commission of the State.

Duration exception

Until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs, and only until then, neither this section nor any other provision of this code shall be deemed to prohibit the conveyances mentioned herein from transporting feeds, grains or hay along with empty containers for the purpose of delivering them to dairymen; provided, that such feeds, grains or hay shall be covered separately from the empty containers while in transit.

CHAPTER 423

Stats 1943, Ch 368

An act to add Section 1252.5 to the Water Code, relating to appropriation of water.

In effect August 4, 1943

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

Note.—See Stats. 1943, Ch. 368.

CHAPTER 424

An act to add Section 3327 and 3330 to the Penal Code, relating to the California Institution for Women.

In effect August 4, 1943

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

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

New section Commissary

SECTION 1. Section 3327 is added to said code, to read:

3327. The board is authorized to provide the necessary facilities, equipment, and personnel to operate a commissary at said institution for the sale of toilet articles, candy, tobacco products, gum, notions, and other sundries.

SEC. 2. Section 3330 is added to said code, to read: New section

3330. The board is authorized to use State automobiles and vehicles to furnish transportation service between the institution and Tehachapi and to make a reasonable charge for said service. Transportation service

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CHAPTER 425

An act to add Section 1195.5 to the Labor Code, relating to wages of women and minors. Stats 1937, p. 185, amended

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.] In effect August 4, 1943

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

SECTION 1. Section 1195.5 is added to the Labor Code, to read: New section

1195.5. The Division of Industrial Welfare shall determine, upon request, whether the wages of women and minors, which exceed the minimum wages fixed by the commission, have been correctly computed and paid. For this purpose, the division may examine the books, reports, contracts, pay rolls and other documents of the employer relative to the employment of women and minors. The division shall enforce the payment of any sums found, upon examination, to be due and unpaid to the women or minors. Determination of minimum wage compliance; Enforcement

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CHAPTER 426

An act to amend Section 8322 of the Streets and Highways Code, relating to the vacation of city streets. Stats 1935, p. 248, amended

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.] In effect August 4, 1943

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

SECTION 1. Section 8322 of the Streets and Highways Code is hereby amended to read as follows: Stats 1941, p 1357

8322. Before the vacation of any street or part thereof is ordered, the city council shall pass an ordinance declaring its intention to do so, referring to the street or part thereof by its lawful or official name or the name by which it is commonly known and referring to a map or plan on file in the office of the city clerk for particulars as to the proposed vacation. The ordinance of intention shall fix a time and place for hearing all persons interested in or objecting to the proposed vacation, which time shall be not less than 15 days from the date of the passage of the ordinance, and shall be published or posted in the manner prescribed by law for the Ordinance of intention

publishing or posting of ordinances of the city. Notices of street vacation shall be posted conspicuously along the line of the street or part thereof proposed to be vacated. Such notices shall be posted not more than 300 feet apart, but at least three shall be posted. Such notices shall state the passage of the ordinance of intention and the time and place of the hearing.

Streets included

One or more streets, or parts thereof, whether contiguous or not may be included and vacated under the same ordinance of intention.

CHAPTER 427

Stats 1935, p 248, amended

An act to add Chapter 3, consisting of Sections 8330 and 8331, to Part 3, Division 9, of the Streets and Highways Code, relating to the vacation of city streets and providing for the reservation of certain easements therein.

In effect August 4, 1943

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

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

New chapter

SECTION 1. Chapter 3, consisting of Sections 8330 and 8331, is hereby added to Part 3, Division 9, of the Streets and Highways Code, to read as follows:

CHAPTER 3. RESERVATION OF EASEMENTS

Reservation of easements

8330. In any proceeding for the vacation of any street or part thereof, the city may reserve and except from the vacation the permanent easement and right at any time, or from time to time, to construct, maintain, operate, replace, remove, and renew sanitary sewers and storm drains and appurtenant structures in, upon, over and across any street or part thereof proposed to be vacated and pursuant to any existing franchises or renewals thereof, or otherwise, to construct, maintain, operate, replace, remove, renew and enlarge lines of pipe, conduits, cables, wires, poles, and other convenient structures, equipment and fixtures for the operation of gas pipe lines, telegraphic and telephone lines, railroad lines, and for the transportation or distribution of electric energy, petroleum and its products, ammonia, water, and incidental purposes, including access and the right to keep the property free from inflammable materials, and wood growth, and otherwise protect the same from all hazards in, upon and over the street or part thereof proposed to be vacated.

Recitals in ordinance of intention

8331. In any proceedings for the vacation of any street or part thereof wherein the city council may determine that the public convenience and necessity require the reservation of easements and rights of way for structures enumerated in Section 8330, such determination shall be recited in the ordinance

of intention, in addition to any other matter required to be recited therein. Said ordinance of intention shall also recite that the proceedings are taken subject to such reservations and exceptions. All subsequent proceedings of the city in relation to the vacation, including any deed or conveyance, if any, to the owners of the land underlying such street or part thereof, shall be subject to and governed by the reservations and exceptions contained in the ordinance of intention.

CHAPTER 428

An act to amend Section 4132.5 of the Political Code, relating to duties of county recorders.

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.] In effect August 4, 1943

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

SECTION 1. Section 4132.5 of the Political Code is amended to read: Stats 1941, p 3203

4132.5. Any instrument or document presented for recordation which contains thereon an indorsement or indorsements indicating a way or ways in which such instrument or document shall be indexed, shall, when accepted for recordation, upon payment of his legal fees, be indexed by the recorder in every way indicated by such indorsements. Such document or instrument need not be indexed in any other index or in any other manner than as indicated by the indorsement appearing thereon. Indexing document according to indorsement

If any instrument or document is presented and accepted for recordation, or filing, without such indorsement, or indorsements, the manner of indexing shall be in the discretion of the county recorder.

CHAPTER 429

An act amending Section 4300c of the Political Code, relating to the fees of county recorders.

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.] In effect August 4, 1943

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

SECTION 1. Section 4300c of the Political Code is hereby amended to read as follows: Stats 1937, p 2516

4300c. For recording every instrument, paper, or notice required by law to be recorded, per folio, ten cents ($0.10). Recorder's fees

For indexing every instrument, paper, or notice, for each name, ten cents ($0.10).

For filing every instrument, paper, or notice for record, and making the necessary entries thereon, twenty cents ($0.20); provided, however, that the minimum fee for filing for record, recording, indexing and making the necessary entries on any written instrument, paper or notice except as hereinafter or otherwise provided by law, shall be one dollar ($1); and provided further, that the minimum fee for filing for record, recording, indexing and making the necessary entries on any conditional sale contract, bailment or feeder contract, lease or mortgage of personal property or crops shall be fifty cents ($0.50), and the minimum fee for filing for record, recording and indexing and making the necessary entries on any assignment, release, waiver or subordination which is designated on its face as being an assignment, release, waiver or subordination of a conditional sale contract, bailment or feeder contract, lease or mortgage of personal property or crops, shall be fifty cents ($0.50).

For each certificate under seal, fifty cents ($0.50).

For any copy of a birth, death, or marriage certificate, when such copy is made by him, the same fee as is payable to a State or local registrar of vital statistics.

For any copy of any other record or paper on file in the office of the county recorder, when such copy is made by him, per folio, ten cents ($0.10).

For examining and certifying to a copy of any record or paper on file in the recorder's office when such copy is prepared by another, three cents ($0.03) per folio for comparing such copy with the original.

For every entry of discharge, credit, or release on the margin of record, and indexing same, fifty cents ($0.50).

For searching the records of his office for a birth, death, or marriage certificate, the same fee as is payable to a State or local registrar of vital statistics; in all other cases, for each year, fifty cents ($0.50).

For abstract of title, for each conveyance or encumbrance, twenty-five cents ($0.25).

For recording each map or plat where the same is copied in a book of record, for each course, ten cents ($0.10).

For recording or filing each map wherein land is subdivided in lots, tracts, or parcels, five dollars ($5).

For filing building contracts, plans and specifications, one dollar ($1).

For figures or letters on maps or plats, per folio, ten cents ($0.10); provided, that the fees for recording any map shall not exceed fifty dollars ($50).

For taking acknowledgment of any instrument, fifty cents ($0.50).

For recording marriage license, and certificate, to be paid by the county clerk, one dollar ($1).

For filing notice of estray stock, and all services in estray cases, fifty cents ($0.50).

For recording each mark or brand, one dollar ($1).

For administering each oath or affirmation, and certifying the same, fifty cents ($0.50).

For filing, indexing, and keeping each paper not required by law to be recorded, twenty-five cents ($0.25); provided, however, no charge or fee shall be made for recording or indexing any discharge of a soldier, sailor or marine discharged from the Army or Navy of the United States or for issuing certified copies thereof.

Accounting for fees

The clerk, sheriff and recorder shall account for all fees in this and the two preceding sections provided for, and the clerk, sheriff, and recorder, unless otherwise provided by law, shall pay the same to the treasurer on the first Monday of the month following their collection, as provided in Article 59 of this chapter.

CHAPTER 430

An act to amend Sections 421, 490.5, 698, 698.1, 698.5, 699, 700, 701, 702, 705, 708, 711 and 724.3, of the Fish and Game Code, relating to fish.

Stats. 1933, p. 394, amended

[Approved by Governor May 13, 1943. Filed with Secretary of State May 13, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 421 of the Fish and Game Code is amended to read:

Stats 1941, p. 2835

421. Sporting fishing licenses are required for the taking of the following fish and mollusks only: Tuna, yellowtail, marlin swordfish, broadbill swordfish, jewfish, or black sea bass, barracuda, white sea bass, albacore, bonito, rock bass, kelp bass, California whiting (also known as corbina and surf fish), yellowfin croaker, spotfin croaker, ten-pounder (Elops affinis), salmon, steelhead and other trout, charr, whitefish (fresh water), striped bass, black bass, spotted bass, perch (fresh water), crappie, calico bass, pismo clams, cockle clams, abalones, scallops, catfish in District 22, and all varieties of sunfishes. It is unlawful for the holder of a sporting fishing license to sell any fish or mollusk taken by him under such license.

Sporting fishing license

SEC. 2. Section 490.5 of said code is amended to read:

Stats 1935, p 1552

490.5. It is unlawful to use a spear, except as otherwise provided in this code, to take the following fish: Tuna, yellowtail, marlin, jewfish or black sea bass, albacore, barracuda, bonito, rock bass, California whiting (also known as corbina and surf fish), yellowfin croaker, spotfin croaker, ten-pounder (Elops affinis), salmon, steelhead and other trout, charr, whitefish, striped bass, black bass, spotted bass, perch, crappie, calico bass, pismo clams, abalones, and all varieties of sunfishes.

Unlawful use of spear

Stats 1939, p 2412
Black and spotted bass

SEC. 3. Section 698 of said code is amended to read:

698. Black bass and spotted bass may be taken only by angling between May 29th and October 31st, except in District $1\frac{3}{4}$ where black bass and spotted bass may be so taken between May 1st and October 31st and except in District $4\frac{3}{4}$ and in Clear Lake, where black bass and spotted bass may be so taken at any time and except in Districts $3\frac{1}{2}$, 4, $4\frac{1}{8}$ and 4A where black bass, spotted bass, bluegill, perch and crappie may be taken between May 1st and October 31st.

Stats 1939, p 2428
District 22 Agreements fixing bag limit

SEC. 4. Section 698.1 of said code is amended to read:

698.1. Notwithstanding any provision of Section 698, in District 22 the season and bag limit on black bass, spotted bass, bluegill perch, crappie and catfish may be fixed by the commission in conformity with such agreements that it may make with the proper authorities in the State of Arizona.

Stats 1933, p 394
Possession in closed district

SEC. 5. Section 698.5 of said code is amended to read:

698.5. Black bass and spotted bass lawfully taken may be carried or transported into and possessed in a district where the season is closed.

Stats 1939, p 1429
Bag limit

SEC. 6. Section 699 of said code is amended to read:

699. The bag limit on black bass and spotted bass is 10 per day in the aggregate, except in Clear Lake, where the bag limit is five per day in the aggregate, and in Districts $1\frac{3}{4}$ and 4A, where the bag limit is 15 per day in the aggregate.

Stats 1937, p 588
Size

SEC. 7. Section 700 of said code is amended to read:

700. No black bass or spotted bass less than nine inches in length may be taken or possessed.

Stats 1933, p 394
Sale and bag limit

SEC. 8. Section 701 of said code is amended to read:

701. No black bass or spotted bass may be sold or purchased, and not more than one daily bag limit may be possessed by any person during one day.

Stats 1937, p 1384
Calico bass

SEC. 9. Section 702 of said code is amended to read:

702. Calico bass may be taken only by angling between May 29th and October 31st, except in Clear Lake and also District $4\frac{3}{4}$ where calico bass may be so taken at any time.

Stats 1933, p 394
Sacramento perch

SEC. 10. Section 705 of said code is amended to read:

705. Sacramento perch may be taken by angling between May 29th and October 31st, except in Clear Lake where Sacramento perch may be so taken at any time.

Stats 1937, p 1384
Crappie

SEC. 11. Section 708 of said code is amended to read:

708. Crappie may be taken by angling between May 29th and October 31st, except in Clear Lake and in District $4\frac{3}{4}$ where crappie may be so taken at any time.

Stats 1935, p 954
Sunfish

SEC. 12. Section 711 of said code is amended to read:

711. Sunfish may be taken by angling between May 29th and October 31st, except in District $4\frac{3}{4}$ where sunfish may be so taken at any time.

Stats 1939, p 2428
Catfish

SEC. 13. Section 724.3 of said code is amended to read:

724.3. In District 4, catfish may be taken only during the open season in that district for black bass and spotted bass.

CHAPTER 431

An act to amend Section 737mm of the Political Code, relating to the compensation of the judges of the superior court in and for the County of San Joaquin.

[Approved by Governor May 14, 1943. Filed with Secretary of State May 14, 1943.] In effect August 4, 1943

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

SECTION 1. Section 737mm of the Political Code is amended to read: Stats. 1933, p. 2054

737mm. The annual salary of each of the judges of the superior court in and for the County of San Joaquin is seven thousand dollars ($7,000). Superior judges San Joaquin County

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CHAPTER 432

An act to amend Section 737bb of the Political Code, relating to the salary of the judge of the Superior Court in and for the County of Napa.

[Approved by Governor May 14, 1943. Filed with Secretary of State May 14, 1943.] In effect August 4, 1943

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

SECTION 1. Section 737bb of the Political Code is amended to read: Stats. 1935, p. 2262

737bb. The annual salary of the judge of the Superior Court in and for the County of Napa is seven thousand five hundred dollars ($7,500). Superior judge Napa County

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CHAPTER 433

An act to amend Section 4278 of the Political Code, relating to compensation for public services in counties of the forty-ninth class.

[Approved by Governor May 14, 1943. Filed with Secretary of State May 14, 1943.] In effect August 4, 1943

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

SECTION 1. Section 4278 of the Political Code is amended to read: Stats. 1941, p. 1601

4278. In counties of the forty-ninth class the following shall receive as compensation for the services required of them by law, or by virtue of their office, the following sums: Modoc County salaries:

1. The auditor, eight hundred dollars ($800) per annum, and such fees as are now or may hereafter be allowed by law. Auditor

District attorney

2. The district attorney, two thousand dollars ($2,000) per annum.

Supervisors

3. Each supervisor, one thousand dollars ($1,000) per annum and mileage at the rate of fifteen cents ($0.15) per mile in traveling from his residence to attend regular meetings of the board, and in returning therefrom.

Each supervisor shall also be allowed fifteen cents ($0.15) per mile actually traveled in inspecting county roads, which allowance shall not exceed three hundred dollars ($300), annually.

Jurors

4. For attending as a grand juror or as a trial juror in the superior court, in criminal cases, three dollars ($3) per day for each day's attendance. For each mile actually traveled in attending upon the superior court, in going only, per mile, twenty-five cents ($0.25). In counties of this class the grand jurors and trial jurors in criminal cases shall be paid by warrants drawn by the county auditor, issued upon the order of the court, or judge thereof. Jurors who serve in civil actions in the superior court shall receive the sum of two dollars ($2) per day, to be paid by the party or parties demanding the jury.

CHAPTER 434

Stats 1939, p 49, amended

An act to add Sections 5002.5 and 5002.6 to the Elections Code, making it a misdemeanor for any candidate seeking election or reelection to any office, board or agency authorized to issue licenses, or any officer, employee or appointee of such office, board or agency, to solicit or receive from persons holding licenses issued by said office, board or agency, any money or other thing of value for any political campaign for election or reelection to such office, board or agency, and making it a misdemeanor for any licensee or holder of a license to contribute or give money or any other thing of value for any such political campaign.

In effect August 4, 1943

[Approved by Governor May 14, 1943. Filed with Secretary of State May 14, 1943.]

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

New section

SECTION 1. Section 5002.5 is hereby added to the Elections Code, to read:

Solicitation of campaign funds from licensees

5002.5. Any elective State officer who is authorized by law to issue licenses, or who is a member of any board or agency authorized to issue licenses, or any person seeking election to such office, board or agency, or any appointee or employee of such office, board or agency, who directly or indirectly solicits, receives or agrees to receive any money or other thing of value, or any promise thereof, from any licensee named in, or any holder of, any license issued by such officer, board or agency, or from any agent of such licensee or license

holder, for any political campaign of any person seeking election or reelection to the office, board or agency authorized to issue such license, is guilty of a misdemeanor.

SEC. 2. Section 5002.6 is hereby added to the Elections Code, to read: New section

5002.6. Any licensee named in, or any holder of, any license issued by any officer, board or agency of the State of California who directly or indirectly, either by himself or through another, gives, offers, or promises to give any money or other thing of value to any person, corporation or association for any political campaign of any person seeking election or reelection to the office, board or agency authorized to issue such license, is guilty of a misdemeanor. Furnishing campaign funds

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CHAPTER 435

An act to amend Section 4238 of the Political Code, relating to compensation for public services in counties of the ninth class.

[Approved by Governor May 14, 1943. Filed with Secretary of State May 14, 1943.] In effect August 4, 1943

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

SECTION 1. Section 4238 of the Political Code is amended to read: Stats 1941, p. 2116

4238. In counties of the ninth class, the following shall receive as compensation for the services required of them by law or by virtue of their offices the following sums: Kern County salaries

1. The auditor, four thousand dollars ($4,000) per annum, together with his necessary expenses incurred while traveling in the performance of his official duties. The auditor shall pay into the county treasury all fees and commissions or compensations received by him in his official capacity, other than the official salary herein provided. Auditor

2. The district attorney, six thousand dollars ($6,000) per annum and the necessary expenses incurred in the discharge of his official duties. All fees and commissions or compensations received by the district attorney in his official capacity, from any source, shall be paid into the county treasury, other than the official salary herein provided. District attorney

The district attorney shall devote his entire time during office hours to the work of the county and the State and is prohibited from engaging in private work within such office hours.

3. Supervisors, four thousand dollars ($4,000) per annum each, and actual and necessary expenses incurred in the performance of the duties of their office. The provisions herein contained shall apply to present incumbents. Supervisors

Jurors

4. For attending as a grand juror, for each day's actual attendance, per day, five dollars ($5), and ten cents ($0.10) per mile for each mile actually traveled in going only, and the judge of said court shall make an order directing the auditor to draw his warrant in favor of such juror for said per diem and mileage and the treasurer shall pay the same.

For attending as a trial juror, in the superior court, for each day's actual attendance, per day, three dollars ($3), and ten cents ($0.10) per mile for each mile actually traveled in going only, and the judge of said court shall make an order directing the auditor to draw his warrant in favor of such juror for said per diem and mileage, and the treasurer shall pay the same.

For attending as a trial juror in criminal cases in justice courts, two dollars ($2) per day, for each day of actual service as a juror, and the justice of said court shall make an order directing the auditor to draw his warrant in favor of such juror for said per diem and the treasurer shall pay the same.

CHAPTER 436

Stats 1933, p 60, amended

An act to amend Section 506 and to add a new section numbered 509 (a) of the Agricultural Code, relating to the making of ice cream and ice milk.

In effect August 4, 1943

[Approved by Governor May 14, 1943 Filed with Secretary of State May 14, 1943.]

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

Stats 1941, p 475

SECTION 1. Section 506 of the Agricultural Code is amended to read:

Ice cream

506. (a) Ice cream is a frozen product and shall be made with pure, sweet milk, cream, skim milk, evaporated or condensed milk, evaporated or condensed skim milk, dry milk, dry skim milk, dried buttermilk, milk fat, or wholesome sweet butter made from sweet cream, or any combination of any such products, with or without sweetening, clean wholesome eggs or egg products, and with or without the use of harmless flavoring and coloring. Except as hereinafter provided, ice cream shall contain not less than 10 per cent of milk fat, nor more than six-tenths of 1 per cent of pure and harmless edible stabilizer, approved by the director. Ice cream when sold by the manufacturer or retailer shall contain not more than 75,000 bacteria per gram. Ice cream shall contain not less than 1 6 pounds of total food solids per gallon.

Ice milk

(b) Ice milk is a frozen product containing less milk fat than ice cream and shall be made with pure, sweet milk, cream, skim milk, evaporated or condensed milk, evaporated

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

Permit to use butter, eggs, etc

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

Said permit shall be issued subject to such standards as set forth in this section for butter, and to the rules and regulations made by the director, and may be revoked for violation thereof after hearing. Sweet butter for use in ice cream and ice milk is construed to be unsalted butter made from sweet cream free from undesirable flavor or odors, and having a flavor rating of not less than 92 in accordance with the official United States standards for quality of creamery butter, as adopted by the United States Department of Agriculture, Bureau of Agricultural Economics. Cream to which has been added ripener or starter, or cream which has been neutralized, is not construed to be sweet cream.

Sweet butter

Sherbet

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

Standards for ice cream, etc., for duration of war

509. (a) Notwithstanding any of the provisions of the foregoing Sections 506, 507, 508, and 509, until the ninety-first day after the final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever shall occur first, ice cream shall contain not less than 8 per cent of milk fat and not less than 1.4 pounds of food solids per gallon; french custard ice cream, cooked ice cream, ice custard, parfaits and all similar frozen products shall contain not less than 8 per cent of milk fat; and ice milk shall contain not less than 1.1 pounds of food solids per gallon.

CHAPTER 437

Stats 1933, p 60, amended

An act to amend Sections 1299.1, 1299.6 and 1299.8 and to add Sections 1299.13, 1299.14 and 1299.15 to the Agricultural Code, relating to marketing of milk and other dairy products.

In effect August 3, 1943

[Approved by Governor May 14, 1943 Filed with Secretary of State May 14, 1943.]

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

Stats 1941, p 2662

SECTION 1. Section 1299.1 of the Agricultural Code is amended to read:

Unlawful practices

1299.1. In the marketing of market milk, cream and dairy products the following methods of doing business or trade practices are hereby declared unfair and unlawful:

(a) The payment, allowance, or acceptance of secret rebates, secret refunds, or unearned discounts, whether in the form of money or otherwise.

(b) The giving of any milk, cream, dairy products, services, money, or articles of any kind except to bona fide charities for the purpose of securing or retaining the milk, cream, or dairy products business of any wholesale customer or consumer; provided, however, that nothing herein shall be construed to prohibit a distributor of frozen dairy products for reasonable compensation, from furnishing a wholesale customer with, and maintaining such refrigeration facilities as shall be reasonably necessary for the storage and preservation of the frozen dairy products distributed by such distributor to such wholesale customer; provided further, that the use of said refrigeration facilities by any person for the storage or preservation of any product other than the frozen dairy products distributed to said wholesale customer by the distributor furnishing such facilities shall be an unfair and unlawful business practice.

(c) The extension to any wholesale customer or consumer of special prices or services not made available to all wholesale customers or consumers who purchase milk, cream, or dairy products of like quantity under like terms and conditions.

(d) Any false or misleading advertising of milk, cream or dairy products as defined in Section 654a of the Penal Code.

(e) Discriminations in price between wholesale customers, or between consumers, who purchase milk, cream, or dairy products of like grade and quality under like conditions of service where the effect of such discrimination may be substantially to lessen competition or to injure or destroy or prevent competition with the person who either grants or knowingly receives the benefit of such discrimination; provided, that nothing herein shall prevent differentials which make only due allowance for differences in the cost of the raw product used in such milk, cream, or dairy products, or the

cost of manufacture, processing, sale, or delivery resulting from the different methods or quantities in which said commodities are manufactured, processed, sold or delivered.

(f) The sale or offer to sell or giving of any article in any transaction involving the sale or disposal of milk, cream or dairy products, for less than the invoice or replacement cost thereof, whichever is lower, to secure or retain the milk, cream, or dairy products business of any wholesale customer or any person who buys as a consumer.

(g) The sale of milk, cream, and dairy products at less than cost which, as used herein, shall mean the cost of raw product, plus all costs of manufacturing, processing, handling, sale and delivery, including overhead costs. Evidence of cost, based on impartial audits or surveys, made within a reasonable time prior to an alleged violation of this subparagraph shall constitute prima facie proof of such cost at the time of the commission of such violation.

(h) False statements or representations, knowingly made, by any wholesale customer or consumer, or anyone acting on the behalf of either, to any distributor or manufacturer, or any representative thereof, that a competitor of such distributor or manufacturer has offered or is offering to sell, or is selling milk, cream, or dairy products to said wholesale customer or consumer at a lower price or prices than said manufacturer or distributor has offered or is offering to sell, or is selling the same, or that said competitor has offered or is offering to do, or is doing any of the business practices heretofore declared to be unfair and unlawful.

(i) The making or renewal of any money loans to any wholesale customer.

Nothing in the aforesaid unfair trade practice provisions shall be construed to prohibit the meeting, in good faith, of a lawful, competitive price or a lawful, competitive condition, nor shall any of said provisions be construed to prohibit a distributor from making conditional sales of equipment or other property, or from extending credit for merchandise purchased, or from paying a customer's obligations not prohibited hereunder to another distributor in connection with the transfer of said customer's business from the latter to the former; provided, however, that the terms and other conditions of the transactions permitted by this paragraph shall conform to regulations prescribed by the director after investigation and determination by him that such regulations are consistent with good business practice.

Solicitation by, or collusion or joint participation between or among, any manufacturer, distributor, wholesale customer, consumer, or any representative thereof, to commit any of the aforesaid unfair trade practices, or the use of any misrepresentation, threat, intimidation, or boycott to effectuate the commission of said unfair trade practices, shall make all persons participating therein subject to the penalties of this act.

Stats 1935, p 1447
Records

SEC. 2. Section 1299.6 of said code is amended to read:

1299.6. Every distributor or manufacturer of milk, cream or dairy products who buys milk or cream from producers shall keep the following records:

(a) A record of all milk, cream or dairy products received, detailed as to location, names and addresses of suppliers, prices paid, and deductions or charges made, and the use to which such milk or cream was put.

(b) A record of the quantity of each kind of milk or dairy product manufactured and the quantity and price of milk or dairy products sold.

(c) A record of the wastage or loss of milk or dairy products.

(d) A record of the items of handling expense.

(e) A record of all refrigeration facilities rented to wholesale customers, showing types and sizes of the same, the location of said facilities, and the original or duplicate original of all agreements covering rentals charged therefor.

(f) A record of all conditional sales of equipment or other property, the location of said property, and the original or duplicate original of all conditional sales contracts pertaining thereto.

(g) A record of all moneys loaned prior to the effective date of this amendment to wholesale customers, the terms and conditions of said loans, and the original evidence of the indebtedness based on said loans.

(h) Such other records as the director may deem necessary for the proper enforcement of this chapter.

Stats 1935, p 1447
Power to enter, inspect and copy

SEC. 3. Section 1299.8 of said code is amended to read:

1299.8. The director or his authorized agents shall have access to and may enter at all reasonable hours all places where dairy products are being processed, bottled, stored, kept or sold, or where the books, papers, records or documents pertaining to any and all transactions relating to dairy products are kept, and shall have the power to inspect and copy the same in any place within the State.

New section
Action to enjoin violation

SEC. 4. Section 1299.13 is added to said code, to read:

1299.13. The director may bring an action to enjoin the violation or the threatened violation of any provision of this chapter or of any order made pursuant to this chapter in the superior court in the county in which such violation occurs or is about to occur. There may be enjoined in one proceeding any number of defendants alleged to be violating the same provisions or orders, although their properties, interests, residences, or places of business may be in several counties and the violations separate and distinct. Any proceeding brought hereunder shall be governed in all other respects by the provisions of Chapter 3 Title 7 of Part 2 of the Code of Civil Procedure.

New section
Civil penalties

SEC. 5. Section 1299.14 is added to said code, to read:

1299.14. Any person who violates any provision of this chapter shall be liable civilly in an amount not to exceed a

sum of five hundred dollars ($500) for each and every violation, such sum to be recovered by the director in any court of competent jurisdiction. All sums recovered under this section shall be deposited in the State Treasury to the credit of the Department of Agriculture Fund. Disposition of penalties

SEC. 6. Section 1299.15 is added to said code, to read: New section

1299.15. Manufacturers who are subject to the provisions of this chapter shall pay to the director on each gallon of ice cream mix and on each gallon of ice milk mix manufactured by them a fee of two mills ($.002) per gallon. The amount of said fee shall be paid to the director on or before the fifteenth day of the month following the month in which said mix was manufactured. The amount so received by the director shall be paid into the Department of Agriculture Fund to be used in the administration and enforcement of this chapter. Fees Disposition of fees

At the close of each fiscal year, any amounts which have been collected and which the director finds are in excess of those which may reasonably be required for the administration and enforcement of this chapter shall be refunded pro rata, subject to the provisions of this chapter, to all manufacturers from whom such sums were due and collected pursuant to the provisions of this section. Pro rata refund

CHAPTER 438

An act to amend Section 737dd of the Political Code, relating to the salary of judges.

[Approved by Governor May 14, 1943. Filed with Secretary of State May 14, 1943.] In effect August 4, 1943

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

SECTION 1. Section 737dd of the Political Code is amended to read: Stats 1933, p 2624

737dd. The annual salary of each of the judges of the Superior Court in and for the County of Orange is seven thousand dollars ($7,000). Superior judges Orange County

CHAPTER 439

An act to amend Section 666 of the Agricultural Code, relating to the labeling of milk products and imitations thereof. Stats 1933, p 60, amended

[Approved by Governor May 14, 1943. Filed with Secretary of State May 14, 1943.] In effect August 4, 1943

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

SECTION 1. Section 666 of the Agricultural Code is hereby amended to read as follows: Stats 1941, p 1385

666. All milk products or imitations thereof when sold to the retail trade shall be labeled or billed with the correct Labeling regulations

name of the product and shall conform to all other requirements for special labeling of the products provided in this division, or in the rules and regulations for its enforcement. No person shall use the name of any such product, either orally, printed, or written, in connection with the sale of any product or substance unless said product or substance conforms to the definitions and standards prescribed by this division. No person shall make or cause to be made any statement either oral, written, or printed, nor make or print, or cause to be made or printed any design, symbol, picture, or illustration in connection with the advertising or sale of any product, article, or compound defined in this division, which statement, design, symbol, picture or illustration shall be false, deceptive or misleading in any manner.

The labeling requirements of this section shall also apply to milk and cream sold in bulk to the wholesale trade and to milk and cream sold by milk products plants for processing purposes.

CHAPTER 440

Stats 1933, p 60, amended

An act to amend Section 643 of, and to add Section 643.2 to, the Agricultural Code, relating to the definition for insanitary dairy farms, declaring the urgency thereof to take effect immediately.

In effect immediately

[Approved by Governor May 14, 1943. Filed with Secretary of State May 14, 1943.]

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

Stats 1941, p 1385 See also Stats 1943, Ch 441

SECTION 1. Section 643 of the Agricultural Code is amended to read:

Insanitary dairy farm

643. A dairy farm is insanitary in the following cases:

(a) If the pails, cans, bottles or other containers for milk or its products, or the strainers, coolers or other utensils, appliances, apparatus or equipment coming in contact with the milk or its products are not thoroughly washed and afterwards sterilized by exposing them to water or water vapor at a temperature above 170 degrees Fahrenheit for a period of at least 15 minutes, or by boiling water or by superheated steam each time the same are used; or if the containers, utensils, appliances or equipment after sterilization are not adequately dried and protected from flies and dust and other contamination; or if any containers, utensils, appliances or equipment are used for any purpose other than that of handling milk or the products of milk.

(b) If the udders, flanks, hind legs and tails of cows are not reasonably clean during milking.

(c) If the milk or cream is not protected from contamination by dust and flies.

(d) If the person or wearing apparel of the dairyman, his employees or other persons who handle the milk or its products

are soiled or not washed with reasonable frequency, or if the hands of milkers are not clean during the entire period of milking.

(e) If the milk or cream is not cooled to as low a temperature as practicable within one hour after it is drawn from the cows, and kept as cool as conditions will permit until delivery to the plant or the consumer.

(f) If a suitable milk house or room, properly screened to exclude flies and insects is not provided and maintained for the separating, cooling, mixing, canning and keeping, or otherwise caring for the milk or cream. Said milk house or room shall not be located in or be a part of any dwelling house, barn, or poultry house, and shall not be used for any other purpose.

(g) If any urinal, privy vault, open cesspool, pigpen, stagnant water, accumulation of manure or other filth is permitted within 100 feet of the milk house or room, or within 50 feet of any cow stables, or stanchions or other place where milking is done.

(h) If to the interior of cattle stables, barns, milking sheds, milk house or room, an application of lime whitewash or paint is not made, if in the judgment of an authorized inspector it is needed.

(i) If the walls become soiled with manure, urine or other filth.

(j) If the yards or inclosures are filthy or insanitary, or if any part of such yards or inclosures other than pastures, are made the depositories of manure in heaps or otherwise, where it is allowed to ferment and decay.

(k) If the water supply for use around the dairy farm or for drinking by livestock is stagnant, polluted with manure, urine drainage, decaying vegetable or animal matter or pathogenic bacteria from any source.

(*l*) If the feed is spoiled, or otherwise unfit for feeding cows for the production of milk.

(m) If any milk or cream is separated, cooled, mixed, canned or kept in any room or place which is occupied by any person as a sleeping or living apartment, or occupied by fowls or animals.

SEC. 2. Section 643.2 is added to said code, to read: New section

643.2. Notwithstanding the provisions of Section 643, until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs, it shall be lawful to handle, wash, and sterilize milk containers and milk handling equipment in the same room where milk is separated, cooled, mixed, canned, or kept. Exception for duration

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

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

A serious shortage of market milk and market cream during the summer months of 1943 is threatened because of an increase in the wartime population of the State and a shortage of producing dairy cows. The Milk Products Act of 1941 requires that separate rooms be provided for the handling of milk and the sterilization of containers and equipment on dairy farms producing market milk. This act, by modifying this limitation so as to permit the sterilization of containers and equipment in the same room where milk is handled for the duration of the war or until the ninety-first day after the adjournment of the Fifty-sixth Regular Session of the Legislature will aid to increase the number of dairies which can qualify for the production of market milk. In order to offset as far as possible the prospective shortage of market milk and cream during the coming summer months in the interest of preserving and protecting human health, it is necessary that this act become effective immediately.

CHAPTER 441

Stats 1933, p. 60, amended

An act to amend Sections 643 and 644 of the Agricultural Code, relating to dairy sanitation.

In effect August 4, 1943

[Approved by Governor May 14, 1943. Filed with Secretary of State May 14, 1943.]

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

Stats 1943, Ch 440

SECTION 1. Section 643 of the Agricultural Code is amended to read:

Insanitary dairy farm

643. A dairy farm is insanitary in the following cases:

(a) If the pails, cans, bottles or other containers for milk or its products, or the strainers, coolers or other utensils, appliances, apparatus or equipment coming in contact with the milk or its products are not thoroughly washed and afterwards sterilized by exposing them to water or water vapor at a temperature above 170 degrees Fahrenheit for a period of at least 15 minutes, or by boiling water or by superheated steam, or by a chlorine sterilization process the methods by which same shall be used to be established by regulation of the director each time the same are used; or if the containers, utensils, appliances or equipment after sterilization are not adequately dried and protected from flies and dust and other contamination; or if any containers, utensils, appliances or equipment are used for any purpose other than that of handling milk or the products of milk.

(b) If the udders, flanks, hind legs and tails of cows are not reasonably clean during milking.

(c) If the milk or cream is not protected from contamination by dust and flies.

(d) If the person or wearing apparel of the dairyman, his employees or other persons who handle the milk or its products

are soiled or not washed with reasonable frequency, or if the hands of milkers are not clean during the entire period of milking.

(e) If the milk or cream is not cooled to as low a temperature as practicable within one hour after it is drawn from the cows, and kept as cool as conditions will permit until delivery to the plant or the consumer.

(f) If a suitable milk house or room, properly screened to exclude flies and insects is not provided and maintained for the separating, cooling, mixing, canning and keeping, or otherwise caring for the milk or cream. Said milk house or room shall not be located in or be a part of any dwelling house, barn, or poultry house, and shall not be used for any other purpose.

(g) If any urinal, privy vault, open cesspool, pigpen, stagnant water, accumulation of manure or other filth is permitted within 100 feet of the milk house or room, or within 50 feet of any cow stables, or stanchions or other place where milking is done.

(h) If to the interior of cattle stables, barns, milking sheds, milk house or room, an application of lime whitewash or paint is not made, if in the judgment of an authorized inspector it is needed.

(i) If the walls become soiled with manure, urine or other filth.

(j) If the yards or inclosures are filthy or insanitary, or if any part of such yards or inclosures, other than pastures, are made the depositories of manure in heaps or otherwise, where it is allowed to ferment and decay.

(k) If the water supply for use around the dairy farm or for drinking by live stock is stagnant, polluted with manure, urine drainage, decaying vegetable or animal matter or pathogenic bacteria from any source.

(*l*) If the feed is spoiled, or otherwise unfit for feeding cows for the production of milk.

(m) If any milk or cream is separated, cooled, mixed, canned or kept in any room or place which is occupied by any person as a sleeping or living apartment, or occupied by fowls or animals.

SEC. 2. Section 644 of said code is hereby amended to read: Stats 1941, p 1385

644. A milk products plant is insanitary in the following cases: Insanitary milk products plant

(a) If milk or cream or any product of either is received that has reached an advanced stage of fermentation, or that shows a state of putrefactive fermentation, or contains foreign substances detrimental to the quality of the manufactured product.

(b) If the utensils and apparatus that come in contact with milk or its products are not thoroughly washed and sterilized by means of boiling water or superheated steam, or by a chlorine sterilization process the methods by which same shall be used to be established by regulation of the director,

immediately following the completion of any processing operations and if the cans or containers in which the milk or cream or products of either is received, transported or delivered are not thoroughly washed, sterilized and dried after emptying and before being sent out to be used again or if any containers, utensils, or apparatus, or equipment are used for any purpose other than that of handling milk and the products of milk.

(c) If the floor is not constructed of nonabsorbent material acceptable to the department or if the floor is so constructed as to permit the flowing of water, milk or other liquids underneath or among the interstices of such floor, where fermentation and decay can take place, or if such floor can not be readily kept free from dirt.

(d) If floor drains are not provided that will convey refuse milk, water and sewage away to a point at least 50 yards distant from such milk products plant or if any cesspool, privy vault, hog yard, slaughterhouse, manure or any decaying vegetable or animal matter shall be so located as to permit foul odors to reach such milk products plant or storeroom or depot where milk or its products are sold or handled; or if such milk products plant is not adequately and conveniently supplied with water free of pollution with sewage or contamination with pathogenic bacteria unless said water be subjected to efficient chlorination or otherwise treated to make it safe for use in connection with the manufacture of food products.

(e) If such milk products plant does not permit access of light and air sufficient to secure good ventilation.

(f) If in any building used in connection with any milk products plant any species of animal life are permitted. If upon the floor or walls any milk or its products or any filth is allowed to accumulate or ferment, or decay, or if the bodies or wearing apparel of persons employed, or coming in contact with any milk or its products in any milk products plant are unclean and not washed from time to time with reasonable frequency, or if suitable toilet and lavatory facilities and clean towels are not provided for employees.

(g) If tight, sound and cleanable walls and ceilings are not provided so as to exclude flies, insects and dust.

CHAPTER 442

Stats 1937, p 1005, amended

An act to add Sections 3083.3 and 3471.5 to the Welfare and Institutions Code, relating to aid to the blind.

In effect August 4, 1943

[Approved by Governor May 14, 1943. Filed with Secretary of State May 14, 1943.]

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

New section

SECTION 1. Section 3083.3 is added to the Welfare and Institutions Code, to read:

Use of application under Ch. 3, etc.

3083.3. The application, evidence and documents submitted by an applicant for aid under this chapter may be used

to grant the applicant aid under Chapter 3 of this part, if he is eligible therefor.

SEC. 2. Section 3471.5 is added to said code, to read: New section

3471.5. The application, evidence and documents submitted by an applicant for aid under this chapter may be used to grant the applicant aid under Chapter 1 of this part, if he is eligible therefor. Use of application under Ch. 1, etc

CHAPTER 443

An act to add Sections 3401.5 and 3432.1 to the Welfare and Institutions Code, relating to aid to the blind. Stats 1937, p 1005, amended

[Approved by Governor May 14, 1943. Filed with Secretary of State May 14, 1943.] In effect August 4, 1943

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

SECTION 1. Section 3401.5 is added to the Welfare and Institutions Code, to read: New section

3401.5. No blind person shall be deemed a pauper because he receives aid under this chapter. This chapter shall be construed separate and apart from any provisions of law for the aid and relief of indigents. Recipient not pauper

SEC. 2. Section 3432.1 is added to the Welfare and Institutions Code, to read: New section

3432.1. If, when and during such time as grants in aid are provided by the United States Government for such aid in this State, and accepted by this State, aid shall be granted under the provisions of this chapter to any person otherwise eligible who resides in the State and has so resided continuously for at least one year immediately preceding the date of application and for at least five years within the nine years immediately preceding the date of such application. Eligibility when U S provides grants in aid

CHAPTER 444

An act to amend Sections 1550 and 3082 of the Welfare and Institutions Code, relating to public assistance, providing for investigations into applications therefor, and for the time of commencement of payments thereof. Stats 1937, p 1005, amended

[Approved by Governor May 14, 1943. Filed with Secretary of State May 14, 1943.] In effect August 4, 1943

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

SECTION 1. Section 1550 of the Welfare and Institutions Code is amended to read: Stats 1937, p 1204

1550. Except as provided in Section 1557 of this code, application for aid in behalf of any child shall be made to the Application for child aid

county in which the child has residence as defined in Section 1526 of this code or if the child has not such residence in any county, but is otherwise eligible, his application may be made through the county in which he is at the time of application.

Investigation

The county shall promptly investigate all applications in the manner and on forms prescribed by the State Department of Social Welfare. The county shall approve or deny such application. The county shall have a period of 90 days after the date of application within which to determine whether or not the child is eligible for aid. If the investigation is not completed at the end of the 90-day period, the investigation shall continue until completed, and if eligibility is established, aid shall begin as of the first day of the month in which the end of the 90-day period occurred.

Commencement of aid

Stats. 1939, p. 2567

Investigation

SEC. 2. Section 3082 of said code is amended to read:

3082. The board of supervisors shall immediately investigate into the merits of all applications for aid under the provisions of this chapter. The county shall have a period of 90 days after the date of application within which to determine whether or not the applicant is eligible for aid under the provisions of this chapter. If the investigation is not completed at the end of the 90-day period, the investigation shall continue until completed, and if eligibility is established, aid shall begin as of the first day of the month in which the end of the 90-day period occurred.

Commencement of aid

Special bureau

The county board of supervisors, subject to laws or ordinances governing civil service, may select to administer this act blind persons who have had special collegiate training to fit them for social work among the blind. The county board of supervisors of counties containing a population of 200,000 or over may each create a special bureau which shall be devoted exclusively to the administration of this chapter. Not less than 50 per cent of the employed personnel of each such bureau shall consist of trained blind persons. Any county board of supervisors may request the field workers or the home teachers of the Industrial Home for the Adult Blind to investigate and report upon the qualifications of any applicant. The field workers or the home teachers of the Industrial Home for the Adult Blind may, without expense to the county, make such investigations and submit their reports to the board of supervisors together with their recommendations as to action by the board.

Personnel

CHAPTER 445

An act to amend Section 3472 of the Welfare and Institutions Code, relating to aid and income of partially self-supporting blind residents.

Stats 1937, p 1005, amended

[Approved by Governor May 14, 1943. Filed with Secretary of State May 14, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 3472 of the Welfare and Institutions Code is amended to read:

Stats 1941, p 2302

3472. If the county board of supervisors is satisfied that the applicant is entitled to aid under the provisions of this chapter, it shall, without delay, issue an order therefor. The amount of aid to which any applicant shall be entitled shall be, when added to the net income of the applicant from all other sources, fifty dollars ($50) per month.

Order for payment of aid

Amount

Net income from any of the following sources of a combined total value not exceeding four hundred dollars ($400) per annum shall not be considered for any purpose:

Income not considered

(a) Income from applicant's labor or services;

(b) The value of foodstuffs produced by the applicant or his family for his use or that of his family;

(c) The value of firewood and/or water produced on the premises of the applicant or given to him by another for the applicant's use;

(d) The value of gifts other than regular contributions by relatives legally responsible under this act;

(e) The value of the use and occupancy of premises owned and occupied by the applicant;

(f) The net income from real and personal property owned by the applicant.

Income in addition to the above specified shall be computed on the basis of net income.

CHAPTER 446

An act to add Section 471.5 to the Vehicle Code, relating to signs, declaring the urgency thereof, and providing this act shall take effect immediately.

Stats 1935, p 93, amended

[Approved by Governor May 14, 1943. Filed with Secretary of State May 14, 1943.]

In effect immediately

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

SECTION 1. Section 471.5 is added to the Vehicle Code, to read:

New section

471.5. Metal Requirement as to Signs Temporarily Suspended. Until the cessation of hostilities in the present war in which the United States is engaged, as proclaimed by the

Suspension of metal sign requirement

President or Congress of the United States, and for six (6) months thereafter, the requirements of Sections 468, 469, and 471, that the signs mentioned therein be made of metal are hereby suspended, and such signs may be made from any other suitable substitute material. Any such signs erected after January 1, 1942, during such period, meeting other requirements of this code, shall be as completely effective as if constructed of metal.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure within the meaning of Section 1 of Article IV of the State Constitution, necessary for the immediate preservation of the public peace, health and safety. The statement of the facts constituting such necessity is as follows: Due to the shortage of metal and the system of priorities imposed by the Federal Government, it is impossible to obtain metal for the types of highway signs affected by this bill. Replacements of many existing signs are necessary by reason of their deterioration, and in addition many new signs are required due to changes in traffic flow in the State by reason of military cantonments and war industries. The legal effectiveness of signs not manufactured of metal is open to serious question and it is imperative for the proper enforcement of the vehicle laws that this act take effect immediately.

CHAPTER 447

Stats 1935, p 93, amended

An act to add Section 459.3 to the Vehicle Code, relating to traffic on road approaches to private airports, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor May 14, 1943. Filed with Secretary of State May 14, 1943.]

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

New section

SECTION 1. Section 459.3 is added to the Vehicle Code, to read:

Local regulation

459.3. Private Roads Leading to Airports. The provisions of this division shall not prevent local authorities within the reasonable exercise of their police power from adopting rules and regulations by ordinance or resolution regulating vehicular traffic on privately owned and maintained roads or ways within the boundaries of a privately owned airport, when such roads or ways are expressly open to the general public for purposes of vehicular traffic.

Notice

No such rule or regulation shall be effective until appropriate signs giving notice thereof are posted along the roads or ways affected.

Urgency

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

of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

Road approaches to airports frequently traverse private property and are used by large numbers of persons by day and night.

It is necessary for public peace, health and safety that traffic on such road approaches be regulated by local authorities.

CHAPTER 448

An act to add Section 44.3 to the Vehicle Code, relating to authorized emergency vehicles, declaring the urgency thereof, to take effect immediately.

Stats. 1935, p. 93, amended

[Approved by Governor May 14, 1943. Filed with Secretary of State May 14, 1943.]

In effect immediately

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

SECTION 1. Section 44.3 is added to the Vehicle Code, to read:

New section

44.3. Authorized Emergency Vehicles: Vehicles owned or operated by the American National Red Cross. (a) In addition to the vehicles defined as "authorized emergency vehicles" by other provisions of this code any motor vehicle owned or operated as an ambulance by the American National Red Cross when responding to emergency calls shall be deemed to be an authorized emergency vehicle, whether or not specially constructed and exclusively maintained as such, when operating under a permit issued by the director. When the vehicle is not used as an ambulance the red light must be covered and the siren disconnected.

Red Cross

(b) Motor vehicles owned or operated by the American National Red Cross for the purpose of transporting medical supplies, clothing, food, or other necessaries during times of major disasters, are authorized emergency vehicles under the following conditions:

(1) When the vehicle has a permit from the director.

(2) When the vehicle is equipped with a lamp that shall display a translucent red cross as prescribed by the director.

(3) When such vehicle displays a pennant as prescribed by the director, or displays the red cross insignia plainly visible to the front, side, and rear.

An authorized emergency vehicle as defined in this subsection shall not be equipped with a siren or other red light showing to the front.

Notwithstanding the provisions of Sections 454 and 554, the sounding of the horn and the prescribed red cross lamp lighted shall be deemed in compliance with those sections.

Whenever such a vehicle is being operated for purposes other than those specifically authorized herein, the pennant shall be removed or furled, and the red cross lamp covered. The director may revoke a permit for the violation of any of the provisions of this section.

Duration

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs.

Urgency

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

The Disaster Relief Commission of the San Francisco Chapter, American National Red Cross, was organized some years ago for the purpose of rescuing, giving medical aid, transportation, food, clothing, shelter and other necessities to persons injured, rendered homeless or otherwise incapacitated in natural disasters such as earthquakes, conflagrations, floods, etc.

While still prepared to render these services in natural disasters, the organization has been on a war footing since December 7, 1941, and has been greatly expanded to meet conditions resulting from enemy attack on San Francisco. It now comprises more than 6,000 volunteer workers, has 17 completely equipped disaster relief stations in various parts of the city, and reserves of clothing, bedding, medical supplies and other necessities. It is now an integral part of the San Francisco Civilian War Council.

The Red Cross owns 85 vehicles, including ambulances, station wagons, heavy rescue trucks, canteen wagons and cargo trucks. Six ambulances and five station wagons are to report to Central Emergency Hospital in case of enemy attack or natural disaster and have been so reporting during rehearsals, as an immediately available supplement to the ambulance resources of the health department. The remainder will be properly manned, equipped, and in readiness for dispatch where most necessary.

CHAPTER 449

Stats 1933, p 394, amended

An act to add Section 429.5 to the Fish and Game Code, relating to fishing by persons in the armed forces of the United States and the auxiliary branches thereof, declaring the urgency of this act, to take effect immediately.

In effect immediately

[Approved by Governor May 14, 1943. Filed with Secretary of State May 14, 1943.]

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

New section

SECTION 1. Section 429.5 is added to the Fish and Game Code, to read:

Fishing without license

429.5. Any member of the armed forces of the United States or any auxiliary branch thereof may take fish for purposes other than profit in accordance with law, without a sporting fishing license.

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature, or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect, it shall supersede any existing provisions of law which are in conflict with this section; but such provisions are not repealed by this section and after this section is no longer effective, shall have the same force as though this section had not been enacted. Duration. Existing law.

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

The successful prosecution of the war depends in great part upon the maintenance of the health and morale of the members of the armed forces. This act makes the extensive sporting fishing facilities of this State available for the use of members of the armed forces and the auxiliaries thereof who are en route for duty overseas and thus makes possible an interval of healthful and stimulating recreation and relaxation. In order that the benefits of this act may be obtained during the spring and early summer months of the current year it is necessary that this act take effect immediately.

CHAPTER 450

An act to amend Section 162 of, and to add Section 164.1 to the Military and Veterans Code, relating to The Adjutant General. Stats 1935, p 1338, amended

[Approved by Governor May 14, 1943. Filed with Secretary of State May 14, 1943.] In effect August 4, 1943

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

SECTION 1. Section 162 of the Military and Veterans Code is amended to read: Stats 1935, p 1338

162. The Adjutant General shall be appointed by the Governor with the advice and consent of the Senate, and shall hold office at the pleasure of the Governor, or until his successor is appointed and has qualified. No person is eligible for appointment as Adjutant General unless he had attained the grade of field officer and has had four years previous experience as a commissioned officer in command, or in service with troops of the line of this State, or of another State or Territory, the District of Columbia, or the United States Army or Marine Corps, or in any or all of such services combined. Adjutant General. Appointment and qualifications.

New section

SEC. 2. Section 164.1 is added to the Military and Veterans Code, to read:

Salary

164.1. The salary of The Adjutant General is seven thousand five hundred dollars ($7,500) per annum and shall be paid in the same manner and at the same time as other State officers.

CHAPTER 451

Stats. 1939, p. 1274, amended

An act to add Section 255.5 to the Revenue and Taxation Code, relating to the veterans' exemption from taxation.

In effect August 4, 1943

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

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

New section

SECTION 1. Section 255.5 is added to the Revenue and Taxation Code, to read:

Affidavit: Statement of residence and filing

255.5. Among other facts, the affidavit shall contain a statement, showing the claimant's residence. When the affidavit is filed in a county other than the county of the claimant's residence, it shall be filed in duplicate and the assessor shall transmit the duplicate copy to the assessor of the county of residence.

CHAPTER 452

Stats 1939, p 1274, amended

An act to amend Sections 3691, 3699, 3705 and 3707 and repeal Section 3707.5 of the Revenue and Taxation Code, relating to the sale of tax-deeded property.

In effect August 4, 1943

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

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

Stats. 1941, p. 1423

SECTION 1. Section 3691 of the Revenue and Taxation Code is hereby amended to read as follows:

Sale and purchase

3691. The tax collector may sell for lawful money of the United States all or any portion of tax-deeded property as provided in this chapter, subject to the provisions of Sections 3550.5 and 3554. Any person, regardless of any prior or existing lien on, claim to or interest in such property, may purchase at said sale.

Stats 1941, p 3098

SEC. 2. Section 3699 of the Revenue and Taxation Code is hereby amended to read as follows:

Approval or disapproval of proposed sale

3699. On receipt of the notice, the board of supervisors shall by resolution either approve or disapprove the proposed sale and shall transmit a certified copy of the resolution to the tax collector within five days after its action. Failure to adopt or to transmit the resolution within the prescribed time does

not affect the validity of a sale approved by the board of supervisors.

SEC. 3. Section 3705 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 3098 See also Stats 1943, Ch 669

3705. Any city or taxing agency may bid on property on which it has levied taxes or assessments.

SEC. 4. Section 3707 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 3098

3707. If not previously terminated, on completion of any sale under this chapter the right of redemption is terminated. Termination of right of redemption

SEC. 5. Section 3707.5 of the Revenue and Taxation Code is hereby repealed. Stats. 1941, p 1423

CHAPTER 453

An act to amend Section 2 of an act entitled "An act creating a reclamation district to be called and known as 'Reclamation District No. 1500'; providing for the management and control thereof and dissolving all levee districts, swamp land districts and reclamation districts, lying wholly within the boundaries of said Reclamation District No. 1500; providing for the liquidation and winding up of said dissolved districts, and excluding from any levee district, swamp land district and reclamation district any land lying within the boundaries of said Reclamation District No. 1500," approved April 30, 1913, as amended, relating to the election, appointment, powers, and duties of the trustees of said district, and to the office and principal place of business of the said district, and relating to the management and control thereof. Stats 1913, p 130, amended

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.] In effect August 4, 1943

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

SECTION 1. Section 2 of the act cited in the title hereof is amended to read: Stats. 1929, p 42

Sec. 2. The management and control of said Reclamation District No. 1500, and the election of trustees thereof are hereby made subject to the provisions of Article 1 of Chapter 1 of Title 8 of Part 3 of the Political Code of the State of California, relating to swamp and overflowed lands and reclamation districts, or any amendments or additions thereto, except as otherwise provided in this act, and the management and control of said Reclamation District No. 1500 shall be vested in seven trustees who shall hold office until their successors are elected or appointed and qualified. Trustees

An election of seven trustees shall be held in said district on the third Tuesday in October, 1925, and on the third Tuesday in October every two years thereafter, and the term of office shall be two years and until their successors are elected or appointed and qualified. If an election is not held at any Election

time herein specified, it may be held at such other time as may be authorized or provided for by said Chapter 1 of Title 8 of the Political Code of California. In case of any vacancy in the office of trustee of said district, the Board of Supervisors of Sutter County shall appoint a qualified person as trustee, who shall hold said office for the portion of the unexpired term and until his successor is elected and qualified. The office and principal place of business of said district shall be Robbins, Sutter County, California, or at a place in or near the district, and the board of trustees thereof may from time to time fix such place and change the same. The Board of Supervisors of the County of Sutter shall have jurisdiction over all matters concerning said district, to the same extent as if the said district was formed under the provisions of said Political Code of the State of California, except as otherwise provided in this act. All funds of said district shall be deposited in the county treasury of said County of Sutter, and shall be disbursed by the treasurer of said county in payment of the warrants of said district. Said district shall have the power to make by-laws in conformity with the provisions by law, and shall have all rights and powers which are now, or may hereafter be, conferred by the provisions of the Political Code, or by other laws of the State of California upon reclamation or swamp land districts, and shall also have the right and power of purchasing real and personal property and rights of way within the boundaries of said district, or outside thereof, as may be necessary or desirable to carry out the purposes of said district or to acquire the same by condemnation proceedings in the manner provided by law, and shall also have the right and power to join with other reclamation districts, levee districts, or swamp land districts, or other persons in the construction and maintenance of levees and reclamation works, and to contract for the same, and also to do all other acts and things that may be incident to or necessary to the reclamation of the lands of said district, as the board of trustees thereof may determine.

Vacancy

District office

Funds

Rights and powers of district

Political Code provisions

All of the provisions of the Political Code of the State of California, unless inconsistent with the provisions of this act, are made a part of this act, and shall be deemed to be incorporated herein. The said reclamation district hereby created, shall have the power, in addition to the power hereby conferred, to do all other acts or things that any reclamation district or swamp land district within the State of California has power to do under any existing law, or any law hereafter enacted.

Change of line of levee, etc

The said district may at any time petition in writing, by its board of trustees, the reclamation board to change the line of location or construction of any levee in this act, or in the act of which this is amendatory, described, or any other levee, or to build any additional or supplemental levee or levees, and the reclamation board may, by an order allow each petition in whole or in part, and allow such change, or the building of any additional or supplemental levee.

CHAPTER 454

An act relating to the publication and disposal of newspapers printed in foreign languages.

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.] In effect August 4, 1943

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

SECTION 1. The publisher or owner of any newspaper, weekly newspaper, magazine, periodical, or other publication in the foreign language of any enemy nation, shall file with the district attorney of the county in which said newspaper, weekly newspaper, magazine, periodical, or other publication is printed or distributed, a correct translation in English of every article, statement, or word published in said newspaper, weekly newspaper, magazine, periodical, or other publication. Filing of translations

SEC. 2. The publisher of any newspaper, weekly newspaper, magazine, periodical, or other publication printed in a foreign language shall furnish upon request to the Attorney General of the State or to the district attorney of the county where the newspaper, weekly newspaper, magazine, periodical, or other publication is published, a translation of any article, statement or word published in the newspaper, weekly newspaper, magazine, periodical, or other publication. The translation submitted shall be certified to be correct by one competent to make such a translation. Furnishing translations on request

SEC. 3. Any person, firm, partnership, association, or corporation violating this section is guilty of a misdemeanor. Penalty

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CHAPTER 455

An act to amend Section 663b of the Political Code, relating to the collection of taxes and other moneys and empowering the State Board of Control to discharge certain State departments, boards, commissions, officers or employees from accountability for collection of taxes or other moneys, the amount of which does not justify the cost of their collection or where collection is improbable.

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.] In effect August 4, 1943

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

SECTION 1. Section 663b of the Political Code is hereby amended to read as follows: Stats 1941, p 2995

663b. Any State department, board, commission, officer or employee charged by law with the collection of any State taxes, licenses, fees, or moneys owing to the State for any other reason, which are due and payable, where the amount is Discharge from accountability for collection of money

not in excess of fifty dollars ($50) may file a verified application with the State Board of Control for a discharge from accountability for the collection of any of such taxes, licenses, fees, or moneys owing to the State for any other reason, which are so small in amount as not to justify the cost of their collection; provided, however, that this section shall apply to amounts in excess of fifty dollars ($50) whenever the Attorney General in writing advises that the amount is too small to justify the cost of collection or for any reason so advises that collection is improbable. The application for discharge shall include a statement of the nature and amount of such taxes, licenses, fees, or other moneys, the names of the person, firm, or corporation liable therefor, the estimated cost of their collection, and any other fact warranting the discharge, except where said board determines that the circumstances do not warrant the furnishing of detailed information.

If it is satisfied that the matters contained in such application are true and that it will be to the advantage of the State to grant the relief requested, the State Board of Control shall make an order discharging the applicant from further accountability for the collection of the taxes, licenses, fees, or other moneys specified in the application, and authorizing the applicant to close his or its books in regard to such items.

Construction

Nothing in this section shall be construed as releasing any person, firm, or corporation from the payment of any taxes, licenses, fees, or other moneys which are due and owing to the State.

CHAPTER 456

Stats 1937, p 1005, amended

An act to amend Sections 1500 and 1522 of, and to add Section 1552.3 to, the Welfare and Institutions Code, relating to aid to needy children.

In effect August 4, 1943

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

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

Stats 1939, p 2840

SECTION 1. Section 1500 of the Welfare and Institutions Code is amended to read:

"Needy children" defined

1500. As used in this chapter, "needy children" means the following needy persons: Orphans, half-orphans, abandoned children, children of a father who is incapacitated for gainful work by permanent physical disability or is suffering from tuberculosis in such a stage that he can not pursue a gainful occupation.

Stats 1937, p 1005

SEC. 2. Section 1522 of said code is amended to read:

Child over 18

1522. Except as provided in Section 1552.3, no child over the age of 18 years is a needy child within the meaning of this chapter.

SEC. 3. Section 1552.3 is added to said code, to read: New section
1552.3. If on the first day of the month a child is eligible for aid, aid for the entire month shall be paid. Aid for month

CHAPTER 457

An act to add Section 692.5 to the Political Code, relating to approval by the Director of Finance of leases and licenses to use real property executed by the Reclamation Board.

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.] In effect August 4, 1943

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

SECTION 1. Section 692.5 is hereby added to the Political Code, to read as follows: New section
692.5. Every lease, rental, letting or license to use real property for any purpose whatsoever executed by the Reclamation Board of the State of California, shall be subject to the approval of the Director of Finance. Approval of Director of Finance

CHAPTER 458

An act to validate certain acts of counties, cities and counties and of their officers relating to taxation of property.

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.] In effect August 4, 1943

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

SECTION 1. Every act and proceeding heretofore taken by any county, city and county or the officers thereof relative to the preparation, transmitting, computing, determining or fixing the budget or the tax rate or rates of any county or city and county, or to the assessment or equalization of property or to the levy of taxes thereon or to tax sales or certificates of tax sales, tax deeds or other conveyances resulting from such assessment, equalization and levy, are hereby confirmed, validated and declared legally effective. Validation of local budgets, tax assessments, etc.

SEC. 2. (a) This act is limited to the correction of defects, irregularities and ministerial errors which the Legislature originally could have omitted from the statutory requirements of law under which the acts hereby confirmed, validated and declared legally effective were taken. Limitation

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

SEC. 3. If any provision of this act or its application to any person or circumstances is held invalid, the remainder of the act and the application of its provisions to other persons or circumstances is not affected. Constitutionality

CHAPTER 459

Stats 1923, p 571, amended
Stats 1939, p 1274, amended

An act to amend Section 11 of the Motor Vehicle Fuel License Tax Act, and to add Section 8104.5 to, and to amend Section 8105 of, the Revenue and Taxation Code, relating to refunds, to take effect immediately.

In effect immedia ely

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

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

Stats 1939, p 1714
See also Stats 1941, p 558
Refund of tax on certain sales

SECTION 1. Section 11 of the Motor Vehicle Fuel License Tax Act is hereby amended to read as follows:

Sec. 11. Any person, firm, association or corporation who shall buy and use any motor vehicle fuel for purposes other than in motor vehicles operated upon the public highways of the State of California, or who shall export the same for use outside of this State, or any employee of the United States Government, who shall buy any motor vehicle fuel and use the same exclusively in the transportation of rural free delivery mail and special delivery mail, or the Government of the United States or any department thereof which buys motor vehicle fuel for official use of said government or department and on which fuel no claim for exemption from payment of the tax imposed by this statute could be filed in accordance with Section 10 of this act and who shall have paid any license tax for such motor vehicle fuel hereby required to be paid, either directly or to the vendor from whom it was purchased, or indirectly by the adding of the amount of such license tax to the price of such fuel, shall be reimbursed and repaid the amount of such license tax paid by him or it upon presenting to the State Controller an affidavit supported by the original invoice or invoices showing such purchase, which affidavit shall be verified by the oath of the claimant and shall state the total amount of such fuel so purchased and that the claimant has paid the price thereof and the manner and the equipment in which the claimant has used the same; provided, however, that any motor vehicle fuel carried from this State in the fuel tank of a motor vehicle shall not be considered as exported from this State.

If the person, firm, association or corporation does not use the motor vehicle fuel for purposes other than in motor vehicles operated upon the public highways of this State within the time required for filing an application for a refund, he or it may within that time file a written request with the State Controller for an extension of time within which to apply for a refund. The request shall state the amount of fuel involved, the date of the purchase, and the manner and the equipment in which the fuel is intended to be used. Thereupon the State Controller may extend the time within which an application for refund may be filed.

The State Controller, upon the presentation of an affidavit and invoice or invoices as prescribed above, shall cause to be

paid to the claimant, from the license taxes collected in accordance with the provisions of this act, an amount equal to the license taxes collected hereunder on such motor vehicle fuel; provided, however, that the State Controller shall have the right if he so desires, in order to establish the validity of any claim, to examine the books and records of the claimant for such purpose and the failure upon the part of the claimant to accede to such demand shall constitute a waiver of all right to the refund claimed on the account of the transactions questioned. Such examination may be made either through employees of the office of the State Controller or of the office of the State Board of Equalization.

All such applications for refund based upon exportation of motor vehicle fuel from this State must be filed with the State Controller within 90 days from the date of exportation; all other applications, except where an extension of time has been granted, shall be filed within 12 months from the date of the purchase of such motor vehicle fuel. Any application filed after the time herein prescribed shall not be considered for any purpose by the State Controller, the State Treasurer or the State of California.

SEC. 2. Section 8104.5 is hereby added to the Revenue and Taxation Code, to read as follows: New section

8104.5. If any person does not use motor vehicle fuel as provided in subdivision (a) of Section 8101 within the time required for filing an application for a refund, he may within that time file a written request with the Controller for an extension of time within which to apply for a refund. The request shall state the amount of fuel involved, the date of its purchase, and the manner and the equipment in which the fuel is intended to be used. Thereupon the Controller may extend the time within which an application for refund may be filed. Extension of time for refund application

SEC. 3. Section 8105 of said code is hereby amended to read as follows: Stats 1941, p 558

8105. All applications for refund based upon exportation of motor vehicle fuel from this State shall be filed with the Controller within 90 days from the date of exportation. All other applications, except where an extension of time has been granted, shall be filed within 12 months from the date of the purchase of the motor vehicle fuel. Any application filed after the time prescribed shall not be considered for any purpose by the Controller, the State Treasurer, or the State. Time for filing application

SEC. 4. The provisions of this act amending the Revenue and Taxation Code shall take effect on July 1, 1943, at which time the provisions of the Motor Vehicle Fuel License Tax Act amended by this act are repealed. Effect Repeal

SEC. 5. This act, inasmuch as it provides for a tax levy for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately. Tax levy

CHAPTER 460

Stats 1939, p 1274, amended

An act to amend Sections 8353 and 8355 of, and to add Section 8353.5 to, the Revenue and Taxation Code, relating to apportionments and payments to counties out of the Motor Vehicle Fuel Fund.

In effect August 4, 1943

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

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

Stats 1941, p 558

SECTION 1. Section 8353 of the Revenue and Taxation Code is amended to read:

Apportionment to counties

8353. One-third of all money in the Motor Vehicle Fuel Fund, after the biennial appropriations to the Controller and the board have been deducted and all refunds have been paid, shall be paid to the counties as follows:

First, each county shall be paid seven thousand five hundred dollars ($7,500) during each of the months of January, April, July, and October of each year.

Secondly, the balance remaining after making the apportionment of seven thousand five hundred dollars ($7,500) quarterly shall be apportioned to the counties in the proportion that the registration of vehicles in each of the counties bears to the total number of vehicles registered in this State.

Stats 1941, p 558

SEC. 2. Section 8355 of the Revenue and Taxation Code is amended to read:

Payments to counties

8355. In the months of January, April, July, and October of each year, the Controller shall, after paying each county seven thousand five hundred dollars ($7,500), ascertain the gross amounts received and the net receipts remaining after deducting the amounts withdrawn for the support of the Controller and the board and the payment of refunds during the preceding three months. Thereupon the Controller shall draw his warrant upon the Motor Vehicle Fuel Fund in favor of each county in the State for the amount to which the county is entitled.

New section

SEC. 3. Section 8353.5 is added to the Revenue and Taxation Code, to read:

Payments on estimates

8353.5. If the number of motor vehicles registered in any of the counties is not available before the Controller makes the apportionment required of him by Section 8353, the Controller may estimate the amount to be paid to any county during any quarter of a year and may pay to any county a sum not to exceed seventy-five per cent (75%) of the amount estimated to be due that county during the quarterly period.

Such payment shall be in addition to the seven thousand five hundred dollar ($7,500) payment made to each county for each quarter of the year.

After the Controller has made a payment to a county based on his estimate and the number of motor vehicles registered to

the county is available to the Controller, he shall compute the balance due and pay such balance to each of the counties to which payments have been made.

CHAPTER 461

An act to amend Sections 12625 and 12682 of the Revenue and Taxation Code, relating to insurance taxes.

Stats 1939, p 1274, amended

[Approved by Governor May 15, 1943 Filed with Secretary of State May 15, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 12625 of the Revenue and Taxation Code is amended to read:

Stats 1941, p. 1139

12625. The Controller shall record the payment of a tax and, upon request, shall give a receipt for any amount of tax paid.

Record and receipt

SEC. 2. Section 12682 of said code is amended to read:

Stats 1941, p 1139

12682. In the action, a certificate of the Controller or of the secretary of the board, showing unpaid taxes against an insurer is prima facie evidence of:

Prima facie evidence

(a) The assessment of the taxes.

(b) The delinquency.

(c) The amount of the taxes and penalties due and unpaid to the State.

(d) That the insurer is indebted to the State in the amount of taxes and penalties appearing unpaid.

(e) That there has been compliance with all the requirements of law in relation to the assessment and levy of the taxes.

CHAPTER 462

An act to add Section 833 to the Revenue and Taxation Code, relating to inspection of information and records in the State Board of Equalization office.

Stats. 1939, p. 1274, amended

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 833 is added to the Revenue and Taxation Code, to read:

New section

833. Any information and records in the board's office which are not required to be kept or prepared by the board are not public documents and shall not be open to public

Private documents

Information in property statement

Exception

inspection. All information required by the board or furnished in the property statement shall be held secret by the board. The property statement is not a public document and is not open to public inspection. This section shall not apply to maps filed pursuant to Section 326 of this code.

CHAPTER 463

An act to add Section 1714.5 to the Civil Code, relating to injuries sustained in air raid shelters; and to declare the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

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

New section

SECTION 1. Section 1714.5 is added to the Civil Code, to read:

Liability for injuries

1714.5. There shall be no liability on the part of one who owns or maintains any building or premises which have been designated as an air raid shelter by any council of defense or any public office, body, or officer of this State or of the United States, for any injuries sustained by any person while in or upon said building or premises as a result of the condition of said building or premises or as a result of any act or omission, except a wilful act, of such owner or occupant or his servants, agents or employees when such person has entered or gone upon or into said building or premises for the purpose of seeking refuge therein during an air raid alarm or during an air raid by enemies of the United States.

Urgency

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

A statement of the facts constituting such necessity is as follows:

The State of California is within the combat zone of the Western Defense Command of the United States Army and subject to enemy air attack. The establishment of air raid shelters is urgently needed to minimize the effect of enemy attack upon the lives of persons within this State. During an air raid alarm, all persons within such area are required to go to the nearest air raid shelter. Civilian Defense authorities have designated certain class A buildings as suitable air raid shelters and in order to induce owners of such buildings to permit the use thereof for such purposes, it is necessary that this act take effect immediately.

CHAPTER 464

An act to amend Section 201 of the Fish and Game Code, relating to the San Leandro Waterfowl Refuge.

Stats 1933, p 394, amended

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 201 of the Fish and Game Code is amended to read:

Stats 1933, p 394

201. The following shall constitute a waterfowl refuge and shall be designated San Leandro Waterfowl Refuge: All the area within the County of Alameda, within the following boundaries: Beginning at the Bay Farm Island Bridge, in Alameda, thence in a southerly direction, following the levee on westerly side of San Leandro Bay to the Hagenburger Road, thence in a northeasterly direction along said Hagenburger Road to a point where the Pacific Gas and Electric tower line crosses said Hagenburger Road, thence following said Pacific Gas and Electric tower line to the Pacific Gas and Electric substation at the foot of Fiftieth Avenue in Oakland, thence in a westerly direction along the hightide line of San Leandro Bay to the point of beginning.

San Leandro refuge

CHAPTER 465

An act to add Section 4041i to the Political Code, relating to the transfer of county property used for fair purposes.

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 4041i is added to the Political Code, to read:

New section

4041i. In the event of the sale by any county or city and county of any real property acquired or used for fair purposes which was purchased or improved, in whole or in part, from funds apportioned or allocated to such county or city and county for fair purposes by the State, there shall be paid into the Fair and Exposition Fund in the State treasury from the proceeds of the sale, an amount equal to that proportion of the cost of the real property and improvements which was paid for out of funds apportioned or allocated by the State for fair purposes, less a reasonable allowance for depreciation in value in an amount approved by the State Department of Finance. The amount paid into said fund under the provisions of this section shall be available for expenditure by the county, with the approval of the State Department of Finance, for permanent improvements for fair purposes on

Sale of property acquired for fair purposes Disposition of proceeds

the property of the county. Said funds or any portion thereof which are not expended within three years after being so paid into the State treasury as provided in this section shall be added to and become a part of the amount available under Section 19626 of the Business and Professions Code for permanent improvements upon the property of the State, citrus, county, or district agricultural associations for fair purposes, in such amounts as may be allocated by executive order of the State Director of Finance.

CHAPTER 466

Stats 1933, p 60, amended

An act to amend Section 88 of the Agricultural Code, relating to property transfers by district agricultural associations.

In effect August 4, 1943

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

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

Stats 1933, p. 60

SECTION 1. Section 88 of the Agricultural Code is amended to read:

Disposition of proceeds from sale

88. The proceeds of the sale of any interest in real property owned by any association shall be paid into the Fair and Exposition Fund in the State treasury. The amount paid into said fund under the provisions of this section shall be available for expenditure by the association, with the approval of the State Department of Finance, for permanent improvements for fair purposes on the property of the association. Said funds or any portion thereof which are not expended within three years after being so paid into the State treasury as provided in this section shall be added to and become a part of the amount available under Section 19626 of the Business and Professions Code for permanent improvements upon the property of the State, citrus, county, or district agricultural associations for fair purposes, in such amounts as may be allocated by executive order of the State Director of Finance.

CHAPTER 467

Stats 1913, p 421, amended

An act to amend the title of the Municipal Improvement Act of 1913, and to add Section 1f thereto, relating to the formation of maintenance districts.

In effect August 4, 1943

[Approved by Governor May 15, 1943 Filed with Secretary of State May 15, 1943.]

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

Stats 1911, p. 2743

SECTION 1. The title of the Municipal Improvement Act of 1913 shall be and hereby is amended to read as follows:

Title

An act to provide for the acquisition, installation, construction, reconstruction, extension, repair, maintenance and oper-

ation of works and improvements mentioned in the Improvement Act of 1911 and of public utilities and other public works by municipalities, cities and counties, counties, and by any district or public corporation authorized by law to construct such public improvements, or by combination thereof; for the assessment of the cost and expenses thereof upon the property benefited; and for the issuance of bonds to represent such assessment; providing that such proceedings shall be subject to the Special Assessment Investigation, Limitation and Majority Protest Act of 1931, and for the formation and government of county maintenance districts, and for the levy and collection of county maintenance district taxes.

SEC. 2. Section 1f is hereby added to the Municipal Improvement Act of 1913, to read as follows: New section

Sec. 1f. The provisions of Chapter 26 of Part 3 of Division 7 of the Streets and Highways Code are incorporated herein by reference. Said provisions may be used in combination with the other provisions of this act. Sts & H C. provisions

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CHAPTER 468

An act to amend Section 11003 of the Health and Safety Code, relating to narcotics. Stats 1939, p 482, amended

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.] In effect August 4, 1943

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

SECTION 1. Section 11003 of the Health and Safety Code is amended to read: Stats 1941, p. 17

11003. "Cannabis sativa," as used in this division, means the male or female of any species commonly known as cannabis sativa, hemp, Indian hemp, or marihuana. "Cannabis sativa"

CHAPTER 469

An act to amend Section 4005 of the Government Code, relating to the filing of reports of public work. Stats 1943, Ch 134, amended

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.] In effect August 4, 1943

Note.—See Stats. 1943, Ch. 134.

CHAPTER 470

Stats 1941, p 1274, amended

An act to amend Sections 8703, 8705, 9151 and 9174 of the Revenue and Taxation Code, relating to use fuel tax permits and refunds of the use fuel tax.

In effect August 4, 1943

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

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

Stats 1941, p 2445

SECTION 1. Section 8703 of the Revenue and Taxation Code is hereby amended to read as follows:

Issuance of permit

8703. On receipt of an application and after the deposit of such security as the board may require pursuant to Section 8951 of this code, the board shall issue to the applicant a use fuel tax permit authorizing him to become a user of fuel taxable under this part. The permit is valid until canceled or revoked.

Stats 1941, p 2445

SEC. 2. Section 8705 of the Revenue and Taxation Code is hereby amended to read as follows:

Effect of revocation

8705. It is unlawful for any person whose permit has been canceled or revoked to operate as a user of fuel in this State until he has fully complied with the provisions of this part and has been issued a new permit.

Stats 1941, p 578

SEC. 3. Section 9151 of the Revenue and Taxation Code is hereby amended to read as follows:

Credit or refund of overpayments

9151. If the board determines that any amount not required to be paid under this part has been paid by any person, the board shall set forth in its records and certify to the State Board of Control the amount paid in excess of the amount legally due and the person by whom paid to the board. If the State Board of Control approves, the excess shall be credited on any amounts then due from the person under this part and Part 2 of Division 2 of this code, and the balance shall be refunded to the person, or his successors, administrators, executors, or assigns.

Stats 1941, p 578

SEC. 4. Section 9174 of the Revenue and Taxation Code is hereby amended to read as follows:

Judgment

9174. If judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any amounts due from the plaintiff under this part and Part 2 of Division 2 of this code, and the balance of the judgment shall be refunded

Interest

to the plaintiff. In any judgment, interest shall be allowed at the rate of 6 per cent per annum upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

CHAPTER 471

An act to add Section 2108.5 to the Business and Professions Code, relating to issuance of certificates to practice medicine, declaring the urgency thereof, to take effect immediately.

Stats 1937, p 1229, amended

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

In effect immediately

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

SECTION 1. Section 2108.5 is hereby added to the Business and Professions Code, to read as follows:

New section

2108.5. The board may create one or more committees to determine any or all of the following: (i) Whether an applicant fulfills all the requirements for the certificate for which he is applying, (ii) where an examination (written or oral or both) is required, whether the applicant shall be admitted to the examination and the terms and conditions of his admittance and whether he fails or passes, (iii) whether a recommendation should be made to the members of the board that the certificate applied for be issued. The board may appoint, or authorize the president to appoint, the members of any of these committees from the members of the board.

Committees

The action and recommendations of any committee established under this section shall be submitted in writing to all the members of the board. The members of the board, acting individually, may approve or disapprove the action of any committee with respect to each applicant. The approval or disapproval of each member shall be in writing and shall be filed with the secretary-treasurer. The recommendation of the committee authorized by the board to recommend the issuance of certificates and the individual written approval of at least seven-tenths of the members of the board is necessary to authorize the issuance of a certificate. Upon the receipt of the recommendation and approvals, the secretary-treasurer may issue the certificate.

Approval or disapproval of actions and recommendations

A certificate issued upon the recommendation of a committee and the approval of at least seven-tenths of the members of the board, acting individually, is subject to the ratification of the board at its next meeting.

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

Urgency

Due to the war and the increased necessity of additional trained medical personnel in the fighting forces and civilian life, more efficient methods of ascertaining the fitness and examining applicants for certificates are urgently required. This act permits efficient methods to be introduced immediately.

CHAPTER 472

Stats 1937, p 1229, amended

An act to add Section 2376.5 to the Business and Professions Code, relating to the reinstatement of certificates to practice medicine.

In effect August 4, 1943

[Approved by Governor May 15, 1943 Filed with Secretary of State May 15, 1943.]

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

New section

SECTION 1. Section 2376.5 is added to the Business and Professions Code, to read:

Petition for reinstatement

2376.5. A person, whose certificate has been revoked or suspended for more than one year, may petition the board to reinstate the certificate after a period of not less than one year has elapsed from the date of the revocation or suspension.

The petition shall state such facts as may be required by the board. The petition shall be accompanied by two or more verified recommendations from physicians and surgeons licensed by the board to which the petition is addressed and by two or more recommendations from citizens each having personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed.

Hearing

The petition shall be heard at the next regular meeting of the board, held not earlier than 30 days after the petition was filed. The hearing may be continued from time to time as the board finds necessary. No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which he is on probation or parole.

Investigation

In determining whether the disciplinary penalty should be set aside and the terms and conditions, if any, which should be imposed if the disciplinary penalty is set aside, the board may investigate and consider all activities of the petitioner since the disciplinary action was taken against him, the offense for which he was disciplined, his activity during the time his certificate was in good standing, and his general reputation for truth, professional ability and good character.

Vote restoring certificate

The affirmative vote of at least seven-tenths of the members of the board is necessary to set aside a penalty and to restore a certificate with or without terms, conditions and restrictions.

Recordation of actions

The secretary-treasurer shall enter in his records of the case all actions of the board in setting aside a disciplinary penalty under this section and he shall certify notices to the proper county clerk. The county clerk shall make such changes on his records as may be necessary.

CHAPTER 473

An act to amend Section 1461 of the Probate Code, relating to the appointment of guardians for insane or incompetent persons.

Stats. 1931, p 587, amended

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 1461 of the Probate Code is hereby amended to read as follows:

Stats 1935, p 1838

1461. Any relative or friend may file a verified petition alleging that a person is insane or incompetent, and setting forth the names and residences, so far as they are known to the petitioner, of the relatives of the alleged insane or incompetent person within the second degree residing in this State; notice of the nature of the proceedings and of the time and place of the hearing shall be mailed at least five (5) days before such hearing date to each of such relatives. Any relative or friend of the alleged insane or incompetent person may appear and oppose the petition.

Petition for appointment

Notice of hearing

Thereupon the clerk shall set the same for hearing by the court and issue a citation directed to said alleged insane or incompetent person setting forth the time and place of hearing so fixed by him. Said citation shall be personally served on the alleged insane or incompetent person in the same manner as provided by law for service and summons at least five days before the time of hearing. Such person, if able to attend, must be produced at the hearing, and if not able to attend by reason of physical inability, such inability must be evidenced by the affidavit and certificate of a duly licensed physician or surgeon, or other duly licensed medical practitioner, unless such alleged insane or incompetent person is a patient at a State hospital in this State in which case the certificate of the medical superintendent or acting medical superintendent of such State hospital, to the effect that such patient is unable to attend, shall be prima facie evidence of that fact.

Citation

Attendance at hearing

CHAPTER 474

An act to amend Sections 1196, 1200, 1201 and 1202 of the Agricultural Code, relating to cooperative marketing associations.

Stats. 1933, p. 60, amended

[Approved by Governor May 15, 1943 Filed with Secretary of State May 15, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 1196 of the Agricultural Code is hereby amended to read as follows:

Stats 1933, p 60

1196. The articles of incorporation of any such association shall state:

Articles of incorporation

(a) The name of the association.

(b) The purposes for which it is formed.

(c) The county where the principal office for the transaction of business of the corporation is to be located.

(d) The number of directors thereof, which shall not be less than three, and the names and addresses of the persons who are to serve as first directors; if it be desired that the first directors shall serve for terms of different length, the term for which each person so named shall serve.

(e) If organized without shares of stock, whether the voting power and the property rights and interest of each member are equal or unequal; and if unequal, the general rule or rules applicable to all members by which the voting power and the property rights and interests, respectively, of each member may be and are determined and fixed.

(f) If organized with shares of stock, the number of shares which may be issued and if the shares are to have a par value, the par value of each share, and the aggregate par value of all shares; if the shares are to be without par value it shall be so stated.

If the shares are to be classified, a description of the classes of shares and a statement of the number of shares of each kind or class and the nature and extent of the preferences, rights, privileges and restrictions granted to or imposed upon the holders of the respective classes of stock; and except as to the matters and things so stated no distinction shall exist between said classes of stock or the holders thereof. One class of stock shall always be known as common stock and voting power may be restricted to holders of common stock.

Stats 1933, p 60

SEC. 2. Section 1200 of the Agricultural Code is hereby amended to read as follows:

By-laws

1200. Each association shall within 30 days after its incorporation, adopt for its government and management, a code of by-laws, not inconsistent with this chapter. A majority vote of the members or shares of stock issued and outstanding and entitled to vote, or the written assent of a majority of the members or of stockholders representing a majority of all the shares of stock issued and outstanding and entitled to vote, is necessary to adopt such by-laws and is effectual to repeal or amend any by-laws, or to adopt additional by-laws. The power to repeal and amend the by-laws, and adopt new by-laws, may, by a similar vote, or similar written assent, be delegated to the board of directors, which authority may, by a similar vote, or similar written assent, be revoked. Each association, under its by-laws, may provide for any or all of the following matters:

(a) The time, place and manner of calling and conducting its meetings. Meetings of members or stockholders shall be held at the place as provided in the by-laws; and if no provision be made, then in the city where the principal place of business is located at a place designated by the board of directors. Meetings of the board of directors may be held at

any place within or without the State fixed by a quorum thereof unless otherwise provided in the articles of incorporation or by-laws.

(b) The number of stockholders or members constituting a quorum.

(c) The right of members or stockholders to vote by proxy or by mail or both, and the conditions, manner, form and effects of such votes; the right of members or stockholders to cumulate their votes and the prohibition, if desired, of cumulative voting.

(d) The number of directors constituting a quorum.

(e) The number of directors and the qualifications, compensation and duties and term of office of directors and officers and the time of their election. Subject to the provisions of the general corporation law, the number of directors may be changed by a by-law duly adopted by the shareholders or members.

(f) Penalties for violations of the by-laws.

(g) The amount of entrance, organization and membership fees, if any; the manner and method of collection of the same; and the purposes for which they may be used.

(h) The amount which each member or stockholder shall be required to pay annually, or from time to time, if at all, to carry on the business of the association; the charge, if any, to be paid by each member or stockholder for services rendered by the association to him and the time of payment and the manner of collection; and the marketing contract between the association and its members or stockholders which every member or stockholder may be required to sign.

(i) The amount of any dividends which may be declared on the stock or membership capital, which dividends shall not exceed eight (8) per cent per annum and which dividends shall be in the nature of interest and shall not affect the nonprofit character of any association organized hereunder.

(j) The number and qualification of members or stockholders of the association and the conditions precedent to membership or ownership of common stock; the method, time and manner of permitting members to withdraw or the holders of common stock to transfer their stock; the manner of assignment and transfer of the interest of members, and of the shares of common stock; the conditions upon which and time when membership of any member shall cease; the automatic suspension of the rights of a member when he ceases to be eligible to membership in the association; and the mode, manner and effect of the expulsion of a member; the manner of determining the value of a member's interest and provision for its purchase by the association upon the death or withdrawal of a member or upon the expulsion of a member or forfeiture of his membership, or at the option of the association, the purchase at a price fixed by conclusive appraisal by the board of directors; and the conditions and

terms for the repurchase by the corporation from its stockholders of their stock upon their disqualification as stockholders. In case of the expulsion of a member, and where the by-laws do not provide any procedure or penalty, the board of directors shall equitably and conclusively appraise his property interest in the association and shall fix the amount thereof in money, which shall be paid to him within one year after such expulsion.

Stats. 1933, p. 60

SEC. 3. Section 1201 of the Agricultural Code is hereby amended to read as follows:

Directors

1201. The affairs of the association shall be managed by a board of not less than three directors, elected by the members or stockholders.

Stats. 1933, p. 60

SEC. 4. Section 1202 of the Agricultural Code is hereby amended to read as follows:

By-laws

1202. The by-laws may provide that:

Other provisions

(a) The territory in which the association has members shall be divided into districts and that directors shall be elected from the several districts. In any such case, the by-laws shall specify the number of directors to be elected by each district, the manner and method of reapportioning the directors and of redistricting the territory covered by the association.

(b) Primary elections shall be held to nominate directors. Where the by-laws provide that the territory in which the association has members shall be divided into districts, the by-laws may also provide that the results of the primary elections in the various districts shall be final and must be ratified at the annual meeting of the association.

(c) The territory in which the association has members shall be divided into districts, and that the directors shall be elected by representatives or advisers, who themselves have been elected by the members or stockholders from the several territorial districts. In any such case, the by-laws shall specify the number of representatives or advisers to be elected by each district, the manner and method of reapportioning the representatives or advisers and of redistricting the territory covered by the association.

(d) One or more directors may be nominated by any public official or commission or by the other directors selected by the members. Such director shall represent primarily the interest of the general public in such associations. The directors so nominated shall have the same powers and rights as other directors. Such directors shall not number more than one-fifth of the entire number of directors.

(e) The by-laws may provide for an executive committee and may allot to such committee all the functions and powers of the board of directors, subject to the general direction and control of the board.

CHAPTER 475

An act to amend Section 7 of the "American River Flood Control District Act," approved May 28, 1927, relating to the board of trustees.

Stats 1927, p 1596, amended

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 7 of the "American River Flood Control District Act" is hereby amended to read as follows:

Stats 1929, p 861

Sec. 7. Each trustee shall receive the sum of ten dollars ($10) for attendance at each meeting of the board of trustees; provided, however, that no trustee shall receive pay for more than one meeting in any calendar month. No trustee shall receive any other compensation by reason of being a trustee of the district, except that each trustee shall receive necessary expenses incurred by him in the performance of his duties. Said board of trustees shall elect one of their own number president. They shall establish and maintain an office within the district for the transaction of the business thereof, at which office all books, records, and papers of the district must be kept and be open to public inspection at all reasonable times. They shall hold regular meetings at such office, at such times as they shall by resolution prescribe. Special meetings may be held at such times and places and in such manner as may be provided by rules and regulations adopted by the board of trustees.

Trustees: Compensation

President

Office

Meetings

CHAPTER 476

An act to add Section 44.4 to the Vehicle Code, relating to authorized emergency vehicles.

Stats 1935, p. 93, amended

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 44.4 is hereby added to the Vehicle Code, to read as follows:

New section

44.4. "Authorized Emergency Vehicle" (Municipally Operated Fire Equipment). In addition to the vehicles defined as "authorized emergency vehicle" by Section 44, the provisions of this code relating to authorized emergency vehicles shall apply to any fire fighting equipment designed

Municipally operated fire equipment

and operated exclusively as such, by an organized municipal fire department, and used in responding to emergency fire calls and in combating fires, and such vehicles shall be "authorized emergency vehicles."

CHAPTER 477

Stats 1939, p 49, amended

An act to amend Section 2671.5 of the Elections Code, relating to declarations of candidacy.

In effect August 4, 1943

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

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

Stats 1941, p 1861

SECTION 1. Section 2671.5 of the Elections Code is amended to read:

Payment of filing fees

2671.5. The filing fee required to be paid to the Secretary of State shall be paid to the county clerk at the time the declarations of candidacy are deposited with the county clerk for delivery to the Secretary of State. The county clerk shall not accept any papers unless the fees are paid at the time, or unless satisfactory evidence is given to the county clerk or to the registrar of voters that such fee has been paid at the time of the declaration of candidacy in another county. The county clerk shall transmit the fees to the Secretary of State at the time he delivers the declarations for filing.

CHAPTER 478

An act to amend Section 737kk of the Political Code, relating to the salary of superior judges in and for the County of San Diego.

In effect August 4, 1943

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

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

Stats 1939, p 2462

SECTION 1. Section 737kk of the Political Code is amended to read:

Superior judges San Diego

737kk. The annual salary of each of the judges of the superior court in and for the County of San Diego is nine thousand dollars ($9,000).

CHAPTER 479

An act to amend Sections 4251 and 4261 of the Political Code, relating to compensation for public services in counties.

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.] In effect August 4, 1943

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

SECTION 1. Section 4251 of the Political Code is amended to read: Stats 1941 p 1856

4251. In counties of the twenty-second class the following shall receive, as compensation for the services required of them by law or by virtue of their offices, the following sums: Marin County salaries

1. The auditor, four thousand five hundred dollars ($4,500) per annum. Auditor

2. The district attorney, five thousand dollars ($5,000) per annum. The district attorney shall devote his entire time to the duties of his office and shall not engage in private practice of the law during his term of office. District attorney

3. Each member of the board of supervisors, one hundred fifty dollars ($150) per month, and eight cents ($0.08) per mile for each mile necessarily and actually traveled in attending meetings of said board or in the discharge of county business within the county, and actual and necessary traveling expenses incurred in the discharge of official business outside of the said county; provided, however, that all claims for mileage thus incurred shall be under oath and shall itemize the places to which the travel was incurred and the nature of the business transacted. Supervisors

4. Members of the board of supervisors, the auditor, and the district attorney shall be allowed their actual and necessary expenses incurred while traveling to and from the annual convention of their respective associations, but in no event shall such expenses exceed the sum of fifty dollars ($50) for each of said officers in any one year. Convention expenses

SEC. 2. Section 4261 of the Political Code is amended to read: Stats 1941, p 1601

4261. In counties of the thirty-second class, the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums: Napa County salaries

1. The auditor four thousand two hundred dollars ($4,200) per annum. Auditor

2. The district attorney, three thousand six hundred dollars ($3,600) per annum. District attorney

3. Each supervisor, one thousand eight hundred dollars ($1,800) per annum which shall be in full for all services rendered as supervisor. Supervisors

Jurors

4. Grand jurors and trial jurors, in the superior court, in civil and criminal actions and in all special proceedings, three dollars ($3) a day for each day's attendance, and mileage, to be computed at the rate of fifteen cents ($0.15) per mile for each mile necessarily traveled in attending court, or in attending sessions of the grand jury, in going only. In criminal actions such fees and mileage of such trial jurors shall be paid by the treasurer, out of the general funds of the county, upon warrants drawn by the auditor, who shall draw such warrants upon the written order of the judge of the superior court in which said juror was in attendance, and the treasurer shall pay all such warrants.

CHAPTER 480

An act to amend Section 4277 of the Political Code, relating to compensation for public services in counties of the forty-eighth class.

In effect August 4, 1943

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

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

Stats 1941, p. 1601

SECTION 1. Section 4277 of the Political Code is amended to read:

Amador County salaries.

4277. In counties of the forty-eighth class, the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums:

Auditor

1. The auditor, one thousand five hundred dollars ($1,500) per annum.

District attorney

2. The district attorney, two thousand four hundred dollars ($2,400) per annum. He may charge and receive for his own use necessary expenses for traveling on county and public business, to be allowed as other county charges are allowed by law.

Supervisors

3. Each supervisor, one thousand eight hundred dollars ($1,800) per annum, for his services both as supervisor and as road commissioner, and ten cents ($0.10) per mile for traveling from his residence to the county seat and return for each regular or special session of the board.

Jurors

4. Grand jurors and jurors in the superior court, three dollars ($3) per day for each day's attendance, and for each mile actually traveled, in going only, while acting as such jurors, twenty-five cents ($0.25), and the court shall make an order directing the auditor to draw his warrant on the treasurer in favor of each such juror for such per diem and mileage, and the treasurer shall pay the same.

CHAPTER 481

An act to amend Sections 154, 159, 160, 161, 740, 741, 742, 743, 744, 745, 747, 749, 834, 835, 836, 869, 901, 903, 905, 906, 907, 908, 909, 910, 911, 1000, 1001, 1002, 1003, 1004, 1005, 1050, 1075, 1076, 1120, 1124, 1125, 1127, 1129, 1150, 1152, 1153, 1175, 1176, 1177, 1178, 1179, 1200, and 5252 of the Welfare and Institutions Code, to add Sections 1008, 1009, 1010, 1011, 1014, 1015, 1049, and 1077 thereto, to repeal Sections 1007 and 1202 thereof, to repeal Article 2 of Chapter 3 of Part 1 of Division 2 thereof, comprising Sections 1020, 1021, 1022, 1023, and 1024, and Article 5 of said chapter, comprising Sections 1100, 1101, and 1102, and to amend and renumber Section 155.5 of said code to be Section 1000.5, all relating to the Youth Authority, providing for commitments thereto by the juvenile courts, transferring thereto the correctional schools and forestry camps now subject to the jurisdiction of the State Department of Institutions, and specifying the powers and duties of the Youth Authority and its officers and employees in regard to the inmates of such institutions and to other persons committed to the authority, and providing for the transfer of funds.

Stats 1937, p 1005, amended

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 154 of the Welfare and Institutions Code is amended to read:

Stats 1941, p 3232

154. The department has jurisdiction over the following institutions:

Jurisdiction over institutions

Agnews State Hospital.
Camarillo State Hospital.
Industrial Home for the Adult Blind.
Industrial Workshop for the Blind.
Mendocino State Hospital.
Napa State Hospital.
Norwalk State Hospital.
Pacific Colony.
Patton State Hospital.
Sonoma State Home.
State Blind Shop.
Stockton State Hospital.
The Langley Porter Clinic.

SEC. 2. Section 159 of said code is amended to read:

Stats 1937, p 1005

159. The Department of Institutions shall cooperate with the United States Bureau of Immigration in arranging for the deportation of all aliens who are confined in, admitted, or committed to any State hospital.

Deportation of aliens

SEC. 3. Section 160 of said code is amended to read:

Stats 1937, p 1005

160. The Department of Institutions shall return all nonresident persons who are confined in, admitted, or committed

Return of Nonresidents

to any State hospital to the States in which they have legal residence. For the purpose of facilitating the return of such persons the Department of Institutions may enter into reciprocal agreements with the proper boards, commissions, or officers of other States for the mutual exchange of such persons confined in, admitted, or committed to any State hospital in one State whose legal residence is in the other, and it may give written permission for the return of any resident of this State confined in a public institution in another State, corresponding to any State hospital for the insane.

Reciprocal agreements

Stats 1937, p 1005

SEC. 4. Section 161 of said code is amended to read:

Determination of residence

161. In determining residence for purposes of transportation, a person who has lived continuously in this State for a period of one year and who has not acquired a residence in another State by living continuously therein for at least one year subsequent to his residence in this State shall be deemed to be a resident of this State. Time spent in a public institution or on parole therefrom shall not be counted in determining the matter of residence in this or another State.

Stats 1941, p 2104

SEC. 5. Section 740 of said code is amended to read:

Order of commitment in case of ward of juvenile court

740. When any person alleged to come within the provisions of Section 700 is adjudged by the court or judge to come within the said provisions, and adjudged to be a ward of the juvenile court, the court may make an order committing such person for such time as the court deems fit, but not beyond the time during which the court retains jurisdiction as prescribed by the provisions of Section 750 of this code, to the care of any of the following persons, associations, corporations, or institutions, as herein prescribed:

(a) To the home and care of some reputable person of good moral character.

(b) To the care of some association, society, or corporation embracing within its objects the purpose of caring for or obtaining homes for such persons, and willing and able to receive and care for such ward.

(c) To the care of the probation officer, to be boarded out or placed in some suitable family home, in case provision is made by voluntary contribution, or otherwise, for the payment of the board of the ward until suitable provision may be made for him in a home without such payment, the ward to be subject to the supervision of the probation officer and the further order of the court; but no ward of the juvenile court under the age of 16 years shall be boarded out in any boarding place other than a boarding place licensed by the Department of Social Welfare.

(d) To the care of the probation officer, on probation, the ward to remain in the home of the ward, or in any other fit home in which the court may order the probation officer to place him, subject to the visitation of the probation officer, to report to the probation officer as often as may be required, and to be subject to be returned to the court for further proceedings whenever such action may appear necessary or desirable. In all cases of probation the court may require as a condition of probation that

the ward go to work and earn money for the support of his dependents or to effect reparation and in either case that he keep an account of his earnings and report the same to the probation officer and apply such earnings as directed by the court. The court may impose and require any and all reasonable conditions that it may determine fitting and proper to the end that justice may be done and that amends may be made to society for the breach of the law, for any injury done to any person resulting from such breach, and specifically for the reformation and rehabilitation of the ward.

(e) To the Youth Authority for placement in one of the correctional schools to be designated by the juvenile court for the period during which the court retains jurisdiction. If the ward is a girl, the court shall designate the Ventura School for Girls; if the ward is a boy the court shall designate the Fred C. Nelles School for Boys or the Preston School of Industry; and if the ward has passed his fifteenth birthday and not reached his sixteenth birthday, the court shall designate either the Fred C. Nelles School for Boys or the Preston School of Industry in its discretion, but if the ward is under the age of 15 years, the court shall designate the Fred C. Nelles School for Boys, and if the ward is over the age of 16 years, the court shall designate the Preston School of Industry. Such commitment for placement in either the Preston School of Industry or the Fred C. Nelles School for Boys shall permit the transfer of any such boy from one institution to the other upon the order of the Youth Authority. Any boy committed for placement in the Fred C. Nelles School for Boys who has passed his fifteenth birthday, and who after due trial and a reasonable opportunity has failed to make a satisfactory response to the training and instruction therein given and who has persistently resisted the discipline of the school and also any boy who has passed his fifteenth birthday and while still under commitment for placement in the Fred C. Nelles School for Boys, violates the conditions under which he may have been permitted to leave the school, shall, on the recommendation of the superintendent of the Fred C. Nelles School for Boys, approved by the Youth Authority, be transferred to and be received by the Preston School of Industry.

(f) To any other State or county institution now or hereafter established for the purpose of caring for and training persons that come within the provisions of this chapter.

Before any such person is conveyed to any such institution it shall be ascertained from the superintendent thereof that such person can be received.

SEC. 6. Section 741 of said code is amended to read: Stats 1937, p 1005

741. No ward of the juvenile court who is under the age of eight years and no such ward who is suffering from any contagious, infectious, or other disease which would probably endanger the lives or health of the other inmates of any State school shall be committed to the Youth Authority. Prohibited commitments

Stats 1941, p 2106

SEC. 7. Section 742 of said code is amended to read:

Prohibited commitments

742. No person under the age of 14 years, at the time of commission of any offense with which he may be charged shall ever be sent to a State prison unless he has first been committed to the Youth Authority for placement in a correctional school, and has there proved to be incorrigible or not amenable to the discipline of such school.

Stats 1937, p. 1005

SEC. 8. Section 743 of said code is amended to read:

Prohibited commitments

743. No ward of the juvenile court shall be committed for placement in any State school unless the judge of the court is fully satisfied that the mental and physical condition and qualifications of the ward are such as to render it probable that he will be benefited by the reformatory educational discipline of such school.

Stats 1937, p 1005

SEC. 9. Section 744 of said code is amended to read:

Case history, etc.

744. Accompanying the commitment papers, the court shall send to the superintendent of the State institution for placement in which any ward of the juvenile court is committed a summary of all the facts in the possession of the court, covering the history of the ward committed, and a statement of the mental and physical condition of the ward.

Stats 1941, p 2652

SEC. 10. Section 745 of said code is amended to read:

Changing or setting aside order

745. Any order made by the court in the case of any person subject to its jurisdiction under the provisions of Section 700 may at any time be changed, modified, or set aside, as the judge deems meet and proper.

The court committing a ward for placement in any State school may thereafter change, modify, or set aside the order

Notice of hearing

of commitment. Ten days' notice of the hearing of the application therefor shall be served by United States mail upon the superintendent of the school in which such person has been placed. In changing, modifying, or setting aside such order of commitment, the court shall give due consideration to the effect thereof upon the discipline and parole system

Parole and discharge

of the school. Except as in this section provided, nothing in this chapter shall be deemed to interfere with the system of parole and discharge now or hereafter established by law, or by rule of the Youth Authority, for the parole and discharge of wards of the juvenile court committed for placement in such State schools or similar institutions, or with

Transfer

the management of any such school Except as in this section provided, nothing in this chapter shall be deemed to interfere with the system of transfer between institutions under the jurisdiction of the Youth Authority, as provided by law, pertaining to transfer of inmates of all such institutions.

However, before any inmate of a correctional school may be transferred to a State hospital for the insane, he shall first be returned to a court of competent jurisdiction, and, after hearing, may be committed to a State hospital for the insane in accordance with law.

SEC. 11. Section 747 of said code is amended to read: Stats 1941, p 2103

747. If any person who has been committed to or confined in any State school appears, either at the time of his presentation or after having become an inmate thereof, to be an improper person to be there retained or to be so incorrigible or so incapable of reformation under the discipline of such school as to render his retention detrimental to the interests of the school, the superintendent may, with the approval of the Youth Authority, return such person to the committing court. Return to committing court

SEC. 12. Section 749 of said code is amended to read: Stats 1937, p 1005

749. When any ward of the juvenile court under subdivision (m) of Section 700 has been accused of a felony and no indictment or information has been filed and such ward has been committed to or confined in any State school and has been returned therefrom to the committing court as incorrigible or not amenable to the discipline of such school, the judge of the court shall sit as a committing magistrate and shall hold the preliminary examination of such person. If, upon such hearing, he determines that there is probable cause to believe that the person committed the offense charged in the petition theretofore filed in the court, he shall hold such person to answer to the superior court, and thereupon the usual proceedings shall be had for the trial of the case in the superior court, after the filing of an information in pursuance to the order of the judge sitting as a committing magistrate, and the person shall be tried by the court and jury in the usual manner for the trial of a felony. Procedure when ward returned is accused of felony

SEC. 13. Section 834 of said code is amended to read: Stats 1941, p 2103

834. Whenever any person over the age of 18 years and under the age of 21 years is accused of a felony or misdemeanor by indictment or information therefor in the superior court of the county wherein the crime was committed, except where the crime charged is a capital offense or an attempt to commit a capital offense, the judge may in his discretion, with the consent of the accused, or upon his request, arrest the proceeding at the time of arraignment or at any time previous to the impanelment of a jury, and may proceed to investigate the charge against the defendant, and all the facts and circumstances necessary to determine the proper disposition to be made of him, and shall determine whether he shall be dealt with as a ward of the juvenile court under the provisions of this chapter. If the court is satisfied upon such investigation that the person should be declared a ward of the juvenile court and should be dealt with under this chapter, it may recess as a criminal court and reconvene as a juvenile court and may make such order or orders as in this chapter provided for the disposition of such wards. If such person thereafter proves not to be amenable to the discipline of the State school to which he may be committed, or in which he may be confined and the Youth Authority determines that he should See also Stats. 1943, Ch. 873 When accused between 18 and 21 Person not amenable to discipline

be committed to a State penitentiary, such person shall be returned to the committing court, and thereafter proceedings shall be had upon the indictment or information commencing at the point at which proceedings were arrested. The person shall be tried for the offense alleged in the information, and if convicted shall be dealt with in accordance with the law for dealing with persons convicted of a felony.

Stats 1941, p 2103

SEC. 14. Section 835 of said code is amended to read:

See also Stats 1943, Ch 813

Dealing with person as juvenile court ward after conviction

835. If, in a case within the provisions of Section 834 no request is made by the defendant for proceedings under that section, or the defendant desires trial by jury, or the judge declines to consent to the application of the defendant for proceedings under that section, the cause shall proceed in the ordinary manner up to the verdict of guilty or not guilty, as the case may be. If the person is convicted, the court may thereafter receive such evidence as may be offered as to whether or not he should be dealt with as a ward of the juvenile court in the manner provided in Section 834 for the case of the application and consent of the accused before trial, and, sitting as a juvenile court, may make such order of probation or commitment for placement in a State school, and may from time to time modify such probation orders, as provided in the case of persons adjudged wards of the juvenile court.

Return of incorrigible for sentence

If such person, during the period of his commitment to or confinement in any State school, proves to be incorrigible or not amenable to the discipline of such school, and the Youth Authority deems it advisable that he be sent to a State prison, then such person shall be returned to the superior court in which the verdict was rendered, for sentence, and thereupon the court shall pronounce judgment.

Stats 1937, p 1005

SEC. 15. Section 836 of said code is amended to read:

Suspension of statutes of limitation

836. All statutes of limitation relating to any charge, made in any court, against any person under the age of 21 years, shall be suspended as to such charge and person whenever and for as long a time as such person is before the juvenile court for consideration under the provisions of this chapter, or is subject to detention by virtue of any commitment issued hereunder and unrevoked. If the person is discharged by the juvenile court or is discharged by the Youth Authority without return to the committing court, such order of discharge shall constitute a bar to any further proceedings in any court against such person upon such charge.

Discharge from State school

Statutes of limitation when person remanded

Where a person is remanded by the juvenile court to any other court in which a suspended charge is pending against him, all statutes of limitation relating to the charge so pending against such person shall be suspended as to such person and charge from the issuance by the judge, justice, or recorder of his certificate until the juvenile court, or judge thereof, issues its mandate remanding such person for further proceedings.

SEC. 16. Section 869 of said code is amended to read: Stats 1941, p 2835

869. No order for payment from the county treasury of the expense of support and maintenance of a ward of the juvenile court shall be effective for more than 12 months, and no order for payment from the county treasury of the expense of support and maintenance of a minor person concerning whom a verified petition has been filed in accordance with the provisions of Sections 721 and 722 of this code, other than a ward of the court, shall be effective for more than one month. Upon all hearings of the case of any ward of the juvenile court the case shall be continued on the calendar, but in no instance to exceed 12 months. Expiration of order

For each person hitherto committed to the Department of Institutions for placement in a correctional school, however, and for each ward committed to the Youth Authority the county from which he is committed shall pay the State at the rate of twenty dollars ($20) per month for the time such person so committed remains in such State school or in any camp or farm colony, custodial institution, or other institution under the direct supervision of the Youth Authority to which such person may be transferred. Each county auditor shall include in his State settlement report, rendered to the Controller in the months of January and June, the amount due under the provisions of this article, and the county treasurer, at the time of the settlement with the State in such months, shall pay to the State Treasurer, upon the order of the Controller, the amounts to be found to be due by reason of such commitments. When person committed to department

State settlement report

When any ward of the juvenile court, is, with the consent of the juvenile court of the county committing him and the officer in charge of the State school to which he was committed or in which he is confined, placed in a boarding home, foster home or work home, but who continues to be under the supervision of such State school, the county may reimburse the boarding home, foster home or work home in an amount adequate for the maintenance of the ward, but not to exceed twenty dollars ($20) per month. When ward placed in home

SEC. 17. Section 901 of said code is amended to read: Stats 1941, p 2106

901. The board of supervisors of any county may by ordinance, establish a juvenile forestry camp or camps, to which boys who would otherwise be committed to the Youth Authority for placement in a correctional school, may be committed by the court in lieu of commitment to the Youth Authority. As far as possible, the provisions of this chapter relating to commitments for placement in such State institutions shall apply to commitments to such forestry camps, except that any boy who proves not to be a fit person to remain in any such camp, in the opinion of the superintendent thereof, shall be returned to the court for commitment for placement in the proper State institution. Forestry camps

Stats 1937, p 1005
Work and activities at camps

SEC. 18. Section 903 of said code is amended to read:

903. The boys committed to such camps may be required to labor on the buildings and grounds of the camp, on the making of forest roads for fire prevention or fire fighting, on forestation or reforestation of public lands, or on the making of fire trails and fire breaks, or in fire suppression, or to perform any other work or engage in any studies or activities prescribed or permitted by the superintendent, subject to such approval as the county board of supervisors by ordinance requires.

Stats 1937, p 1005
Camps in connection with certain institutions

SEC. 19. Section 905 of said code is amended to read:

905. The Youth Authority may establish, in connection with the Preston School of Industry, the Fred C. Nelles School for Boys, and the Ventura School for Girls, such forestry camps as it deems proper for the housing, care, and welfare of such wards of the juvenile court committed to or confined in those institutions as the authority judges to be fit persons to be housed in such camps.

Stats 1937, p 1005
Independent or cooperative camps

SEC. 20. Section 906 of said code is amended to read:

906. The Youth Authority may so establish such camps independently or in cooperation with the State Board of Forestry and the Department of Natural Resources, on such terms as may be agreed upon by the authority, the Director of Natural Resources, and the board.

Stats 1937, p 1005
Selection of sites

SEC. 21. Section 907 of said code is amended to read:

907. Sites for such camps connected with such State institutions may be selected by the Youth Authority, subject to the approval of the Department of Finance.

Stats 1937, p 1005
Selection of wards

SEC. 22. Section 908 of said code is amended to read:

908. The Youth Authority may select, under such rules and procedures as it may establish, the wards to be housed in such camps connected with State institutions, and may similarly provide for the termination of their stay at such camps. Only such wards as have earned the privilege shall be selected to be housed in such camps. For all purposes each such camp shall be deemed to be part of the State institution in connection with which it is established.

Stats 1937, p 1005
Duties of boys committed

SEC. 23. Section 909 of said code is amended to read:

909. The boys housed in such camps may be required to labor on the buildings and grounds of the camp, on the making of forest roads for fire prevention or fire fighting, on forestation or reforestation of public lands, or on the making of fire trails and fire breaks, or in fire suppression, or to perform any other work or engage in any studies or activities prescribed or permitted by the Youth Authority or any officer designated by it.

Stats 1937, p 1005
Duties of girls committed

SEC. 24. Section 910 of said code is amended to read:

910. The girls housed in such camps may be required to perform such duties in connection with the camp, and engage in such studies and activities, as may be prescribed or permitted by the Youth Authority.

SEC. 25. Section 911 of said code is amended to read: Stats 1937, p. 1005

911. The Youth Authority may provide, in cooperation with the Department of Natural Resources or otherwise, for the payment of wages to the boys or girls for work they do while housed in such camps, the sums earned to be paid in reparation, or to the parents or dependents of the boy or girl, or to the boy or girl in such manner and in such proportions as the Youth Authority directs. Wages

SEC. 26. Section 1000 of said code is amended to read: Stats 1937, p. 1005

1000. The following educational institutions are established and maintained in the State as correctional schools for the reception of wards of the juvenile court and other persons committed to the Youth Authority: Correctional schools

(a) Preston School of Industry, near Ione City, in the County of Amador.

(b) Fred C. Nelles School for Boys, in Los Angeles County.

(c) Ventura School for Girls.

(d) Such other institutions as the Youth Authority may establish, pursuant to law, as correctional schools.

SEC. 27. Section 1555 of said code is renumbered to be Section 1000.5, and is amended to read: Stats 1941, p. 3212

1000.5. Where in any law of this State the name "Whittier State School" appears it shall hereafter be understood to mean and shall be construed to refer to Fred C. Nelles School for Boys. Whittier State School renamed

SEC. 28. Section 1001 of said code is amended to read: Stats 1937, p. 1005

1001. The general government and supervision of each such institution is vested in the Youth Authority. Government and supervision

SEC. 29. Section 1002 of said code is amended to read: Stats 1937, p. 1005

1002. The Youth Authority may do all lawful acts which it deems necessary to effectuate the purposes for which such schools are established, and to promote the well-being, education and reformation of the inmates thereof; but the authority shall not incur any indebtedness in excess of the moneys appropriated or otherwise made available for the use of such schools. General powers of Authority

SEC. 30. Section 1003 of said code is amended to read: Stats 1937, p. 1005

1003. The authority shall have charge of the land, buildings, apparatus, tools, stock, provisions and other property belonging to each such institution. Control of property

SEC. 31. Section 1004 of said code is amended to read: Stats 1937, p. 1005

1004. The authority shall have charge of the persons committed to or confined in each such institution, and shall provide for their care, supervision, education, training, employment, discipline, and government. It shall exercise its powers toward the correction of their faults, the development of their characters, and the promotion of their welfare. Supervision of persons committed

SEC. 32. Section 1005 of said code is amended to read: Stats 1937, p. 1005

1005. The authority may take and hold in trust for the State any grant or devise of land, or any donation or bequest of money or other personal property granted, devised, donated, or bequeathed to the use of the Preston School of Industry, Acquisition and disposal of property

the Whittier State School or the Fred C. Nelles School for Boys, or the Ventura School for Girls. It shall dispose of the property so acquired in accordance with the wishes of the donor, or testator, if expressed, and if no condition is attached thereto, or insofar as any wishes expressed do not prevent, then it may invest and reinvest the property, or change the investment thereof, and use the income arising therefrom, for the best interests of the school for the use of which the gift, devise, or bequest was made. All gifts, grants, devises, or bequests of property, real or personal, which have been made or may be made to the State for the use, or benefit, of either such school, or of any department thereof, shall be subject to the provisions of this section, unless a contrary intent is expressed in the instrument making the same.

Stats 1937, p 1005

SEC. 33. Section 1007 of said code is repealed.

New section

SEC. 34. Section 1008 is added to Article 1 of Chapter 3, Part 1, Division 2, of said code, to read:

Deportation of aliens

1008. The Youth Authority shall cooperate with the United States Bureau of Immigration in arranging for the deportation of all aliens who are committed to it.

New section

SEC. 35. Section 1009 is added to Article 1 of Chapter 3, Part 1, Division 2, of said code, to read:

Nonresident wards

1009. The Youth Authority may return all nonresident wards of the juvenile court committed to it or confined in any institution under its jurisdiction to the States in which they have legal residence.

New section

SEC. 36. Section 1010 is added to Article 1 of Chapter 3, Part 1, Division 2, of said code, to read:

Determination of residence

1010. In determining residence for purposes of transportation, a person who has lived continuously in this State for a period of one year and who has not acquired a residence in another State by living continuously therein for at least one year subsequent to his residence in this State shall be deemed to be a resident of this State. Time spent in a public institution or on parole therefrom shall not be counted in determining the matter of residence in this or another State. In determining the residence of a ward of the juvenile court committed to the Youth Authority or confined in any institution under its jurisdiction, due consideration shall be given to the residence of the parents of such ward, and if either one or both parents of the ward are residents of this State the ward shall also be deemed a resident of this State.

New section

SEC. 37. Section 1011 is added to Article 1 of Chapter 3, Part 1, Division 2, of said code, to read:

Expenses

1011. All expenses incurred in returning such persons to other States shall be paid by this State, but the expense of returning residents of this State shall be borne by the States making the returns.

The cost and expense incurred in effecting the transportation of such persons shall be paid from the funds appropriated for that purpose, or, if necessary, from the money appro-

priated for the care of such persons upon vouchers approved by the State Board of Control.

SEC. 38. Section 1014 is added to Article 1 of Chapter 3, Part 1, Division 2, of said code, to read: New section

1014. The superintendent of any State institution subject to the jurisdiction of the Youth Authority may deposit any funds of inmates in his possession in any bank in the State. With the consent of the owners of the funds or of their guardians, the superintendent may deposit the interest accruing on such funds in a special fund, to be designated the "Benefit fund," of which he shall be the trustee. He may expend the moneys in any such fund for the education or entertainment of the inmates of the institution. Funds of inmates

SEC. 39. Section 1015 is added to Article 1 of Chapter 3, Part 1, Division 2, of said code, to read: New section

1015. Whenever any person confined in any State institution subject to the jurisdiction of the Youth Authority dies, escapes, or is discharged or paroled from such institution, and any personal funds or property of such person remains in the hands of the superintendent thereof, and no demand is made upon said superintendent by the owner of the funds or property or his legally appointed representative, the superintendent shall hold and dispose of such funds or property as follows: (a) Funds: The superintendent shall hold the funds in a trust fund for a period of three years. If, at the end of three years, no demand has been made for the funds, the superintendent shall turn the said funds over to the State Treasurer. The State Treasurer shall hold the funds for a period of five years and if, at the end of that five-year period, the funds have not been demanded by the owner or a legal representative, then the funds shall escheat to the State and shall become a part of the General Fund. (b) Miscellaneous personal property: The superintendent shall hold all other miscellaneous personal property for a period of three years. At the end of that time if there has been no demand by the owner of the property or his legal representative, the superintendent shall file with the county recorder of the county of commitment of said owner, all deeds, wills, contracts or assignments. The balance of the personal property shall be sold at auction and the funds turned over to the State Treasurer to be disposed of in the same manner as cash funds under the provisions above. If some of the property is not of a type to be filed with the county recorder and is not salable at public auction, then the superintendent shall hold the same for a period of one more year and if at the expiration of that time no demand has been made by the owner or his legal representative, the property shall be destroyed. Before any funds are turned over to the State Treasurer, under subdivision (a), and before any papers are filed with the county recorder, and before any personal property is sold at auction or disposed of under subdivision (b) of this section, notice of said intended disposition shall be posted at least 10 days prior Funds of inmate who dies, escapes, etc Notice

to the disposition, in a public place at the institution where the disposition is to be made. A copy of such notice shall be mailed to the last known address of the owner of the property at least 10 days prior to the disposition of the property.

Repeals

SEC. 40. Article 2 of Chapter 3 of Part 1 of Division 2 of said code, comprising Sections 1020 to 1024, inclusive, is repealed.

New section

SEC. 41. Section 1049 is added to Article 3 of Chapter 3, Part 1, Division 2, of said code, to read:

Salary Executive officer

1049. Subject to the provisions of law relating to the State civil service, the Youth Authority may appoint, define the duties, and fix the salary of the superintendent or executive officer of each institution under this chapter.

Stats 1937, p 1005

SEC. 42. Section 1050 of said code is amended to read:

Superintendents

1050. The superintendent of the institutions under this chapter shall be persons of high moral character, specially qualified for the position. The superintendent of Ventura School for Girls shall be a woman.

Stats 1937, p 1005

SEC. 43. Section 1075 of said code is amended to read:

Employees

1075. The Youth Authority shall, in accordance with law, appoint all officers and employees required at the institutions under this chapter, and shall fix their remuneration.

Stats 1937, p 1005

SEC. 44. Section 1076 of said code is amended to read:

Peace officer powers

1076. The officers and employees of each institution under this chapter shall have the general powers of peace officers.

New section

SEC. 45. Section 1077 is added to Article 4 of Chapter 3, Part 1, Division 2, of said code, to read:

Employees' facilities

1077. At the request of one or more employees of any institution under this chapter, the authority may, at its option, provide, within the grounds of any institution, meals and subsistence for employees who do not reside within the institution, or living facilities, meals and subsistence for employees who reside within the institution. The authority may make a reasonable charge for all facilities taken by or furnished to employees, to be determined by the State Board of Control, and to be deducted from the salary of the employee. No employee shall be compelled to eat his meals at the institution, nor shall he be charged for meals or facilities not furnished to or taken by him. No employee shall be discriminated against in any manner whatsoever because he elects to eat his meals outside the institution grounds.

Limitation

The provisions of this section apply only to those employees who are not officers and who receive gross salaries as specified by the salary scales of the State Personnel Board, and do not apply to those employees who are officers of an institution or who receive a cash salary plus maintenance for self and family as provided by the salary scales of the State Personnel Board.

Repeal

SEC. 46. Article 5 of Chapter 3 of Part 1 of Division 2 of said code, comprising Sections 1100, 1101 and 1102, is repealed.

Stats 1937, p 1005

SEC. 47. Section 1120 of said code is amended to read:

Department of instruction

1120. At each institution under this chapter the Youth Authority shall organize and maintain a department of

instruction and such other departments as it deems necessary and advisable in the conduct of the school.

Stats 1937, p 1005

SEC. 48. Section 1124 of said code is amended to read:

Manufacture of supplies, etc.

1124. Each institution under this chapter may manufacture such supplies or articles of furniture, or may raise for its own use or for sale such produce, as may be used in such schools or in any other State institution; but the purpose of all instruction, discipline and industries shall be to benefit the inmates of the several schools and to qualify them for honorable employment and good citizenship, rather than to make such institutions self-sustaining.

Stats 1937, p 1005

SEC. 49. Section 1125 of said code is amended to read:

Military discipline: Preston School of Industry

1125. The Preston School of Industry shall be conducted as the Youth Authority deems best to carry out the purposes for which it is established, and its inmates shall be subject to military discipline, including daily drill. They shall be clothed in military uniform of such pattern and material as may be prescribed by the authority, but under no circumstances shall such inmates be clothed in convict stripes while undergoing commitment in the school.

Stats 1937, p 1005

SEC. 50. Section 1127 of said code is amended to read:

Clothing, etc., allowances: Ventura School for Girls

1127. The Youth Authority may pay to persons committed to or confined in Ventura School for Girls small weekly or monthly sums in lieu of clothing and other necessary articles, if it deems that such a course would better promote discipline and training.

Stats 1941, p 2103

SEC. 51. Section 1129 of said code is amended to read:

Establishment of feeble-mindedness

1129. No boy shall be returned to the court as feeble-minded, under the provisions of Sections 747, 834, or 835 of this code, unless such feeble-mindedness has been established through investigation by the Youth Authority or some qualified person approved by the authority.

Stats 1937, p 1005

SEC. 52. Section 1150 of said code is amended to read:

Arrest of escaped inmates

1150. The officers and employees of the Youth Authority shall have the powers and privileges of peace officers so far as necessary to arrest inmates who have escaped or have been delivered from any such institution.

Stats 1937, p 1005

SEC. 53. Section 1152 of said code is amended to read:

Aiding escape, etc

1152. Any person who knowingly permits or aids any inmate of Preston School of Industry, Fred C. Nelles School for Boys, or Ventura School for Girls to escape therefrom, or conceals him with the intent of enabling him to elude pursuit, is guilty of a misdemeanor.

Stats 1937, p 1005

SEC. 54. Section 1153 of said code is amended to read:

Penalty

1153. Any person convicted, under Section 1152, of a misdemeanor committed in respect to an inmate of Fred C. Nelles School for Boys shall be punished by a fine of not less than two hundred dollars ($200) nor more than one thousand dollars ($1,000), or by imprisonment in the county jail not less than two months nor more than one year, or by both such fine and imprisonment.

Stats 1937, p 1005
Parole headquarters, advancement of money, etc.

SEC. 55. Section 1175 of said code is amended to read:

1175. The Youth Authority may establish and maintain parole headquarters for any State school out of funds made available for the use of such school and may pay rental and incidental expenses incurred in maintaining such headquarters. It may also advance money to any boy or girl on leave of absence, parole, or discharge from any State school, and assist him in obtaining employment and in becoming established as a useful and law-abiding member of society.

Stats 1937, p 1005
Paroles

SEC. 56. Section 1176 of said code is amended to read:

1176. When, in the opinion of the Youth Authority, any person committed to or confined in any such school deserves parole according to regulations established for the purpose, and it will be to his advantage to be paroled, the Authority may grant parole under such conditions as it deems best. A reputable home or place of employment shall be provided for each person so paroled.

Stats 1937, p 1005
Honorable discharge

SEC. 57. Section 1177 of said code is amended to read:

1177. When any person so paroled has proved his ability for honorable self-support, the Youth Authority shall give him honorable discharge. Any person on parole who violates the conditions of his parole may be returned to the Youth Authority.

Stats 1937, p 1005
Leave of absence, etc.

SEC. 58. Section 1178 of said code is amended to read:

1178. The Youth Authority may grant leave of absence or honorable discharge to any person committed to or confined in any such school, and may provide him with transportation, suitable clothing, and such an amount of money as its rules authorize The reason for such discharge shall be entered in the records

Stats 1937, p 1005,
Final discharge and dismissal

SEC. 59. Section 1179 of said code is amended to read:

1179. All persons honorably dismissed from any such school and all persons who are retained at any such school for the full period of their respective commitments shall thereafter be released from all penalties or disabilities resulting from the offenses for which they were committed. Upon the final discharge or dismissal of any such person, the Youth Authority shall immediately certify such discharge or dismissal in writing, and shall transmit the certificate to the court by which the person was committed The court shall thereupon dismiss the accusation and the action pending against such person.

Stats 1937, p 1005
Expenditures

SEC. 60 Section 1200 of said code is amended to read:

1200. The Controller of the State shall, on requisition of any of the institutions under this chapter, duly audited by him, draw his warrant on the State Treasurer for any moneys duly appropriated to pay for the necessary expenditures in the establishment and maintenance of such school, and the State Treasurer shall pay the same from the appropriations provided therefor.

SEC. 61. Section 1202 of said code is repealed. Stats 1937, p 1005

SEC 62. Section 5252 of said code is amended to read: Stats 1941, p 2112

5252. A petition for the commitment of a feeble-minded person or an epileptic who is not insane to the Department of Institutions for placement in a designated State home for the feeble-minded may be filed in the superior court of the county in which such person resides, by any of the following persons: Petition for commitment

(a) The parent, guardian, or other person charged with the support of the epileptic or feeble-minded person.

(b) Any district attorney or probation officer.

(c) The Youth Authority.

(d) Any person designated for that purpose by the judge of the court.

The petition shall state the petitioner's reasons for supposing the person to be eligible for admission thereto, and shall be verified by the affidavit of the petitioner

SEC. 63. The State Board of Control may, upon recommendation of the Youth Authority and the Director of Finance, authorize the transfer of unneeded funds appropriated for the support or construction, improvement or equipment for an institution within the jurisdiction of the Youth Authority to another institution within the jurisdiction of the Youth Authority. Transfer of unneeded funds

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CHAPTER 482

An act to amend Section 4284 of the Political Code, relating to compensation for public services in counties of the fifty-fifth class.

[Approved by Governor May 15, 1943 Filed with Secretary of State May 15, 1943.] In effect August 4, 1943

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

SECTION 1. Section 4284 of the Political Code is amended to read: Stats 1929, p 487

4284. In counties of the fifty-fifth class the county officers shall receive as compensation for the services required of them by law, or by virtue of their offices, the following salaries, fees and expenses, to wit: Trinity County salaries

1. The auditor, one thousand eight hundred dollars ($1,800) per annum. Auditor

2. The district attorney, one thousand eight hundred dollars ($1,800) per annum. District attorney

3. Each member of the board of supervisors one thousand two hundred dollars ($1,200) per annum; mileage from residence to county seat at each sitting of the board, twenty cents ($0.20) per mile. Supervisors

4. The fees of grand jurors and trial jurors in the superior courts of counties of this class, in civil and criminal cases, shall be three dollars ($3), in lawful money of the United States, for each day's attendance, and mileage to be computed Jurors

at the rate of twenty-five cents ($0.25) per mile for each mile necessarily traveled in attending court, in going only. In criminal cases such fees and mileage of said jurors in the superior court shall be paid by the treasurer of the county out of the general fund of said county upon warrants drawn by the county auditor upon the written order of the judge of the court in which said juror was in attendance, and the treasurer of said county shall pay said warrants.

CHAPTER 483

An act to amend Section 658.5 of, and to add Section 658.8 to, the Political Code, relating to refund of fees without approval of the Department of Finance.

In effect August 4, 1943

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

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

Stats 1939, p 2516

SECTION 1. Section 658.5 of the Political Code is hereby amended to read:

Definitions

658.5. (a) When used in this section and in Sections 658.6, 658.7, and 658.8 of this code:

"Agency"

"Agency" includes any State commission, board, bureau, officer, department, division, or other State agency.

"Permit"

"Permit" includes application, license, certificate, or authorization.

"Fee"

"Fee" includes any monetary exaction imposed or collected for or as a condition precedent to the issuing, making, taking or securing of any permit, filing, examination, or inspection.

Refund of fees

(b) Whenever any statute which provides for fees does not provide detailed procedure for the refund of erroneous or excessive payments thereof, refunds may be made in accordance with subdivision (c) or (d) of this section, whichever is applicable, of all amounts received by an agency in consequence of error, either of fact or of law, as to the proper amount of such fee, or as to the necessity of making or securing a permit, filing, examination, or inspection, or as to the sufficiency of the credentials of the applicant, or his eligibility for any other reason. Nothing in this section shall be construed to authorize the refund of any fee when the payor, either before or after the issuance of a permit, has exercised or enjoyed, or has not been prevented by some provision of law from exercising or enjoying, the rights and privileges conferred thereby, or when the payor has been granted permission to take an examination, or when the agency has made an examination, inspection or filing.

Fees not in State Treasury

(c) When any fee subject to refund under the provisions of subdivision (b) has not been paid into the State Treasury, the agency may submit to the Director of Finance a certificate setting forth the facts pertaining thereto, and upon the return

of such certificate approved by the director, may refund the fee.

(d) When any fee subject to refund under the provisions of subdivision (b) has been paid into the State Treasury to the credit of a special fund and an appropriation for refunds has been made, the agency may prepare a claim setting forth the facts pertaining to the fee sought to be refunded and, upon approval of the claim by the Director of Finance, the Controller shall draw his warrant therefor upon the fund to which the fee was credited. Fees in State Treasury to credit of special fund

(e) Nothing in this section affects payments required by Section 453a to be made into or from the "Special Deposit Fund" in the State Treasury. Exception

SEC. 2. Section 658.8 is added to the Political Code, to read: New section

658.8. When any applicant for a permit is ineligible for such permit because of any statute of this State, the agency may refund the fee without the approval of the Department of Finance. Permit fee paid by ineligible

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CHAPTER 484

An act to amend Section 737c of the Political Code, relating to salaries of judges of the superior court.

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.] In effect August 4, 1943

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

SECTION 1. 737c of the Political Code is amended to read: Stats 1939, p 2471

737c. The annual salary of the judge of the Superior Court in and for the County of Amador is six thousand dollars ($6,000). Superior judge: Amador County

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CHAPTER 485

An act to amend Section 1590 of the Labor Code, relating to bonds of employment agencies. Stats 1937, p 185, amended

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.] In effect August 4, 1943

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

SECTION 1. Section 1590 of the Labor Code is amended to read: Stats 1937, p 185

1590. Such surety bonds shall be payable to the people of the State of California, and shall be conditioned that the person applying for the license will comply with this chapter Conditions of bond

and will pay all sums due any individual or group of individuals when such person or his representative or agent has received such sums, and will pay all damages occasioned to any person by reason of misstatement, misrepresentation, fraud, deceit, or any unlawful acts or omissions of the licensed employment agency, or its agents or employees, while acting within the scope of their employment.

CHAPTER 486

Stats. 1937, p. 185, amended

An act to amend Section 2352 of the Labor Code, relating to conditions of places of employment.

In effect August 4, 1943

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

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

Stats. 1937, p. 185

SECTION 1. Section 2352 of the Labor Code is amended to read:

Unhealthy places of employment

2352. No place which the Labor Commissioner condemns as unhealthy and unsuitable, shall be used as a place of employment.

CHAPTER 487

Stats. 1933, p. 394, amended

An act to amend Section 92 of the Fish and Game Code, relating to districts.

In effect August 4, 1943

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

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

Stats. 1933, p. 394

SECTION 1. Section 92 of the Fish and Game Code is amended to read:

District 22

92. District 22. The following shall constitute Fish and Game District 22:

All of Imperial County and those portions of Riverside and San Bernardino Counties lying south and east of the following line: Starting at the intersection of Highway 99 with the north boundary of Imperial County, thence north along said highway to the intersection with Highway 60 and 70; thence east along Highway 60 and 70 to its intersection with the Cottonwood Springs Road in Sec. 9, T. 6 S, R. 11 E; thence north along said road and the Mecca Dale Road to Amboy; thence east along Highway 66 to the intersection with Highway 95; thence north along Highway 95 to the California-Nevada boundary. Except as otherwise provided, the provisions relating to District 4¾ shall apply to District 22.

CHAPTER 488

An act to amend Section 511 of the Public Resources Code, relating to the Department of Natural Resources Printing Revolving Fund.

Stats 1939, p 1067, amended

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 511 of the Public Resources Code is hereby amended to read:

Stats 1939, p 1067

511. For the purpose of disseminating information relating to the activities, powers, duties, or functions of the Department of Natural Resources, the department, with the approval of the Department of Finance, may issue publications, construct and maintain exhibits, and perform such acts and carry on such functions as in the opinion of the Director of Natural Resources will best tend to disseminate such information.

Publications, exhibits etc

Such publications may be distributed free of charge to public libraries and to other State departments and State officers. The department may exchange copies with contemporary publications.

All money received by the department from the sale of publications, exclusive of money received by any separate division of the department from the sale of publications, shall be paid into the State Treasury to the credit of the General Fund.

Disposition of sale proceeds

SEC. 2. The Department of Natural Resources Printing Revolving Fund is abolished and all money in the fund remaining after the return of moneys for unexpired subscriptions to the "Conservationist," shall be transferred to the General Fund.

Department of Natural Resources Printing Revolving Fund

CHAPTER 489

Stats First Ex Sess 1911, p 117, amended Stats 1943, Ch 368, amended

An act to add Sections 12.5 and 12.6 to the Reclamation Board Act and Sections 8676 and 8677 to the Water Code, relating to the disposal of lands acquired by the Reclamation Board.

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 12.5 is added to the Reclamation Board Act, to read:

New section

Sec. 12.5. Whenever the Reclamation Board has acquired or shall in the future acquire title in fee to any land in the name and on behalf of the Sacramento and San Joaquin Drainage District and whenever, in the judgment of the Reclamation Board, the purposes of the district will be satisfied by the retention of an easement or other interest in the

Conveyances reserving easements

land less than the title in fee thereto, said board shall take all steps necessary to sell said land reserving to said district the easement or other interest required for the purposes of the district. Conveyances of any land or any interest therein owned by the Sacramento and San Joaquin Drainage District shall be executed by the officers of the Reclamation Board authorized by said board and shall be approved by the Director of Finance.

New section

SEC. 2. Section 12.6 is added to said act, to read:

Reservation of mineral deposits

Sec. 12.6. All oil, gas, oil shale, coal, phosphate, sodium, gold, silver, and all other mineral deposits in the land are reserved to the State and shall be reserved from sale except upon a rental and royalty basis. A purchaser of any of the land shall acquire no right, title or interest in or to such deposit. The right of such purchaser shall be subject to the reservation of all oil, gas, oil shale, coal, phosphate, sodium, gold, silver, and all other mineral deposits, and to the conditions and limitations prescribed by law providing for the State and persons authorized by it to prospect for, mine, and remove such deposits, and to occupy and use so much of the surface of the land as may be required for all purposes reasonably extending to the mining and removal of such deposits therefrom. The provisions herein contained shall not apply to any compromise agreement entered into with respect to such land, nor to grants of such land to the United States of America or any officer, department, or agency thereof when such grants are authorized by law.

Note.—See Stats. 1943, Ch. 368.

Effect Stats 1943, Ch 368

Repeal

SEC. 5. Sections 3 and 4 of this act become operative only if the Water Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said code takes effect; at which time Sections 12.5 and 12.6 of the Reclamation Board Act added by this act are hereby repealed.

CHAPTER 490

An act to amend Section 397 of the Penal Code, relating to the sale of intoxicating liquors to common drunkards, Indians, insane or incompetent persons.

In effect August 4, 1943

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

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

Stats 1939, p 2839

SECTION 1. Section 397 of the Penal Code is amended to read:

Sale of intoxicating liquor to drunkard, etc.

397. Every person who sells or furnishes, or causes to be sold or furnished, intoxicating liquors to any habitual or common drunkard, or to any Indian of whole blood, or to any person who has been adjudged legally incompetent or insane

by any court of this State and has not been restored to legal capacity, knowing such person to have been so adjudged, is guilty of a misdemeanor.

CHAPTER 491

An act to amend Section 737p of the Political Code, relating to the salary of the Superior Judge of the County of Kings.

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.] In effect August 4, 1943

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

SECTION 1. Section 737p of the Political Code is hereby amended to read as follows: Stats 1933, p. 1744

737p. The annual salary of the Judge of the Superior Court in and for the County of Kings is six thousand five hundred dollars ($6,500). Superior judge Kings County

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CHAPTER 492

An act to add Sections 28.5, 28.6, 28.7, and 28.8 to the California Water District Act, relating to the liability of districts organized under said act and the liability of officers, agents, and employees of said districts, and providing that such districts may insure against such liabilities. Stats 1913, p 815, amended

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.] In effect August 4, 1943

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

SECTION 1. Section 28.5 is added to the California Water District Act, to read: New section

Sec. 28.5. No officer of a district organized under this act shall be personally liable for any damage resulting from the operation of the district or from the negligence or misconduct of any of its officers or employees, unless the damage was proximately caused by the officer's own negligence, misconduct, or wilful violation of official duty. Liability of officer for damage

No officer or agent shall be liable for the negligence of any agent or employee appointed or hired by him unless he had actual notice that the person appointed or hired was inefficient or incompetent to perform the service for which he was appointed or hired or retains the inefficient or incompetent person after actual notice of the inefficiency or incompetency.

SEC. 2. Section 28.6 is added to said act, to read: New section

Sec. 28.6. Whenever it is claimed that any person or property has been injured or damaged as a result of any dangerous Claim for damages

or defective condition of any property under the control of any district or its officers or employees or the negligence of any officer or employee of a district, a verified claim for damages shall be presented in writing and filed with the officers or employees involved and the secretary within 90 days after the accident or injury has occurred. Such claim shall specify the name and address of the claimant, the date and place of the accident or injury, and the nature and extent of the injury or damages claimed. The foregoing shall be a condition precedent to the filing or maintaining of any action for said injury or damages. In any case where an officer of any such district shall be held liable for any act or omission done or omitted in his official capacity and any judgment shall be rendered thereon, the district shall pay the judgment without obligation for repayment thereof by such officer.

Presentation

Condition precedent

Payment of judgment

New section

Creation of liability

SEC. 3. Section 28.7 is added to said act, to read:

Sec. 28.7. Nothing in Sections 28.5 and 28.6 of this act shall be construed as creating any liability unless it would have existed regardless of said sections.

New section

Liability insurance

SEC. 4. Section 28.8 is added to said act, to read:

Sec. 28.8. Any district organized under this act may carry and pay for insurance to cover any liability of the district, its officers, employees, or any of them.

CHAPTER 493

Stats 1933, p 394, amended

An act to add Section 1176.5 to the Fish and Game Code, relating to falcons and pigeons, declaring the urgency hereof, to take effect immediately.

In effect immediately

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

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

New section

SECTION 1. Section 1176.5 is added to the Fish and Game Code, to read:

Falcons

1176.5. It is unlawful to train falcons by the use of pigeons. Any person who violates this section is guilty of a misdemeanor.

Urgency

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

Carrier pigeons are being increasingly trained and used to carry important messages related to the war effort. Falcons destroy carrier pigeons. It is necessary for the preservation of public peace, health and safety that the use of falcons be prohibited.

CHAPTER 494

An act to amend Section 21.5 of the Municipal Court Act of 1925, relating to mileage of judges of the municipal court in any city or city and county of the first and one-half class.

Stats 1925, p 648, amended

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 21.5 of the act cited in the title is amended to read:

Stats 1941, p 1689

Sec. 21.5. In addition to the salaries in this act provided, the judges of the municipal court in any city or city and county of the first and one-half class shall be allowed traveling expenses of seven cents ($0.07) per mile, when the business of the court shall require their attendance in any department of the court, situated at a greater distance than 12 miles from the principal office of the court; provided, such mileage allowance shall in no case be computed upon a greater distance than that between the principal office and such department of the court.

Traveling expenses

CHAPTER 495

An act to amend Section 11c of the Municipal Court Act of 1925, relating to municipal courts in cities of the second and three-eighths class, declaring the urgency thereof, to take effect immediately.

Stats 1925, p 648, amended

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

In effect immediately

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

SECTION 1. Section 11c of the act cited in the title is amended to read:

Stats 1941, p 1276

Sec. 11c. Whenever a municipal court is established in a city of the second and three-eighths class, the salaries of the judges, clerk, marshal, and other attaches, and the cost of all supplies, books, furniture and suitable quarters, except as hereinafter otherwise provided in this section, for carrying out their duties, including supplies and equipment for the preparation and maintenance of duplicate records of the court, or a division thereof when sessions are held at more than one place within the city wherein the court is established, shall be paid by the county in which the court is situated out of the municipal court fund, or, if there be no such fund, out of the county general fund.

Payment of expenses

The city, in addition to furnishing quarters and a city prosecutor, as hereinafter provided, shall reimburse the county for the costs upon the county for maintaining the court, other than furnishing quarters, including heat, light and janitorial service, in excess of thirty-three thousand dollars ($33,000)

Payments by city

per annum. Settlement in this connection between said county and city shall, so far as practicable, be made monthly. The amount to be repaid may be changed at any semiannual period by agreement between the governing bodies or authorized officers of the city and the county.

Quarters

The city in which the court is established shall provide and maintain suitable quarters for one department of the municipal court, including heat, light, and janitorial service, free of cost or charge to the county, and, without cost or charge to the county, shall assign city police officers to act as ex officio deputy marshals of the department and perform the duties and exercise the powers imposed or conferred upon deputy marshals.

City prosecutor

Whenever the charter of any city of the second and three-eighths class operating under a freeholders' charter creates the office of city prosecutor, or provides that a deputy city attorney shall act as city prosecutor, and charges such prosecutor with the duty of prosecuting misdemeanor offenses arising out of violations of the laws of this State, such city prosecutor shall prosecute all misdemeanors committed within the city which are within the jurisdiction of the municipal court of such city, and handle all appeals arising therefrom. He shall draw complaints for such misdemeanors, and shall prosecute all recognizances or bail bond forfeitures and all actions for the recovery of fines, penalties, and forfeitures arising or resulting from the commission of such offenses. In addition, he shall perform such other duties as may be prescribed by law.

Transportation for marshals, etc.

All marshals, assistants, and deputies shall be allowed, in addition to their salary, while in the actual performance of their duty, mileage at the same rate per mile fixed by the county board of supervisors for the operation of automobiles actually used in the performance of county business or public duty, or the board of supervisors may provide such other means of transportation for the marshals, assistants, and deputies as it may determine.

Disposition of fees

All officers and attaches above named shall charge and collect for the use of the county and pay into its county treasury, on or before the fifth day of each month, the fees now or hereafter provided by law in all cases except where such fees are a charge against the county.

All fines, forfeitures, deposits in court, and unclaimed bail shall be disposed of as provided in Section 1463 of the Penal Code, and in Sections 770 and 771 of the Vehicle Code, so far as they are applicable.

Succession to office, benefits and privileges

Every person who succeeds to any office or position in the municipal court by virtue of any of the provisions of this act shall continue in office and be entitled to all the benefits and privileges, not inconsistent herewith, which attached to any such person by virtue of his office or position in any superseded inferior court.

Retirement

All officers and attaches of the municipal court shall remain members of the retirement system in which they respectively

were members immediately preceding the date at which the municipal court began to function. That is to say, that all officers and employees who at that time were members of the retirement system of the city in which a municipal court is established shall remain as members thereof; that all officers and attaches who were members of a county retirement system established under the provisions of an act entitled: "An act to provide for the creation and establishment and adjustment with other such systems, of a retirement system for employees of the several counties and districts as defined herein, and attaches of municipal courts, consisting of retirement compensation and death benefits." Approved June 30, 1937 (Statutes 1937, p. 1898), shall remain as members thereof, each group shall remain as members of their respective systems as of July 1, 1942. Each person who after that date of July 1, 1942, entered the employ of such court, or who shall hereafter enter such employ, becomes a member of the county retirement system on the first day of the month after his entrance into the service of such court.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore take effect immediately, and Section 1 shall become operative on July 1, 1943. A statement of the facts constituting such necessity is as follows:

That the marshals and deputies are not, under the present law, provided or entitled to be provided with any method of transportation to serve civil and criminal processes, which threatens to interfere with the orderly process of the municipal courts, thereby endangering the public peace, health, and safety of the citizens of the counties in which such courts are situated, and, further, the county and city budgets for the fiscal year are being prepared and it is necessary for the proper functioning and administration of the municipal courts that said budget be prepared in accordance with the provisions of this act.

CHAPTER 496

An act to amend Section 11b of the Municipal Court Act of 1925, relating to municipal courts in cities of the second and three-eighths class.

Stats 1925, p 648, amended

[Approved by Governor May 15, 1943 Filed with Secretary of State May 15, 1943.]

In effect August 4, 1943

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

Stats 1941, p 1276

SECTION 1. Section 11b of the act cited in the title is amended to read:

Cities of 2½ class (Sacramento) Judges, etc

11b. The municipal court in a city or city and county of the second and three-eighths class shall be constituted, and

the judges, officers, and attaches thereof shall receive compensation, as follows:

(a) There shall be three judges, each of whom shall receive five thousand dollars ($5,000) per annum, payable in equal monthly installments.

(b) There shall be one clerk, to be appointed by the judges of the court, who shall be the secretary of the court, and who shall receive two hundred sixty-five dollars ($265) per month.

The clerk shall appoint the following:

One chief deputy clerk, who shall receive two hundred fifty-five dollars ($255) per month;

One court clerk, who shall receive one hundred ninety-eight dollars and seventy-five cents ($198.75) per month;

Two deputy clerks, one of whom shall receive one hundred ninety-five dollars ($195) per month, and one of whom shall receive one hundred eighty dollars ($180) per month;

One deputy clerk, who shall receive one hundred sixty dollars ($160) per month;

One senior stenographer-clerk, who shall receive one hundred sixty dollars ($160) per month;

One deputy clerk, who shall be a stenographer, who shall receive one hundred sixty dollars ($160) per month; and

One clerk, who shall receive one hundred forty dollars ($140) per month.

(c) There shall be one marshal, to be appointed by the judges of the court, who shall receive two hundred forty dollars ($240) per month.

The marshal shall appoint the following:

One assistant marshal, who shall receive two hundred fifteen dollars ($215) per month;

One chief deputy marshal and one deputy marshal, each of whom shall receive one hundred ninety dollars ($190) per month; and

One deputy marshal who shall be a stenographer-clerk, who shall receive one hundred sixty dollars ($160) per month.

CHAPTER 497

An act to amend Section 4300f of the Political Code, relating to jurors' fees in municipal courts.

In effect August 4, 1943

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

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

Stats 1937, p 484

SECTION 1. Section 4300f of the Political Code is hereby amended to read as follows:

Jurors' fees

4300f. Jurors' fees, except as in this title otherwise provided:

For attending, as a grand juror or juror in the superior court or municipal court, for each day's attendance, per day, two dollars ($2).

For attending justice courts, and city courts of cities of the fifth and sixth class, for each juror sworn to try the cause, per day, two dollars ($2).

For each mile actually traveled in attending court as a juror, in going only, per mile, fifteen cents ($0.15).

The jurors' fees herein provided to be paid in criminal cases in justice and municipal courts shall be county charges where the cause is tried in a municipal or township court; in all other cases said fees shall be proper charges against the municipality in which such court is located; provided, however, anything herein to the contrary notwithstanding, that, in any criminal case in an inferior court in which any fine or forfeiture which would accrue would be payable to the treasurer of the county in which such court is located, then the sums required by law to be paid to the trial jurors, if any, and witnesses in said case, shall be county charges.

CHAPTER 498

An act to amend Sections 2353, 2705, and 5556 of the Elections Code, relating to the time for opening and closing the polls.

Stats 1939, p 49 amended

[Approved by Governor May 15, 1943 Filed with Secretary of State May 15, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 2353 of the Elections Code is amended to read:

Stats 1941, p 2974

2353. The notice of the list of candidates published by the county clerk shall be in substantially the following form:

Form for notice of list of candidates

NOTICE BY COUNTY CLERK OF TIME AND PLACE OF PRESIDENTIAL PRIMARY ELECTION, POLITICAL PARTIES ENTITLED TO PARTICIPATE THEREIN, AND NAMES AND ADDRESSES OF CANDIDATES FOR DELEGATE

Notice is hereby given that a presidential primary election is to be held in the county of_____on Tuesday, the_____ day of May, 19___, and that hereinafter under the designation of each of the political parties entitled to participate therein there is stated the name and address of each person for whom nomination papers have been filed in the office of the Secretary of State and who is entitled to be voted for, at the election, as delegate to the next National convention of that party under which his name appears; and that under the name of each party, and under the name of the person for whom a preference as nominee of that party for President has been expressed, there is stated the name of each of those candidates for delegate who has filed a statement of preference for that

person and has been indorsed as required by law, and who may be voted for as one of a group:

LIST OF CANDIDATES

_____Party

Candidates Preferring Name Address Top of Group	Candidates Preferring Name Address Top of Group	Candidates Preferring Name Address Top of Group
1_____	1_____	1_____
2_____	2_____	2_____
3_____	3_____	3_____
etc._____	etc._____	etc._____

_____Party

_____(etc., as above with each political party.)

Notice is also hereby given that at the presidential primary the polls will be open from the hour of 7 o'clock a.m. to the hour of 7 o'clock p.m. on the day thereof, and that during those hours the election will be held at the legally designated polling places in each precinct in the county, which are as follows:

City of_____

(Name or number of precinct) (Location of Polling Place)

Precinct _____
Precinct _____
Town of_____
Precinct _____
_____Township (outside of city)
Precinct _____
Dated this_____day of_____, 19___.

_____, County Clerk.

Stats 1939, p 49
Form for list of candidates and notice of election

SEC. 2. Section 2705 of the said code is amended to read:

2705. The list of candidates and notice of election published by the county clerk shall be in substantially the following form:

NOTICE BY COUNTY CLERK OF TIME AND PLACE OF PRIMARY ELECTION, POLITICAL PARTIES ENTITLED TO PARTICIPATE THEREIN, OFFICES FOR WHICH CANDIDATES ARE TO BE NOMINATED OR ELECTED, AND NAMES AND ADDRESSES OF CANDIDATES

Notice is hereby given that a primary election is to be held in the county of_____ on Tuesday, the_____day of August, 19___, and that hereinafter under the designation of each of the political parties entitled to participate therein there is stated the title of each office to be voted on, and the

name and address of each person for whom a nomination paper has been filed for each office and who is entitled to be voted for in this county, the name of each person being stated under the name of the party or principle he represents.

_____PARTY

STATE (AND DISTRICT) OFFICES

(Title of Office)	(Name of candidate)	(Post-office address of candidate)
_____	_____	_____
_____	_____	_____
_____	_____	_____

_____District.

CONGRESSIONAL OFFICES

_____	_____	_____
_____	_____	_____

_____District.

LEGISLATIVE OFFICES

_____	_____	_____
_____	_____	_____

_____District.

MEMBERS OF COUNTY CENTRAL COMMITTEE

Member of County Central Committee

_____

_____District.

_____to be elected.

_____	_____
_____	_____

Member of County Central Committee

_____

_____District.

_____to be elected.

_____	_____
_____	_____

_____PARTY

STATE (AND DISTRICT) OFFICES

Notice is also hereby given that following are the nonpartisan offices for which candidates are to be nominated at the primary election, together with the names and addresses of all persons for whom nomination papers have been filed for each office, and that candidates for these offices may be voted for, at the primary election, by any voter of this county, whether

registered as intending to affiliate with any political party or not.

NONPARTISAN OFFICES

JUDICIAL OFFICES

(Title of office)	(Name of candidate)	(Post-office address of candidate)
----------	----------	----------
----------	----------	----------
----------	----------	----------
----------District.		
----------	----------	----------
----------	----------	----------
----------Township.		

SCHOOL OFFICES

----------	----------	----------
----------	----------	----------
----------	----------	----------

COUNTY AND TOWNSHIP OFFICES

----------	----------	----------
----------	----------	----------
----------	----------	----------
----------Supervisor District.		
----------	----------	----------
----------Township.		

Notice is also hereby given that at the primary election the polls will be open from the hour of 7 o'clock a.m. to the hour of 7 o'clock p.m. on the day thereof, and that during those hours the election will be held at the legally designated polling places in each precinct in this county, which are as follows:

	City of----------
(Name or number of precinct)	(Location of Polling place)
Precinct----------	----------
Precinct----------	----------
	Town of----------
Precinct----------	----------
----------Township	(Outside of city)
Precinct----------	----------

Dated this--------day of--------, 19----.

----------, County Clerk.

Stats 1939, p 49

Time for opening and closing of polls

SEC. 3. Section 5556 of the said code is amended to read:

5556. The polls shall be opened at 7 o'clock a.m. of the day of any election, including any primary election, and shall be kept open until 7 o'clock p.m. of the same day, when the polls shall be closed, except as provided in Section 5734.

CHAPTER 499

An act to amend Section 4246 of the Political Code, relating to compensation for public services in counties of the seventeenth class.

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.] In effect August 1, 1943

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

SECTION 1. Section 4246 of the Political Code is amended to read: Stats. 1941, p. 2811

4246. In counties of the seventeenth class, the following shall receive as compensation for the services required of them by law, or by virtue of their offices, the following sums: Monterey County salaries

1. The county auditor, three thousand six hundred dollars ($3,600) per annum; provided further, that in the event the county auditor shall serve as, and perform the duties of, the county purchasing agent, he shall receive, as full compensation for such services, the sum of eight hundred fifty-five dollars ($855) per annum. Auditor

2. The district attorney, four thousand eight hundred dollars ($4,800) per annum; provided, that the district attorney shall be allowed the amount of his actual and necessary traveling and other expenses, when incurred in connection with the prosecution of criminals, within the county. District attorney

3. Each supervisor, the sum of one thousand two hundred dollars ($1,200) per annum, together with the sum of four hundred fifty dollars ($450) each per annum, for his duties as road commissioner He shall be allowed mileage at the rate of seven cents ($0.07) per mile in going from his residence to the county seat and returning at each session of the board. Where necessary official business requires any supervisor to travel beyond the boundaries of the county he shall receive actual necessary traveling expenses incurred therefor. No other mileage or remuneration and no other traveling expenses shall be allowed. Supervisor

4. Grand jurors and trial jurors in the superior court shall receive for each day's attendance three dollars ($3), and for every mile actually traveled in attending court as such juror, in going only, fourteen cents ($0.14). Jurors

CHAPTER 500

An act to amend Section 4248 of the Political Code, relating to compensation of public officers.

In effect August 4 1943

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

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

Stats 1911, p 2833

SECTION 1. Section 4248 of the Political Code is amended to read:

Ventura County salaries

4248. In counties of the nineteenth class the following shall receive as full compensation for the services required of them by law or by virtue of their offices, the following sums:

Auditor

1. The auditor, four thousand eight hundred dollars ($4,800) per annum.

District attorney

2. The district attorney, six thousand two hundred fifty dollars ($6,250) per annum and actual traveling expenses while away from his office on county business, and when traveling in his own car, the district attorney shall receive six cents ($0.06) per mile for each mile actually traveled. The district attorney shall not personally engage in the private practice of law.

Supervisor

3. Each supervisor, three thousand dollars ($3,000) per annum and his necessary expenses when attending to the business of the county. When traveling in his own car on county business, he shall receive six cents ($0.06) per mile for each mile actually traveled.

Jurors

4. For acting as a grand juror in the superior court, each juror shall be paid for each day's attendance upon regularly called grand jury meetings, committee meetings, or when appointed by the foreman of a grand jury to make individual investigations, the sum of five dollars ($5) per day. For every mile actually traveled as a grand juror in attending court, grand jury meetings, regularly called committee meetings or when properly appointed by the foreman of the grand jury to make individual investigations, six cents ($0.06) per mile for each mile actually traveled.

CHAPTER 501

Stats 1927, p 1728 amended

An act to amend an act entitled "An act to provide a stenographer and typist for judges of the superior courts and providing for their salaries and the payment thereof," approved May 31, 1927, relating to superior court stenographers and secretaries.

In effect August 4, 1943

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

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

Stats 1933, p 906

SECTION 1. Section 1 of the act cited in the title is amended to read:

Superior court stenographer or secretary

Section 1. In each county, and city and county, having a population of sixty-five thousand five hundred or over, and

where there is no jury commissioner provided, and having not more than two departments of the superior court in and for said county or city and county, the judges of the superior court in and for such county, or city and county, to assist the court in the transaction of the judicial business of said court may appoint one competent stenographer or secretary skilled in such work for each judge of the superior court in and for said county or city and county, whose duty it shall be to render such service as such judge may require each day; the salary of each such stenographer or secretary shall be one hundred forty dollars ($140) per month.

SEC. 2. Section 2 of said act is hereby amended to read as follows: Stats. 1933, p. 906

Sec. 2. The salaries and expenses hereinbefore provided for shall be paid in monthly installments out of the salary fund of the county, or city and county, or if there be no salary fund, then out of such fund as other salary demands against the county, or city and county are paid, and shall be allowed and audited in the same manner as other salary demands against the county, or city and county are required by law to be allowed and audited. Payment of salaries

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CHAPTER 502

An act to provide for extension of time on contracts of purchase of State-owned lands, declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.] In effect immediately

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

SECTION 1. If all interest due to the State under a contract for the purchase of State-owned lands is paid on or before June 15, 1943, the State Lands Commission may, in its discretion, and upon the application of the purchaser, extend the time for payment of the purchase price of such land to not later than five years after termination of hostilities between the United States and all countries with which the United States is at war, as determined by an Act of Congress or proclamation of the President of the United States. Extension of time

Whenever the time of payment shall be so extended the commission shall require that interest shall be paid on the unpaid balance of the contract and may require that periodic payments in an amount to be determined by the commission shall be made on account of the principal indebtedness. The extension agreement shall provide that the extension shall be terminated upon failure of the purchaser to pay the interest and to make payments on account of principal indebtedness as any are required. Payment of interest, etc

Urgency

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

A period of economic crisis and financial distress still exists in this State. Many of the purchasers of State lands are still unable to pay the full balance of the purchase price thereof, because of conditions beyond their control. To permit forfeiture of such lands at this time would be inequitable.

It is necessary for this act to take effect immediately to prevent the loss of lands and homes by a large number of school land purchasers.

CHAPTER 503

An act to amend Section 4287 and to repeal Section 4287a of the Political Code, relating to compensation for public services in counties of the fifty-eighth class.

In effect August 4, 1943

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

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

Stats. 1927, p. 898

SECTION 1. Section 4287 of the Political Code is amended to read:

Salaries in counties of 58th class

4287. In counties of the fifty-eighth class the following salaries and compensation shall be paid, to wit:

Auditor

1. The auditor, nine hundred dollars ($900) per annum.

District attorney

2. The district attorney, one thousand two hundred fifty dollars ($1,250) per annum.

Supervisors

3. Each supervisor, six dollars ($6) per day when the board is in session, and twenty cents ($0.20) per mile for traveling from his residence to the county seat, going only, and only one mileage shall be allowed for any regular session of the board; and when serving as road commissioner five dollars ($5) per day.

Grand jurors

4. Each grand juror in the superior court shall receive for each day's attendance three dollars ($3); for each mile actually traveled one way as such grand juror in the superior court on a summons or order of the court, thirty cents ($0.30). The per diem and mileage of the grand jurors shall be paid by the treasurer of the county out of the general fund of the county upon warrants drawn by the county auditor upon the written order of the judge of the superior court.

Stats. 1919, p. 141

SEC. 2 Section 4287a of the Political Code is repealed.

CHAPTER 504

An act to add Section 2.5 to an act entitled "An act making an appropriation to the Division of Forestry of the Department of Natural Resources, declaring the urgency thereof, to take effect immediately," approved January 28, 1942, relating to expenditures by the Division of Forestry of money appropriated for its support, to take effect immediately.

First Ex Sess 1941-42, Ch 7, amended

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

In effect immediately

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

SECTION 1. Section 2.5 is added to the act cited in the title hereof, to read:

New section

Sec. 2.5. If, at the effective date of this section, there remains any unexpended and unencumbered balance of the two million one hundred four thousand seven hundred ninety-nine dollars ($2,104,799) that may be expended only for "mobile pool of men and equipment" under Section 2 of this act, such balance may also be expended by the Division of Forestry, Department of Natural Resources, for regular fire control and Winter stand-by protection, in addition to any other money that may be expended by the division for such purposes.

Expenditures for fire control, etc

SEC. 2. This act, inasmuch as it provides for an appropriation for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution of the State of California, take effect immediately.

Current expenses

CHAPTER 505

An act to amend Section 737d of the Political Code, relating to salary of the judge of the Superior Court in and for the County of Butte.

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 737d of the Political Code is amended to read:

Stats 1941, p 2156

737d. The annual salary of the judge of the Superior Court in and for the County of Butte is seven thousand five hundred dollars ($7,500).

Superior judge Butte

CHAPTER 506

An act to amend Section 4240 of the Political Code, relating to compensation for public services in counties of the eleventh class.

In effect August 4, 1943

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

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

Stats 1941, p 1855

SECTION 1. Section 4240 of the Political Code is amended to read:

Orange County salaries

4240. In counties of the eleventh class the following shall receive as compensation for the services required of them by law, or by virtue of their office, the following sums:

Auditor

1. The auditor, three thousand six hundred dollars ($3,600) per annum.

District attorney

2. The district attorney, five thousand dollars ($5,000) per annum for his full time services. While in receipt of this salary, the district attorney shall not engage in the private practice of the law.

Supervisors

3. Each supervisor shall receive three thousand dollars ($3,000) per annum, payable in monthly installments, and the necessary and actual expenses incurred by him while engaged in county business outside of his own district, not exceeding in the aggregate the sum of two hundred dollars ($200) per annum.

Jurors

4. In counties of this class grand and trial jurors, in superior courts shall receive for each day's attendance, in court, or upon regularly called jury meetings, or committee meetings, or when appointed by the foreman of a grand jury to make individual investigations per day, the sum of three dollars ($3). In justice courts in civil cases, jurors shall receive for each day's attendance, per day, the sum of two dollars ($2). In justice courts and city courts in criminal cases jurors shall receive for each day's attendance, per day, the sum of one dollar and fifty cents ($1.50) and all jurors shall receive for each mile actually and necessarily traveled from their residences to the place of service, in going only, the sum of ten cents ($0.10) per mile, such mileage to be allowed but once during the trial of any single cause and in any event not more than once in any one day, during any session of the court where such jurors serve; provided, however, that the fees of all trial jurors in civil cases shall be paid by the litigants as other costs are paid, and jurors in criminal cases in city court shall be paid by the municipality in which such court is or may be established.

Application

SEC. 2. The changes made by this act in the compensation of each of those officers whose compensation is subject to the provisions of Section 4240 of the Political Code shall not apply to his compensation until the expiration of his present term of office and, from the effective date of this act to the time that

his term expires, the provisions of law applicable to his compensation prior to the enactment of this act shall, notwithstanding this act, continue to apply to his compensation.

CHAPTER 507

An act to add Section 37b to the Reclamation Board Act, relating to flood control and the advancement to the United States of funds to be used therefor, declaring the urgency of this act, to take effect immediately.

Stats 1911, First Ex Sess, p. 117, amended

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

In effect immediately

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

SECTION 1. Section 37b is hereby added to the Reclamation Board Act, to read as follows:

New section

Sec. 37b. The Reclamation Board in its discretion may advance funds in amounts that it determines to be necessary or advisable from the Joint Navigation and Flood Control Project Fund to the United States for receipt and expenditure by the Secretary of War in accordance with an act of the Seventy-sixth Congress, Third Session, approved October 15, 1940, Chapter 884, Public Law No. 857, in the immediate prosecution of the work of the plan referred to in Section 37a of this act for controlling the flood waters of the Sacramento and San Joaquin rivers and their tributaries and for the improvement and preservation of navigation and the reclamation and protection of lands that are susceptible to overflow from the Sacramento and San Joaquin rivers and their tributaries. Advances repaid on or after January 1, 1943, pursuant to the act of Congress cited in this section shall be credited to the General Fund.

Advancement of funds to U S

Repaid advances

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

Urgency

Moneys for necessary work of the Reclamation Board have been provided through other appropriations and unless this measure is approved, approximately seven hundred thousand dollars ($700,000) will be paid into the Joint Navigation and Flood Control Project Fund in excess of that which the Legislature has determined is necessary to finance adequately the work to be undertaken by the Reclamation Board. Therefore, upon repayment from the Federal Government of such money advanced, the money should be paid into the General Fund.

CHAPTER 508

Stats 1937, p 1229, amended

An act to repeal Article 7, comprising Sections 4160 to 4162, inclusive, of Chapter 9, Division 2 of the Business and Professions Code, relating to pharmacy.

In effect August 4, 1943

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

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

Repeal See also Stats 1943, Ch 510

SECTION 1. Article 7, comprising Sections 4160 to 4162, inclusive, of Chapter 9, Division 2 of the Business and Professions Code is repealed.

CHAPTER 509

Stats 1935, p 248, amended

An act authorizing the investment of surplus funds of any bridge and highway district in bonds, obligations and securities and legalizing all such investments heretofore made, and authorizing such bridge and highway districts to use such surplus funds for the refunding or partial refunding of any existing bonded indebtedness of bridge and highway districts and to add Section 27154 to the Streets and Highways Code for the same purposes, declaring the urgency of this act, to take effect immediately.

In effect August 4, 1943

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

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

Investment of surplus funds

SECTION 1. Notwithstanding any contrary provision of law, or any limitation or restriction contained in any other law, the board of directors of a bridge and highway district, incorporated under the act of May 25, 1923, of the State of California, is hereby authorized and empowered to invest and reinvest all or any part of lapsed, unallocated, unappropriated or other surplus moneys belonging to any fund of which the board has custody or control in bonds and other obligations for which the faith and credit of the United States of America are pledged or in any obligation, bond or security approved by the Superintendent of Banks as legal for investment by savings banks. All such investments heretofore made are legalized. Such board of directors is authorized and empowered also to use all or any part of lapsed, unallocated, unappropriated or other surplus moneys of said bridge and highway district for the refunding or partial refunding or purchase of any existing bonded indebtedness against such bridge and highway district. The interest or income from any funds so invested

Prior investments

may be made a part of the fund from which the investment was made and may itself be so invested.

No investment shall be made pursuant to this section except in negotiable bonds or negotiable obligations.

SEC. 2. Section 27154 is added to the Streets and Highways Code, to read: New section

27154. Notwithstanding any contrary provision of law, or any limitation or restriction contained in any law, the board may: Powers of board

(a) Invest and reinvest all or any part of lapsed, unallocated, unappropriated or other surplus moneys belonging to any fund of which the board has custody or control in bonds and other obligations for which the faith and credit of the United States of America are pledged or in any obligation, bond or security approved by the Superintendent of Banks as legal for investment by savings banks. All such investments heretofore made are legalized. Investment of surplus funds

(b) Use all or any part of lapsed, unallocated, unappropriated or other surplus moneys of the district for the refunding or partial refunding or purchase of any existing bonded indebtedness against the district. Refunding

The interest or income from any funds invested under this section may be made a part of the fund from which the investment was made and may itself be so invested.

No investment shall be made pursuant to this section except in negotiable bonds or negotiable obligations.

SEC. 3. Section 2 of this act becomes operative only if Part 3 is added to Division 16 of the Streets and Highways Code by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as Part 3 takes effect; at which time Section 1 of this act is hereby repealed. Effect Stats 1943, Ch. 286 Repeal

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

This act provides for the investment of public funds in bonds and obligations of the United States and will aid in the successful prosecution of the war and in so doing will promote the public peace and safety of this State. Inasmuch as the United States is now making great efforts to dispose of billions of dollars worth of government securities it is necessary that this act take immediate effect in order to assist the present program of the Federal Government.

CHAPTER 510

Stats. 1937, p 1229, amended

An act amending Sections 4006, 4030, 4036, 4090, 4091, 4135, 4196, 4231, 4232, 4233, 4250, 4255, and 4256 and to repeal Sections 4160, 4161, and 4162 of the Business and Professions Code, relating to licentiates in pharmacy.

In effect August 4, 1943

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

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

Stats 1937, p 1382

SECTION 1. Section 4006 of the Business and Professions Code is amended to read:

Register

4006. The secretary shall keep a book of registration open at the City of San Francisco in which shall be entered under supervision of the board the names, titles, qualifications, and places of business of all persons coming under the provisions of this chapter. He shall erase from the register the name of any registered pharmacist who has died or who, in the opinion of the board, has forfeited his right under the law to do business in this State.

Upon receipt of the notification of any change in the place of business the secretary shall make the necessary change in his register.

Stats 1937, p 1382

SEC. 2. Section 4030 of said code is amended to read:

Unlawful practice

4030. Except as otherwise provided in this chapter, it is unlawful for any person to manufacture, compound, sell or dispense any drug, poison, medicine or chemical, or to dispense or compound any prescription of a medical practitioner, unless he is a registered pharmacist under the provision of this chapter.

Stats 1937, p 1382

SEC. 3. Section 4036 of said code is amended to read:

Person in charge of pharmacy

4036. Every store, dispensary, pharmacy, laboratory or office for the sale, dispensing or compounding of drugs, medicines or chemicals, or for the dispensing of prescriptions of medical practitioners, shall be in charge of a registered pharmacist or a licentiate in pharmacy.

Stats. 1937, p 1382

SEC. 4. Section 4090 of said code is amended to read:

Applicants

4090. The board may examine and register as pharmacists all applicants whom it deems qualified.

Stats 1937, p 1382

SEC. 5. Section 4091 of said code is amended to read:

Qualifications

4091. Proof of the qualification for any registration shall be made to the satisfaction of the board and shall be substantiated by such affidavit or other evidence as may be required by the board.

Stats 1937, p 1382

SEC. 6. Section 4135 of said code is amended to read:

Licentiate in class four

4135. Registration as a licentiate in pharmacy, class four, shall be granted to any person at least 21 years of age, who has been registered as an assistant pharmacist in this State prior to September 1, 1943, and who has been actively engaged in the practice of pharmacy for the five years immediately preceding.

SEC. 7. Section 4196 of said code is amended to read: Stats 1937, p 1382

4196. Within 30 days after the changing of his place of business as designated on the books of the board, every registered pharmacist shall notify the secretary of the board of his place of business. Change in place of business

SEC. 8. Section 4231 of said code is amended to read: Stats 1937, p 1382

4231. Any person who permits the compounding of prescriptions of medical practitioners, or the selling of drugs and medicines in his store or pharmacy, except by a registered pharmacist, unless the same is expressly permitted by law, is guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in this chapter. Prescriptions

SEC. 9. Section 4232 of said code is amended to read: Stats 1937, p 1382

4232. Any proprietor of a pharmacy, who fails or neglects to place in charge of such pharmacy a registered pharmacist, or any proprietor, who by himself, or by any other person, permits the compounding of prescriptions, or the vending of drugs, medicines or poisons, in his store or place of business, except by a registered pharmacist, is guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in this chapter. Failure to have registered pharmacist in charge

SEC. 10. Section 4233 of said code is amended to read: Stats 1937, p 1382

4233. Any person, not being a registered pharmacist, who takes charge of, or acts as manager of any pharmacy or store, or who, not being a registered pharmacist retails, compounds, or dispenses drugs, medicines, or poisons is guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in this chapter. Person not registered pharmacist in charge

SEC. 11. Section 4250 of said code is amended to read: Stats 1937, p 1382

4250. Every person holding a certificate from the board shall renew annually his registration with the board. Every registered pharmacist who desires to retain his registration on the books of the board shall annually, after the expiration of the first year's registration and on or before the first day of July of each succeeding year, pay to the secretary of the board the renewal fee, fixed by the board, within the limits prescribed by this chapter. In return for the payment of the renewal fee, a renewal certificate of registration shall be issued. Renewal of registration Renewal fee

SEC. 12. Section 4255 of said code is amended to read: Stats 1937, p. 1382

4255. The amount of the fee for investigation and examination of applicant for registration together with the amount of any additional fee to be paid upon the issuance of the certificate is that fixed by the schedule in Section 4256. An applicant for registration by interchange may at his option be examined as a licentiate without further fee for application. Fee for investigation, etc

SEC. 13. Section 4256 of said code is amended to read: Stats 1937, p 1807

4256. The amount of fees and penalties prescribed by this chapter is that fixed by the following schedule: Fee schedule

(a) The fee for a permit to conduct a pharmacy is one dollar ($1) for each pharmacy.

(b) The fee for a renewal of the permit to conduct a pharmacy is one dollar ($1) for each pharmacy.

(c) The annual fee for a permit for a general dealer in a rural district is five dollars ($5).

(d) The fee for any applicant for registration is ten dollars ($10).

(e) The additional fee for the issuance of a certificate of registration to an applicant for registration by interchange, if the board finds that he is entitled to one, is fifteen dollars ($15).

(f) The additional fee for the issuance of a certificate to any licentiate, who is found by the board on examination to be entitled to a certificate, is five dollars ($5).

(g) The fee for a temporary certificate is three dollars ($3).

(h) The fee for the reissuance of a certificate is three dollars ($3).

(i) The annual renewal fee for a registered pharmacist may be fixed by the board at an amount not to exceed the sum of three dollars ($3).

(j) The penalty for failure to pay any annual renewal fee may be fixed by the board at an amount not to exceed the sum of ten dollars ($10).

Repeals

SEC. 14. Sections 4160, 4161, and 4162 of said code are repealed.

CHAPTER 511

An act to repeal Sections 4239, 4239a, 4239b, 4239c, 4239d, 4239e, 4239f, 4239g, 4239h, 4239i, 4239j, 4239k, 4239l, 4239m, 4239n, 4239o, 4239p, 4239q, 4239r, 4239s, 4239t, 4239u, 4239v, and 4239w of, and to add Sections 4239 and 4239.5 to, the Political Code, relating to compensation for public services in counties of the tenth class.

In effect August 4, 1943

[Approved by Governor May 15, 1943. Filed with Secretary of State May 15, 1943.]

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

Repeals

SECTION 1. Sections 4239, 4239a, 4239b, 4239c, 4239d, 4239e, 4239f, 4239g, 4239h, 4239i, 4239j, 4239k, 4239l, 4239m, 4239n, 4239o, 4239p, 4239q, 4239r, 4239s, 4239t, 4239u, 4239v, and 4239w of the Political Code are repealed.

New section

SEC. 2. Section 4239 is added to the Political Code, to read:

Salaries in counties of tenth class

4239. In counties of the tenth class, the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums:

Auditor

1. The auditor, four thousand two hundred dollars ($4,200) per annum.

District attorney

2. The district attorney, six thousand dollars ($6,000) per annum, and in addition his traveling and other personal expenses incurred in criminal cases arising in the county and in civil actions and proceedings in which the county is interested, and all other expenses necessarily incurred by him in

the detection of crime and the prosecution of criminal cases, and in civil actions and proceedings and all other matters in which the county is interested, all of which charges and expenses incurred by him shall be a legal charge against the county. The district attorney shall not personally engage in private practice during office hours, but this does not preclude him from nominal appearances in uncontested civil matters.

Supervisors

3. Each supervisor, two thousand seven hundred dollars ($2,700) per annum. In addition thereto, each member who uses a privately owned automobile in the discharge of necessary official duties as supervisor or as ex officio road commissioner, shall be paid six cents ($0.06) per mile for all mileage traveled within a radius of 200 miles from the county seat; for any one trip over 200 miles, six cents ($0.06) per mile for the first 200 miles of said trip, and three cents ($0.03) for each mile traveled in excess of the first 200 miles of said trip. In addition thereto, each member shall be allowed his actual and necessary traveling expenses including meals and lodging, when required to leave the county on official county business.

Jurors

4. Each trial juror for attendance in the superior court shall be allowed three dollars ($3) for each day's attendance, and said trial juror shall be allowed mileage at the rate of seven cents ($0.07) per mile for each and every mile actually and necessarily traveled in attending upon and returning from court, said mileage to be computed for daily attendance, irrespective of whether said daily attendance covers one or more sessions of court.

5. Each member of the grand jury shall be allowed three dollars ($3) for each day in attendance upon the sessions of the grand jury or for each day's service as a member of any committee of the grand jury. Each grand juror shall be allowed mileage at the rate of seven cents ($0.07) per mile for each and every mile actually and necessarily traveled in attendance upon and returning from meetings of the grand jury, or any session of a grand jury committee, duly called by the secretary, or committee chairman.

New section

SEC. 3. Section 4239.5 is added to said code, to read:

Chairman of board of supervisors

4239.5. In counties of the tenth class, the chairman of the board of supervisors shall receive, in addition to the compensation provided by Section 4239, the sum of three hundred dollars ($300) per year for services rendered as chairman of the board of supervisors.

CHAPTER 512

An act to amend Section 231 of the Code of Civil Procedure, relating to the manner of summoning jurors for courts not of record.

In effect August 4, 1943

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

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

Stats 1941, p 2654

SECTION 1. Section 231 of the Code of Civil Procedure is amended to read:

Summoning jurors in justices' and police courts

231. Such jurors must be summoned from the list of persons prepared, as hereinafter stated, by notifying each orally that he is summoned and of the time and place at which his attendance is required, or by leaving a written notice to that effect at his place of residence with some person of proper age, or by mailing such notices by registered mail.

Order

In the month of January in each year it shall be the duty of each justice's court, and of each police or other inferior court in this State, to make an order designating the estimated number of trial jurors that will, in the opinion of the court, be required for the transaction of the business of the court, and the trial of causes therein during the ensuing year. Any such court may make additional orders during the year designating the estimated number of trial jurors that will, in the opinion of the court, be required for the transaction of the business of the court, and the trial of causes therein during the balance of the year, or a portion thereof. Immediately after said order is made, the county clerk of the county in which said court is held shall select a list of men and women to serve as trial jurors in such court during the ensuing year, or until a new list of trial jurors shall be provided.

Selection

The selections and lists shall be made of persons suitable and competent to serve as jurors resident respectively in the township, city or town in which the court is established, and in making such selections the county clerk shall take the names of such only as are not exempt from serving, who are in the possession of their natural faculties, are not infirm or decrepit, of fair character and approved integrity, and of sound judgment. A list of the persons selected to serve as trial jurors in each such court, certified by the county clerk, shall at once be placed in the possession of and filed with such court. The persons whose names are so returned shall be known as regular jurors and shall serve for one year and until other persons are selected and returned.

List

Service

Attendance

Whenever the business of such court shall require the attendance of a trial jury, the justice or judge of the court,

or any one of the justices or judges, when there is more than one, may make an order directing the sheriff, constable, marshal, or policeman of the jurisdiction to summon trial jurors, as hereinabove provided.

Insufficient number

Whenever, after all the persons whose names appear upon the list of jurors of such a court, have been summoned, and there is not a sufficient number of competent jurors present, the court, or a justice or judge thereof, may direct the sheriff, constable, marshal, or policeman of the jurisdiction, to summon a sufficient number of persons having the qualifications of jurors from the body of the township, town or city, or, if these sources do not produce a sufficient number, county in which such court is established.

CHAPTER 513

An act to amend Section 3070 of the Labor Code, relating to the Apprenticeship Council.

Stats 1937, p. 185, amended

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 3070 of the Labor Code is amended to read:

Stats. 1941, p. 2611

3070. The Governor shall appoint an Apprenticeship Council, composed of four representatives each from employer and employee organizations, respectively, geographically selected, and of one representative of the general public. The Director of Industrial Relations and the State official who is in charge of trade and industrial education under authority of the State Board of Education shall also be members of the Apprenticeship Council. The chairman shall be elected by vote of the Apprenticeship Council. The terms of office of the members of the Apprenticeship Council first appointed shall expire as designated by the Governor at the time of making the appointment: Two representatives each of employers, employees, and the public representative shall serve until January 15, 1941. Two representatives each of the employers and employees shall serve until January 15, 1942. Thereafter each member shall serve for a term of two years. Any member appointed to fill a vacancy occurring prior to the expiration of the term of his predecessor shall be appointed for the remainder of said term. Each member of the council shall receive the sum of twenty dollars ($20) for each day of his actual attendance at meetings of the council, together with his actual and necessary traveling expenses incurred in connection therewith.

Apprenticeship council

CHAPTER 514

Stats 1921, p 245, amended

An act to add Section 30 to an act entitled "An act to provide for the organization, incorporation, and government of municipal utility districts, authorizing such districts to incur bonded indebtedness for the acquisition and construction of works and property, and to levy and collect taxes to pay the principal and interest thereon," approved May 23, 1921, relating to the exclusion of territory.

In effect August 4, 1943

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

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

New section

SECTION 1. Section 30 is added to the act cited in title hereof, to read:

Exclusion from district

Sec. 30. If the city to which any territory included in any municipal utility district has been annexed already serves electricity or water to the territory annexed, the city council or other governing body of the city may petition the municipal utility district for the exclusion of such territory from the district. The petition shall contain the information prescribed for petitions for exclusion under Section 29 of this act, a deposit for expenses shall be made as therein provided, and thereafter all proceedings shall be had as provided in said section for such petitions after filing.

Petition

Payment of taxes and debts on exclusion

If an order of exclusion is granted, the board of directors and the governing body of the city shall by contract provide for the payment by the city of the proportion of the taxes and bonded indebtedness to which the territory so excluded is justly liable. If they do not agree, either may petition the superior court in and for the county in which the property is located for a judgment declaring the proportion of the taxes and bonded indebtedness to which the territory excluded is justly liable. The proceeding shall be governed by the provisions of the Code of Civil Procedure relating to declaratory relief.

Taxes, etc., on lands excluded

The order of exclusion shall not invalidate in any manner any taxes or assessments theretofore levied or assessed against the lands so excluded nor relieve the property so excluded from any outstanding bonds which are a lien thereon at the time of exclusion, nor from any taxes to pay the principal or interest thereof.

CHAPTER 515

An act to amend Section 4 of an act entitled "An act authorizing the creation of a personnel system, merit system or civil service system in cities; the creation of the office of personnel director; the appointment of a civil service commission; the delegation of certain authority to said personnel officer or commission in municipalities within this State; and prohibiting certain political activities and providing penalties for the violation of said provisions," approved April 11, 1935, relative to circulation of petitions.

Stats 1935, p 380, amended

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 4 of the act cited in the title hereof is amended to read:

Stats 1935, p 380

Sec. 4. Any ordinance adopted by the legislative body of any municipality under the provisions of this act shall include the following provision and penalty: No person holding an office or place in any department placed by the legislative body under a merit system or civil service system, pursuant to the provisions of this act, shall seek or accept election, nomination or appointment as an officer of a political club or organization, or take an active part in a county or municipal political campaign, or serve as a member of a committee of such club or organization or circle, or seek signatures to any petition provided for by any law, except as hereinafter provided, or act as a worker at the polls, or distribute badges or pamphlets, dodgers or handbills of any kind favoring or opposing any candidate for election, or for nomination to a public office, whether county or municipal; provided, however, that nothing in this act shall be construed to prevent any such officer or employee from becoming or continuing to be a member of a political club or organization, or from attendance at a political meeting, or from enjoying entire freedom from all interference in casting his vote or from seeking or accepting election or appointment to public office, or to prevent any such officer or employees from seeking signatures to any initiative or referendum petition directly affecting rates of pay, hours of work, retirement, civil service or other working conditions of such officer or employee, or from distributing badges or pamphlets, dodgers or handbills, or other participation in any campaign in connection with such petition, providing such activity is not carried on during hours of work, or when such officer or employee is dressed in the uniform, if any, required in any department of the city government.

Required provision in ordinance

Any wilful violation thereof or violation through culpable negligence, shall be sufficient grounds to authorize the discharge of any officer or employee.

CHAPTER 516

California Agricultural Products Marketing Act of 1943

An act to establish legislative standards in relation to the rehabilitation of agriculture and the regulation of producers, packers, distributors, shippers, marketers, handlers, processors and others dealing in agricultural, viticultural, and horticultural products; to provide for the issuance, administration and enforcement of State marketing agreements and marketing orders in connection therewith; to prescribe the powers, duties and jurisdiction of the State Director of Agriculture in relation thereto; to provide that State marketing agreements and marketing orders shall be and establish standards of fair competition in this State; to suspend all antitrust and unfair competition laws of this State in conflict herewith and therewith; to prescribe remedies, rights, duties and penalties with respect to violations hereof and thereof; to provide ways, means and moneys for the administration and enforcement of said State marketing agreements and marketing orders; to declare the urgency of this act and that this act shall take effect immediately.

In effect immediately

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

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

Legislative intent

SECTION 1. The unreasonable waste and inefficient use of agricultural resources occasioned by the marketing within the State of California of greater quantities of agricultural commodities than are reasonably necessary to supply the demands of the market and the disorderly marketing thereof are opposed to public interest. The difficulty inherent in any attempt of individuals to correlate within a reasonable degree the market supply of any agricultural commodity to current consumer demand within the State prevents such correlation and creates chaotic economic conditions in agricultural areas of the State. In the interest of the public welfare and general prosperity of the State, the unreasonable waste and inefficient use of agricultural resources should be eliminated, while at the same time preserving to all agricultural producers an equality of opportunity.

Definitions

SEC. 2. When used in this act the following terms shall, unless the context otherwise indicates, have the following respective meanings:

(1) "Agricultural commodity" means any and all agricultural, horticultural, viticultural and vegetable products of the soil, either in their natural or processed state, bees and honey, produced in this State, but does not include timber and timber products.

(2) "Producer" means any person engaged within this State in growing for market any agricultural commodity.

(3) "Handler" means any person engaged in handling an agricultural commodity.

(4) "To handle" means to market in intrastate commerce, any agricultural commodity, excepting the marketing of any agricultural commodity by a producer thereof to another person for the purpose of grading, processing, packing, or otherwise preparing such agricultural commodity for movement into the channels of trade.

(5) "Marketing order" means an order issued by the Director of Agriculture, pursuant to this act, governing the handling of any agricultural commodity within this State.

(6) "Intrastate commerce" means all commerce other than that which is in the current of interstate or foreign commerce or which directly burdens, affects or obstructs interstate or foreign commerce.

(7) "Person" means an individual, partnership, corporation, association or any other business unit.

(8) "Director" means the Director of Agriculture of the State of California.

(9) "Cartwright Act" means Chapter 2, Part 2, Division 7, of the Business and Professions Code.

(10) "Fair Trade Act" means Chapter 3, Part 2, Division 7, of the Business and Professions Code.

(11) "Unfair Practices Act" means Chapter 4, Part 2, Division 7, of the Business and Professions Code.

Application of act

SEC. 3. The provisions of this act shall apply only to those agricultural commodities, the movement of which into interstate commerce is regulated or controlled by marketing agreements or marketing orders executed or issued under laws of the United States.

Powers of director

SEC. 4. Subject to the provisions of this act, the director is hereby authorized and empowered to enter into marketing agreements with, issue marketing orders to, and enforce the provisions of such marketing agreements or marketing orders upon, persons engaged in transactions of intrastate commerce within this State in the handling of any agricultural commodity.

Proposed agreement or order Notice

SEC. 5. Whenever the director has reason to believe that the execution of a marketing agreement or the issuance of a marketing order, or both, will tend to effectuate the declared policy of this act with respect to any agricultural commodity, he shall either upon his own motion or upon application of any producer or handler of such commodity give due notice of and an opportunity for hearing upon a proposed marketing agreement or marketing order, or both. Such notice shall be given by posting at the office of the director at Sacramento and by mailing a copy of such notice to the last known address of all handlers affected by such agreement or marketing order whose names appear upon the most recent lists in the office of the director. Such notice shall also be mailed to any such person who shall have filed with the director a request for such notice.

Hearing

Such hearing shall be held within the State of California. At said hearing the director shall receive and hear the evidence offered by any interested person in support of or in opposition

to the execution of such marketing agreement or the issuance of such marketing order. All evidence and exhibits used by the director or introduced at such hearing shall within a reasonable time after being so used or so introduced be available at a central point to all interested parties. Such hearings may be adjourned from time to time and from place to place in the discretion of the director. A transcript of the proceedings at such hearings shall be made by the director and shall be open for inspection by any interested party.

Finding of facts

SEC. 6. If upon such hearing it shall be found by the director that the following facts actually exist:

1. The supply of the commodity available for marketing exceeds or is likely to exceed the demand therefor at prices which will provide a reasonable return to producers of such commodity;

2. The return to producers of such commodity will tend to be increased through the operation of the proposed marketing plan;

3. The proposed marketing agreement or marketing order may be administered without permitting unreasonable profits to producers of such commodity and without unreasonably enhancing prices of such commodity to consumers;

4. The proposed marketing agreement or marketing order will tend to prevent disorderly marketing of agricultural products within the State;

5. The proposed marketing agreement or marketing order will tend to provide consumers with a more stable and adequate supply of agricultural commodities;

6. The proposed marketing agreement or marketing order will tend to establish or maintain such relationship between the quantity of the particular agricultural commodity marketed and the demands of the market for such commodity as will tend to continue in production such volume of such commodity as is probable will be needed over a reasonably long period of time to supply the requirements of such commodity and to provide an adequate standard of living to the farm operator and his family;

he shall make written findings to that effect, and execute such marketing agreement or issue such marketing order, or both. If the director shall find against the existence of any of the facts required to be present under this section, he shall not execute such marketing agreement or issue such marketing order.

Terms and conditions of agreements or orders

SEC. 7. Marketing agreements executed and marketing orders issued pursuant to this act shall contain one or more of the following terms and conditions and no others, except as provided in Section 8 of this act:

(1) Limiting, or providing methods for the limitation of the total quantity of any agricultural commodity, or of any grade, size or quality thereof, which may be marketed, or transported to market, in intrastate commerce during any specified period or periods, by all handlers thereof.

(2) Allotting, or providing methods for allotting, the amount of such commodity, or any grade, size, or quality thereof, which each handler may purchase from, or handle on behalf of, any and all producers thereof, in intrastate commerce, during any specified period or periods, under a uniform rule based upon the amounts produced or sold by such producers in such prior period as the director determines to be representative, or upon the current production or sales of such producers, or both, to the end that the total quantity thereof to be so purchased or handled during any specified period or periods shall be apportioned equitably among current producers.

(3) Allotting, or providing methods for allotting, the amount of any such commodity, or any grade, size or quality thereof, which each handler may market or transport to market, in intrastate commerce, during any specified period or periods, under a uniform rule based upon the amounts of such commodity, or any grade, size or quality thereof, which each such handler has available for current shipment, or upon the amounts shipped by each such handler in such prior period as the director determines to be representative, or both, to the end that the total quantity of such commodity, or any grade, size, or quality thereof, to be marketed or transported to market in intrastate commerce during any specified period or periods shall be equitably apportioned among all of the handlers thereof.

(4) Determining, or providing methods for determining, the existence and extent of the surplus of any such commodity or product, or of any grade, size, or quality thereof, and providing for the control and disposition of such surplus but so as not to burden or obstruct interstate or foreign commerce in such commodity, and for equalizing the burden of such surplus elimination or control among the producers and handlers thereof.

(5) Establishing, or providing for the establishment of, reserve or surplus pools of any such commodity or of any grade, size, or quality thereof, or the representative value of such commodity or of any grade, size, or quality thereof, and providing for the equitable distribution of the net return derived from the sale thereof among the persons beneficially interested therein.

(6) Establishing uniform grading standards of quality, condition, appearance, size or pack for any such commodity and providing for the grading and inspection and regulation of handling of such commodity in accordance with such grading standards so established. Such grading standards for any such commodity shall not be established below any minimum standards prescribed by law for such commodity.

(7) Limiting, or providing methods for the limitation of, the period or periods in which handlers may engage in handling any such agricultural commodity or variety thereof.

(8) Determining or providing methods for determining in any marketing agreement the amount which any signatory violating any of the provisions of such marketing agreement may be required to pay to other signatories thereto as liquidated damages for such violation.

(9) Providing for a program to adjust the commercial production of any agricultural commodity by means of tree or vine removal, including methods for financing such program by the acceptance of Federal or State funds available for this purpose or by levying a uniform assessment upon all production or marketing subject to such marketing agreement or order, or by both methods, and for the disbursement of the funds so obtained to those growers who qualify for payments under such production adjustment program Tree or vine removal under such program shall be voluntary and a grower shall be deemed qualified to receive payment who, upon application to the administrative committee selected pursuant to this act and approval of such application, removes trees or vines as specified in the program and otherwise conforms with the provisions thereof. Each application shall be considered and approved or disapproved in whole or in part, within the limits of the funds available, so as most effectively to accomplish the purpose of the program. No program of production adjustment devised hereunder shall authorize payments for the removal of such trees or vines of the species or variety specified in the program as have averaged during the three immediately preceding years an annual yield per acre in excess of the comparably computed average yield from bearing trees or vines of the same species or variety for the State as a whole, such yields and averages to be determined by the administrative committee from official Federal and State statistical data or such other sources as are deemed by it to be competent and reliable. All actions of the administrative committee under such program shall be subject to review and approval or disapproval of the director.

Administrative committees

SEC. 8. (1) Marketing agreements executed and marketing orders issued under this act shall provide for the selection by the director, or a method for the selection by the director, of an administrative committee or committees and defining their powers and duties. The exercise of such powers and duties shall be subject to veto by the director and shall be limited:

Powers

(a) To administering such marketing agreement or marketing order in accordance with its terms and provisions;

(b) To making rules and regulations to effectuate the terms and provisions of such marketing agreement or marketing order;

(c) To receiving, investigating and reporting to the director, complaints of violations of such marketing agreement or marketing order;

(d) To recommending to the director amendments to such marketing agreement or marketing order;

(e) To collecting from each handler fees or assessments representing his pro rata share of such estimated expenses as the director, after the submission to him by such administrative agency or agencies of a proposed budget, finds will probably be required to cover expenditures necessarily to be incurred by such agency or agencies, during any period specified by him, for the maintenance and functioning of such agency or agencies; to receiving, expending and accounting for the funds so collected, and to return to such handler his pro rata share of any unexpended balances which are not so required. The fees or assessments provided for herein shall not exceed 1½ per cent in the aggregate, of the gross dollar volume of sales, of the agricultural commodity regulated, by all handlers during the marketing season next preceding the execution of any marketing agreement or the issuance of any marketing order pursuant to this act.

(2) Marketing agreements executed and marketing orders issued under this act may:

(a) Prohibit unfair methods of competition and unfair trade practices in the handling of agricultural commodities regulated by such marketing agreements or marketing orders;

(b) Contain any other terms and conditions incidental to, and not inconsistent with, the terms and conditions specified in Sections, 7 and 8 and necessary to effectuate the other provisions of such marketing agreement or marketing order.

Execution of agreements and orders

SEC. 9. Pursuant to the provisions of this act, the director may, with respect to any given commodity, either execute a marketing agreement without issuing a marketing order, issue a marketing order without executing a marketing agreement, or both issue a marketing order and execute a marketing agreement.

When order effective

No marketing order issued pursuant to this act shall become effective (a) unless and until handlers, who, during a representative period determined by the director, handled not less than 65 per cent of the volume of the commodity regulated by such marketing order, or not less than 65 per cent of the number of handlers, who, during a representative period determined by the director, were engaged in handling such commodity, have assented thereto in writing, and (b) unless and until the director determines that the issuance of such marketing order is approved or favored, (1) by at least 65 per cent of the producers who, during a representative period determined by the director, have been engaged in the production for market of the commodity regulated by such marketing order, or, (2) by producers who, during such representative period, have produced for market at least 65 per cent of the volume of such commodity produced for market and regulated by such marketing order.

Representative period

Such representative period may by the director be determined to be the next preceding crop season prior to the holding of said hearing, or may be such other representative period as the director may determine.

Determination of approval of order

In the determination of whether the issuance of such marketing order is approved or favored pursuant to the provisions of this section, the director shall consider the approval or disapproval by any nonprofit agricultural cooperative marketing association, either federated or nonfederated, which is bona fide engaged in the marketing of the commodity covered by such marketing order, as the approval or disapproval of the producers who are members of, stockholders in, or under contract with such nonprofit agricultural cooperative marketing association either directly, or indirectly through affiliates federated together as provided in this section. By the term "Federated Nonprofit Agricultural Cooperative Marketing Association" is meant a nonprofit agricultural cooperative marketing association whose members are in whole or in part (1) nonprofit agricultural cooperative marketing associations of producers, or persons representing such associations, or (2) nonprofit cooperative agricultural marketing associations whose members are nonprofit agricultural cooperative marketing associations or persons representing such associations.

Execution of approval

Such approval, when executed by such nonprofit cooperative marketing association may be executed in the name of such association and need not set forth the names of the producers on whose behalf it signs.

Issuance of orders

SEC. 10. (1) Whenever a marketing order is issued hereunder to any member of a class of persons, an identical marketing order shall be issued to all members of the same class of persons.

Notice

(2) Upon the issuance of any marketing order or any amendment thereof, a notice of said marketing order or amendment shall be posted on a public bulletin board to be maintained by the Director of Agriculture in his office and a copy of such notice shall be published in a newspaper of general circulation published in the capital of the State and in such other paper or papers as the Director of Agriculture may prescribe. No marketing order or any amendment thereof shall become effective until five (5) days after such posting and publication. It shall also be the duty of the director to mail a copy of the notice of said marketing order to all known persons subject thereto whose names and addresses may be on file in the office of the director and to every person who files in the office of the director a written request for such notice.

Termination or suspension of agreement or order

SEC. 11. (1) Whenever, upon his own investigation, or otherwise, the director finds that any marketing agreement executed or marketing order issued under this act or any provision thereof obstructs or does not tend to effectuate the declared policy of this act, he shall terminate, or suspend for a specified period, the operation of such marketing agreement or marketing order or such provision thereof.

(2) If the director finds that the termination of any marketing order or marketing agreement is favored by a majority of the producers who, during such representative period determined by the director, have been engaged in the production

within the State of California for marketing of the commodity specified in such marketing agreement or marketing order, and who during such representative period, produced for market more than fifty per cent (50%) of the volume of such commodity produced for market within the State of California, or produced within the State of California for marketing elsewhere, the director may, if he finds the marketing agreement or marketing order then obstructs or does not tend to carry out the declared policy of this act, terminate, or suspend for a specified period, such marketing agreement or marketing order or any term or provision thereof, but such termination shall be effective only if announced on or before such date (prior to the end of the then current marketing period) as may be specified in such marketing agreement or marketing order.

Amendment of order

SEC. 12. Whenever the director shall have reason to believe that an amendment of any marketing agreement or marketing order is necessary or desirable in order to effectuate the policy of this act, he shall call a hearing upon such amendment. Such hearing shall be held in the same manner and upon the same notice as upon an original marketing agreement or marketing order. The notice of hearing shall refer by name and date of execution or issuance to the agreement or marketing order, or both, to which the amendment is proposed. At such hearing the director shall receive and hear evidence offered for and against the proposed amendment by any interested person.

Notice and hearing

Findings of facts

If upon such hearing upon said proposed amendment it shall be found by the director that the following facts actually exist:

1. The proposed amendment will not prevent such marketing agreement and marketing order, or either, from meeting the requirements of Section 6 of this act;

2. The proposed amendment will tend to facilitate the administration of such marketing agreement and marketing order, or will enable such marketing agreement and marketing order to better meet the requirements of Section 6 of this act; he shall make written findings to that effect and execute such amendment to such marketing agreement or issue such amendment to such marketing order, or both. If the director shall find against the existence of any of the facts required to be present under this section, he shall not execute such amendment to such marketing agreement or issue such amendment to such marketing order. Such findings, if against the existence of any such facts, shall in no way impair or affect the marketing agreement or marketing order to which said amendment was proposed.

In considering such amendment, the director shall take into consideration the evidence presented at the original hearing on the marketing agreement or marketing order to which such amendment is proposed and upon any prior amendment thereto.

Approval

No amendment to any marketing agreement shall be effective as to any signatory, until approved in writing by such signatory. If not so approved by such signatory within 10 days after its issuance by the director, such signatory shall be deemed no longer a party to such marketing agreement.

No amendment to a marketing order shall be effective until approved in the same manner as required by Section 9 of this act for the original marketing order to which such amendment was proposed.

Rules and regulations

SEC. 13. The Director of Agriculture may adopt and enforce all rules and regulations necessary or desirable to carry out the provisions of this act and not inconsistent with

Posting

law. Every general rule or regulation of the director shall be posted for public inspection in the main office of the director and in the office of the Secretary of State at least three days before it shall become effective, and shall be given such further publicity, by advertisement in a newspaper of general circulation in the territory affected by the issuance of such rule or regulation, or otherwise as the director shall deem

Service

advisable. A rule or regulation applying only to a person or persons named therein shall be served on the person or persons affected: (1) by personal delivery of a certified copy; or (2) by mailing a certified copy in a sealed envelope with postage prepaid to each natural person or in the case of a corporation in like manner to any officer or agent thereof. Compliance with these provisions shall constitute due and sufficient notice to all persons affected by such rule or regulation. The director shall upon request mail to any person affected by any general rule or regulation promulgated by him, a copy of the same and may charge a reasonable fee therefor.

Books and records

SEC. 14. (1) All persons subject to a marketing agreement or marketing order executed or issued hereunder shall maintain books and records reflecting their operations under said marketing agreement or marketing order and shall furnish to the Director of Agriculture, or his duly authorized or designated representatives, such information as may be requested by them relating to operations under said marketing agreement and marketing order, and shall permit the inspection by said director or his duly authorized or designated representatives, of such portions of such books and records as relate to operations under the said marketing agreement and marketing order.

Confidential information

(2) Information obtained by any person hereunder shall be confidential and shall not be by him disclosed to any other person except in a court proceeding under this act, or to a person with like right to obtain such information, or any attorney representing the State or an administrative agency created hereunder, in connection with the execution or enforcement of this act or any marketing agreement or marketing order issued hereunder.

(3) For the purpose of carrying out the terms of this act the director may hold hearings, take testimony, administer oaths, subpena witnesses and issue subpenas for the production of relevant books, records or documents of any kind. Hearings, etc

(4) No person shall be excused from attending and testifying or from producing documentary evidence before the director in obedience to the subpena of the director on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may be so required to testify, or produce evidence, documentary or otherwise, before the director in obedience to a subpena issued by him; provided, that no natural person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying. Witnesses Immunity

SEC. 15. The director may confer and cooperate with the legally constituted authorities of other States and of the United States, in order to secure uniformity in the administration of Federal and State marketing agreements, statutes, or orders and in the regulations thereby prescribed, and said Director of Agriculture shall have power to conduct hearings jointly with the Secretary of Agriculture of the United States, and may exercise his powers under this act to effect such uniformity of administration and regulation not inconsistent with the provisions of this act. Cooperation

SEC. 16. (1) Every person who violates any provision of any marketing agreement or marketing order to which he is subject shall be guilty of a misdemeanor and on conviction thereof, punished by a fine of not less than fifty dollars ($50) or more than five hundred dollars ($500), or by imprisonment of not less than 10 days or more than six months, or by both such fine and imprisonment. Each day during which any of the violations above referred to continue shall constitute a separate offense. Penalties: Criminal

(2) Any person exceeding any quota, allotment, or salable percentage fixed for him by or under any marketing agreement executed, or marketing order issued, by the director, or any amendment thereto, or any rule or regulation duly made or promulgated thereunder, or who shall make any shipment without first obtaining a required allotment or quota or qualifying to ship his salable percentage, or any other person knowingly participating or aiding in so doing shall become civilly liable to the State in a sum equal to three times the current market value of any excess or shipment, such sum to be recoverable in a civil suit, brought in the name of the State or in the name of the administrative agency under the particular marketing agreement or marketing order involved. The funds so collected shall be used in the administration of the particular marketing agreement or marketing order. Civil

Injunction

(3) The Attorney General of this State, or any district attorney of this State, may, upon his own initiative, and shall upon complaint of any person, if after investigation he believes a violation to have occurred, bring an action in the name of the people of this State in the superior court of the State of California for an injunction against any person violating any provisions of any marketing agreement or marketing order, or rule or regulation duly made or promulgated thereunder, to which he is subject.

(4) Any administrative agency under any marketing agreement or marketing order may, with the approval of the director, bring an action similar to that described in paragraph (2) of this section.

(5) In any action brought to enforce any of the provisions of this act, as provided in this section:

(a) Upon compliance with Section 527 of the Code of Civil Procedure of the State of California, the court may issue a temporary restraining order and preliminary injunction as in other actions for injunctive relief and upon the trial of such action, if judgment be in favor of plaintiff, the court shall permanently enjoin defendant from further violations.

(b) The judgment, if in favor of the plaintiff, shall provide that the defendant pay to the plaintiff a reasonable attorney's fee and any and all costs of suit.

(c) Any such action may be commenced either in the county where any defendant resides, or where any act or omission or part thereof complained of occurred.

(6) The penalties and remedies herein prescribed with regard to any violation mentioned in this section shall be concurrent and neither singly or combined shall the same be exclusive and either singly or combined the same shall be cumulative with any and all other civil, criminal or administrative rights, remedies, forfeitures or penalties provided or allowed by law with respect to any such violation.

Assessment or fee

SEC. 17. (1) Any assessment or fee duly fixed and levied pursuant to any such marketing agreement or marketing order, in accordance with Section 8 of this act, shall constitute a personal debt of every person so assessed and shall be immediately due and payable to the administrative agency charged with the collection thereof and the latter may in its own name, with the approval of the director, bring an action in a State court of competent jurisdiction for the collection thereof.

Reports on use of fees and assessments

(2) Any funds collected by the administrative agency from the levying of such fees and assessments shall be used for the purpose set forth in the marketing agreement or marketing order under which it was collected. A full and complete record thereof shall be kept to which the director may have access at any time, and a report of the activities and proceedings shall be filed with the director from time to time as the director may require.

(3) Every application for a marketing agreement and marketing order submitted to the director for approval shall be accompanied by a filing fee of one hundred dollars ($100) and shall be accompanied by a deposit from the applicant in such amount as the director may deem necessary to defray the expenses of preparing and making effective such marketing agreement and marketing order. Said director shall thereafter require the appropriate board charged with the collection of funds for expenses, to deposit monthly with the Department of Agriculture the amount deemed sufficient by the director to defray the actual expenses incurred during the subsequent month by the Department of Agriculture in the administration and enforcement of any such marketing agreement or marketing order. Filing fees and payments for administration

(4) Within thirty (30) days prior to each regular session of the Legislature, the director shall submit to the Governor a full and true report of transactions under this act during the preceding biennium, including a complete statement of receipts and expenditures during the period and shall submit quarterly to the administrative agency under each marketing agreement or marketing order a complete statement of receipts and expenditures in connection with each such marketing agreement or marketing order during the quarter. Report to Governor

(5) The director is authorized to receive from any source, money or other value for services rendered, or as a gift, for use in work within or to carry out the purposes hereof. Contributions

(6) Any money received by the director under this act shall be deposited in the Department of Agriculture Fund and shall be available for expenditure by the director in carrying out the provisions of this act pursuant to the provisions of this act. Disposition of money

SEC. 18. (1) In any civil or criminal action or proceeding for violation of the Cartwright Act, the Unfair Practices Act, the Fair Trade Act, Section 1873 of the Civil Code, or any rule of statutory or common law against monopolies or combinations in restraint of trade, proof that the act complained of was done in compliance with the provisions of this act or a marketing agreement or marketing order under this act and in furtherance of the purposes and provisions of the act, shall be a complete defense to such action or proceeding. Defense

(2) The members of any administrative agency or any other board, committee, authority or body created pursuant to a marketing agreement or marketing order issued pursuant to this act, including the employees thereof, shall not be held responsible individually in any way whatsoever to any handler or producer or any other person for error in judgment, mistake or other acts either of commission or omission as such person or employee except for their own individual acts of dishonesty, and no such person or employee shall be Individual responsibility

held responsible individually for any act or omission of any other member of any such administrative agency, board, committee, authority or body. The liability of the members of such administrative agency, board, committee, authority or body is several and not joint and no member shall be liable for the default of any other member.

Common carrier

(3) A common carrier, as such, shall not be criminally or civilly liable under this act for violation thereof by a consignor or consignee, where such common carrier accepts a shipment of an agricultural commodity without knowledge of the unlawful character of such shipment, and provided a record of every such shipment within or from this State is kept by such common carrier showing the date of shipment, character and quantity of shipment, origin and destination of such shipment, and the names of the consignor and consignee. Such records shall be open to inspection at all reasonable hours by or on the written order of the director.

Constitutionality

SEC. 19. If any section, sentence, clause or part of this act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed this act and each section, sentence, clause and part thereof despite the fact that one or more sections, sentences, clauses or parts thereof be declared unconstitutional.

Other acts

SEC. 20. No marketing agreement or license heretofore executed or issued by the Director of Agriculture is affected by this act. This act shall not be construed to modify or repeal any other act or acts relating to the same or different subject matter and shall be construed as an entirely separate and independent enactment.

Short title

SEC. 21. This act may be known and cited as the "California Agricultural Products Marketing Act of 1943."

Urgency

SEC. 22. This act is hereby declared to be an urgency measure necessary for the immediate preservation of public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of this State, and shall, therefore, go into immediate effect. A statement of the facts constituting such necessity is as follows:

The necessity for orderly and stabilized marketing of agricultural products is imperative in order that the efforts of producers of such products may be concentrated upon production in the interests of the war effort. Unless uncertainty as to the law and regulations under which agricultural commodities are marketed is removed the agricultural industry affected by this act will be demoralized and vitally needed production will be hampered. Such relief can be afforded only by the orderly production and marketing of agricultural products and the establishment of marketing agreements and marketing orders which assure stabilized and orderly distribution of agricultural products which can not otherwise be so marketed.

CHAPTER 517

An act to add Section 103¾ to the Code of Civil Procedure, relating to clerks in justices' courts of Class A.

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.] In effect August 4, 1943

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

SECTION 1. Section 103¾ is added to the Code of Civil Procedure, to read: New section

103¾. The board of supervisors may provide for a clerk in any justice's court of Class A in any township wherein no other provision is made by law for a clerk. Such clerk shall be appointed by the justice of the peace of the court subject to the approval of the board of supervisors and shall hold office during the pleasure of said justice. Such clerk shall have the powers set forth in Section 103a. Clerk in Class A justice's court

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CHAPTER 518

An act to add Section 511.4 to the Vehicle Code, relating to reduction of speed on State highways within cities. Stats 1935, p 93, amended

[Approved by Governor May 17, 1943 Filed with Secretary of State May 17, 1943.] In effect August 4, 1943

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

SECTION 1. Section 511.4 is hereby added to the Vehicle Code, to read: New section

511.4. Reduction of Speed on State Highways Within Cities. Whenever the Department of Public Works determines upon the basis of an engineering and traffic survey that the prima facie limit of 55 miles per hour is more than is reasonable or safe upon any portion of a State highway within the incorporated limits of any city or city and county where such prima facie limit of 55 miles per hour is applicable under this code, the department may determine and declare a prima facie speed limit of 45 miles per hour or 35 miles per hour whichever is found most appropriate to facilitate the orderly movement of traffic and is reasonable and safe, which declared prima facie speed limit shall be effective when appropriate signs giving notice thereof are erected upon said highway. Notwithstanding the provisions of Section 511.3, local authorities shall not exercise the powers conferred upon the State Department of Public Works by this section. Prima facie speed limit

CHAPTER 519

An act to add Section 1428b to the Penal Code, relating to the destruction of old records in municipal courts.

In effect August 4, 1943

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

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

New section

SECTION 1. Section 1428b is hereby added to the Penal Code, to read as follows:

Destruction of records

1428b. All papers and records filed or kept in criminal proceedings in municipal courts other than the docket, minutes, and exhibits may, upon the order of the presiding judge of any such court, be destroyed after the lapse of five years following the final determination of the proceeding or the forfeiture of bail in cases in which no other proceedings are had during a like period following such forfeiture.

CHAPTER 520

Stats. 1925, p. 648, amended

An act to amend Section 7c of the Municipal Court Act of 1925, relating to municipal courts in cities of the first and one-half class.

In effect August 4, 1943

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

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

Stats. 1941, p. 2967

SECTION 1. Section 7c of the act cited in the title hereof is hereby amended to read as follows:

Court commissioners

Sec. 7c. The judges of the municipal court in cities of the first and one-half class shall appoint as many commissioners, not exceeding four, as the business of the court may require, each of whom shall possess the same qualifications as are required by law to be possessed by a judge, and who shall, within the jurisdiction of the court, exercise all of the powers and perform all of the duties authorized by law to be performed by like officers in any court of this State. Such commissioners shall hold office at the pleasure of the judges. The clerk and any of his deputies, if they possess the same qualifications as are required by law to be possessed by a judge, shall be eligible for appointment as such commissioner and may perform the duties of said office in addition to his duties as such clerk or deputy, and while acting as such commissioner shall receive the compensation provided by law for his services as such clerk or deputy, together with such additional sum, if any, as will equal the aggregate sum of four hundred dollars ($400) per month. Such appointment shall in no way affect or prejudice the status, tenure, or right to compensation of such clerk or deputy with respect to his position as such clerk or deputy

CHAPTER 521

An act to add Section 17 to the Agricultural Code, relating to the effect of headings upon the interpretation of the provisions of said code.

Stats 1933, p 60, amended

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 17 is added to the Agricultural Code, to read:

New section

17. Division, part, chapter, article, and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning, or intent of the provisions of any division, part, chapter, article, or section hereof.

Effect of headings

CHAPTER 522

An act to amend Section 422 of the Probate Code, relating to the administration of estates of persons dying intestate.

Stats 1931, p 587, amended

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 422 of the Probate Code is hereby amended to read as follows:

Stats 1931, p 587

422. Administration of the estate of a person dying intestate must be granted to one or more of the following persons, who are entitled to letters in the following order, the relatives of the decedent being entitled to priority only when they are entitled to succeed to the estate or some portion thereof:

Order of priority in issuance of letters

(1) The surviving spouse, or some competent person whom he or she may request to have appointed.

(2) The children.

(3) The grandchildren.

(4) The parents.

(5) The brothers and sisters.

(6) The next of kin entitled to share in the estate.

(7) The relatives of a previously deceased spouse, when such relatives are entitled to succeed to some portion of the estate.

(8) The public administrator.

(9) The creditors.

(10) Any person legally competent.

CHAPTER 523

Stats 1931, p 587, amended

An act to add Section 4 to the Probate Code, relating to the effect of headings upon the interpretation of the provisions of said code.

In effect August 4, 1943

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

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

New sect on Effect of headings

SECTION 1. Section 4 is added to the Probate Code, to read:

4. Division, part, chapter, article, and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning, or intent of the provisions of any division, part, chapter, article, or section hereof.

CHAPTER 524

Stats. 1933, p. 394, amended

An act to add Section 3 to the Fish and Game Code, relating to the effect of headings upon the interpretation of the provisions of said code.

In effect August 4, 1943

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

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

New section

SECTION 1. Section 3 is added to the Fish and Game Code, to read:

Effect of headings

3. Division, part, chapter, article, and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning, or intent of the provisions of any division, part, chapter, article, or section hereof.

CHAPTER 525

Stats. 1933, p. 394, amended

An act to amend Section 34 of the Fish and Game Code, relating to cultural operations and scientific investigations in the waters of the State of California.

In effect August 4, 1943

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

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

Stats 1933, p 394

SECTION 1. Section 34 of the Fish and Game Code is amended to read:

U S Director of Fish and Wildlife Service

34. The United States Director of Fish and Wildlife Service and his duly authorized agents may conduct fish cultural operations and scientific investigations in the waters of this State in such manner and at such times as may be jointly considered necessary and proper by the director and his agents, and the commission.

CHAPTER 526

An act to add Chapter 7 to Division 6 of the Agricultural Code, relating to contracts for the sale of agricultural products.

Stats 1933, p. 60, amended

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

In effect August 4, 1943

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

SECTION 1. Chapter 7, consisting of Section 1280, is added to Division 6 of the Agricultural Code, to read:

New chapter

CHAPTER 7. MARKETING OF EDIBLE NUTS

1280. All contracts for the sale of edible nuts, not in actual existence or ready for immediate delivery, shall be in writing and shall state the full purchase price to be paid in accordance with the terms of the contract, and must state the price in a definite sum and, if the price is to be paid upon the basis of units of weight or measure, shall specify or describe such unit and state the full unit price. Any purchaser of edible nuts delivered pursuant to a contract in violation of this section shall be liable to the seller for the reasonable value of such nuts as of time of delivery and in addition thereto shall be liable to the seller for a penalty of twice such reasonable value of such nuts. This section shall not be applicable to contracts between members and cooperative agricultural marketing associations operating under and by virtue of the laws of this State, or of any other State, or the District of Columbia or the United States.

Written contract

Exception

SEC. 2. It is the public policy of this State and in the furtherance of the public interest to encourage production of agricultural products. A free and unmanipulated price level for edible nuts and a fair return to the grower for his productive effort are necessary to encourage and increase production. The Legislature hereby declares that this act will encourage and increase such production and that this act is enacted in furtherance of the policy expressed in this section.

Policy

CHAPTER 527

An act to amend Section 494 of the Civil Code, relating to the sale of property and franchises of railroad corporations.

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 494 of the Civil Code is amended to read:

Stats 1927, p. 1198

494. Subject to the provisions of the Public Utilities Act, any railroad corporation, person or persons, firm or corporation, owning any railroad in this State, may sell, convey, and

Sale of property and franchise to another railroad

transfer its property and franchises, or any part thereof, to any other railroad corporation, whether organized under the laws of this State or of any other State or Territory, or under any act of Congress; and any other such railroad corporation receiving such conveyance may hold and operate such railroad franchises and property within this State, build and operate extensions and branches thereof, and thereunto exercise the right of eminent domain, and do any other business in connection therewith, as fully and effectually to all intents and purposes as if such corporation were organized under the laws of this State.

Consent of stockholders

Provided, that no such sale, conveyance or transfer of all or substantially all of its property and franchises shall be valid without the consent of stockholders of the vendor corporation holding of record at least two-thirds of the issued capital stock of said corporation, such consent to be either expressed in writing, executed by the consenting stockholders and attached to the original, or one of the duplicate originals of such sale, conveyance or transfer, or by a vote at a stockholders' meeting of such vendor corporation called for that purpose, or by such vote at any regular or adjourned regular meeting of stockholders; and such conveyance or transfer shall be recorded in the office of the county recorder of each county in this State in which the whole or any part of the railroad or real estate so sold, conveyed or transferred may be situated; provided, further, that no sale or conveyance or transfer under this act shall relieve the franchise or property sold, conveyed or transferred from the liability of the grantor contracted or incurred in the operation, use or enjoyment of such franchise, or any of its privileges.

Record of conveyance

Grantor's liability

Increase of rates

And provided, further, that any or all established rates for fares and tolls for carrying passengers or freight between any points upon any railroad purchased under the provisions of this act, shall not be increased without the consent of the governmental authority in which is vested by law the power to regulate fares and freights; and provided, further, that whenever a railroad corporation, which has purchased any line of road under this act, shall for the purpose of competing with any other common carrier lower its rates for transportation of passengers or freight from one point to another upon such line purchased, such reduced rates shall not be again raised or increased from such standard without the consent of the governmental authority in which shall be vested the power to regulate fares and freights.

Reduction of rates

Penalty

And provided, further, that for every violation of the provisions of this section on the part of directors or governing officers of said corporation, the State shall be entitled to recover from such offending railroad company the sum of ten thousand dollars ($10,000).

Duty of Attorney General

It is hereby declared to be the duty of the Attorney General of the State, in the event of any such violation, to demand and collect from such company the said penalty; and he is hereby

authorized and empowered to prosecute all the necessary actions in the name of the people of the State of California against such company in the courts of the State. All moneys so collected shall be paid into the General Fund of this State.

CHAPTER 528

An act to amend Section 39 of the Fish and Game Code, relating to migratory birds.

Stats 1933, p 394, amended

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 39 of the Fish and Game Code is amended to read:

Stats 1941, p 2788

39. Notwithstanding any other provisions of this code, the commission may, annually, promulgate rules and regulations pertaining to migratory birds to conform with the rules and regulations prescribed pursuant to the Migratory Bird Treaty Act. The violation of any of the provisions of such rules and regulations as herein provided shall be a misdemeanor and is punishable by a fine of not less than twenty-five dollars ($25) nor more than five hundred dollars ($500), or by imprisonment in the county jail for not less than 10 days nor more than six months, or by both such fine and imprisonment.

Rules and regulations Migratory birds

CHAPTER 529

An act to amend Section 8.1 of the Metropolitan Water District Act, relating to district taxation.

Stats 1927, p 694, amended

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 8.1 of the Metropolitan Water District Act is amended to read:

Stats 1939, p 1778

Sec. 8.1. For the purpose of assessing and collecting, under the provisions of Section 9 (a) of Article XIII of the Constitution of the State of California, the taxes levied by any district incorporated hereunder, the rate for taxes levied for the preceding tax year, as such phrase is employed in said section of the Constitution, shall be the rate fixed for such preceding tax year by the board of directors of such district pursuant to Section 8, subdivision (b) of this act. In the event that any city, pursuant to the provisions of Section 8, subdivision (d) of this act, shall elect to pay the whole or any portion of the amount of taxes to be derived from the area of the district within such city, as such amount shall have been

Tax rate

Refund

fixed by resolution of the board of directors, a refund shall be made by the district to each taxpayer thereof who shall have theretofore paid any tax collected under the provisions of said section of the Constitution, in the proportion that such city shall have so elected to pay the amount so to be derived. The board of directors shall adopt regulations providing for the presentation and audit and payment of claims for such refunds. No claim for such refund shall be granted unless such claim shall have been filed within one year from the date when the right to such refund shall have accrued.

Payment of taxes out of municipal funds

On or before the first Monday in February in any year the governing body of any city may declare its intention to pay out of its municipal funds the whole of the amount of taxes to be derived from the area of the district within such city, as such amount shall be fixed in the next succeeding August by resolution of the board of directors of the district. Such declaration of intention shall be made by order upon motion, which order shall be certified to the controller of the district and shall recite that such city, pursuant to the provisions of Section 8, subdivision (d) of this act and at the time and in the manner there provided, will elect to pay the whole of the amount of taxes of the district to be derived from such city as so fixed in said resolution of the board of directors of the district. Concurrently with the certification to the controller of the district of said declaration of intention, the city shall transmit to the controller a statement showing its financial condition, the funds from which it is intended that such payment will be made and the sources of revenue to be used therefor. If it appears that the financial condition of such city reasonably will assure such payment, the controller of the district shall accept such declaration of intention. On or before the last Monday in February of that year he shall so notify the county assessor of the county wherein such city is situated, or other officer whose duty it is to collect taxes under the provisions of said Section 9 (a) of Article XIII of the Constitution of the State of California, and thereupon said county assessor or other officer shall not collect in such city under said section any such taxes for the benefit of such district prior to the next ensuing first day of September. If any city whose declaration of intention has been so accepted shall fail to make its intended election at the time and in the manner provided in Section 8, subdivision (d) of this act and in compliance with all applicable requirements, the controller of the district, on or before the first day of September, shall so notify the county auditor of the county in which such city shall lie and thereupon the county assessor or county tax collector of said county or other officer whose duty it then is to collect such taxes, forthwith shall collect for the benefit of said district such taxes under the provisions of said Section 9 (a) of Article XIII of the Constitution of the State of California; provided, that no penalties shall attach to such taxes as are collected by the first day of December.

CHAPTER 530

An act to add Sections 2168.5 and 2316.5 to the Business and Professions Code, relating to the proof of the completion of instruction and training requirements to practice medicine.

Stats. 1937, p. 1229, amended

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 2168.5 is added to the Business and Professions Code, to read:

New section

2168.5. Every applicant shall prove that a diploma or other evidence of final, successful and entire completion of instruction and training required by a school approved by the board has been issued to him.

Diploma

SEC. 2. Section 2316.5 is added to said code, to read:

New section

2316.5. An applicant for a reciprocity certificate shall prove that a diploma or other evidence of final, successful and entire completion of instruction and training required by a school approved by the board was a condition precedent to his admission to the examination for the license upon which his application for a certificate in this State is based.

Applicant for reciprocity certificate

CHAPTER 531

An act to repeal Sections 22900, 22901, 22902, 22903, 22904, 22905, and 22906 of the Water Code, relating to the distribution of electric power in irrigation districts containing 500,000 acres or more.

Stats 1943, Ch 368, amended

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

In effect August 4, 1943

Note.—See Stats. 1943, Ch 368.

CHAPTER 532

An act to amend Section 22950 of the Water Code, relating to assessments in irrigation districts containing 500,000 acres or more.

Stats 1943, Ch 368, amended

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

In effect August 4, 1943

Note.—See Stats. 1943, Ch 368.

CHAPTER 533

Stats 1935, p 496, amended

An act to amend Sections 10170 and 10171 of the Insurance Code, relating to life insurance.

In effect August 4, 1943

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

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

Stats 1935, p 496

SECTION 1. Section 10170 of the Insurance Code is hereby amended to read as follows:

Payment

10170. An insurance upon life may be made payable:

(a) On the death of the insured.

(b) On his surviving a specified period.

(c) Periodically as long as he lives.

(d) Otherwise contingently on the continuance or determination of life.

(e) Upon such terms and conditions and subject to such restrictions as to revocation by the policyholder and control by beneficiaries as shall have been agreed to in writing by the insurer and the policyholder. If no terms and conditions have been agreed to by the insurer and the policyholder during the insured's lifetime then upon such terms and conditions and subject to such restrictions as may be agreed to in writing by the insurer and the beneficiaries. No such agreement hereafter made shall vest in the insurer discretion as to the conditions, time, amount, manner or method of payment. The relationship between the insurer and the policyholder or beneficiaries under any such agreement shall be that of debtor and creditor and the insurer shall not be required to segregate funds so held but shall hold them as a part of its general corporate assets.

Stats 1935, p 496

SEC. 2. Section 10171 of the Insurance Code is hereby amended to read as follows:

Agreement re holding or payment

10171. Any life policy or other agreement relating to the holding or payment of the proceeds of a life policy may provide that the proceeds thereof or payments thereunder shall not be subject to transfer, anticipation or commutation or encumbrance by any beneficiary, and shall not be subject to the claims of creditors of any beneficiary or any legal process against any beneficiary.

CHAPTER 534

An act to amend Section 521 of the Agricultural Code, relating to butter. Stats 1933, p 60 amended

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.] In effect August 4, 1943

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

SECTION 1. Section 521 of the Agricultural Code is amended to read: Stats 1941, p 475

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

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CHAPTER 535

An act to amend Section 139 of the Agricultural Code, relating to newly discovered pests. Stats 1933, p 60, amended

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.] In effect August 4, 1943

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

SECTION 1. Section 139 of the Agricultural Code is amended to read: Stats 1933, p 60

139. Upon the discovery of any pest, the director shall immediately report the same to the commissioners of the counties wherein such discovery is made, together with a statement as to the best known means or methods for eradicating or controlling the same, and treatment or method that should be applied in each case. Upon the receipt of such statement by any commissioner, he shall distribute written or printed forms thereof to every person owning or having charge or possession of any premises or appliances within the county, where there is a probability of the presence of such pest, and a copy thereof shall be attached to or incorporated in any notice in reference to such newly discovered pest served under the provisions of this chapter. Report of pests to commissioners Distribution of report

CHAPTER 536

Stats 1913, Ch. 134, amended

An act to add Section 387 to the Political Code, and to add Section 120 to the Government Code, relating to the acquisition of exclusive jurisdiction over lands in the State of California by the United States, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

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

New section

SECTION 1. Section 387 is hereby added to the Political Code, to read as follows:

Notification of acceptance Filing

387. Upon receipt of notification of the acceptance by the United States of exclusive jurisdiction over lands situated within the State of California, the Governor shall cause to be filed a true and correct copy of said notification in the office of the recorder of the county in which said lands are located and in the office of the clerk of the board of supervisors of the county in which said lands are located.

Note.—See Stats. 1943, Ch. 134.

Effect Stats 1943, Ch 134

SEC. 3. Section 2 of this act shall take effect only if a Government Code is enacted by the Legislature at its Fifty-fifth Session, and in such case, at the same time as the Government Code takes effect; at which time Section 387 of the Political Code as added by this act is hereby repealed.

Repeal

Urgency

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

Vast tracts of land have been and now are being acquired by the United States for the prosecution of the war effort throughout the State. Under the laws of the United States such lands may be made subject to the exclusive jurisdiction of the United States by notification given to the Governor of this State. No procedure now exists whereby notice of such acquisition is required to be given to local officers and it is necessary that this law shall become effective immediately so that confusion in the enforcement of the law by local officers may be avoided, so that the public peace, health, and safety may be preserved.

CHAPTER 537

An act to amend Section 87 of the Agricultural Code, relating to agricultural societies.

Stats 1933, p 60, amended

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 87 of the Agricultural Code is amended to read:

Stats. Ex Sess 1938, p. 93

87. The board of directors may, with the approval of the Department of Finance:

Powers of directors

(a) Fix the term of office, the amount of bond, salary and prescribe the duties of the secretary and of the treasurer.

(b) Manage the affairs of the association.

(c) Make all necessary by-laws, rules and regulations for the government of the association.

(d) Arrange for and conduct or cause or by contract permit to be conducted by any other institution, corporation or association, upon its property at such time as they may deem advisable, any agricultural, horticultural, viticultural, or live stock fairs or expositions, circus, floral displays, exhibitions of industries and industrial products.

An agricultural association shall not lease its race track, for running races of horses, to any private person, firm or corporation except to a National or international exposition or its affiliated corporations or associations for the period of time now permitted by law for fairs. The provisions of this subdivision shall not apply to existing leases or extensions or renewals thereof.

Restriction on leasing race tracks

CHAPTER 538

An act to amend Section 8805 of the Business and Professions Code, relating to the annual license fees of land surveyors, and providing that this act shall take effect immediately.

Stats. 1937, p. 1229, amended

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

In effect immediately

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

SECTION 1. Section 8805 of the Business and Professions Code is hereby amended to read as follows:

Stats 1939, p 430

8805. The amount of the fees prescribed by this chapter is that fixed by the following schedule:

Fee schedule

(a) The application fee is fifteen dollars ($15).

(b) The license fee is ten dollars ($10).

(c) The duplicate certificate fee is one dollar ($1).

(d) The annual renewal fee is six dollars ($6).

Urgency

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

Approximately 20 per cent of the land surveyors licensed under the Land Surveyors' Law are at present in military service, and therefore are exempt from payment of fees. The resultant loss in fees will not allow the Land Surveyors' Law to be enforced according to its terms unless provision is made for additional fees by those registered under the act. The annual registration period ends on June 30th, and unless fees are obtained for the registration period starting July 1, 1943, at the time the budget for the Ninety-fifth Fiscal Year becomes effective, there will be insufficient money in the absence of the adoption of this bill to carry out the functions prescribed by law. Therefore, the provisions of this act shall go into immediate effect.

CHAPTER 539

Stats 1937, p 1229, amended

An act to amend Section 6799 of the Business and Professions Code, relating to fees under The Civil Engineers' Act, and providing that this act shall take effect immediately.

In effect immediately

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

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

Stats 1941, p 2439

SECTION 1. Section 6799 of the Business and Professions Code is hereby amended to read as follows:

Fee schedule

6799. The amount of the fees prescribed by this chapter is that fixed by the following schedule:

(a) The application fee is fifteen dollars ($15).

(b) The registration fee is ten dollars ($10).

(c) The duplicate certificate fee is one dollar ($1).

(d) The temporary registration fee is ten dollars ($10).

(e) The structural engineer's certificate of authority fee is ten dollars ($10).

(f) The annual renewal fee is six dollars ($6).

(g) The penalty for delinquency is one dollar ($1) for each month after the date upon which the annual fee became due until the amount thereof aggregates five dollars ($5).

Urgency

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

Approximately 20 per cent of the civil engineers licensed under The Civil Engineers' Act are at present in military

service, and therefore are exempt from payment of fees. The resultant loss in fees will not allow The Civil Engineers' Act to be enforced according to its terms unless provision is made for additional fees by those registered under the act. The annual registration period ends on June 30th, and unless fees are obtained for the registration period starting July 1, 1943, at the time the budget for the Ninety-fifth Fiscal Year becomes effective, there will be insufficient money in the absence of the adoption of this bill to carry out the functions prescribed by law. Therefore, the provisions of this act shall go into immediate effect.

CHAPTER 540

An act to add Section 555 to the Vehicle Code, relating to equestrian crossings.

Stats 1935, p 93, amended

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 555 is hereby added to the Vehicle Code, to read:

New section

555. Equestrian Crossings. (a) The State Department of Public Works and local authorities with respect to highways under their jurisdiction may designate any intersection of a highway and a bridle path or equestrian crossing by erecting on such highway at or near the approach to such intersection appropriate signs of a type approved by the Department of Public Works indicating such crossing and such crossmarks, safety devices or signals as such authorities may deem necessary to safeguard both the vehicular traffic and any equestrian at such crossing.

Signs designating

(b) The driver of a vehicle shall yield the right of way to any horseback rider crossing a roadway at an equestrian crossing designated by signs giving notice thereof as provided in this section.

Rigth of way

CHAPTER 541

An act to add Section 2729 to the Penal Code, relating to prisons and the sale of prison-made products, and declaring the urgency thereof and that this act shall go into immediate effect.

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

In effect immediately

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

SECTION 1. Section 2729 is hereby added to the Penal Code, to read as follows:

New section

2729. As used in this article the word "jute" shall also mean and include hemp and any other material suitable to be

"Jute"

Duration sales

processed and manufactured into products in any jute mill at any of the State prisons. Until April 15, 1945, or until the termination of the present National emergency declared to exist by the President of the United States by his proclamation of September 8, 1939, or until the termination of the present war and six months thereafter, whichever of the foregoing first occurs, the board may sell any of the products of the jute mill to any person or persons, public or private, and the board shall fix the price of the products to be so sold.

Urgency

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

The following is a statement of facts constituting such necessity:

The United States of America is now at war with certain foreign powers and has placed restrictions on the processing and rate of jute products and has determined that jute on hand can not be processed or manufactured unless the Government directs to whom the products shall be sold under priority regulations and this act is necessary to enable the jute mill to continue to operate and the products be sold immediately.

CHAPTER 542

Stats 1939, p. 1067, amended

An act to add Section 2211 to the Public Resources Code, relating to the county mineralogist.

In effect August 4, 1943

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

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

New section

SECTION 1. Section 2211 is added to the Public Resources Code, to read:

County mineralogist

2211. A county mineralogist may be appointed by the board of supervisors of a county to serve at the pleasure of that board for a compensation fixed by that board and payable out of the county treasury. The expenses of maintaining an office, telephone, traveling and the expense of supplying necessary books, records and other supplies to said mineralogist shall be county charges.

CHAPTER 543

An act to add Section 17.5 to an act entitled "An act to provide for the incorporation and organization and management of bridge and highway districts and to provide for the acquisition and construction by said districts of highways, bridges and approaches thereto, and for the acquisition of all property necessary therefor, and also to provide for the issuance and payment of bonds by said districts, for the levying of taxes and the collection of tolls by said districts and for the annexation of additional territory thereto," approved May 25, 1923, and to add Section 27229 to the Streets and Highways Code, relating to the refunding of debts, and to the issuance of bonds in connection therewith.

Stats 1923, p 452, amended

Stats 1935, p 248, amended

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 17.5 is added to the act cited in the title hereof, to read:

New section

Sec. 17.5. Whenever the board of directors of any bridge and highway district deems it necessary or advisable to refund any outstanding bonds, it may, by resolution, declare such necessity or advisability and outline a general plan of refunding, including the issuance of refunding bonds and the terms and conditions thereof.

Refunding bonds Resolution

Upon adopting a general plan of refunding, the board shall, by resolution, provide for submitting to the qualified electors of the district the proposition of whether the refunding bonds shall issue. The resolution shall provide for the manner of submitting the proposition to the electors, and shall state the purpose of the refunding, the terms and conditions of the bonds, and any other facts essential for the information of the electors. The election held on the proposition shall conform to the provisions of Sections 15 and 16 of this act.

Election

If the proposition is favorably voted upon, the board of directors has plenary power in the matter of executing the bonds and providing for their sale and disposition.

Favorable vote

SEC. 2. Section 27229 is added to the Streets and Highways Code, to read:

New section

27229. Whenever the board deems it necessary or advisable to refund any outstanding bonds, it may, by resolution, declare such necessity or advisability and outline a general plan of refunding, including the issuance of refunding bonds and the terms and conditions thereof.

Refunding of bonds Resolution

Upon adopting a general plan of refunding, the board shall, by resolution, provide for submitting to the qualified electors of the district the proposition of whether the refunding bonds shall issue. The resolution shall provide for the manner of submitting the proposition to the electors, and shall state the purpose of the refunding, the terms and conditions of the

Election

bonds, and any other facts essential for the information of the electors. The election held on the proposition shall conform to the provisions of this article.

Favorable vote

If the proposition is favorably voted upon, the board of directors has plenary power in the matter of executing the bonds and providing for their sale and disposition.

Effect Stats 1943, Ch. 286

SEC. 3. Section 2 of this act shall take effect only if Part 3 is added to Division 16 of the Streets and Highways Code by the Legislature at its Fifty-fifth Session, and in such case

Repeal

at the same time as Part 3 takes effect, at which time Section 17.5 as added to the act cited in the title by this act is hereby repealed.

CHAPTER 544

Stats 1935, p 1338, amended

An act to amend Section 841 of the Military and Veterans' Code, relating to veterans' farm and home purchase funds.

In effect August 4, 1943

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

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

Stats 1937, p 2299

SECTION 1. Section 841 of the Military and Veterans' Code is amended to read as follows:

Disposition of money

841. The money paid by purchasers shall be deposited in the veterans' farm and home building fund and be available under the same conditions as the original appropriation.

CHAPTER 545

County Water Authority Act

An act to provide for the organization, incorporation and government of county water authorities, authorizing and empowering such authorities to acquire water and water rights, and to acquire, construct, operate and manage works and property, to incur bonded indebtedness therefor, to provide for the taxation of property therein, and the performance of certain functions relating thereto by officers of county within which any such authority may be located, to provide for addition of areas thereto, and the exclusion of areas therefrom.

In effect August 4, 1943

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

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

Short title

SECTION 1. This act shall be known as the County Water Authority Act.

"Public agencies"

SEC. 2. The term "public agencies," wherever appearing in this act, shall be deemed to mean and include any municipal corporation of the State of California, whether organized

under a freeholders' charter or under the provisions of general law, any municipal water district, any municipal utility district, any public utility district, any county water district, any irrigation district, organized under the laws of the State of California, or any other public corporation or agency of the State of California of similar character, with power to acquire and distribute water.

Incorporation of county water authorities

SEC. 3. County water authorities may be organized and incorporated hereunder by two or more public agencies in any county, which public agencies need not be contiguous, and when so incorporated, such authorities shall exercise the powers herein expressly granted, together with such implied powers as are necessary to carry out the objects and purposes of such authorities. Each such authority when so organized, shall be a separate and independent political corporate entity.

Procedure

SEC. 4. The procedure for organizing and incorporating a county water authority under the provisions of this act is as follows:

Resolution

(1) Resolutions shall first be passed by the legislative bodies of the public agencies designated to be incorporated in the proposed authority, declaring that in their opinion public interest or necessity demands the creation and maintenance of a county water authority to be known as the "(giving the name) County Water Authority." Said resolutions shall contain a statement of the names of such public agencies as are intended to be incorporated in said authority. Certified copies of said resolutions shall be presented to the board of supervisors of the county within which said public agencies are located, requesting said board to call an election without delay for determining whether such authority shall be created.

Petition

If for any reason the legislative body of any public agency designated as intended to be incorporated fails or refuses to adopt the resolution above referred to, then instead of said resolutions, a petition may be presented to the board of supervisors of said county on behalf of said public agency signed by qualified electors within the boundaries of any such public agency, in number to at least 10 per cent of the total vote cast at the last general State election within the territory of said public agency. Said petition shall contain substantially the same declarations and statements required to be contained in the resolutions hereinbefore mentioned. Such petition may be on separate papers but each paper shall contain the affidavit of the party who circulated it, certifying that each name signed thereto is the true signature of the person whose name it purports to be. The clerk of the board of supervisors of said county shall compare the signatures with the affidavits of registration and certify to the board of supervisors the sufficiency or insufficiency of said petition. If found and certified by said clerk as being sufficient such petition shall have all the force and effect of a resolution adopted by the legislative body of said public agency.

Election

(2) Upon the receipt of the resolutions and petitions hereinbefore mentioned, said board of supervisors shall call an election within the territorial boundaries of the public agencies who have adopted such resolutions or on whose behalf a proper petition has been presented, for the purpose of determining whether the proposed county water authority shall be created and established.

Notice

(3) The board of supervisors of said county shall give notice of said election by publishing the same once a week for at least three weeks before the date of said election in a newspaper of general circulation, published within the proposed authority. In case no newspaper of general circulation is published within said proposed authority, said notice shall be posted for at least three weeks in not less than three public places within said proposed authority.

Said notice shall state, among other things, the name of the proposed authority and set forth the public agencies proposed to be included therein.

Ballot

The ballot for said election shall contain such instructions as are required by law to be printed thereon, and in addition thereto there shall appear the following:

Shall the "(giving the name thereof) County Water Authority" be created and established?	Yes
	No

Said election and all matters pertaining thereto, not otherwise provided for herein, shall be held and conducted, and the results thereof ascertained, determined and declared in accordance with the general election laws of the State, as nearly as may be, and no person shall be entitled to vote at said election unless he or she be a qualified elector of one of the public agencies proposed to be incorporated in the proposed authority. Said election may be held on the same day as any other State, county or city election, and may be consolidated therewith.

Canvass of votes

The board of supervisors shall meet on Monday next succeeding the day of said election and canvass the votes cast thereat. They shall canvass the returns of each public agency separately and shall order and declare said authority created and established consisting of the public agencies in which a majority of those who voted on the proposition voted in favor of the creation of said authority; provided, however, that the total number of electors in such approving public agencies be not less than two-thirds the number of the electors within the authority as first proposed, according to the register of voters used at said election.

Filing order

The board of supervisors shall cause a certified copy of said order declaring the result of said election to be filed in the office of the Secretary of State, and with the legislative body of each of the public agencies in which said election was held. From and after the filing of said order in the office of the Sec-

retary of State the establishment of said county water authority shall be deemed complete.

Cost of election

The board of supervisors calling the election shall make all provision for the holding thereof throughout the entire authority as proposed, and the cost thereof shall be a proper charge against the county. In case a special election is held exclusively on the proposition of organizing such an authority, the expenditure therefor shall be reimbursed to the county by means of a special tax on all of the taxable property within the public agencies which was proposed to be included in the authority, which tax shall be added to the next county tax bills by the proper officers of the county.

Informality in procedure

No informality in any proceeding or in the conduct of said election not substantially affecting adversely the legal rights of any citizen, shall be held to invalidate the incorporation of any county water authority, and any proceedings attacking the validity of said incorporation, shall be commenced within three months from the date of filing the aforesaid order with the Secretary of State, otherwise such incorporation and the legal existence of said county water authority shall be held to be valid and in every respect legal and incontestable.

Attack on validity

Powers of authority

SEC. 5. Any authority incorporated as herein provided shall have power:

(1) To have perpetual succession.

(2) To sue and be sued in all actions and proceedings and in all courts and tribunals of competent jurisdiction.

(3) To adopt a corporate seal and alter it at pleasure.

(4) To take by grant, purchase, bequest, devise or lease, and to hold, enjoy, lease, sell or otherwise dispose of, any and all real and personal property of any kind within or without the authority and within and without the State necessary or convenient to the full exercise of its powers; also to acquire, construct or operate, control and use any and all works, facilities and means necessary or convenient to the exercise of its powers, both within and without the authority, and within and without the State, and to do and perform any and all things necessary or convenient to the full exercise of the powers herein granted.

(5) To have and exercise the power of eminent domain and, in the manner provided by law for the condemnation of private property for public use, to take any property necessary to the exercise of the powers herein granted. In any proceeding relative to the exercise of such power of eminent domain, the authority shall have the same rights, powers and privileges as a municipal corporation.

(6) To construct and maintain works and establish and maintain facilities across or along any public street or highway and in, upon or over any vacant public lands which are now, or may become the property of the State of California; provided, however, that the authority shall promptly restore any such street or highway to its former state of usefulness

as nearly as may be, and shall not use the same in such manner as to completely or unnecessarily impair the usefulness thereof. The grant of the right to use such vacant State lands shall be effective upon the filing by such authority with the Division of State Lands of the Department of Finance, of an application showing the boundaries, extent and locations of the lands, rights of way, or easements desired for such purposes. If the land, rights of way or easement for which application shall be made is for the construction of any aqueduct, ditch, pipe line, conduit, tunnel or other works for the conveyance of water, or for roads, or for poles, or towers and wires for the conveyance of electrical energy or for telephonic or telegraphic communication, no compensation shall be charged the authority therefor, unless, in the opinion of the Chief of such Division of State Lands the construction of such works will render the remainder of the legal subdivision through which such works are to be constructed valueless or unsalable, in which event the authority shall pay for the lands to be taken and for such portion of any legal subdivision which, in the opinion of said Chief of the Division of State Lands, are rendered valueless or unsalable, at the rate of one dollar and twenty-five cents ($1.25) per acre. If the lands for which application is made are for purposes other than the construction of roads or for works for the conveyance of water, or electricity or telephonic or telegraphic communication, such authority shall pay to the State for such lands at the rate of one dollar and twenty-five cents ($1.25) per acre. Upon filing such application, accompanied by map or plat showing the location or proposed location of such works and/or facilities, the fee title to so much of such State lands as shall be found by the Chief of the Division of State Lands of the Department of Finance to be necessary or convenient to enable such authority to construct or maintain its works and/or to establish or maintain its facilities, shall be conveyed to such authority by patent executed by the Governor of the State of California, attested by the Secretary of State with the Great Seal of said State affixed, and countersigned by the registrar of State lands; if an easement or right of way only over such lands be sought by such authority, such easement or right of way shall be evidenced by permit or grant executed by such Chief of the Division of State Lands. The Chief of the Division of State Lands may reserve in such patents, grants or permits, easements and rights of way across any lands therein described for the construction of streets, roads and highways. Before any such patent, grant or permit shall be executed any compensation due to the State under the provisions hereof, must be paid. In the event that the duties or titles of any of the officers herein mentioned shall be changed by lawful authority, the functions herein required to be performed shall be performed by the appropriate officer or officers of the State of California. No fee shall be exacted from such authority for any patent, permit or grant so issued or for any

service rendered hereunder. In the use of streets or highways the authority shall be subject to the reasonable rules and regulations of the governmental agency in charge thereof, concerning excavations and the refilling of excavations, the relaying of pavements and the protection of the public during periods of construction; provided, that the authority shall not be required to pay any license or permit fees, or file any bonds. The authority may be required to pay reasonable inspection fees.

(7) To borrow money and incur indebtedness and to issue bonds or other evidence of such indebtedness; provided, however, that no authority incorporated hereunder shall incur indebtedness which, in the aggregate, shall exceed fifteen (15) per cent of the taxable property of the authority as shown by the last equalized assessment roll of the county in which the authority is located.

(8) To levy and collect taxes for the purpose of carrying on the operations and paying the obligations of the authority; provided, however, that such taxes levied under this section exclusive of any tax levied to meet the bonded indebtedness of such authority and the interest thereon and exclusive of any tax levied to meet any obligation to the United States of America or to any board, department or agency thereof, shall not exceed five cents ($0.05) on each such one hundred dollars ($100) of assessed valuation.

(9) To enter into contracts, employ and retain personal services and employ laborers; to create, establish and maintain such offices and positions as shall be necessary and convenient for the transaction of the business of the authority, and to elect, appoint and employ such officers, attorneys, agents and employees therefor as shall be found by the board of directors to be necessary and convenient for the transaction of the business of the authority.

(10) To join with one or more other public corporations for the purpose of carrying out any of its powers, and for that purpose to contract with such other public corporation or corporations for the purpose of financing such acquisitions, constructions and operations. Such contracts may provide for contributions to be made by each party thereto and for the division and apportionment of the expenses of such acquisitions and operations, and the division and apportionment of the benefits, the services and products therefrom. Such contracts may contain such other and further covenants and agreements as may be necessary and convenient to accomplish the purposes hereof. The term "public corporation" as used in this subdivision shall be deemed to mean and include the United States or any public agency thereof or this or any other State or any political district, subdivision or public agency thereof.

(11) To acquire water and water rights within or without the State, but not within the county in which the authority is organized and/or located; to develop, store and transport such

water; to provide, sell and deliver water at wholesale for municipal, domestic and other beneficial uses and purposes; provided, each public agency, the area of which shall be a part of any authority incorporated hereunder, shall have a preferential right to purchase from the authority for distribution by such public agency, or any public utility therein empowered by said public agency for the purpose, for domestic, municipal and other beneficial uses within such public agency, a portion of the water served by the authority which shall, from time to time, bear the same ratio to all of the water supply of the authority as the total accumulation of amounts paid by such public agency to the authority on tax assessments and otherwise, excepting purchase of water, toward the capital cost and operating expense of the authority's works shall bear to the total payments received by the authority on account of tax assessments and otherwise, excepting purchase of water, toward such capital cost and operating expense; also to provide, sell and deliver surplus water of the authority not needed or required for beneficial purposes by the public agencies, the corporate area of which is included in such authority, but giving preference to uses within the authority; provided, that the supplying of such surplus water shall, in every case, be subject to the paramount right of the authority to discontinue the same, in whole or in part, and to take and hold, or to provide, sell and deliver, such water for domestic, municipal or other beneficial uses within the authority upon one year's written notice to the purchaser or user of such surplus water, such notice to be given by the board of directors of the authority whenever it shall be determined and declared by resolution adopted by said board of directors by a two-thirds vote thereof that such water is needed or required by any public agency, the corporate area of which is included within said authority, for domestic, municipal or other beneficial uses therein; to fix the rates therefor, and to acquire, construct, operate and maintain any and all works, facilities, improvements and property necessary or convenient therefor.

(12) To cooperate and contract with United States under the Federal Reclamation Act of June 17, 1902, and all acts amendatory thereof or supplementary thereto, or any other act of Congress heretofore or hereafter enacted authorizing or permitting such cooperation, for the purposes of construction of works, necessary or proper for carrying out the purposes of said authority, or for the acquisition, purchase, extension, operation or maintenance of constructed works, or for a water supply, or for the assumption as principal or guarantor of indebtedness to the United States; also to borrow or procure money from the United States, or any agency thereof for the purpose of financing any of the operations of the authority.

Board of directors

SEC. 6. All powers, privileges and duties vested in or imposed upon any authority incorporated hereunder shall be exercised and performed by and through a board of directors; provided, however, that the exercise of any and all executive,

administrative and ministerial powers may be by said board of directors delegated and redelegated to any of the offices created hereby or by the board of directors acting hereunder.

Members

The board of directors herein referred to shall consist of at least one representative from each public agency, the area of which shall lie within the authority. Such representatives shall be designated and appointed by the chief executive officers of said public agencies, respectively, with the consent and approval of the legislative bodies of the said public agencies, respectively.

Term

Members of the board of directors shall hold office for a term of six years, and until their successors are appointed and qualified; provided, that the terms of the members of the first board shall be determined by lot so that the terms of not less than one-half of the members shall be for three years and the terms of the remainder shall be six years; provided further, that every member shall be subject to recall by the voters of the public agency from which such member is appointed, in accordance with the recall provisions of the freeholders' charter or other law applicable to such public agency; and provided further, that any member may be recalled by the unanimous vote of the governing body of the public agency from which such member is appointed.

Vote

As a member of the board of directors, each representative shall be entitled to vote on all questions, orders, resolutions and ordinances coming before the board, and shall be entitled to cast one vote for each five million dollars ($5,000,000), or major fractional part thereof, of assessed valuation of property taxable for authority purposes in the public agency represented by him as shown by the last equalized assessment roll of the county and evidenced by the certificate of the county auditor; provided, that each representative shall have at least one vote and no public agency shall have votes exceeding in number the total number of votes of all the other public agencies whose corporate areas are included in such authority. In lieu of one representative, any public agency may at its option designate and appoint several representatives not exceeding one additional representative for each fifty million dollars ($50,000,000) of assessed valuation, but such representatives shall cast the vote to which such public agency would otherwise be entitled as a unit and as a majority of such representatives present shall determine. The affirmative votes of members representing more than fifty (50) per cent of the total number of votes of all the members shall be necessary, and, except as otherwise herein provided, shall be sufficient to carry any order, resolution or ordinance coming before the board of directors; provided, however, any meeting may be adjourned or recessed from day to day or from time to time, by vote of the director or directors present, irrespective of the number of directors present or the number of votes

represented at such meeting. For the purposes of this section, the term "major fractional part" shall be deemed to mean a fractional part larger than one-half.

Organization

Members of the first board of directors so constituted shall convene at the call of the clerk of the board of supervisors in the meeting room of the board of supervisors at the county seat of said county, and immediately upon convening, such board of directors shall elect from its membership a chairman, a vice chairman, and a secretary, who shall serve for a period of two years, or until their respective successors shall be elected and qualified.

Bonded indebtedness for public works

SEC. 7. (a) Whenever the board of directors of any authority incorporated under this act shall, by ordinance adopted by a vote of a majority of the aggregate number of votes of all the members of the board of directors, determine that the interests of said authority and the public interest or necessity demand the acquisition, construction or completion of any public improvement or works, necessary or convenient to carry out the objects or purposes of said authority the cost of which will be too great to be paid out of the ordinary annual income and revenue of the authority, said board of directors may order the submission of the proposition of incurring bonded indebtedness, for the purposes set forth in the said ordinance, to the qualified voters of such district, at an election held for that purpose. Any election held for the purpose of submitting any proposition or propositions of incurring such bonded indebtedness may be held separately, or may be consolidated or held concurrently with any other election authorized by law at which the qualified electors of the authority are entitled to vote. The declaration of public interest or necessity herein required and the provision for the holding of such election may be included within one and the same ordinance, which ordinance, in addition to such declaration of public interest or necessity, shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated cost of the public works or improvements, the amount of the principal of the indebtedness to be incurred therefor and the maximum rate of interest to be paid on such indebtedness, which rate shall not exceed six (6) per cent per annum, payable semiannually. Such ordinance shall also fix the date upon which such election shall be held and the manner of holding the same and the method of voting for or against incurring the proposed indebtedness. Such ordinance shall also fix the compensation to be paid the officers of the election and shall designate the precincts and polling places and shall appoint the officers of such election, which officers shall consist of one inspector, one judge and two clerks in each precinct. The description of precincts may be made by reference to any order or orders of the board of supervisors of the county in which the authority is situated, or by reference to any previous order or ordinance of the legislative body of any public agency, or by detailed description of such pre-

Election

cincts. Precincts established by the board of supervisors of the county, to a number not exceeding six (6) may be consolidated for special elections held hereunder. In the event any bond election shall be called to be held concurrently with any other election or shall be consolidated therewith, the ordinance calling the election hereunder need not designate precincts or polling places or the names of officers of election, but shall contain reference to the act or order calling such other election and fixing the precincts and polling places and appointing election officers therefor.

Publication of ordinance

(b) The ordinance provided for in subdivision (a) of this section shall be published once, at least ten (10) days before the date of the election therein called, in a newspaper of general circulation printed and published within the authority, and no other or further notice of such election or publication of the names of election officers or of the precincts or polling places need be given or made.

Conduct of election

(c) The respective election boards shall conduct the election in their respective precincts in the manner prescribed by law for the holding of general elections, and shall make their returns to the secretary of the authority. At any regular or special meeting of the board of directors held not earlier than five (5) days following the date of such election, the returns thereof shall be canvassed and the results thereof declared. In the event that any election held hereunder shall be consolidated with any primary or general election and the proposition to incur indebtedness shall be printed upon a ballot containing other propositions, the returns of the election held hereunder shall be made with the returns of the primary or general election to the board of supervisors or other bodies whose duty it shall be to canvass the returns thereof, and the results of the election held hereunder shall be canvassed at the time and in the manner provided by law for the canvass of the returns of such primary or general election. It shall be the duty of such canvassing body to promptly certify and transmit to the board of directors of the authority a statement of the result of the vote upon the proposition submitted hereunder. Upon receipt of such certificates, it shall be the duty of the board of directors to tabulate and declare the results of the election held hereunder.

Canvass of returns

Certification of result

Favorable vote

(d) In the event that it shall appear from said returns that a two-thirds majority of the electors voting on any proposition submitted hereunder at such election voted in favor of such proposition, the authority shall thereupon be authorized to issue and sell bonds of the authority in the amount and for the purpose or purposes and object or objects provided for in such proposition in such ordinance, and at a rate of interest, not exceeding the rate recited in said ordinance.

Bonds Form and maturity

(e) The board of directors shall prescribe the form of the bonds issued by the authority and of the interest coupons to be attached thereto. Such bonds shall mature serially at times

and in amounts to be fixed by the board of directors; provided, that the payment of said bonds shall begin not later than 10 years from the date thereof and be completed in not more than 50 years from said date. The bonds shall be issued in such denominations as the board of directors may determine, except that no bonds shall be of less denomination than one hundred dollars ($100), nor of a greater denomination than fifty thousand dollars ($50,000), and shall be payable on the day and at the place or places fixed in such bonds and with interest at the rate specified therein, which rate shall not be in excess of six per cent (6%) per annum, and shall be payable semiannually.

Call and redemption

The board of directors may provide for the call and redemption of any or all of said bonds on any interest payment date prior to their fixed maturity at not exceeding the par value thereof and accrued interest plus a premium of not exceeding 5 per cent upon the principal amount of said bonds in which event a statement to that effect shall be set forth in the ordinance calling the election and the call price fixed by the board of directors shall be set forth on the face of the bond. Notice of such redemption shall be published once a week for three successive weeks in a newspaper of general circulation printed and published within the authority or if there be no such newspaper printed and published within the authority then the publication shall be made in a newspaper of general circulation printed and published within the county in which the said authority is situated, the first publication of which shall be at least 30 days prior to the date fixed for such redemption. After the date fixed for such redemption, interest on said bonds thereafter shall cease.

Execution

Such bonds shall be signed by the chairman of said board of directors, or by such other officers as said board of directors shall, by resolution adopted by a majority vote of its members, authorize and designate for that purpose, and such bonds shall also be signed by the controller, or assistant controller, and countersigned by the secretary of said board of directors. The coupons of said bonds shall be numbered consecutively, and signed by said controller, or assistant controller by his lithographed or engraved signature. All such signatures and countersignatures excepting that of the controller, or assistant controller, on said bonds, may be printed, lithographed or engraved.

Signatory out of office

(f) In case any of such officers, whose signatures or countersignatures appear on the bonds or coupons, shall cease to be such officer before the delivery of such bonds to the purchaser, such signatures or countersignatures shall nevertheless be valid and sufficient for all purposes, the same as if they had remained in office until the delivery of such bonds.

Sale price

(g) Such bonds shall not be sold at a price less than the par value thereof, together with accrued interest to the date of delivery, nor until notice calling for bids therefor shall have been published in a newspaper of general circulation

Notice for bids

published and circulated in the county wherein the principal place of business of said authority shall be located. Said notice, calling for bids, shall state the time for the receipt of such bids, which shall not be less than twenty (20) days after the first publication thereof. Such notice may offer the bonds at a fixed interest rate or with the interest rate undetermined, in which event the bids shall contain a statement of the lowest rate of interest at which the bidder will take the bonds and pay par value or more therefor, together with accrued interest. Bids for such bonds shall be opened publicly and the results thereof publicly announced. Such bonds shall be sold to the highest bidder. "Highest bidder," as used in this subsection, shall mean the one which gives the authority the lowest net cost. Temporary, or interim, bonds or certificates, of any denomination whatsoever, to be signed by the controller or assistant controller, may be issued until the definitive bonds are executed and available for delivery.

Opening of bids

Temporary bonds

(h) Such bonds may be issued and sold by said board of directors as they shall determine, and the proceeds thereof, excepting premium and accrued interest, shall be placed in the treasury of said authority to the credit of the proper improvement fund, and shall be applied exclusively to the purposes and objects mentioned in said ordinance; provided, that the interest on said bonds accruing during the construction period and for one year thereafter shall be deemed to be a construction cost within the meaning of the purposes and objects mentioned in said ordinance, and such interest may be paid from said proceeds of the sales of such bonds. Premium and accrued interest shall be placed in the fund to be applied to the payment of interest on, and the retirement of, the bonds so sold. For the purposes of this section, the construction period shall be deemed to end when the works, the construction of which shall have been authorized from the proceeds of any such bond issue, shall have been placed in operation to such extent as to result in the sale and delivery in the authority, of water transported and provided by means of such works.

Proceeds

(i) The board of directors may within ninety (90) days from the date of the election authorizing the issuance of bonds, cause to be brought in the name of the authority an action in the superior court of the county in which said authority is located, to determine the validity of any such bonds and the sufficiency of the provision for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due and to constitute a sinking fund for the payment of the principal thereof on or before maturity. Such action shall be in the nature of a proceeding in rem, and jurisdiction of all parties interested may be had by publication of summons for at least once a week for three (3) weeks in some newspaper of general circulation published in the county where the action is pending, such newspaper to be designated by the court having jurisdiction of the proceedings. Jurisdiction shall be

Action to determine validity

Publication of summons

Contest, ut

complete within ten (10) days after the full publication of such summons in the manner herein provided. Anyone interested may at any time before the expiration of said ten (10) days appear and by proper proceedings contest the validity of such bonds and the sufficiency of the provision for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due and to constitute a sinking fund for the payment of the principal thereof on or before maturity. Such action shall be speedily tried and judgment rendered declaring such bonds to be valid or invalid, and declaring the provision for the collection of an annual tax for said purposes, to be sufficient or insufficient. Either party may have the right to appeal to the Supreme Court at any time within thirty (30) days after the rendition of such judgment, which appeal must be heard and determined within three months from the time of taking such appeal. After the expiration of ninety (90) days from the date of the election authorizing the issuance of bonds, no action may be brought to contest or question the validity of said bonds and proceedings in relation thereto or the sufficiency of the provision for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due and to constitute a sinking fund for the payment of the principal thereof on or before maturity. If there be more than one action or proceeding involving the validity of any of such bonds, or the sufficiency of the provision for the collection of an annual tax sufficient for the said purposes, they shall be consolidated and tried together. The court hearing any proceeding or action inquiring into the regularity, legality or correctness of the proceedings leading up to the issuance of bonds or the validity of such bonds or the sufficiency of such provision for the collection of an annual tax, must disregard any error, irregularity or omission which does not affect the substantial rights of the parties to said action or proceeding. The rules of pleading and practice provided by the Code of Civil Procedure, which are not inconsistent with the provisions of this act, are applicable to all actions or proceedings herein provided for. The motion for a new trial of any such action or proceeding must be heard and determined within ten (10) days from the filing of the notice of intention. The costs on any proceeding or action herein provided for may be allowed and apportioned between the parties or taxed to the losing party, in the discretion of the court.

Judgment

Appeal

Period of limitations

More than one action

Practice and procedure, etc

Water rate

Tax

(j) The board of directors, so far as practicable, shall fix such rate or rates for water as will result in revenue which will pay the operating expenses of the authority, provide for repairs and maintenance, and provide for the payment of the interest and principal of the bonded debt. If, however, from any cause, the revenues of the authority shall be inadequate to pay the interest or principal of any bonded debt as the same becomes due, the board of directors shall, at the time of fixing the tax levy and in the manner for such tax

levy provided, levy and collect annually until said bonds are paid or until there shall be a sum in the treasury of the authority set apart for that purpose sufficient to meet all sums coming due for principal and interest on such bonds, a tax sufficient to pay the annual interest on such bonds, or such part thereof as shall not be met from revenues of the authority, and also sufficient to pay such part of the principal of such bonds as shall become due before the time when money will be available from the next general tax levy, or such portion thereof as shall not be met from revenues of the authority; provided, however, that if the maturity of the indebtedness created by the issue of bonds be made to begin more than one year after the date of the issuance of such bonds, such tax shall be levied and collected at the time and in the manner aforesaid annually sufficient when added to revenues of the authority available for that purpose to pay the interest on such indebtedness as it falls due and also to constitute, together with the revenues of the authority available for such purpose, a sinking fund for the payment of the principal of such bonds on or before maturity. The taxes herein required to be levied and collected shall be in addition to all other taxes levied for authority purposes and shall be collected at the time and in the same manner as other authority taxes are collected and shall be used for no purpose other than the payment of such bonds and accruing interest.

Coupon bonds Registration

(k) Coupon bonds issued hereunder, at the request of the holder, may be registered as to principal and interest in the holder's name on the books of the treasurer of the district, and the coupons surrendered and the principal and interest made payable only to the registered holder of the bond. For that purpose the treasurer of the authority shall detach and cancel the coupons, and shall endorse a statement on the bonds that the coupon sheet issued therewith has been surrendered by the holder, and the coupons canceled by such treasurer, and that the principal and the semiannual interest are thereafter to be paid to the registered holder, or order, by draft, check or warrant drawn payable at a place of payment specified in the bond, after which no transfer shall be valid unless made on such treasurer's books by the registered holder, or by his attorney duly authorized, and similarly noted on the bond. After such registration, the principal and interest of such bond shall be payable only to the registered owner. Bonds registered under this paragraph may, with the consent of the authority and the holders of the bonds, be reconverted into coupon bonds at the expense of the holder thereof, and again reconverted into registered bonds from time to time, as the board of directors of the authority and the holders of the bonds may determine. In converting coupon bonds into registered bonds, coupon bonds may be exchanged for registered bonds of one hundred dollars ($100) each, or multiples thereof, but not exceeding fifty thousand dollars ($50,000) each, in which event new registered bonds shall be issued at

Reconversion

Exchange

the expense of the holder. Coupon bonds may be exchanged for other coupon bonds of one hundred dollars ($100) each, or multiples thereof, but not exceeding fifty thousand dollars ($50,000) each, in which event new coupon bonds shall be issued at the expense of the holder.

Fee

For each conversion or reconversion of a coupon or registered bond, the treasurer of the authority shall be entitled to charge and collect such fee as the board of directors of the authority may prescribe from time to time.

Legal investments

(*l*) All bonds heretofore or hereafter issued by any county water authority shall be legal investments for all trust funds, and for the funds of all insurance companies, banks, both commercial and savings and trust companies, and for the State school funds, and for all sinking funds under the control of the State Treasurer, and whenever any moneys or funds may by law now or hereafter enacted be invested in, or loaned upon the security of, bonds of cities, cities and counties, counties, or school districts in the State of California, such moneys or funds may be invested in, or loaned upon the security of, the bonds of such county water authority; and whenever bonds of cities, cities and counties, counties or school districts, by any law now or hereafter enacted, may be used as security for the faithful performance or execution of any court or private trust or of any other act, bonds of such county water authority may be so used.

Debt over $1,000,000 other than by voting bonds Election

SEC. 8. Any proposal to incur an indebtedness in excess of one million dollars ($1,000,000), by contract other than by voting bonds, or expenditure of bond proceeds, for the acquisition, construction or completion of any public improvements or works or for the repayment of the costs thereof, and any proposal to purchase, lease, or otherwise acquire, rights, privileges or services by contract, the compensation for which shall be payable over a period of time exceeding five years, shall be submitted to the qualified electors of the authority for their approval and shall be voted upon at an election wherein proceedings shall be had, insofar as applicable, in the manner provided in this act for the authorization and issuance of the bonds of the authority, except that the vote of a majority of the electors voting upon the proposition shall be sufficient to authorize the incurring of such indebtedness. Notice of the election herein provided for shall contain in addition to the information required in the case of bond elections, a statement of the maximum amount of money to be paid under said contract, exclusive of penalties and interest, and for what purposes it is to be expended and the property, improvements, works, rights, privileges or services to be acquired thereby. The ballots at such election shall contain a brief statement of the general purposes of said contract and the amount of the obligation to be assumed as aforesaid, with the words "Contract—Yes" and "Contract—No." The board of directors may submit such contract or proposed contract to the superior court of the county wherein the authority is located to determine the

Vote necessary

Notice of election

Ballots

Determination of validity

validity thereof and the legal authority of the board to enter into such contract, whereupon the same proceedings shall be held as are herein provided in the case of the judicial determination of the validity of bonds issued pursuant to this act, and with like effect.

Certificate of assessed valuation

SEC. 9. (a) Immediately after equalization and not later than the fifteenth day of August of each year, it shall be the duty of the auditor of the county wherein such authority shall lie, to prepare and deliver to the controller of the authority a certificate showing the assessed valuation of all property within the authority, and also such assessed valuation segregated according to public agencies, the areas of which lie within the authority.

Levy of tax

(b) On or before the twentieth day of August the board of directors of the authority shall by resolution determine the amount of money necessary to be raised by taxation during the fiscal year beginning the first day of July next preceding and shall fix the rate of taxation of the authority, designating the number of cents upon each one hundred dollars ($100) assessed valuation of taxable property and shall levy a tax accordingly:

(1) Sufficient, when taken with other revenues available for the purpose, to meet interest and sinking fund requirements on all outstanding bonded indebtedness of said authority; and sufficient, when taken with other revenues available for the purpose, to meet the payment of the principal and interest on any refunding bonds, or any bonds the issuance of which may have been authorized by the electors and which bonds have not been sold but which, in the judgment of the board of directors, will be sold prior to the time when money will be available from the next subsequent tax levy, and in case such bonds are not so issued and sold or such tax for any other reason is not required for said purpose, the tax so levied shall be applied to the payment of interest and/or principal on any refunding bonds, or on any bonds authorized by the electors, then outstanding or subsequently issued and/or sold; and

(2) For all other authority purposes.

(c) The board of directors shall also cause to be computed and shall declare in said resolution the amount of money to be derived from the area of the authority lying within each separate public agency by virtue of the tax levy. In such resolution the board shall also fix and determine the times and proportional amounts of installments in which any public agency may elect to make payment in lieu of taxes as hereinafter provided. The board shall immediately cause certified copies of such resolution to be transmitted to the presiding officer of the governing body of each such public agency.

Payments out of funds in lieu of tax. Order

(d) On or before the twenty-fifth day of August of each year the governing body of each such public agency may elect to pay out of its funds available for that purpose all or any portion of the amount of tax which would otherwise be levied

upon property within such public agency. Such election shall be made by order upon motion, which order shall recite that such payment shall be made in cash concurrently with the certification of such order to the controller of the authority, or that such payment shall be made in installments and the times wherein such installments shall be payable and the amounts thereof, which amounts shall be in accordance with the requirements of the board of directors of the authority as approved by resolution. In the event that any public agency shall elect to pay in cash, or by deferred installments, money or any part thereof which would otherwise be levied upon property within the public agency, it shall immediately certify to the controller of the authority a copy of such order and a statement showing its financial condition, the funds from which such payments shall be made and the sources of revenue to be used therefor; provided, however, that in the event any public agency shall elect to pay in cash all or any portion of the amount of tax which would otherwise be levied upon property within such public agency to meet interest and sinking fund requirements on the outstanding bonded indebtedness of said authority, such amount so elected to be paid shall be deposited with the treasurer of said authority on or before the twenty-seventh day of August next following such election; and provided, also, that unless such payment is so made in the case of interest and sinking fund requirements, and unless such election, as to all other taxes, shall provide for payments in accordance with the resolution of the board of directors as hereinbefore provided for, then such election shall be ineffective for any purpose.

Certification of order

Deposit

Tax rate

(e) Before the first day of September the controller of the authority shall cause to be prepared and transmitted to the auditor of the county in which the authority shall lie, a statement showing the tax rate to be applied to assessed property in each public agency, which rate shall be the rate fixed by resolution of the board of directors modified to the extent necessary to produce from each public agency only the amount of money apportioned thereto in said resolution, less any amount paid or undertaken to be paid by such public agency, or credited thereto as herein provided, but if any fraction of a cent occur, it must be taken as a full cent on each one hundred dollars ($100).

Collection of tax

(f) Upon receipt by the auditor of the county in which such authority shall lie, of a certified copy of the controller's statement showing the tax rate to be applied to assessed property in each public agency, and showing the public agencies, the assessed property in which is exempt therefrom, if any, it shall be the duty of the county officers to collect taxes for the benefit of the authority at the rate specified as herein provided. The taxes so levied shall be computed and collected at the same time and in the same manner required by law for the assessment, computation and collection of taxes for county purposes, and the property subject to such tax shall be subject

to the same penalties for delinquency, and the same provisions of law relating to the sale of property for nonpayment of county taxes and redemption thereof shall apply to the tax herein authorized. When so collected, such taxes shall be paid over to the treasurer of the authority, subject to the deduction herein authorized.

Deduction

In consideration of services rendered hereunder, any county shall annually be entitled to deduct and retain for its own use and benefit an amount not exceeding 1 per cent on the first twenty-five thousand dollars ($25,000) collected hereunder, and one-fourth of 1 per cent of any amount in excess of twenty-five thousand dollars ($25,000) collected hereunder. The board of supervisors of each such county may provide such extra help as in their judgment may be necessary for the proper performance of duties hereunder.

Redemption after tax sale

(g) Whenever any real property situated in any authority organized hereunder and upon which a tax shall have been levied, as herein provided, shall be sold for taxes and shall be redeemed, the money paid for such redemption, except advertising costs, shall be apportioned and paid in part to such authority in the proportion which the tax due to such authority shall bear to the total tax for which such property shall have been sold. All taxes levied together with penalties, interests and costs under the provisions of this act shall be a lien upon the property upon which levied, and the enforcement of the collection of such tax shall be had in the same manner and by the same means as is or shall be provided by law for the enforcement of liens for county taxes, and all of the provisions of law relating to the enforcement of such taxes are hereby made a part of this act so far as applicable.

Lien

Payments by public agencies in avoidance of tax

(h) Public agencies, the areas of which are included within any county water authority incorporated hereunder, are hereby authorized to pay to any such authority, out of funds derived from the sale of water or other funds not appropriated to some other use, such amounts as may be determined upon by the governing bodies thereof, respectively. Such payments may be made in avoidance of taxes as herein provided, or otherwise, and are hereby declared to be for a public purpose and shall not be deemed gratuitous or in the nature of gifts, but shall be deemed payments for water or services in connection with the distribution of water. Any public agency making any such payment to any authority incorporated hereunder, whether in avoidance of taxes or otherwise, shall receive credit therefor and the amount of the payment so made by any public agency shall be deducted from the amount of taxes which would otherwise be levied against property lying therein as herein provided. In the event that payment so made by any public agency shall exceed the amount of taxes which would otherwise have been levied against property within such public agency, the amount of such excess without interest shall be carried over and applied in reduction

Credit

of taxes levied, or which would otherwise have been levied during the ensuing year or years.

Reimbursement

Any public agency, including a county, which shall have incurred expenses in negotiating contracts or in the investigation of or preliminary work upon any works or projects or in making payments on account of any such contracts, works or projects, taken over by the authority, may receive, and the authority so taking over any such contracts, works or projects may make to such public agency, reimbursement for all such sums so expended, or to be expended, for expenses incurred in such negotiations for, investigation of, preliminary work upon, or payments made on account of the contracts, works or projects so taken over by the authority, to the extent that the board of directors of the authority shall find that such expenditures have benefited such authority, it being the intention of this provision to permit the authority to purchase, and the public agency to sell, assign and transfer such contracts, works or projects taken over by such authority. The sum so to be paid by such authority to such public agency shall be such amount as may be mutually agreed upon.

Credit

As an alternative to the purchase and sale of any contracts, works or projects taken over by the authority, as hereinabove provided, any public agency which shall have incurred expenses in negotiating contracts or in the investigation of or preliminary work upon any such works or projects or in making payments on account of any such contracts, works or projects taken over by the authority, may certify the amount thereof, without interest, to the board of directors of said authority at any time within four (4) years from the date of the incorporation of such authority, or the incurring of such expenses, if such authority be already incorporated, and if allowed by the board of directors, such amount shall be credited to the public agency which incurred the same, and such expenditures shall be considered as a payment of money made as herein provided for which deduction shall be made from the amount of taxes which would otherwise be levied against property lying within such public agency.

Any public agency which shall incur expenses in preliminary work in preparing for the incorporation of or in the incorporation of any authority hereunder likewise may certify the amount thereof, without interest, to the board of directors of said authority at any time within four (4) years from the date of the incorporation of such authority, and if allowed by the board of directors, such amount shall be credited to the public agency incurring the same, and shall be considered as a payment of money made as herein provided, for which deduction shall be made from the amount of taxes which would otherwise be levied against property lying within such public agency.

Effect of payment or credit

No such payments of money made in lieu of taxes or otherwise, or such credit allowed by such board of directors, as hereinabove provided, shall apply to reduce the amount of

taxes which would otherwise be levied against the property within such public agencies respectively, to meet interest and sinking fund requirements on outstanding bonded indebtedness of such authority.

Such certification and allowance shall be made on or before the first Monday in July, and the amount of money to be raised by taxation shall be computed with reference to the credit to be allowed as herein provided, but such credit may, in the discretion of the board of directors, be considered in connection with the amount of money to be raised by the next tax levy, or may be spread over subsequent years, not to exceed five.

Penalty

(i) If any public agency shall fail to comply with the terms of the order relating to payments to be made to the authority in lieu of taxation, or if any public agency annexed to the authority shall fail to comply with the terms and conditions fixed by the board of directors and upon which such annexation occurred, the amount of the delinquency, plus a penalty of 8 per cent shall be added to the taxes to be collected during the ensuing fiscal year, from the property within such delinquent public agency, and thereafter for a period of two (2) years no order or ordinance shall be sufficient to exempt the property in said public agency from taxation hereunder unless it be accompanied by payment in cash of the amount which would otherwise be collected from owners of property within the public agency, together with all moneys due but unpaid under any previous order, or annexation provision.

Provisions directory only

(j) All provisions herein, or in any ordinance adopted pursuant hereto, relating to the respective times when the various acts pertaining to the levy of taxes are to be performed, are directory only, and failure to perform any such act or acts within the time so specified shall not impair the legal authority herein conferred to perform all subsequent acts relating to the levy of such taxes. In the event that any of the provisions of law respecting the time and manner of assessing property for purposes of taxation, of equalizing such assessments, of certifying such assessed valuations to the taxing authorities, of making the tax levies, of certifying such tax levies to the proper authorities for extension upon the tax rolls, and for enforcement and collection of such taxes or of performing any other act regarding the assessment, levy or collection of taxes be amended, changed, repealed or newly enacted, and as a result thereof, it should appear to the board of directors of the authority that the time schedule provided herein respecting the levy of authority taxes be no longer consistent with such modified tax procedure, then said board of directors by ordinance may prescribe a new schedule setting forth the times when the various acts herein required to be done in levying authority taxes shall be performed. Nothing contained in this paragraph shall relieve the board of directors of its

New time schedule

duty to provide adequate funds, by annual tax levies if necessary, to meet the interest and principal requirements of the bonded debts as they fall due.

Rate for preceding tax year

(k) For the purpose of assessing and collecting, under the provisions of Section 9 (a) of Article XIII of the Constitution of the State of California, the taxes levied by any authority incorporated hereunder, the rate for taxes levied for the preceding tax year, as such phrase is employed in said section of the Constitution, shall be the rate fixed for such preceding tax year by the board of directors of such authority pursuant to Section 9, subdivision (b) of this act.

Refund

In the event that any public agency, pursuant to the provisions of Section 9, subdivision (d) of this act, shall elect to pay the whole or any portion of the amount of taxes to be derived from the area of the authority within such public agency, as such amount shall have been fixed by resolution of the board of directors, a refund shall be made by the authority to each taxpayer thereof who shall have theretofore paid any tax collected under the provisions of said section of the Constitution, in the proportion that such public agency shall have so elected to pay the amount so to be derived. The board of directors shall adopt regulations providing for the presentation and audit and payment of claims for such refunds. No claim for such refund shall be granted unless such claim shall have been filed within one year from the date when the right to such refund shall have accrued.

Annexation

SEC. 10. Annexation to the territory of any authority organized hereunder may be effected by either of the following methods:

(a) Whenever any area shall be annexed to or consolidated with any public agency, the area of which shall be a part of any authority organized hereunder, such annexed or consolidated area shall by virtue of its annexation or consolidation to such public agency become and be a part of such authority and shall be taxable equally with other parts of such authority to pay the indebtedness of the authority outstanding at the time of such annexation or consolidation.

(b) The governing or legislative body of any public agency may apply to the controller of any county water authority for a statement showing the amount of the bonded and other indebtedness of the authority, the assessed value of the taxable property therein according to the most recent assessment, and the names of all public agencies, the areas of which are included within the authority, and it shall thereupon be the duty of the controller to furnish such information to the applicant. After consideration of such statement the governing body of such public agency may apply to the board of directors of such county water authority for consent to annex such public agency to the said authority. The board of directors may grant or deny such application and in granting the same may fix the terms and conditions upon which such public agency may be annexed to and become a part of the authority,

to the end that burdens, including the bonded debt, shall be equitably distributed over all parts of the authority, having due regard to benefits. The action of the board of directors evidenced by order made on motion shall be promptly transmitted to the governing body of such applying public agency, which governing body may thereupon submit to the qualified electors of such public agency, at any general or special election held therein, the proposition of such annexation subject to the terms and conditions fixed as herein provided. Notice of such election shall be given by posting or publication; when given by posting such notice shall be posted at least 10 days and in three public places in the public agency; when given by publication such notice shall be published once at least 10 days before the date fixed for the election in a newspaper of general circulation published in the public agency. Such notice shall contain the substance of the terms and conditions fixed by the board of directors, as herein provided. Such election shall be conducted and the returns thereof canvassed in the manner provided by law for elections in such public agency. If such proposition shall receive the affirmative vote of a majority of electors of such public agency voting thereon at such election, the governing body of such public agency shall certify the result of such election on said proposition to the board of directors of said authority and a certificate of proceedings hereunder shall be made by the secretary of the authority and filed with the Secretary of State. Upon the filing thereof in the office of the Secretary of State, such public agency shall become, and be an integral part of such county water authority, and the taxable property therein shall be subject to taxation thereafter for the purposes of said authority, including the payment of bonds and other obligations of such authority at the time authorized or outstanding.

(c) The inclusion in, or annexation to a county water authority of the corporate area of any public agency referred to in Section 2 of this act, shall not destroy the identity or terminate the legal existence or impair the powers of any such public agency, notwithstanding the identity of purpose or substantial identity of purpose of such county water authority.

(d) The validity of any proceedings for the annexation of a public agency to any authority organized hereunder, shall not be contested in any action unless such action shall have been brought within three months after the completion of such proceedings.

Withdrawal

SEC. 11. Any public agency whose corporate area has become or is a part of any authority may withdraw therefrom in the following manner:

The governing body of any such public agency may submit to the electors thereof at any general or special election the proposition of withdrawing from any authority incorporated thereunder. Notice of such election shall be given in the manner

provided in subdivision (b) of Section 10 hereof. Such election shall be conducted and the returns thereof canvassed in the manner provided by law for conduct of elections in said public agency. In the event that the majority of the electors voting thereon vote in favor of such withdrawal, the result thereof shall be certified by the governing body of such public agency to the board of directors of the authority. A certificate of the proceedings hereunder shall be made by the secretary of the authority and filed with the Secretary of State, and upon the filing of such certificate the area of the public agency so withdrawing shall be excluded from the said authority, and shall no longer be a part thereof; provided, however, that the property within the said public agency as it shall exist at the time of such exclusion shall continue taxable for the purpose of paying said bonded and other indebtedness outstanding or contracted for, at the time of such exclusion and until such bonded or other indebtedness shall have been satisfied.

Interested officer or employee

SEC. 12. Except as herein provided, no director or any other officer or employee of the authority shall in any manner be interested, directly or indirectly, in any contract awarded or to be awarded by the board of directors, or made or to be made by such officer or employee pursuant to discretionary authority vested in him, or in the profits to be derived therefrom. Notwithstanding the fact that such director or other officer or employee of the authority may be a stockholder or bondholder or director or other officer or employee of a corporation contracting with the authority, contracts may be made with such corporation for its general benefit unless such director or officer or employee of the authority shall own or control, directly or indirectly, stock or bonds to an amount exceeding five per centum (5%) of the total amount of the stock or bonds, respectively, of such contracting corporation issued and outstanding. For any violation of this section such director or other officer or employee of the authority shall be deemed guilty of a misdemeanor, and such conviction shall work a forfeiture of his office, or employment, and he shall be punished by a fine not exceeding five hundred dollars ($500), or by imprisonment in the county jail not exceeding six (6) months, or by both such fine and imprisonment.

Misdemeanor

Administration not provided for

SEC. 13. All matters and things necessary for the proper administration of the affairs of said authority which are not provided for in this act shall be provided for by the board of directors of the authority by ordinance. Any action required by this act to be done by resolution may be done, with equal validity, by ordinance.

Deposit of funds

SEC. 14. The treasurer of any authority organized under the provisions of this act is hereby expressly authorized to deposit funds of such authority in banks in the manner provided by law for the deposit of moneys of a municipality or other public or municipal corporation.

Fiscal year

SEC. 15. The fiscal year of any authority incorporated hereunder shall commence on the first day of July of each

year and shall continue until the close of the thirtieth day of June of the year following. As promptly as shall be possible after the close of each fiscal year, it shall be the duty of the controller of the authority to prepare and transmit to the chief executive officer of each public agency, the area of which shall lie within the authority, a statement of revenues and expenditures in such detail as shall be prescribed by the board of directors; also a statement of the amount of water stored by the authority and the amounts used by the respective public agencies, the areas of which shall lie within the authority. Statements

SEC. 16. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional. Constitutionality

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CHAPTER 546

An act to add Section 123.1 to the Bank Act, relating to travel expense of the State Banking Department Stats 1909, p 87, amended

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.] In effect August 4, 1943

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

SECTION 1. Section 123.1 is hereby added to the Bank Act, to read as follows: New section

Sec. 123.1. The State Banking Department may expend moneys in accordance with law for the actual and necessary travel expenses of officers and employees of the department who are authorized to absent themselves from the State of California on official business. Travel expenses

For the purpose of this section and of Section 352 of the Political Code, the following constitutes among other purposes, official business of such officers and employees for which such officers and employees shall be allowed actual and necessary traveling expenses when incurred out of this State, upon approval of the Governor and Director of Finance: Official business

Attending meetings of any National association or organization having as its principal purpose the study of matters relating to the administration of banking or the affairs of this department or conferring with officers or employees of the United States or other States relative to problems of administration, and obtaining information therefrom which information would be useful in the conduct of this department.

CHAPTER 547

Stats. 1939, p 49, amended

An act to amend Section 1003 of the Elections Code, relating to proclamation of election days.

In effect August 4, 1943

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

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

Stats 1939, p 49

SECTION 1. Section 1003 of the Elections Code is amended to read:

Publication

1003. Upon receipt of the proclamation, the board of supervisors shall cause a copy to be published in some newspaper printed in the county, if any, at least 10 days before the election. In case of special elections to fill a vacancy in the office of State Senator or member of the Assembly, upon receipt of the proclamation, the board of supervisors shall cause a copy to be published, as hereinbefore provided, except that publication need not be made for a longer period than five days before the election.

CHAPTER 548

An act to amend Section 2720 of the Penal Code, relating to the Jute Mill Revolving Fund.

In effect August 4, 1943

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

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

Stats 1941, p 1079

SECTION 1. Section 2720 of the Penal Code is hereby amended to read as follows:

Revolving fund for purchase of jute

2720. There is hereby constituted a permanent revolving fund in the sum of not less than four hundred thousand dollars ($400,000) to be used exclusively in payment of jute, or other materials, and for the payment of operating expenses of the jute mill, or mills and for the purchase and replacement of plant and equipment or for the building of buildings to

Jute mills

accommodate the operations of the jute mill or mills. Said jute mills may be at San Quentin or Folsom, or both, as the State Board of Prison Directors may determine. Any cost of transferring all or part of the jute mill from one prison to another shall be paid from said revolving fund. Said fund shall at all times contain the amount of four hundred thousand dollars ($400,000), either in cash or assets, consisting of raw material and finished and unfinished products inventory at cost, or both, or proper charges made under this section. Money received from the sale of jute products shall be paid to the State Treasurer monthly and shall be credited to said

Transfer to General Fund

revolving fund. At such time as the board or the Director of Finance decide that the balance in said revolving fund is greater than is necessary to carry out the purposes of this

section, it, or he, shall so inform the State Controller and request a transfer of the unneeded balance from the said revolving fund to the General Fund of the State of California. The Controller is authorized to transfer such balance upon the request of the Director of Finance.

CHAPTER 549

An act to amend Section 6854 of the Business and Professions Code, relating to exclusions from definition of "collection agency."

Stats 1937, p 1229, amended

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 6854 of the Business and Professions Code is amended to read:

Stats 1943, Ch 133

6854. "Collection agency" does not include any of the following unless they are conducting collection agencies:

Exclusions from "collection agency"

(a) Attorneys at law.

(b) Persons regularly employed on a regular wage or salary, in the capacity of credit men or in similar capacity, except as an independent contractor.

(c) Banks.

(d) Common carriers.

(e) Title insurers and abstract companies, while doing an escrow business.

(f) Duly licensed real estate brokers or agents doing a real estate business.

(g) Merchant-owned nonprofit credit associations.

(h) Duly licensed personal property brokers while making collections for another person of common ownership or affiliated through corporate control.

CHAPTER 550

An act to amend Section 385 of the Political Code, relating to the appointment of secretaries, assistants and employees of the Governor, and to repeal Section 386 of the Political Code.

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 385 of the Political Code is amended to read:

Stats 1931, p 1085

385. The Governor may appoint and fix the salaries of such secretaries, assistants, clerks, stenographers, and employees as he may deem necessary for his office. No salary fixed under

Governor's assistants

this section shall be in excess of eight thousand dollars ($8,000) per year. All such salaries shall be paid in the same manner and at the same time as the salaries of other State officers.

Stats 1933, p. 2184

SEC. 2. Section 386 of the Political Code is hereby repealed.

CHAPTER 551

An act to amend Sections 736 and 736a of the Political Code, relating to the salaries of justices of the Supreme Court and the district courts of appeal.

In effect August 4, 1943

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

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

Stats 1927, p 538

SECTION 1. Section 736 of the Political Code is amended to read:

Supreme Court justices' salaries

736. The annual salary of the Chief Justice of the Supreme Court is the sum of fourteen thousand dollars ($14,000) and the annual salary of each of the Associate Justices of the Supreme Court is the sum of thirteen thousand dollars ($13,000). Such salaries shall be payable monthly by the State.

Stats. 1927, p 538

SEC. 2. Section 736a of the Political Code is amended to read:

Appellate justices' salaries

736a. The annual salary of each of the justices of the district courts of appeal is the sum of twelve thousand dollars ($12,000). Such salaries shall be payable monthly by the State.

CHAPTER 552

An act to provide for the limiting or defining of electric service areas by the Railroad Commission of the State of California between utilities and irrigation districts engaged in the sale or distribution of electric power, declaring the urgency of this act, to take effect immediately.

In effect immediately

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.]

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

Policy

SECTION 1. It is hereby declared that under certain conditions the sale and distribution of electric power and energy in the same geographical area both by an electrical utility and by an irrigation district, results in duplication of service, waste of materials, increase in costs, waste of manpower and economic loss, and is detrimental to the efficiency and best interests of such districts. It is hereby declared to be the policy of this State to induce such utilities and irrigation districts to prevent or remove such economic waste and to adopt more efficient

and economic methods of distribution of electric power and energy and to that end encourage the definition of areas to be served or not to be served by each.

Petition to Railroad Commission

SEC. 2. Any utility may petition the Railroad Commission of the State of California setting forth in its petition the following:

(1) That the petitioner and an irrigation district formed under the laws of this State are both engaged or propose to engage in the sale and distribution of electric power and energy in the described area or areas or in contiguous areas, or that the petitioner proposes to sell an electric distribution system in a described area, to such irrigation district.

(2) That the petitioner and irrigation district are desirous of entering into a contract in which, among other things, and as one of the considerations therefor, they consent to the limitation of areas which each are to serve or are to be excluded from serving.

(3) A copy of the contract or proposed contract.

(4) A description of the respective areas that such limitations will affect and the terms of the contract, if any, or the conditions, if any, existing in connection with such limitations or the sale or acquisition of a utility distribution system.

(5) A prayer that said Railroad Commission issue its order limiting the area or areas within which the petitioner may, directly or indirectly, sell or distribute electric power or energy or define the area or areas within which the petitioner shall not sell or distribute electric power or energy as indicated in the petition and set forth in a contract or proposed contract.

Investigation

SEC. 3. Thereupon, the Railroad Commission shall cause an investigation to be made and may conduct such hearings in connection therewith as it considers desirable.

Order limiting area of sale or distribution

SEC. 4. If the Railroad Commission finds that it is for the best interests of the State and of such utility, and not incompatible with any public interest, that the petition be granted, it shall, and it is hereby empowered to, make and issue its order limiting the area or areas within which such utility shall have the right and authority to sell or distribute electric power or energy, directly or indirectly, or define the area or areas within which the utility shall not have the right or authority to sell or distribute electric power or energy, directly or indirectly, and said Railroad Commission is hereby further empowered to and may, in its order, approve and thereby authorize the contract or conditions, if any, in connection therewith. No limitation or definition of area or areas or statement of conditions shall be included in the order of said commission except as contained in said petition and contract.

When order effective

SEC. 5. Such limitations on the utility contained in any such order of the Railroad Commission shall not be effective until the California Districts Securities Commission shall have issued its order limiting the area to be served or defining the area not to be served by such irrigation district and approving

the contract or conditions, if any, in connection therewith as set forth in the petition and contract.

Defense in anti-trust, etc., proceedings

SEC. 6. In any civil or criminal action or proceeding for violation of the Cartwright Act, the Unfair Practices Act, the Fair Trade Act, Section 1673 of the Civil Code, Part 2 of Division 7 of the Business and Professions Code, or any rule of statutory or common law against monopolies or combinations in restraint of trade, proof that the act complained of was done in compliance with this act or an order issued under it and in furtherance of the purposes and provisions of this act, shall be a complete defense in such action or proceeding.

Compliance with act

SEC. 7. Where limitation of areas to be served or limitations or designations of areas not to be served by such utility and by an irrigation district have heretofore been approved or are hereafter approved by the Railroad Commission they shall be deemed to have complied with the provisions of this act.

Prohibition

SEC. 8. If in any contract submitted and approved by the Railroad Commission or in any order made by the Railroad Commission pursuant to application and petition as in this act provided, it is provided that the utility is not to serve or furnish electric energy in a specified area or areas, or is to furnish or serve the same under limited or specified circumstances only, or is to refrain from serving or furnishing electric energy in certain specified areas or under certain specified circumstances or under certain specified limitations, then, from and after the effective date of such order of the commission it shall be unlawful for the utility to serve electric energy in any area or in any manner which said contract and order provides that service shall not be rendered and in connection therewith the affected district shall be entitled, as a matter of right, to an injunction to prevent any such unlawful act on the part of the utility.

Injunction

Jurisdictional application

SEC. 9. Nothing contained in this act or any provisions thereof shall be construed to give to or vest in the Railroad Commission of the State of California any jurisdiction over irrigation districts or to vest in or give to the California Districts Securities Commission any jurisdiction over utilities other than irrigation districts.

Urgency

SEC. 10. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of California and therefore shall go into effect immediately. The following is a statement of the facts constituting such necessity:

In certain areas of the State duplicating service by irrigation districts and public utilities in the sale and distribution of electric power has resulted, and is resulting in economic waste, wastage of manpower, wastage of strategic and critical materials needed for the war, with no resultant benefit to the community served. In order that this economic wastage may be prevented it is necessary that this act go into effect as soon as possible.

CHAPTER 553

An act to provide for the limiting or defining of electric service areas by the California Districts Securities Commission between utilities and irrigation districts engaged in the sale of electric power, declaring the urgency of this act, to take effect immediately.

[Approved by Governor May 17, 1943. Filed with Secretary of State May 17, 1943.] In effect immediately

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

SECTION 1. It is hereby declared that under certain conditions, the sale and distribution of electric power and energy in the same geographical area both by an electrical utility and by an irrigation district, results in duplication of service, waste of materials, increase in costs, waste of manpower and economic loss, and is detrimental to the efficiency and best interests of such districts. It is hereby declared to be the policy of this State to induce such utilities and irrigation districts to prevent or remove such economic waste and to adopt more efficient and economic methods of distribution of electric power and energy and to that end encourage the definition of areas to be served or not to be served by each. Policy

SEC. 2. Any irrigation district, formed under the laws of this State, may petition the California Districts Securities Commission, setting forth, among other things in its petition, the following: Petition to California Districts Securities Commission

(1) That the petitioner and a utility are both engaged or propose to engage in the sale and distribution of electric power and energy in a described area or areas or in contiguous areas, or that the petitioner proposes to acquire an electric distribution system in a described area from such utility.

(2) That the petitioner and utility are desirous of entering into a contract in which, among other things, and as one of the considerations therefor they consent to the limitation of areas which each are to serve or are to be excluded from serving.

(3) A copy of the contract or proposed contract.

(4) A description of the respective areas that such limitations will affect and the terms of the contract, if any, or the conditions, if any, existing in connection with such limitations or the sale or acquisition of the utility distribution system.

(5) A prayer that the California Districts Securities Commission issue its order limiting the areas within which the petitioner may, directly or indirectly, sell or distribute electric power or energy or define the areas within which the petitioner shall not sell or distribute electric power or energy as indicated in the petition and set forth in the contract or proposed contract.

SEC. 3. Thereupon, the California Districts Securities Commission shall cause an investigation to be made and may Investigation

conduct such hearings in connection therewith as it considers desirable.

Order limiting area of sale or distribution

SEC. 4. If the California Districts Securities Commission finds that it is for the best interests of the State and of such district and not incompatible with any public interest that the petition be granted, it shall, and it is hereby empowered to, make and issue its order limiting the area or areas, within or without the district and within or without the State, within which the district shall have the right and authority to sell or distribute electric power or energy, directly or indirectly, or defining the area or areas within or without the boundaries of such district and within or without the boundaries of this State, within which the district shall not have the right or authority to sell or distribute electric power or energy, directly or indirectly, and said commission is hereby further empowered to, and may, in such order, approve and thereby authorize the contract or conditions, if any, in connection therewith. No limitations or definitions of areas or statement of conditions shall be included in the order of the commission except as contained in said petition and contract.

When order effective

SEC. 5. If such utility is subject to the jurisdiction of the Railroad Commission of the State of California, such limitations on the district contained in any such order of the California Districts Securities Commission shall not be effective until said Railroad Commission shall have issued its order limiting the area or areas to be served or defining the area or areas not to be served by such utility as set forth in the contract or proposed contract and approving the contract or conditions, if any, in connection therewith as set forth in said petition of the district and said contract or proposed contract. If such utility is not subject to the jurisdiction of the Railroad Commission the order of the California Districts Securities Commission shall not be effective until, by contract or other means satisfactory to the district, the area or areas to be served or not to be served by the utility are limited or defined and written evidence thereof has been filed by the district with the California Districts Securities Commission.

Defense in anti-trust, etc., proceedings

SEC. 6. In any civil or criminal action or proceedings for violation of the Cartwright Act, the Unfair Practices Act, the Fair Trade Act, Section 1673 of the Civil Code, Part 2 of Division 7 of the Business and Professions Code, or any rule of statutory or common law against monopolies or combinations in restraint of trade, proof that the act complained of was done in compliance with this act or an order issued under it and in furtherance of the purposes and provisions of this act, shall be a complete defense in such action or proceeding.

Compliance with act

SEC. 7. Where limitation of areas to be served or limitations or designations of areas not to be served by such a utility and by an irrigation district have been heretofore approved or are hereafter approved by the California Districts Securities Commission, they shall be deemed to have complied with the provisions of this act.

SEC. 8. If in any contract submitted to and approved by the California Districts Securities Commission, or in any order made by the California Districts Securities Commission pursuant to application and petition as in this act provided, it is provided that the irrigation district is not to serve or furnish electric energy in a specified area or areas, or is to furnish or serve the same under limited or specified circumstances only, or is to refrain from serving or furnishing electric energy in certain specified areas or under certain specified circumstances or under certain specified limitations, then, from and after the effective date of such order of the commission, it shall be unlawful for the irrigation district to serve electric energy in any area or in any manner which said contract and order provides that service shall not be rendered and in connection therewith the affected utility shall be entitled as a matter of right to an injunction to prevent any such unlawful act on the part of the irrigation district. Prohibition Injunction

SEC. 9. Nothing contained in this act or any provisions thereof shall be construed to give to or vest in the Railroad Commission of the State of California any jurisdiction over irrigation districts or to vest in or give to the California Districts Securities Commission any jurisdiction over utilities other than irrigation districts. Jurisdictional application

SEC. 10. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of California and therefore shall go into effect immediately The following is a statement of the facts constituting such necessity: Urgency

In certain areas of the State duplicating service by irrigation districts and public utilities in the sale and distribution of electric power has resulted, and is resulting in economic waste, wastage of manpower, wastage of strategic and critical materials needed for the war, with no resultant benefit to the community served. In order that this economic wastage may be prevented it is necessary that this act go into effect as soon as possible.

CHAPTER 554

An act to amend Section 182 of the Penal Code, relating to criminal conspiracy.

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.] In effect August 4, 1943

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

SECTION 1. Section 182 of the Penal Code is hereby amended to read as follows: Stats 1919, p. 170

182. If two or more persons conspire: Criminal conspiracy

1. To commit any crime;

2. Falsely and maliciously to indict another for any crime, or to procure another to be charged or arrested for any crime;

3. Falsely to move or maintain any suit, action or proceeding;

4. To cheat and defraud any person of any property, by any means which are in themselves criminal, or to obtain money or property by false pretenses or by false promises with fraudulent intent not to perform such promises;

5. To commit any act injurious to the public health, to public morals, or to pervert or obstruct justice, or the due administration of the laws.

They are punishable as follows:

Punishment

When they conspire to commit any felony, they shall be punishable in the same manner and to the same extent as is provided for the punishment of the said felony.

When they conspire to do any of the other acts described in this section they shall be punishable by imprisonment in the county jail for not more than one year, or in the State prison for not more than three years, or by a fine not exceeding five thousand dollars ($5,000) or both.

Prosecution and trial

All cases of conspiracy may be prosecuted and tried in the superior court of any county in which any overt act tending to effect such conspiracy shall be done.

CHAPTER 555

Stats 1921, p. 906, amended

An act to amend Section 39 of the Public Utility District Act, relating to public utility district taxation.

In effect August 4, 1943

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.]

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

Stats 1941, p 2773

SECTION 1. Section 39 of the cited act is amended to read:

Levy of tax if revenues insufficient to pay principal or interest

Sec. 39. (1) If from any cause the revenues of the district shall be inadequate to pay the principal or interest on any bonded debt as it becomes due, the board of directors must, or if funds are needed to carry out the objects and purposes of the district, which can not be provided for out of the revenues of the district, then the board of directors may, levy a tax for such purposes as herein provided. The board shall state the purposes for which such taxes are necessary, and must fix, by ordinance, the amount of money necessary to be so raised by taxation. If the amount to be raised at any one time by taxation for a purpose other than interest or sinking fund payments exceeds the sum of fifty thousand dollars ($50,000), such ordinance shall not go into effect before 30 days from its final passage.

Assessment, collection, etc.

(2) The board of directors may by ordinance provide the mode and manner of assessing, and of correcting and equaliz-

ing assessments upon, the taxable property situated within the district, for the purpose of levying district taxes, and of levying and collecting such taxes, and may provide for the collection of delinquent taxes by actions or legal proceedings which are hereby authorized to be brought, prosecuted and maintained in the name of the district against the several owners of property from whom such taxes may be due and delinquent, for the purpose of recovering the amount of the delinquent tax, with penalties, interest, and costs; provided, that the provisions of such ordinance shall be conformable to general law.

Use of county assessments Election

(3) The board of directors may elect to avail itself of the assessment or assessments made by the assessor or assessors of the county or counties in which the district is situated, and may take such assessment or assessments as the basis for district taxation; provided, that the board of directors shall declare its said election by ordinance and file a certified copy of the same with the auditor or auditors of the county or counties in which the district is situated. The election shall be effective with respect to all taxes levied and assessed after the first day of February next succeeding the date upon which the certified copy is filed. Thereafter all assessments shall be made and taxes collected by the county assessor and tax collector, or county assessors or tax collectors, of the county or counties in which the district is situated until the board of directors of the district by ordinance elect otherwise. When the board of directors elects otherwise, a certified copy of the ordinance electing otherwise shall be filed with the auditor or auditors of the county or counties in which the district is situated and it shall be effective with respect to all taxes levied and assessed after the first day of February next succeeding the date upon which the certified copy is filed. The said county auditor or auditors thereupon must, on or before the second Monday in August of each year, transmit to the board of directors of the district a statement in writing showing the total value of all property within the district, which value shall be ascertained from the assessment book of the said county or counties for that year as equalized and corrected by the board or boards of supervisors of such county or counties. In case the board of directors shall so elect, as hereinabove provided, it shall, on the first weekday in September, or if such weekday falls upon a holiday then on the first business day thereafter, fix the rate of taxes, designating the number of cents upon each hundred dollars ($100), using as a basis the value of property as assessed by the county assessor or assessors and so returned to such board of directors by the county auditor or auditors, as hereinabove provided, which rate of taxation shall be sufficient to raise the amount previously fixed by the board, as hereinabove prescribed; which acts by said board of directors are

Tax collection

Renouncement of election

Tax rate

declared to be a valid assessment of such property and a valid levy of such taxes so fixed. The board of directors must immediately thereafter transmit to the county auditor or auditors of the county or counties in which the district is situated a statement of such rate so fixed by the board of directors.

Statement

Tax assessment

The said auditor or auditors must then compute and enter in a separate column in the assessment book or assessment books, to be headed "Utility District Tax, _____ Public Utility District (naming it)," the respective sums in dollars and cents or dollars or cents to be paid as a district tax on the property therein enumerated and assessed as being in the public utility district, using the rate of levy so fixed by the board of directors of the district, and the assessed value as found in such assessment book or assessment books. Such taxes so levied shall be collected at the same time and in the same manner as county taxes; and when collected the net amount, as ascertained as hereinafter provided, shall be paid to the treasurer of the district, under the general requirements and penalties provided by law for the settlement of other taxes.

Collection

Payment

Expenses of county officers

Each county auditor and tax collector affected by the provisions of this act shall annually file with the board of supervisors of his county itemized statements showing the additional expense to his office caused by the performance of the duties imposed upon him or his office under the provisions of this act, and upon the filing of such statements the board of supervisors shall, by an order spread upon its minutes, deduct such expenses from the tax money of the district, while in the hands of the tax collector, and transfer the amount deducted into the county salary fund; provided, that not more than one-half of 1 per centum on the amount collected shall be so charged or deducted by any county. The board or boards of supervisors of such county or counties may provide such extra help for their county offices or officers as in their judgment may be necessary for the proper performance of their duties hereunder.

Redemption money

Whenever any real property situate in any public utility district formed under the provisions of this act, which district has availed itself of the provisions of this subdivision of this section, has been sold for taxes and has been redeemed, the money paid for such redemption shall be apportioned and paid by the county treasurer or treasurers receiving the same to such public utility district, in the proportion which the tax due to such district bears to the total tax for which such property was sold.

Lien

(4) All taxes levied under the provisions of this act shall be a lien on the property on which they are levied; and the enforcement of the collection of such taxes may be had in the same manner and by the same means as is provided by law for the enforcement of liens for State and county taxes, all the provisions of law relating to the enforcement of the latter

being hereby made a part of this act, so far as applicable; provided, that where a public utility district has not availed itself of the provisions of Subdivision (3) of this section, the delinquent property sold by the tax collector of the district for delinquent taxes shall be struck off by him to the district and shall thereafter be redeemed or disposed of as is provided by law in the case of delinquent property sold to the State for delinquent State and county taxes.

CHAPTER 556

An act to add Section 7518 to the Business and Professions Code, relating to night watchmen in unincorporated areas, declaring the urgency hereof, to take effect immediately.

Stats. 1937, p. 1229, amended

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.]

In effect immediately

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

SECTION 1. Section 7518 is added to the Business and Professions Code, to read:

New section

7518. This chapter does not apply to night watchmen in unincorporated areas who are deputized by the sheriff of the county in which such territory is located and who serve either one employer only or several employers on a certain beat or territory.

Night watchmen

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

Urgency

Due to the shortage of manpower many employers have to cooperate in the employment and sharing of night watchmen. Under the present law these men technically would be required to comply with the laws governing private detectives, run the gauntlet of a complicated license procedure and file a surety bond. When other employment is so readily available most persons will not make the effort to meet these difficulties. As a consequence businesses and residences in unincorporated areas which are sorely in need of protection are unable to obtain it.

CHAPTER 557

Stats 1943, Ch 134, amended
Stats 1931, p 2475, repealed

An act relating to claims against, the liability of public officers and employees, and providing for insurance with respect thereto, amending Sections 1956 and 1981 of the Government Code, and repealing an act entitled "An act relating to the liability in damages of officers of municipalities, counties, cities and counties, school districts, and the State of California, in the case of injuries to persons or property resulting from the defective or dangerous condition of public streets, highways, bridges, buildings, works or property, and alleged to be due to the negligence or carelessness of such officers and/or liability in damages of such officers in the case of injuries to persons or property resulting from the negligence or carelessness of such officers, prescribing the duties of claimants in such cases, and authorizing the State and such public or quasi public corporations to take out and pay for insurance to protect their officers against such liability," approved June 19, 1931.

In effect August 4, 1943

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.]

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

Claim for damages suffered on public property or by employee's negligence

SECTION 1. Whenever it is claimed that any person has been injured or any property damaged as a result of the negligence or carelessness of any public officer or employee occurring during the course of his service or employment, or as a result of the dangerous or defective condition of any public street, highway, building, park, grounds, works or property, alleged to be due to the negligence or carelessness of such officer or employee, a verified claim for damages shall be presented in writing and filed with such officer or employee and the clerk or secretary of the legislative body of the municipality, county, city and county, or school district, as the case may be, within 90 days after the accident has occurred. Such claim shall specify the name and address of the claimant, the date and place of the accident and the extent of the injuries or damages received. In the case of a State officer or employee said notice and claim shall be filed with the Governor as well as the officer or employee himself.

Suit for damages· Defense counsel

SEC. 2. Whenever any suit for damages is brought against an officer or employee of any municipality, county, city and county, school district, or the State of California, on account of injuries to persons or property, alleged to have been received as a result of the negligence or carelessness of such officer or employee occurring during the course of his service or employment, or alleged to have been received as a result of the dangerous or defective condition of any public streets, highway, building, park, grounds, works or property, alleged to be due to the negligence or carelessness of such officer or employee, it shall be the duty of the attorney for such municipality,

county, city and county, school district, or other public or quasi public corporation, or of the State of California, as the case may be, to act as counsel in defense of such suit, unless lawful provision has been made for the employment of other counsel in connection therewith; and the fees and expenses involved in such suit shall be a lawful charge against such municipality, county, city and county, school district or the State of California, as the case may be.

Fees and expenses

SEC. 3. Municipalities, counties, cities and counties, school districts or the State of California, may insure their officers and employees against any liability, other than a liability which may be insured against under the provisions of the workmen's compensation insurance laws of this State, for injuries or damages resulting from their negligence or carelessness during the course of their service or employment and for injuries and damages resulting from the dangerous or defective condition of public streets, highways, buildings, parks, grounds, works and property, and due to their alleged negligence or carelessness, as specified in this act, either by self-insurance, or in any insurance company authorized to transact the business of such insurance in the State of California; and the premium for such insurance shall be a proper charge against the public treasury of such municipality, county, city and county, school district, or the State of California, as the case may be.

Liability insurance

Premium

SEC. 4. The word "person" includes any pupil attending the public schools of any school or high school district.

Definitions

The words "public property" include any vehicle, implement or machinery owned by a municipality, county, city and county, school district, or the State of California, or operated by or under the direction or authority or at the request of any public officer or employee.

The words "public officer," "officer" or "officers" include any deputy, assistant, agent or employee of a municipality, county, city and county, school district or the State of California, acting within the scope of his office, agency or employment.

SEC. 5. An act entitled "An act relating to the liability in damages of officers of municipalities, counties, cities and counties, school districts, and the State of California, in the case of injuries to persons or property resulting from the defective or dangerous condition of public streets, highways, bridges, buildings, works or property, and alleged to be due to the negligence or carelessness of such officers and/or liability in damages of such officers in the case of injuries to persons or property resulting from the negligence or carelessness of such officers, prescribing the duties of claimants in such cases, and authorizing the State and such public or quasi public corporations to take out and pay for insurance to protect their officers against such liability," approved June 19, 1931, is repealed.

Stats 1931, p 2475

Note.—See Stats. 1943, Ch. 134.

Effect Stats 1943, Ch 134

SEC. 8. Sections 6 and 7 of this act shall take effect only if a Government Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as the Repeal Government Code takes effect, Sections 1, 2, 3 and 4 of this act are repealed.

CHAPTER 558

An act to amend Section 737y of the Political Code, relating to the salary of the judge of the superior court in and for the County of Modoc.

In effect August 4, 1943

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.]

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

Stats. 1939, p 2427

SECTION 1. Section 737y of the Political Code is amended to read:

Judge's salary: Modoc County

737y. The annual salary of the judge of the superior court in and for the County of Modoc is six thousand dollars ($6,000).

CHAPTER 559

Stats 1931, p 1442, amended

An act to amend Section 38c of the State Employees' Retirement Act, relating to a retirement system for public officers and employees.

In effect August 4, 1943

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.]

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

Stats 1943, Ch 112 See also Stats. 1943, Ch. 640

SECTION 1. Section 38c of the act cited in the title hereof is amended to read:

Participation by cities: Contracts

Sec. 38c. After receiving from the Board of Administration, a quotation of the approximate contribution provided for in Section 58b, any municipal corporation in the State may participate in the State Employees' Retirement System, making its employees members of said system, by contract entered into between the legislative body of said municipal corporation and the Board of Administration of the said retirement system, subject to the provisions of this act. Said contract may include any provisions consistent with this act, necessary in the administration of the retirement system as it affects said employees and municipal corporation. The approval and termination of said contract shall be subject to the following provisions, in addition to the other provisions of this act:

Approval and termination

Resolution

(1) Said legislative body shall adopt a resolution giving notice of intention to approve said contract, which resolution

shall contain a summary of the major provisions of the proposed retirement system. Such contract shall not be approved unless and until an election has been held to permit the employees proposed to be included in the retirement system to express by secret ballot their approval or disapproval of said retirement proposal. The ballot at such election shall include the summary of the retirement system as set forth in the foregoing resolution. The election shall be conducted in such a manner as to permit the firemen, the policemen, and the other city employees proposed to be included in the system separately to express their approval or disapproval thereof. Said election shall be conducted in such manner as shall be prescribed by the legislative body of the city. Approval of the contract shall be by ordinance adopted by the affirmative vote of two-thirds of the members of said legislative body, not less than 20 days after the adoption of said resolution, or by an ordinance adopted by a majority of the electorate of the city voting thereon. The legislative body shall not include in the retirement system any of the three groups above mentioned, a majority of whose members voted to disapprove the proposed system.

Election

Favorable vote

(2) If the contract was approved by an ordinance adopted by the legislative body, said legislative body may terminate said contract by the adoption of a resolution giving notice of intention to terminate, and by the adoption, not less than one year after the adoption of said resolution and by the affirmative vote of two-thirds of the members of said legislative body, of an ordinance terminating said contract. If the contract was approved by an ordinance adopted by a majority vote of the electorate voting thereon, the legislative body may terminate said contract in the manner provided in this subdivision but only under authority granted by ordinance adopted by such a majority vote of the electorate of the contracting city.

Notice of termination

Ordinance

(3) The Board of Administration may and it shall be its duty to terminate said contract, by resolution adopted by a majority vote of its members, effective 60 days after notice of the adoption of said resolution has been mailed by registered mail to the legislative body of said city; provided, said city shall fail for one year to pay to the system any installment of contributions required of it by this act.

Required termination

(4) Upon the termination of said contract, the accumulated contributions of the employees who are members under said contract, shall remain in the State Employees' Retirement Fund until July 1, 1946; provided, that should any such employee cease to be employed by said contracting city, or should he die, his accumulated contributions shall be paid to him, or to his beneficiary, estate or next of kin, as the case may be, and as provided in this act for the refund of accumulated contributions and the payment of death benefits.

Accumulated contributions

The right to a retirement allowance, of a person who has retired prior to the effective date of the termination of said contract, or who has qualified and applied for retirement by

Rights of persons retired

written document received at the board's office in Sacramento, California, prior to said effective date, even though the board shall not approve said application until a later date, and the right of any person to a benefit on account of a death which occurred prior to said effective date, shall not be affected by said termination of said contract, except as herein provided in the event the contracting city shall fail to make contributions required of it because of the participation of its employees in the system.

The right to a retirement allowance, of a person who has retired prior to the effective date of the termination of said contract, or who has qualified and applied for retirement by written document received at the board's office in Sacramento, California, prior to said effective date, even though the board shall not approve said application until a later date, and the right of any person to a benefit on account of a death which occurred prior to said effective date, shall not be affected by said termination of said contract, except as herein provided in the event the contracting city shall fail to make contributions required of it because of the participation of its employees in the system.

(5) Upon the termination of said contract, the Board of Administration shall hold for said contracting city until July 1, 1946, such portion of the accumulated contributions then held by the retirement system and credited to, or as having been made by it, as are in excess of an amount actuarily equivalent, as determined by the actuary and approved by the board, to all benefits the system is obligated to pay after the effective date of said termination, to or on account of persons who are or have been employed by said city, and on account of service rendered by said persons to said city. If the said accumulated contributions credited to, or as being made by said city at the date of said termination, shall not be at least equal to said actuarial equivalent, said city shall contribute to the retirement system under terms fixed by the Board of Administration, an amount equal to the difference between said accumulated contributions and said actuarial equivalent. If said city shall fail to make such contribution, the portion of benefits described in the first sentence of this paragraph, payable after the board declares said city in default of said contribution, from the contributions previously made by said city, shall be reduced in the proportion the said accumulated contributions credited to, or as having been made by said city, bears to said actuarial equivalent of said benefits as of the date said board declared the default. The right of an employee of a contracting city, or his beneficiary, to a benefit under the system, whether before or after retirement or death, shall be subject to the adjustment provided in the sentence next preceding.

Employees included within contract

(6) Said municipal corporation shall include under said contract all of its firemen and policemen and/or all of its other employees, except as exclusions may be agreed to between it and the Board of Administration, said exclusions to be based

on groups of employees such as by departments, by duties or by age, and not on individual employees. The Board of Administration, however, shall have the right to disapprove the exclusion of any group, if in its opinion said exclusion affects adversely the interests of said retirement system. Membership in the retirement system shall be compulsory for all employees included under said contract.

CHAPTER 560

An act to amend Section 4273 of the Political Code, relating to the compensation of public officers.

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.] In effect August 4, 1943

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

SECTION 1. Section 4273 of the Political Code is amended to read: Stats 1941, p 1601

4273. In counties of the forty-fourth class, the following county officers shall receive as compensation for the services required of them by law or by virtue of their office, the following sums: Plumas County salaries

1. The auditor, twelve hundred dollars ($1,200) per annum. Auditor

2. The district attorney, two thousand dollars ($2,000) per annum. District Attorney

3. Each supervisor, one thousand two hundred dollars ($1,200) per annum and mileage from residence to the county seat at each sitting of the board, twenty cents ($0.20) per mile; said compensation to be in full for services either as supervisor or for mileage as road commissioner. Supervisors

4. Grand and trial jurors, three dollars ($3) per day, and such mileage fees as may be allowed by law. Jurors

CHAPTER 561

An act to amend Section 4312 of and to add Section 4312.5 to the Political Code, relating to the location and office hours of certain county offices, to take effect immediately.

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.] In effect immediately

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

SECTION 1. Section 4312 of the Political Code is hereby amended to read as follows: Stats 1943, Ch 163

4312. Sheriffs, clerks, recorders, treasurers and auditors, must have their offices at the county seat, in the courthouse, hall of records, jail or other buildings, provided by the county Location and business hours of county officers

through the board of supervisors, and keep them open for the transaction of business continuously from 9 o'clock a.m. to 5 o'clock p.m. every day in the year except Sundays and holidays; provided, that in each city containing a population of not less than 35,000 as ascertained by the last preceding census taken under the authority of the Congress of the United States or the Legislature of the State of California, wherein the city hall of said city is not less than eight miles distant from the site of the county courthouse, sheriffs and clerks must also have offices in each such city at a place provided by the county through the board of supervisors and keep them open for the transaction of business continuously from 9 o'clock a.m. until 5 o'clock p.m. every day in the year except Sundays and holidays. In any city or town containing a population of not less than 20,000 as ascertained by the last preceding census taken under the authority of the Congress of the United States, or the Legislature of the State of California, wherein the city hall is not less than 30 miles distant from the county courthouse, sheriffs and clerks must open offices provided by the county through the board of supervisors and keep them open for the transaction of business continuously from 9 o'clock a.m. until 5 o'clock p.m. every day in the year except Sundays and holidays.

In any city or town containing a population of not less than 50,000 as ascertained by the last preceding census taken under the authority of the Congress of the United States, or the Legislature of the State of California, wherein the city hall is not less than six miles distant from the county courthouse, sheriff's and clerks must open offices provided by the county through the board of supervisors and keep them open for the transaction of business continuously from 9 o'clock a.m. until 5 o'clock p.m. every day in the year except Sundays and holidays.

In any city or town containing a population of not less than 7,000, as ascertained by the last preceding census taken under the authority of the Congress of the United States, or the Legislature of the State of California, wherein the city hall of said city is not less than 55 miles distant from the site of the county courthouse, sheriffs and clerks must open offices provided by the county through the board of supervisors and keep them open for the transaction of business continuously from 9 o'clock a.m. until 5 o'clock p.m. every day except Sundays and holidays, during the period for which the superior court is in session in such city or town. The words "transaction of business" as used herein shall be construed to mean that during the said hours named there shall be present in each of said offices at least one person qualified and prepared to transact the business that may properly come into said office.

"Transaction of business"

In all cases where an officer named herein has no regularly appointed deputy provided by this title and paid by the county at the same time and in the same manner that his

principal is paid, he shall be permitted to close his office during the hour from 12 o'clock noon to and until 1 o'clock p.m.

In all cases where an officer named herein has a branch office to which a single deputy is assigned he shall be permitted to close such branch office during the hour from 12 o'clock noon to and until 1 o'clock p.m

The judges of the superior court must have chambers at the county seat and must establish such rules and hours for official business as may be necessary for the dispatch thereof. Superior court judges

SEC. 2. Section 4312.5 is hereby added to the Political Code, to read as follows: New section

4312.5. Notwithstanding any provisions of Section 4312 hereof, in those counties having a population in excess of 600,000 county officers shall keep their offices open for the transaction of business during such hours and on such days as the board of supervisors of each such county shall fix by ordinance. Office hours in counties over 600,000

SEC. 2. This act is hereby declared to be an urgency measure within the meaning of Section 1, Article IV of the Constitution of the State of California, and shall take effect immediately. The facts constituting such urgency are as follows: Urgency

Due to the congestion on public conveyances caused by war emergency conditions, it has been necessary to adopt staggered hours of work for county employees. Schedules for these staggered hours are now in effect and it is urgent that the hours of work of all county employees be regulated at once to conform to these schedules. Only by immediately permitting boards of supervisors to fix office hours of those officers mentioned in this act is it possible to effect an immediate compliance with the traffic recommendations of the Office of Defense Transportation and of the various local defense councils.

CHAPTER 562

An act to add Section 77 to the Agricultural Code and Section 4041h to the Political Code, relating to agricultural fairs and prescribing the powers of the State Agricultural Society and counties in relation thereto. Stats. 1933, p. 60, amended

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.] In effect August 4, 1943

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

SECTION 1. Section 77 is added to the Agricultural Code, to read: New section

77. The State Agricultural Society may pay membership fees, join, and participate in the affairs of associations having for their purpose the interchange of information relating to livestock, poultry, and other agricultural animals and products, the conduct and management of fairs, the conducting Membership in associations

of horse racing meetings and similar associations dealing with subjects related to the powers and duties of the State Agricultural Society.

New section

SEC. 2. Section 4041h is added to the Political Code, to read:

Membership in associations

4041h. The board of supervisors may join and participate in the affairs of associations having for their purpose the interchange of information relating to livestock, poultry, and other agricultural animals and products, the conduct and management of agricultural fairs, and similar associations dealing with subjects related to agricultural fairs, and may expend for these purposes any money allocated to the county by the State for agricultural fair purposes.

CHAPTER 563

An act to add Section 4307.1 to the Political Code, relating to county charges.

In effect August 4, 1943

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.]

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

New section

SECTION 1. Section 4307.1 is added to the Political Code, to read:

Expenses of constables

4307.1. The actual and necessary expenses of constables in serving warrants of arrest in criminal matters and the investigation of criminal matters and the expenses of maintaining an office, telephone and the expense of supplying necessary books, records and other supplies to said constables may be allowed by the board of supervisors in its discretion, and paid as county charges.

CHAPTER 564

An act providing for preparation for postwar State highway construction projects, and making an appropriation therefor.

In effect August 4, 1943

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.]

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

Appropriation Highway postwar construction projects

SECTION 1. There is hereby appropriated out of any moneys in the State treasury, not otherwise appropriated, the sum of twelve million dollars ($12,000,000), which sum shall be transferred by the State Controller on the effective date of this act from the General Fund to the State Highway Fund. The sum so transferred shall be expended by the Department

of Public Works for the preparation of surveys, plans and specifications, and the acquisition of rights of way for State highway postwar construction projects. The projects for which expenditures are to be made hereunder shall be so selected that when constructed the apportionment of the total expenditures therefor, including construction cost, between county groups, as defined by Section 187 of the Streets and Highways Code, and between primary and secondary State highways, will be in accordance with the appropriation provisions of Article 5 of Chapter 1 of Division 1 of the Streets and Highways Code.

Report of expenditures

On the convening of the Fifty-sixth Session of the Legislature the Department of Public Works shall file with each house of the Legislature a report specifying what expenditures have been made hereunder on each such project selected, describing each such project, and giving the estimate of the construction cost thereof.

CHAPTER 565

An act providing for preparation for postwar county highway construction projects, and making an appropriation therefor.

[Approved by Governor May 18, 1943 Filed with Secretary of State May 18, 1943.]

In effect August 4, 1943

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

Appropriation Postwar county highway construction projects

SECTION 1. There is hereby appropriated out of any moneys in the State treasury, not otherwise appropriated, the sum of one million, five hundred thousand dollars ($1,500,000), which sum shall be transferred by the State Controller on the effective date of this act, from the General Fund to the State Highway Fund, to be expended for the preparation of plans, surveys and specifications for postwar county highway construction projects, as provided in this act.

Expenditure

SEC. 2. The moneys so appropriated shall be expended as follows: There shall first be allocated for expenditure in each county, and city and county, of the State the sum of five thousand dollars ($5,000), and the balance shall be apportioned among the counties, and cities and counties of the State in the proportion that the registration of motor vehicles in each of said counties, and cities and counties, bears to the total number of motor vehicles registered in this State.

Budget

SEC. 3. The board of supervisors of each county shall submit a budget of proposed postwar construction projects on county highways to the department, showing the estimated expenditure of such funds recommended to be made. Projects shall be selected on the basis of importance, as farm to market roads, or feeder roads to the State Highway System, or county highways of major importance within cities. Such budget

shall be submitted on such forms as the department may specify.

The department may refuse to approve any such budget or any item thereof, if, in the opinion of the department, the work proposed to be done, or the expenditures proposed to be made, as outlined therein, are excessive, or if, in the opinion of the department, the proposed project does not comply with the requirements of this act as to the type of projects to be selected.

Delegation of expenditures

SEC. 4. The department shall delegate the expenditure of the money allocated to any county to such county if the department is satisfied that such county is equipped to conduct the particular work to be delegated in an efficient and economic manner.

Payment

SEC. 5. The department shall pay to each county to which any expenditure has been delegated hereunder the amount of such proposed expenditure as soon as the budget for said county has been approved. The county shall deposit such payment in its special road improvement fund, and shall expend it for the purposes provided in this act, and for the projects approved in said budget, and not otherwise. The budget may be modified, or revised, at any time with the approval of the department.

Report to department

SEC. 6. Each county to which an expenditure or expenditures was delegated shall file with the department, at the close of each fiscal year in which any such expenditures was made, a report showing all expenditures made in such detail as the department may require.

Report to Legislature

SEC. 7. On the convening of the Fifty-sixth Session of the Legislature, the department shall file with each house a report showing the allocation of the appropriation made hereunder, the expenditures made by each county for each proposed project, a description of each such project, and the county's estimated construction cost of each project.

"County"

SEC. 8. "County," as used in this act, includes "city and county."

CHAPTER 566

Stats 1935, p 93, amended

An act to add Section 511.9 to the Vehicle Code, relating to the regulation of speeds on public streets and highways, declaring the urgency thereof, and providing that this act shall take effect immediately.

In effect immediately

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.]

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

New section

SECTION 1. Section 511.9 is added to the Vehicle Code, to read:

Prima facie speed limits near military establishment

511.9. Prima Facie Speed Limits. The prima facie speed limit of 25 miles per hour provided in Section 511 shall apply

upon any portion of the highway within a distance of 1,000 feet of any entrance to, approach to, or intersection near any military or naval establishment where the authorities in charge of such highway deem necessary and signs have been erected as provided in Section 468 giving notice thereof.

Urgency

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

The United States of America is in a state of war. The successful prosecution of the war requires the conservation of all resources both human and material. Many military and naval establishments have been established in California, some of these establishments being located upon our principal highways, and the high speed of motor traffic past entrances to such establishments constitutes a grave hazard to life and property of both military or naval personnel entering and leaving such establishments and of the general public upon our highways, and in order to reduce that serious hazard, it is necessary that the speed of traffic upon such highways at the entrances to military and naval establishments must immediately be reduced to 25 miles per hour.

CHAPTER 567

An act to make an appropriation for the cost of auditing and collecting unemployment relief restitutions, to take effect immediately.

[Approved by Governor May 18, 1943 Filed with Secretary of State May 18, 1943.]

In effect immediately

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

Appropriation S R A restitutions

SECTION 1. There is hereby appropriated from the "State Controller's S. R. A. Restitutions Fund" for the support of the State Controller from June 30, 1943, to February 1, 1945, the sum of ninety-eight thousand five hundred dollars ($98,500) to be used for the auditing and the collection of refunds, under, and administrative expenses in connection with, the "California Unemployment Relief Act of 1935."

Current expenses

SEC. 2. This act, inasmuch as it makes an appropriation for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately.

CHAPTER 568

Stats 1939, p 49, amended

An act to amend Section 2571 and to repeal Section 2570 of the Elections Code, relating to statement of number of voters.

In effect August 4 1943

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.]

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

Stats 1939, p 49

SECTION 1. Section 2571 of the Elections Code is amended to read:

Statemen of registe ed voters

2571. A statement of the number of voters in his county at the close of registration on the eleventh day prior thereto shall be transmitted to the Secretary of State by each county clerk at the following times:

(a) On the 29th day before each presidential primary.

(b) On the 84th day before each direct primary.

(c) On the 29th day before each direct primary.

(d) On the 29th day before each general election.

The statement shall show the total number of voters in the county, the number registered as affiliated with each political party and the number who declined to state a party affiliation.

Stats 1939, p 49

SEC. 2. Section 2570 of the Elections Code is hereby repealed.

CHAPTER 569

Stats 1939, p 49, amended

An act to amend Section 1406 of the Elections Code, relating to initiative and referendum petitions.

In effect August 4, 1943

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.]

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

Stats 1939, p 49

SECTION 1. Section 1406 of the Elections Code is amended to read:

Preservation of petitions

1406. An officer receiving or filing in his office any initiative or referendum petition shall preserve said petition for four years. He may thereafter destroy any such petition unless it is in evidence in some action or proceeding then pending.

CHAPTER 570

Stats 1937, p. 1229, amended

An act to amend Section 6301 of the Business and Professions Code, relating to boards of trustees of law libraries.

In effect August 4, 1943

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.]

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

Stats 1941, p 1742

SECTION 1. Section 6301 of the Business and Professions Code is hereby amended to read as follows:

Board of law library trustees How constituted

6301. A board of law library trustees is constituted as follows:

(a) In a county where there are no more than three judges of the superior court, each of such judges is ex officio a trustee;

in a county where there are more than three judges of the superior court, the judges of the court shall elect three of their number to serve as trustees.

(b) In a county in which one or more municipal courts have been established, the judges of such court or courts shall elect one of their number to serve as trustee.

(c) The chairman of the board of supervisors is ex officio a trustee, but the board of supervisors may appoint a member of the bar of the county to serve as trustee in place of said chairman.

(d) The board of supervisors shall appoint as many additional trustees, who are members of the bar of the county, as may be necessary to constitute a board of five members in any county in which a municipal court has not been established, or of six members in any county where such a court has been established.

CHAPTER 571

An act to amend the title and Sections 1 and 2 of an act entitled "An act authorizing the investment and reinvestment and dispositions of any surplus moneys in the treasury of any county, city and county, incorporated city or town, municipal utility district, irrigation district, or flood control district," approved April 23, 1913, as amended, and to repeal an act entitled "An act authorizing the investment and reinvestment, and disposition, of any moneys in any sinking fund of any county, city and county, or incorporated city or town, and repealing an act entitled 'An act authorizing the investment and reinvestment and disposition of any moneys in any sinking fund of any county, city and county, or incorporated city or town,' approved March 3, 1909," approved April 3, 1911, relating to the investment of moneys in the sinking funds of or surplus moneys in the treasury of any county, city and county, incorporated city, or other public or municipal corporation or public district, and declaring the urgency hereof, to take effect immediately.

Stats 1913, p 76, amended

Stats 1911, p 582, repealed

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.]

In effect immediately

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

SECTION 1. The title of an act entitled "An act authorizing the investment and reinvestment and dispositions of any surplus moneys in the treasury of any county, city and county, incorporated city or town, municipal utility district, irrigation district, or flood control district," approved April 23, 1913, is amended to read:

Stats 1943, Ch 227

An act authorizing the investment and reinvestment and dispositions of any moneys in any sinking fund of or any

Title

surplus moneys in the treasury of any county, city and county, incorporated city or other public or municipal corporation or public district.

Stats 1943, Ch. 227

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

Investment of surplus moneys

Section 1. Any county, city and county, incorporated city or other public or municipal corporation or public district, which now has, or hereafter shall have, any moneys in any sinking fund of or any surplus money in the treasury thereof, not required for the immediate necessities of the said county, city and county, incorporated city or other public or municipal corporation, or public district, is hereby authorized to invest such portion of any such moneys as the governing body of the said county, city and county, incorporated city or other public or municipal corporation or public district, may deem wise or expedient in (1) any bonds already issued or hereafter issued by such county, city and county, incorporated city, or other public or municipal corporation or public district, respectively, and (2) treasury notes or bonds of the United States or those for which the faith and credit of the United States are pledged for the payment of principal and interest, or of this State, or of any county, city and county, city, or other public or municipal corporation or public district respectively within this State, or registered warrants of this State; provided, said notes, bonds or registered warrants are legal investment for savings banks in the State of California. Any such investment may be made by direct purchase of any issue of notes, bonds or registered warrants, or part thereof, at the original sale of such notes, bonds or registered warrants, or by the purchase of such notes, bonds or registered warrants after they have been thus issued. Any notes, bonds or registered warrants thus purchased and held may, from time to time, be sold and the proceeds reinvested in notes, bonds or registered warrants as above provided. Sales of any notes, bonds or registered warrants thus purchased and held shall, from time to time, be made in season so that the proceeds may be applied to the purposes for which the money with which the notes, bonds or registered warrants were originally purchased, was placed in the sinking fund or the treasury of the county, city and county, incorporated city, or public or municipal corporation or public district.

Sale and reinvestment

Cancellation

Any bonds so purchased, which were issued by the purchaser, may be canceled, either in satisfaction of sinking fund obligations, or otherwise, and when canceled shall no longer be deemed to be outstanding, or in the discretion of the governing body any bonds so purchased may be held uncanceled so long as may be determined upon, and while so held uncanceled may be resold.

Stats 1943, Ch 227

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

Legislative body

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

SEC. 4. An act entitled, "An act authorizing the investment and reinvestment and disposition, of any moneys in any sinking fund of any county, city and county, or incorporated city or town, and repealing an act entitled 'An act authorizing the investment and reinvestment and disposition of any moneys in any sinking fund of any county, city and county, or incorporated city or town,' approved March 3, 1909," approved April 3, 1911, is repealed. Stats 1911, p 582

SEC. 5. This act is hereby declared to be an urgency measure within the meaning of Section 1 of Article IV of the Constitution necessary for the immediate preservation of the public peace, health and safety, and as such shall take effect immediately. Urgency

The facts constituting such necessity are as follows:

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

CHAPTER 572

An act relating to the Postwar Employment Reserve; defining the powers and duties of State officers in connection therewith, making an appropriation for preparation of plans for a State building program, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.] In effect immediately

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

SECTION 1. In order to meet the needs of the State for construction and rehabilitation of buildings and facilities when materials and skilled labor are once more available, and to provide postwar employment for citizens released from the armed forces and private enterprise following relaxation of the war effort, there is in the General Fund in the State treasury a Postwar Employment Reserve, which shall be available for expenditure only when appropriated by the Legislature. Any balance in such Postwar Employment Reserve which has not been authorized for expenditure shall be excluded in determining the surplus, excess, deficit or deficiency of the General Fund in any balance sheet or other statement of financial condition of the State of California. Postwar Employment Reserve

SEC. 2. The moneys in the Postwar Employment Reserve shall be invested and reinvested by the Director of Finance in bonds or other obligations of the United States, or for which the full faith and credit of the United States are pledged, having maturity dates not more than three years from the date of investment, and such securities may be sold or exchanged Investment

by the Director of Finance if in his opinion such sale or exchange is in the best interests of the State in effectuating the purposes of this act. The increment from such investments shall accrue to the General Fund.

Contributions

SEC. 3. The Postwar Employment Reserve and any amounts authorized for expenditure therefrom may be augmented by any money granted, donated or otherwise contributed to the State or any agency, political subdivision or municipal corporation thereof, from any source for the purposes of this act or for any project authorized thereunder.

Appropriation: Construction plans

SEC. 4. There is hereby appropriated out of the Postwar Employment Reserve the sum of one million two hundred fifty thousand dollars ($1,250,000) which, upon written authorization of the Department of Finance and the approval of the State Board of Control, shall become available to the State Department of Public Works for expenditure as provided by law for surveys, preparation of plans and specifications and other preliminary work necessary to a program of construction, reconstruction, rehabilitation and replacement of buildings and other facilities for State institutions, prisons, reformatories or custodial schools, homes, including the Woman's Relief Corps Home and the Veterans' Home of California, colleges, schools, and other State agencies on land owned by the State of California.

Urgency

SEC. 5. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows: One of the purposes of this act is to authorize the investment of a portion of the present surplus moneys in the State treasury in bonds or other obligations of the United States Government in order to assist said Government in the successful prosecution of the war. The need of said Government for money is urgent and should not await the time this act would normally take effect if it were not an urgency measure.

CHAPTER 573

Stats 1937, p 1229, amended

An act to amend Section 2727 of, and to add Section 2727.5 to, the Business and Professions Code, relating to the practice of nursing.

In effect August 4, 1943

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.]

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

Stats 1939, p. 2346

SECTION 1. Section 2727 of the Business and Professions Code is amended to read:

Acts not prohibited

2727. This chapter does not prohibit:

(a) Gratuitous nursing of the sick by friends or members of the family.

(b) Incidental care of the sick by domestic servants or by persons primarily employed as housekeepers as long as they do not practice nursing within the meaning of this chapter.

(c) Domestic administration of family remedies by any person.

(d) Nursing services in case of an emergency. "Emergency," as used in this subdivision includes an epidemic or public disaster. "Emergency"

(e) The performance by any person of such duties as required in the physical care of a patient and/or carrying out medical orders prescribed by a licensed physician; provided, such person shall not in any way assume to practice as a professional, registered, graduate or trained nurse.

SEC. 2. Section 2727.5 is added to said code, to read: New section

2727.5. Until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature, or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs, an emergency shall be deemed to exist within the meaning of subdivision (d) of Section 2727. Duration emergency

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CHAPTER 574

An act to add Chapter 5 to Part 1, Division 7 of the Business and Professions Code, regulating defense training schools, and providing for the issuance of licenses, declaring the urgency hereof, to take effect immediately. Stats. 1937, p 1229, amended

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.] In effect immediately

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

SECTION 1. Chapter 5 is added to Part 1, Division 7 of the Business and Professions Code, to read: New chapter

CHAPTER 5. DEFENSE TRAINING SCHOOLS

Article 1. General Provisions

16500. This chapter of the Business and Professions Code constitutes the chapter on defense training schools. It may be cited as the Defense Training School Act. Defense Training School Act

16501. "Director" refers to the Director of Professional and Vocational Standards. "Director"

16502. "Defense Training School" refers to any private trade school in which courses of instruction are given to persons desiring to obtain positions in industrial plants engaged in war work, whether conducted by an individual, firm, association or corporation. "Defense Training School"

"Defense Training School" does not include:

(a) Business schools in which typing, stenography and related courses are given;

(b) "In-service" schools conducted and maintained by any person, firm or corporation for training and education of employees of such person, firm or corporation

Duration

16503. This chapter shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs.

Article 2. Administration

Enforcement

16510. The director is hereby authorized to enforce the provisions of this chapter.

Forms

16511. The director shall prescribe the form of all applications, licenses and other appurtenant written matter.

Licenses and fees

16512. The director shall furnish requisite forms for applications, and licenses provided for in this chapter and shall issue the licenses and collect fees therefor as provided in this chapter.

Refusal of license

16513. The director shall refuse to grant a license for failure to conform to the standards set forth in Section 16523.

Employees

16514. The director may employ an inspector and other personnel subject to the State Civil Service Act, to carry out the provisions of this chapter.

Penalties

16515. The director may enforce the penalties for failure to comply with the provisions of this chapter.

Article 3. Licenses

License fee

16520. No person, firm, association or corporation shall establish or conduct a defense training school without first having paid the license fee provided by this chapter. The fee is payable annually in advance on the first day of July of each year to the director or his authorized agent. Each license shall remain in force for the term of one year from and after the first day of July, and may be renewed annually.

Expiration

16521. All licenses issued on or after the first day of July shall expire on the thirtieth day of June following the date of issue. Fees for original licenses issued after the first day of July of each year shall be apportioned and collected on the basis of one-twelfth of the fee for each month or part thereof remaining in the fiscal year.

Application

16522. Every application for a license shall be made on a form to be furnished by the director. It shall state the following information which shall be certified to by the applicant:

(a) Name and address of the school.

(b) If a partnership or corporation, a copy of its articles and by-laws.

(c) Courses of instruction and names of instructors

(d) Copy of contract for instruction to be executed by students.

(e) Prerequisites required for entrance to school.

License denial

16523. The director may deny school licenses to any applicant who fails to present satisfactory evidence of personal integrity and moral responsibility and in the event that the said applicant is a corporation, this shall apply to all officers thereof. The director may deny school licenses to any applicant who does not provide necessary instructors and equipment such as may be required to instruct students in the trade or trades described in its application.

Article 4. Penal Provisions

False applications, etc.

16530. For every false application made, and for failure to make the application required by this chapter, the person responsible therefor shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail for a period not exceeding six (6) months or a fine not exceeding five hundred dollars ($500) or both. For each subsequent offense, he shall be punished by imprisonment in the county jail not to exceed one (1) year or a fine of one thousand dollars ($1,000) or both.

Article 5. Revenue

Defense Training School Fund

16540. All license fees collected by the director and his authorized agents in accordance with the provisions of this chapter shall be forwarded to and deposited with the Treasurer of the State monthly, to the credit of the Defense Training School Fund, which fund is hereby created. All money in said fund is appropriated to the director to be expended in accordance with law in the administration and enforcement of this chapter.

Fines

16541. All fines imposed and recovered under this chapter are payable to the State Treasurer for credit to the Defense Training School Fund.

Fee

16542. The annual license fee is twenty-five dollars ($25).

Urgency

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

It is necessary for the public peace, health and safety that defense training schools equipped with proper facilities for study and training be established under State control, that such schools be licensed, staffed with qualified instructors, and operated under uniform standards giving instruction and training in fixed courses of study and training under uniform regulations.

CHAPTER 575

Stats 1943, Ch 71, amended

An act to add Section 19405 to the Education Code, relating to the use of school property.

In effect August 4, 1943

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.]

Note.—See Stats. 1943, Ch. 71.

CHAPTER 576

Stats 1939, p 49, amended

An act to amend Section 5658 of the Elections Code, relating to the residence of persons living in trailers or vehicles or at camping grounds or public camps.

In effect August 4, 1943

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.]

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

Stats 1939, p 49

SECTION 1. Section 5658 of the Elections Code is amended to read:

Residence

5658. The place where a man's family resides is his residence, but if it is a place for temporary establishment for his family, or for transient objects, it is not. Residence in a trailer or vehicle or at any public camp or camping ground may constitute a permanent establishment or residence for voting purposes, provided the registrant complies with the other requirements of this article.

CHAPTER 577

Stats 1937, p 1005, amended

An act to amend Section 6602 of the Welfare and Institutions Code, relating to the admission and detention of voluntary patients in State hospitals.

In effect August 4, 1943

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.]

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

Stats 1937, p 1005

SECTION 1. Section 6602 of the Welfare and Institutions Code is amended to read:

Voluntary patients' Application

6602. Pursuant to rules and regulations established by the State Department of Institutions, the medical superintendent or person in charge of any State hospital may receive and detain in such State hospital, as a boarder and patient, any person who is a suitable person for care and treatment in such State hospital, upon receipt of a written application for the

admission of the person into the hospital for care and treatment made in accordance with the following requirements:

(a) In the case of an adult person, the application shall be made voluntarily by the person, at a time when he is in such condition of mind as to render him competent to make it.

(b) In the case of a minor person, the application shall be made by his parents, or by the parent, guardian, or other person entitled to his custody to any of such mental hospitals as may be designated by the Director of Institutions to admit minors on voluntary applications.

Any such person received and detained in a State hospital shall be deemed a voluntary patient.

Record

Upon the admission of a voluntary patient to a State hospital, the medical superintendent or person in charge shall immediately forward to the office of the State Department of Institutions the record of such voluntary patient, showing the name, residence, age, sex, place of birth, occupation, civil condition, date of admission of such patient to such hospital, and such other information as is required by the rules and regulations of the department.

Charges

The charges for the care and keeping of such person in such hospital shall be governed by the provisions of Article 5 of this chapter relating to the charges for the care and keeping of insane persons in State hospitals.

Limitations upon detention

No adult person received into a State hospital under such voluntary application shall be detained therein for more than seven days after having given notice, in writing, to the medical superintendent or person in charge of such hospital of his desire to leave such hospital.

No minor person received into a State hospital as a voluntary patient shall be detained therein for more than seven days after notice is given, in writing, to the medical superintendent or other person in charge of the hospital by the parents, or the parent, guardian, or other person entitled to the custody of the minor, of their desire to remove him from the hospital.

No person received into a State hospital as a voluntary patient during his minority shall be detained therein after he reaches the age of majority, but any such person, after attaining the age of majority, may apply for admission into the hospital for care and treatment in the manner prescribed in this section for applications by adult persons.

Rules

The department shall establish such rules and regulations as are necessary properly to carry out the provisions of this section.

CHAPTER 578

Stats. 1939, p. 49, amended

An act to amend Sections 679, 1400, 2604, 2631, 2700, 5557, 5565, 5809, 7967, and 11581 of the Elections Code, and to repeal Sections 19, 45, 46, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 134, 135, 136, 180, 181, 182, 183, 184, 185, 186, 224, 225, 226, 227, 228, 229, 230, 291, 292, 293, 294, 295, 296, 297, 298, 330, 370, 371, 372, 373, 374, and 9000 of the Elections Code as contained in Chapter 26 of the Statutes of 1939, relating to elections and matters incidental thereto.

In effect August 4, 1943

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.]

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

Repeals

SECTION 1. Sections 19, 45, 46, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 134, 135, 136, 180, 181, 182, 183, 184, 185, 186, 224, 225, 226, 227, 228, 229, 230, 291, 292, 293, 294, 295, 296, 297, 298, 330, 370, 371, 372, 373, 374, and 9000 of the Elections Code, as contained in Chapter 26 of the Statutes of 1939, are repealed.

Effect

The repeal of these sections shall not repeal nor in any way affect the sections bearing the same number added to the Elections Code by Chapter 27 of the Statutes of 1939.

Stats 1939, p 49

SEC. 2. Section 679 of said code is amended to read:

Posting of order

679. The county clerk shall cause copies of his order to be posted in three public places in the precinct and send one copy to the inspector appointed for that precinct who shall cause it to be posted at or near the polling place. If the county clerk fails to perform the duties imposed upon him by Section 678, the inspector, if one has been appointed, shall perform such duty.

Stats. 1939, p 49

SEC. 3. Section 1400 of said code is amended to read:

Application of article

1400. This article applies only to initiative and referendum measures affecting the Constitution or laws of the State.

Stats. 1941, p 1163

SEC. 4. Section 2604 of said code is amended to read:

Form of sponsor's certificate

2604. Sponsors, other than those who sign declarations of candidacy by sponsors, shall certify to the qualification of the candidate as follows:

SPONSOR'S CERTIFICATE

I, the undersigned sponsor for_____for the_____ Party nomination to the office of_____, to be voted for at the primary election to be held on the_____day of_____, 19___, hereby assert as follows:

My knowledge of_____is sufficient to warrant my urging his election to the office of_____and in my opinion he is fully qualified, mentally, morally, and physically for the office and should be elected to fill it. I am a qualified voter of_____County and I am registered as affiliated with the_____Party and am not at this time a signer of any

other certificate nominating any other candidate for the above-named office, or in case there are several places to be filled in the above-named office, I have not signed more certificates than there are places to be filled in the above-named office. My residence is correctly set forth after my signature hereto:

Name_____

Residence _____

VERIFICATION DEPUTY'S AFFIDAVIT

I, _____, solemnly swear (or affirm) that I have been appointed according to the provisions of Sections 2610 and 2611 of the Elections Code, as a verification deputy to secure signatures of sponsors in the County of _____ to the nomination paper of _____ as a candidate for the nomination of the _____ Party for the office of _____; that all the signatures on this section of the nomination paper, were made in my presence, and that, to the best of my knowledge and belief, each signature is the genuine signature of the person whose name it purports to be.

(Signed) _____

Verification deputy

Subscribed and sworn to before me this _____day of_____, 19___

(SEAL)

_____

Notary public (or other official)

Examined and certified by me this _____day of_____, 19___

_____

Registrar of voters—county clerk

SEC. 5. Section 2631 of said code is amended to read: Stats. 1939, p. 49

2631. The county clerk's statement to the Secretary of State of the number of sponsors and the list thereof shall be in substantially the following form: Form of county clerk's statement

COUNTY CLERK'S STATEMENT OF NUMBER OF SPONSORS AND LIST THEREOF

I, county clerk (or registrar of voters) of the County of _____, hereby certify that I have examined the_____ hereto attached filed on behalf of_____, candidate for nomination to the office of_____at the primary election to be held on the last Tuesday in August, 19___, and that the total number of signatures which I have not marked "not sufficient" is_____.

Appended hereto is a typewritten list of sponsors not marked "not sufficient" and their addresses:

Name	Residence
_____	_____
_____	_____
_____	_____

Dated this_____day of_____, 19___.

(SEAL)

_____County clerk

By_____Deputy

Stats 1939, p 49

SEC. 6. Section 2700 of said code is amended to read:

Arrangement

2700. The Secretary of State shall certify and transmit the list of candidates for nomination to each office according to Assembly districts, in the order of arrangement as determined by the provisions of Article 3 of Chapter 2 of Division 6 of this code. In the case of each county containing more than one Assembly district he shall transmit separate lists for each Assembly district.

Stats 1939, p 49

SEC. 7. Section 5557 of said code is amended to read:

Opening and closing of polls

5557. By resolution adopted prior to the publication of notice of an election the election board of any city, may provide that the polls be opened at 7 o'clock a.m of the day of any election including any primary election and be kept open until 8 o'clock p.m., of the same day, when the polls shall be closed, except as provided in Section 5734.

Stats 1939, p 49

SEC. 8. Section 5565 of said code is amended to read:

Roster and tally lists

5565. The roster and tally list to be kept by each precinct board shall be substantially in the following form:

ROSTER AND TALLY LISTS

of the_____election held in the_____precinct_____ district, County of_____, on the_____day of_____ 19___.

Following are the voters of above precinct desiring to vote under provisions of Sections 5700, 5702, 5703, 5704 and 5707 of the Elections Code:

No.	Signature of voter	Residence of voter
1		
2		
3		
etc.		

We hereby certify that all voters whose signatures appear herein voted this day excepting the following:

No.	Name	No.	Name

We further certify that the number of voters who voted in this precinct at this election is _____, and that the above list of voters, less those who did not vote as enumerated, constitutes the roster and tally list of this precinct for this election.

Clerk	Inspector
Clerk	Judge
Clerk	Judge

SEC. 9. Section 5809 of said code is amended to read: Stats 1939, p 49

5809. When a voter has stamped his ballot he shall fold it so that its face is concealed, and hand it to the member of the board in charge of the ballot box. Such folded ballot shall be voted as ballots are voted at general elections and the name of the voter checked upon the affidavit of registration as having voted as is required at general elections. Folding ballot

SEC. 10. Section 7967 of said code is amended to read: Stats 1939, p. 49

7967. The clerk of the election board shall deliver a duplicate certificate of the result of votes cast as to each party to the county or city chairman of the party. Duplicate to chairman

SEC. 11. Section 11581 of said code is amended to read: Stats 1939, p 49

11581. Every person or corporation is guilty of a misdemeanor, who, directly or indirectly, by himself or other person in his behalf, makes use of, or threatens to make use of, any force, violence, or restraint, or inflicts or threatens the infliction, by himself or through any other person, of any injury, damage, harm, or loss, or in any manner practices intimidation upon or against any person, in order to induce or compel him to vote or refrain from voting at any election, or to vote or refrain from voting for any particular person at any election, or because any person voted or refrained from voting at any election. Misdemeanor

CHAPTER 579

An act to amend Sections 8963 and 8982 of the Health and Safety Code, relating to public cemetery districts. Stats 1939, p. 482, amended

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.] In effect August 4, 1943

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

SECTION 1. Section 8963 of the Health and Safety Code is hereby amended to read as follows: Stats 1939, p 482

8963. The district may do all acts necessary or proper for the carrying out of the purposes of this part, including the selling or leasing of burial lots. Necessary acts

The trustees shall prepare or cause to be prepared and shall maintain an up-to-date map of the cemetery showing by section Map

and lot number which lots have been sold or leased for burial purposes and which lots are still owned by the district and available for sale or lease.

Stats. 1939, p. 482

SEC. 2. Section 8982 of the Health and Safety Code is hereby amended to read as follows:

Collection and disposition of taxes

8982. The tax shall be collected by the same officers and in the same manner as other county taxes, and the money and all other money received by the trustees, shall be paid into the county treasury and constitute a separate fund. The fund shall be expended solely for the purposes of the cemetery district upon warrants issued by the county auditor on orders signed by not less than two of the trustees.

All money received or collected by the trustees shall be paid into the county treasury on or before the fifth day of the month following the month in which the same was received or collected.

CHAPTER 580

Stats. 1923, p. 452, amended

An act to add Section 25 to an act entitled "An act to provide for the incorporation and organization and management of bridge and highway districts and to provide for the acquisition and construction by said districts of highways, bridges and approaches thereto, and for the acquisition of all property necessary therefor, and also to provide for the issuance and payment of bonds by said districts, for the levying of taxes and the collection of tolls by said districts and for the annexation of additional territory thereto," approved May 25, 1923, and to add Section 27173 to the

Stats. 1935, p. 248, amended

Streets and Highways Code, to provide for the building of approach roads in cooperation with city, city and county, county, district, and State authorities.

In effect August 4, 1943

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.]

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

New section

SECTION 1. Section 25 is added to the act cited in the title hereof, to read:

Cooperation in construction of highways, etc.

Sec. 25. The work of constructing, repairing, relocating or otherwise providing any of the highways or approaches composed of the structures or improvements mentioned in this act, may be done by any bridge and highway district in cooperation with a city, city and county, county, joint highway district or other district formed for the improvement or building of roads, or in cooperation with the State of California. For the purpose of doing such work or acquiring rights of way therefor, the board of directors of such district may authorize a contract to be entered into between the bridge and highway district and the political subdivision or agency of the State with which it proposes to cooperate, and full power

Contract

and authority is hereby granted to such city, city and county, county, joint highway or other district, or the State Department of Public Works, to enter into such contracts for cooperative work, construction, or purchase of rights of way, in such manner and upon such apportionment of the cost thereof as may be agreed upon between them. For this purpose the contracting parties may designate engineers, county surveyors, or other necessary officials or employees to take charge of the particular work, and provide for the payment of the cost of the work out of funds contributed by the contracting parties. The plans and specifications for such work shall be approved by both of the contracting parties, and the work may be carried out by either one of the contracting parties as the agent of the other, or it may be carried out under the joint management of both of the contracting parties. Any such project, or any project, undertaken by a bridge and highway district alone, or in cooperation with any of the agencies above mentioned, may be accomplished by Federal aid under such rules as may be prescribed by the Federal agencies involved. Any such work may extend across, through, or within, any city, city and county, county, joint highway district or other district; provided, the same is an extension of an approach to a bridge operated by such bridge and highway district and connects the same as a main or alternate route with State highways or other through routes leading to or from such bridge.

Federal aid

SEC. 2. Section 27173 is added to the Streets and Highways Code, to read:

New section

27173. The work of constructing, repairing, relocating or otherwise providing any of the highways or approaches composed of the structures or improvements mentioned in this part, may be done by any district in cooperation with a city, county, joint highway district or other district formed for the improvement or building of roads, or in cooperation with the State. For the purpose of doing such work or acquiring rights of way therefor, the board may authorize a contract to be entered into between the district and the political subdivision or agency of the State with which it proposes to cooperate, and full power and authority is granted to such city, county, joint highway or other district, or the State Department of Public Works, to enter into such contracts for cooperative work, construction, or purchase of rights of way, in such manner and upon such apportionment of the cost thereof as may be agreed upon between them. For this purpose the contracting parties may designate engineers, county surveyors, or other necessary officials or employees to take charge of the particular work, and provide for the payment of the cost of the work out of funds contributed by the contracting parties. The plans and specifications for such work shall be approved by both of the contracting parties, and the work may be carried out by either one of the contracting parties as the agent of the other, or it may be carried out under the joint management of both of the contracting parties. Any such project, or any project,

Cooperation in construction of highways, etc

Contract

Federal aid

undertaken by a district alone, or in cooperation with any of the agencies mentioned, may be accomplished by Federal aid under such rules as may be prescribed by the Federal agencies involved. Any such work may extend across, through, or within, any city, county, joint highway district or other district, if such work is an extension of an approach to a bridge operated by the district and connects the same as a main or alternate route with State highways or other through routes leading to or from the bridge.

Effect Stats 1943, Ch. 286

SEC. 3. Section 2 of this act shall take effect only if Part 3 is added to Division 16 of the Streets and Highways Code by the Legislature at its Fifty-fifth Session, and in such case at the same time as Part 3 takes effect, at which time Section 25 as added to the act cited in the title by this act is hereby repealed.

Repeal

CHAPTER 581

An act relating to the determination of the wartime population of cities or cities and counties for purposes of allocation of moneys from the State Highway Fund and from the Motor Vehicle License Fee Fund for expenditures therein, and declaring the urgency thereof.

In effect immediately

[Approved by Governor May 18, 1943 Filed with Secretary of State May 18, 1943]

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

Inconsistent law

SECTION 1. During the effective period of this act its provisions shall control over any inconsistent provisions of law.

Determination of increase in population

SEC. 2. Any city or city and county whose population has been substantially increased since the last Federal census may apply to the United States Bureau of Census to determine the increase in population. Upon receipt from the bureau of its determination of population, the city or city and county shall file with the Department of Public Works and with the Motor Vehicle Department certified copies of such determination.

Allocations based on new determination

SEC. 3. All allocations made under Sections 194 and 203 of the Streets and Highways Code and all payments made under Section 11005 of the Revenue and Taxation Code, or under Section 11 of an act entitled "An act relating to licensing and taxing of vehicles, providing for license fees for the privilege of operating certain vehicles, providing for the exemption of such vehicles from all taxes according to value for State, county or municipal purposes, providing for the administration and enforcement of this act, creating a fund to be known as the Motor Vehicle License Fee Fund, and making an appropriation of the moneys therein," approved June 25, 1935, for any fiscal year subsequent to such determination shall be based upon the population so determined The respective departments in making the computations required by said sections

shall add to the total population of all cities and cities and counties in the State all increases of population over the population of the last Federal census which are shown by such determination.

Census investigation cost

SEC. 4. The cost of any investigation by the United States Bureau of Census shall be a proper charge against the city or city and county applying therefor and shall be paid by it to the bureau.

Fiscal years affected

SEC. 5. This act shall be in effect only as to all such allocations and payments for fiscal years beginning prior to July 1, 1945, except that no further determinations of population shall be made hereunder after the termination of hostilities in the present war, as declared by resolution of Congress or by proclamation of the President. Thereafter this act shall cease to be effective.

Counties

SEC. 5.5. This act does not apply to counties.

Urgency

SEC. 6. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

The National defense and wartime industrial activities in the State of California have resulted in tremendous increases in population in a number of cities in the State. Such influx of city and city and county population has created grave and serious problems for the affected cities and cities and counties in maintaining and in constructing the street and highway facilities which are required to take care of expanded housing projects for workers essential to the war industry and in maintaining the streets and highways within such cities and cities and counties in condition to furnish adequate service for transportation which is essential to the war industry. If this act be made effective prior to the fiscal year beginning July 1, 1943, it will provide immediate relief for this situation without upsetting or delaying the allocation of such State funds for expenditure among all of the cities and cities and counties of the State. It is therefore necessary that this act go into immediate effect.

CHAPTER 582

An act providing for the taking of a census in cities, declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.]

In effect immediately

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

City census. Ordinance

SECTION 1. Whenever it is desirable for the purposes of Sections 73, 73a, 73b and 142 of the Code of Civil Procedure

and Section 4312 of the Political Code to establish the population of any city, the city council or other governing body, in years other than those in which a census is taken by the United States, may adopt an ordinance providing that a census be taken in the city.

Rules and regulations

SEC. 2. The ordinance shall prescribe the rules and regulations for taking the census, so that an accurate count shall be made of the inhabitants of the city.

Census takers

SEC. 3. Census takers shall be appointed by the governing body of the city and sworn to faithfully perform their duties. All reports of the census takers shall be sworn to before any officer authorized to take oaths.

Census report

SEC. 4. A certified copy of the final census report shall be prepared by the city clerk and filed by him in the office of the Secretary of State, and thereupon shall be the official census of the city for the purposes of Sections 73, 73a, 73b and 142 of the Code of Civil Procedure and Section 4312 of the Political Code.

Expense

SEC. 5. The expense of taking the census is a city charge.

Urgency

SEC. 6. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

There has been an immense shift in population due to the growth of shops, yards and factories engaged in war production, resulting in certain cities far exceeding their 1940 population. Due to the distance of these cities from the county seats and the scarcity of tires, gasoline and other methods of transportation, it is essential that persons in these cities be enabled to attend sessions of the superior court with a minimum of travel. In order to permit court sessions to be held in these cities, a new census of the cities is required to be authorized by the Legislature.

CHAPTER 583

An act to provide for the augmentation of the food and fiber supply of this State and Nation by authorizing public officers of this State to acquire by eminent domain and otherwise agricultural machinery and equipment, and for the use of such agricultural machinery and equipment, making an appropriation therefor, and declaring the urgency of said act, to take effect immediately.

In effect immediately

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.]

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

Necessity for act

SECTION 1. The Legislature of the State of California hereby declares that the production of food and fiber is of vital importance to the people of the State of California and of this Nation;

that such production is essential to the successful prosecution of the war; and that it is imperative that idle and unused agricultural machinery and implements be put to the fullest use possible in order to attain these objectives, to prevent want and suffering, and to foster and promote the public peace, health and safety.

It is, therefore, necessary that the right of the State of California to take private property for public use shall be extended to the taking of agricultural machinery and equipment, and the use of such machinery and equipment for the production of food and fiber by and under the direction of the State is hereby declared to be a public use within the meaning of Section 14 of Article I of the Constitution of this State and of Title 7, Part 3 of the Code of Civil Procedure.

"Idle and unused agricultural machinery"

SEC. 1.5. The term "idle and unused agricultural machinery and implements," as used in this act, does not apply to any machine or implement which is:

(a) In actual, but not necessarily continuous, use in farming operations; or

(b) Owned by persons, associations or corporations engaged in farming operations in California; or

(c) Owned by manufacturers or dealers.

Acquisition of agricultural machinery

SEC. 2. Whenever the State Farm Production Director or the Director of Agriculture finds that public interest and necessity require the acquisition of such agricultural machinery or implements for use in augmenting the production of food and fiber in this State, such director shall deliver a certification to the Director of Finance with a request that the Director of Finance proceed to acquire such machinery or implements by eminent domain.

Certification

SEC. 3. Such certification shall:

(a) Describe the machinery or implements.

(b) State the place in which they are stored or located.

(c) State the name or names of persons having or claiming any interest therein.

(d) State the necessity for the acquisition of such machinery or implements.

(e) State the use to which such machinery or implements will be put, if acquired.

(f) State, if immediate possession of such machinery or implements is desired, the reasons for the necessity of taking immediate possession.

Determination

SEC. 4. Upon receipt of such a certification, the Director of Finance shall review the facts set forth therein and determine in writing whether the machinery or implements described are necessary for the augmentation of food and fiber production in this State and whether the use to which such machinery or implements is to be put is a public use. If the certification requests that immediate possession be taken of such machinery or implements, his determination shall include a finding as to the necessity of taking immediate possession.

The determination of the Director of Finance that the facts set forth in such a certification are true is conclusive evidence that the public interest and necessity require the acquisition of the property described therein and that the use to which the property is proposed to be put is a public use within the meaning of this act.

Eminent domain

SEC. 5. After making such a determination the Director of Finance shall proceed to acquire the property by eminent domain, pursuant to Title 7 of Part 3 of the Code of Civil Procedure, except that:

Exceptions

(a) In lieu of the description of the property provided for by Section 1244 of the Code of Civil Procedure, the complaint may identify the agricultural machinery or equipment by an inventory rather than a minute description.

(b) The summons need not contain the inventory, but may refer to the complaint and shall identify the property by its location or by the name, if any, of the place on which it was last used.

(c) The description in the lis pendens shall be substantially the same as the description of the property in the complaint.

Action

SEC. 6. If the certification requests that the Director of Finance take immediate possession of the agricultural machinery or implements, and the determination of the Director of Finance contains a finding that the taking of immediate possession is necessary, the Director of Finance may file in the action, with the complaint, or any time before judgment, a declaration of taking declaring that the property described in the declaration is to be taken for the use of the State of California.

Declaration of taking

The declaration of taking shall contain, or have annexed thereto:

(a) A statement of the authority under which and the public use for which the agricultural machinery or implements are taken.

(b) A description of such machinery or implements sufficient for identification thereof.

(c) A statement of interest in such machinery or implements to be taken.

(d) A statement of the sum of money estimated by the Director of Finance to be just compensation for the machinery or implements taken and adequate to secure the owner against any damage incident to such taking, including damages sustained by reason of an adjudication that there is no necessity for taking the property or that the use for which the property is taken is not a public use.

(e) A certified copy of the determination of the Director of Finance made pursuant to Section 4.

Compensation

If the court finds that the sum of money estimated by the Director of Finance is just compensation for the machinery or implements taken, it shall also make a finding as to an amount which will be adequate to secure the owner of the property against any damage incident to such taking, including damages sustained by reason of an adjudication that there is no necessity

for taking the property or that the use for which the property is taken is not a public use, as soon as such damages can be ascertained according to law, and shall thereupon make its order that upon the payment into court by the Director of Finance of such amounts, the director may take immediate possession of the agricultural machinery or implements. Order

Upon the entry of such an order and the payment into court of the amount set forth in the order, the Director of Finance may proceed to take immediate possession of such agricultural machinery or implements.

SEC. 7. At any time prior to or after the filing of an action in eminent domain by the Director of Finance pursuant to this act, the director may negotiate with the owner of such property and acquire title thereto and pay to such owner the reasonable value of such property. Negotiation

SEC. 8. Upon taking possession of the property pursuant to this act, the Director of Finance shall deliver the property to the State Farm Production Director or Director of Agriculture, whichever certified to him the necessity for the acquisition of the property. Delivery of property

SEC. 9. Supplementary to the powers conferred and the duties imposed upon the State Farm Production Director and the Director of Agriculture, by other provisions of law in respect to the augmentation of the food and fiber supply of this State, such officers may, directly or through the Director of Finance, use such property in the augmentation of the food and fiber supply of this State, or direct its use for such purposes and make such contracts and arrangements in connection therewith as may be necessary therefor. No arrangement made by either director for the use of agricultural machinery or equipment taken pursuant to Section 6 and pending the vesting of title in the State shall divest the director making the agreement of the power to return such machinery or equipment should it be determined by a final judgment that such machinery or equipment should be restored to the owner. Use of property

SEC. 10. Out of any moneys in the State treasury not otherwise appropriated to the Department of Finance there is hereby appropriated for the purposes of this act, the sum of one hundred fifty thousand dollars ($150,000). Appropriation

SEC. 11. This act shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this act is in effect it shall supersede any existing provisions of law which are in conflict with this act; but such provisions are not repealed by this act and after this act is no longer effective shall have the same force as though this act had not been enacted. Duration Existing law

SEC. 12. If any provision of this act, or the application thereof to any person or circumstance, is held invalid, the Constitutionality

remainder of the act, or the application of such provision to other persons or circumstances, shall not be affected thereby.

Urgency

SEC. 13. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

There is at the present time in California a substantial amount of agricultural machinery and equipment that in some cases is not being used at all, and in others is not being used to the fullest extent possible for the augmentation of the food and fiber supply of this State. It is essential to the successful transaction of the war and to the health and safety of the people of this State that the supply of food and fiber be augmented by every means possible, and the fullest use of all agricultural machinery and equipment in this State is required for the attainment of this objective.

CHAPTER 584

Stats 1935, p 1338, amended

An act to add Section 395.3 to the Military and Veterans Code, relating to public officers and employees, and providing for the rights of such officers and employees after service in the armed forces, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.]

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

New section

SECTION 1. Section 395.3 is added to the Military and Veterans Code, to read:

Return to office or employment after military service

395.3. In the event that any public officer or employee has resigned or resigns his office or employment to serve or to continue to serve in the armed forces of the United States or in the armed forces of this State, he shall have a right to return to and reenter the office or employment prior to the time at which his term of office or his employment would have ended if he had not resigned, on serving a written notice to that effect upon the authorized appointing power, or if there is no authorized appointing power, upon the officer or agency having power to fill a vacancy in the office or employment, within six months of the termination of his active service with the armed forces.

"Public officers and employees"

As used in this section, "public officers and employees" includes all of the following:

(a) Members of the Senate and of the Assembly.

(b) Justices of the Supreme Court and the District Courts of Appeal, judges of the superior courts and of the municipal courts, and all other judicial officers.

(c) All other State officers and employees, whether or not within the State civil service, including all officers for whose selection and term of office provision is made in the Constitution and laws of this State.

(d) All officers and employees of any county, city and county, city, township, district, political subdivision, authority, commission, board, or other public agency within this State.

Civil service status

The right of reentry into public office or employment provided for in this section shall include the right to be restored to such civil service status as the officer or employee would have had if he had not so resigned; and no other person shall acquire civil service status in the same position so as to deprive such officer or employee of his right to restoration as provided for herein.

Retroactive application

This section shall be retroactively applied to extend the right of reentry into public office or employment to public officers and employees who resigned prior to its effective date.

Exception

This section does not apply to any public officer or employee to whom the right to reenter public office or employment after service in the armed forces has been granted by any other provision of law.

Constitutionality

If any provision of this section, or the application of this section to any person or circumstance, is held invalid, the remainder of this section, or the application of this section to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Urgency

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

An emergency exists in the United States and the State of California in providing adequate armies and facilities of defense. National Guard units have been called into the Federal service, and reserve officers have been called into active service. Many public officers and employees have resigned their offices and employments to serve in the armed forces of the United States and of the State of California and many others will do so in the immediate future. To protect those officers and employees who have patriotically responded to the call of duty and enable them to return to public office or employment at the expiration of the present emergency, and to encourage others to offer their services to the State or Nation in the capacity in which they are most urgently needed, it is necessary that this act take effect immediately.

CHAPTER 585

Stats 1935, p 1338, amended

An act to add Article 4, comprising Sections 990 to 991.3 inclusive, to Chapter 6 of Division 4 of the Military and Veterans Code, authorizing the creation of a debt or debts, liability or liabilities, through the issuance and sale of State bonds, for the single object of creating a fund to provide farm and home aid for veterans in accordance with the provisions of the Veterans Farm and Home Purchase Act of 1943; creating a Veterans' Finance Committee of 1943; defining the powers and duties of said committee and of the Veterans' Welfare Board and other State officers in respect to the administration of the provisions hereof; providing ways and means, exclusive of loans, for the payment of the interest of such debt or debts, liability or liabilities, as such interest falls due, and also for the payment and discharge of the principal of such debt or debts, liability or liabilities, as such principal matures; appropriating money for the expense of preparing and of advertising the sale of bonds herein authorized to be issued; and providing for the submission of this act to a vote of the people at the general election to be held in the month of November, 1944.

In effect August 4, 1943

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.]

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

New article

SECTION 1. Article 4, comprising Sections 990 to 991.3, inclusive, is added to Chapter 6 of Division 4 of the Military and Veterans Code, to read:

Article 4. Veterans Bond Act of 1943

Short title

990. This article may be cited as the Veterans Bond Act of 1943.

Power of Veterans' Finance Committee of 1943

990.1. For the purpose of creating a fund to provide farm and home aid for veterans in accordance with the provisions of the Veterans Farm and Home Purchase Act of 1943, and of all acts amendatory thereof or supplemental thereto, the Veterans' Finance Committee of 1943 created by this article shall be and it hereby is authorized and empowered to create a debt or debts, liability or liabilities, of the State of California, in the manner and to the extent hereinafter provided, but not otherwise, nor in excess thereof.

Bonds

990.2. After the issuance of the proclamation of the Governor announcing the ratification of this article, and immediately after adoption of any resolution by the Veterans' Finance Committee of 1943 hereby created, provided for in Section 991.1, the State Treasurer shall prepare the requisite number of suitable bonds of the denomination of one thousand dollars ($1,000) in accordance with the specifications contained in such resolution. The aggregate par value of all bonds issued under this article shall not exceed the sum of thirty million dollars ($30,000,000), and the bonds issued

under any such resolution shall bear interest from the date of issuance of said bonds to the date of maturity thereof, at a rate to be determined by the said Veterans' Finance Committee of 1943 and specified in such resolution, but in no case exceeding 5 per cent per annum. Both principal and interest shall be payable in lawful money of the United States, at the office of the State Treasurer, or at the office of any duly authorized agent of the State Treasurer, and shall be so payable at the times specified in said resolution or resolutions.

All bonds issued under this article shall bear the facsimile signature of the Governor and the facsimile countersignature of the Controller and shall be endorsed by the State Treasurer either by original signature or by a signature stamp adopted for each particular bond issued under this article and the bonds shall be signed, countersigned and endorsed by the officers who shall be in office on the date of issuance thereof, and each of said bonds shall bear an impress of the Great Seal of the State of California. The bonds so signed, countersigned, endorsed and sealed, when sold, shall be and constitute a valid and binding obligation upon the State of California, although the sale thereof be made at a date or dates upon which the officers having signed, countersigned and endorsed said bonds, or any or either of said officers, shall have ceased to be the incumbents of the offices held by them at the time of signing, countersigning, or endorsing said bonds. Each bond issued under this article shall contain a clause or clauses stating that interest shall cease to accrue thereon from and after the date of maturity thereof and referring to this article and to the resolution of the Veterans' Finance Committee of 1943 hereunder by virtue of which said bond is issued.

Interest coupons

990.3. The requisite number of suitable interest coupons, appropriately numbered, shall be attached to each bond issued under this article. Said interest coupons shall bear the facsimile signature of the State Treasurer who shall be in office on the date of issuance of the bond to which said coupons pertain.

Payment and cancellation

990.4. All bonds issued under this article and sold shall be deemed to have been called in at their respective dates of maturity and the State Treasurer shall, on the respective dates of maturity of said bonds, or as soon thereafter as said matured bonds are surrendered to him, pay the same out of the proceeds of the Controller's warrants drawn in his favor as provided in Section 990.5 and perforate the bonds so paid with a suitable device in a manner to indicate such payment and the date thereof. He shall also, on the said respective dates of maturity, cancel all bonds bearing said dates of maturity and remaining unsold, by perforation with a suitable device in a manner to indicate such cancellation and the date thereof. The provisions of this section shall be applicable also to the interest coupons pertaining to the bonds authorized by this article to be issued, and shall be applicable,

as far as practicable, to any duly authorized agent of the State Treasurer.

Appropriation

990.5. There is hereby appropriated from the General Fund in the State treasury such sum annually as will be necessary to pay the principal of and the interest on the bonds issued and sold pursuant to the provisions of this article, as said principal and interest become due and payable.

Annual collections

There shall be collected annually in the same manner and at the same time as other State revenue is collected such a sum, in addition to the ordinary revenues of the State, as shall be required to pay the principal and interest on said bonds as herein provided, and it is hereby made the duty of all officers charged by law with any duty in regard to the collections of said revenue, to do and perform each and every act which shall be necessary to collect such additional sum.

Return to General Fund

On the several dates of maturity of said principal and interest in each fiscal year, there shall be returned into the General Fund in the State treasury, all of the moneys in the Veterans' Farm and Home Building Fund of 1943, not in excess of the principal of and interest on the said bonds then due and payable and, in the event of such moneys so returned on said dates of maturity being less than the said principal and interest then due and payable, then the balance remaining unpaid shall be returned into the General Fund in the State treasury out of said Veterans' Farm and Home Building Fund of 1943 as soon thereafter as it shall become available, together with interest thereon, from such dates of maturity until so returned, at the rate of 5 per cent per annum, compounded semiannually.

Warrants

Both principal and interest of said bonds shall be paid when due upon warrants duly drawn against said appropriation from the General Fund by the Controller of the State in favor of the State Treasurer or in favor of any duly authorized agent of the State Treasurer, upon demands audited by the State Department of Finance, and the moneys to be returned into the General Fund in the State treasury pursuant to the provisions of this section shall likewise be paid as herein provided upon warrants duly drawn by the Controller of the State upon demands duly audited by the State Department of Finance.

Appropriation

990.6. The sum of thirty-five thousand dollars ($35,000) is hereby appropriated out of any money in the State treasury not otherwise appropriated to pay the expenses that may be incurred by the State Treasurer in having said bonds prepared

Refund

and in advertising their sale. Said amount shall be refunded to the General Fund in the State treasury out of the Veterans' Farm and Home Building Fund of 1943 on Controller's warrant duly drawn for that purpose.

Public auction

990.7. When the bonds authorized to be issued under this article shall be duly executed, they shall be by the State Treasurer sold at public auction to the highest bidder for cash, in such parcels and numbers as the said Treasurer shall be

directed by the Governor of the State, under seal thereof, after a resolution requesting such sale shall have been adopted by the Veterans' Welfare Board and approved by the Governor of the State, but the Treasurer must reject any and all bids for said bonds, or for any of them, which shall be below the par value of said bonds so offered plus the interest which has accrued thereon between the date of sale and the last preceding interest maturity date; and with the approval of the Governor, he may from time to time, by public announcement at the place and time fixed for the sale, continue such sale, as to the whole of the bonds offered, or any part thereof offered, to such time and place as he may select. Before offering any of said bonds for sale the said Treasurer shall detach therefrom all coupons which have matured or will mature before the day fixed for such sale.

Notice

990.8. Due notice of the time and place of sale of all bonds shall be given by said Treasurer by publication in one newspaper published in the City and County of San Francisco and also by publication in one newspaper published in the City of Sacramento and by publication in one newspaper published in the City of Los Angeles once a week during four weeks prior to such sale. In addition to the notice last above provided for, the State Treasurer may give such further notice as he may deem advisable, but the expense and cost of such additional notice shall not exceed the sum of five hundred dollars ($500) for each sale so advertised. The proceeds of the sale of such bonds and such amount as may have been paid as accrued interest thereon shall be forthwith paid over by said Treasurer into the Veterans' Farm and Home Building Fund of 1943 and must be used exclusively in aiding veterans in the acquisition of, or payments for, farms and homes, in accordance with the provisions of this article and Article 3 of this chapter; provided, that the proceeds from the sale of said bonds may be used to pay the debt created by the issuance and sale thereof.

Use of proceeds

Investment of surplus moneys

990.9. The Veterans' Welfare Board is authorized, with the approval of the State Department of Finance, to invest any surplus moneys in the Veterans' Farm and Home Building Fund of 1943 in bonds of the United States, or of the State of California, or of the several counties or municipalities or other political subdivisions of the State of California, and to sell such bonds, or any of them, at the governing market rates, upon approval of the State Department of Finance; or the Veterans' Welfare Board may, with the approval of the Director of Finance, invest moneys in such fund, in interest-bearing certificates of deposit of State banks having a paid-up capital of five hundred thousand dollars ($500,000) or more; provided, that the total amount of money so deposited with any one bank shall not exceed a sum equal to 50 per cent of the paid-up capital of such bank; provided, however, that nothing herein contained shall inhibit or be construed to inhibit the depositing in banks in accordance with

Stats 1923, p 21

the provisions of an act entitled "An act to authorize and control the depositing in banks of moneys belonging to or in the custody of the State and to repeal all acts or parts of acts conflicting with this act," approved April 12, 1923, and of any and all acts amendatory thereof or supplemental thereto, of moneys of any of the funds subject to the control of the Veterans' Welfare Board or appropriated for its use.

Interest accruing upon the deposit of moneys of the Veterans' Farm and Home Building Fund of 1943 shall be paid into and credited to said fund.

Veterans' Finance Committee of 1943

991. There is hereby created a Veterans' Finance Committee of 1943 composed of the Governor, State Controller, State Treasurer, Director of Finance, and chairman of the Veterans' Welfare Board, all of whom shall serve thereon without compensation and a majority of whom shall be empowered to act for said committee. The Attorney General of the State shall be the legal adviser of the Veterans' Finance Committee of 1943.

Bond issue

Upon request of the Veterans' Welfare Board, supported by a statement of the plans and projects of the Veterans' Welfare Board with respect thereto, the Veterans' Finance Committee of 1943 shall determine whether or not a bond issue under this article is necessary or desirable to carry such plans and projects into execution.

Resolution for bond issue

991.1. Whenever the said Veterans' Finance Committee of 1943 shall have determined that a bond issue under this article is necessary or desirable to carry such plans and projects into execution, it shall adopt a resolution to this effect. The said resolution shall authorize and direct the State Treasurer to prepare the requisite number of suitable bonds and shall specify:

1. The aggregate number, aggregate par value, and the date of issuance of the bonds to be issued.

2. The date or dates of maturity of the bonds to be issued and the number and numerical sequence of the bonds maturing at each date of maturity.

3. The annual rate of interest which the bonds to be issued shall bear.

4. The number, numerical sequence, amount or amounts and the dates of maturity of the interest coupons to be attached to the said bonds.

5. The technical form and language of the bonds to be issued and of the interest coupons to be attached thereto.

Maturity dates

In determining the date or dates of maturity of the said bonds and the amount of bonds maturing at each date of maturity, the Veterans' Finance Committee of 1943 shall be guided by the amounts and dates of maturity of the revenues estimated to accrue to the Veterans' Welfare Board from the transactions to be financed by each issue, and shall fix and determine said dates and amounts in such manner that, together with the dates and amounts of interest payments

on the said bond issue, they shall coincide, as nearly as practicable, with the dates and amounts of such estimated revenues; provided, that the bonds first to mature in each issue, shall mature not later than five years from the date of issuance thereof; provided further, that specified numbers of bonds of specified numerical sequence shall thereafter mature at annual intervals; and provided further, that the bonds last to mature in each issue shall mature not later than 45 years from the date of issuance thereof.

Interest rate

The rate of interest to be borne by the bonds shall be uniform for all the bonds of the same issue and shall be determined and fixed by the Veterans' Finance Committee of 1943 according to the then prevailing market conditions, but shall in no case exceed 5 per cent per annum, and the determination of said committee as to the rate of interest shall be conclusive as to the then prevailing market conditions. The interest coupons to be attached to the said bonds shall be payable at semiannual intervals from the date of issuance of said bonds; provided, that the interest coupon first payable may, if the Veterans' Finance Committee of 1943 shall so determine and specify, be payable one year after the date of issuance of said bonds.

Expenses

991.2. All actual and necessary expenses of the Veterans' Finance Committee of 1943 and of the members thereof incurred in the performance of their duties arising out of the provisions of this article shall be paid out of the Veterans' Farm and Home Building Fund of 1943, upon approval of the State Board of Control and on Controller's warrant duly drawn for that purpose, and shall constitute expenses of the Veterans' Welfare Board.

Records and annual report

991.3. The State Controller, the State Treasurer and the Veterans' Finance Committee of 1943 shall keep full and particular account and record of all their proceedings under this article, and they shall transmit to the Governor an abstract of all such proceedings thereunder, with an annual report, to be by the Governor laid before the Legislature biennially; and all books and papers pertaining to the matter provided for in this article shall at all times be open to the inspection of any party interested, or the Governor, or the Attorney General, or a committee of either branch of the Legislature, or a joint committee of both, or any citizen of the State.

Effective date

SEC. 2. This act, if adopted by the people, shall take effect on the fifteenth day of November, 1944, as to all its provisions except those relating to and necessary for its submission to the people, and for returning, canvassing, and proclaiming the votes, and as to said excepted provisions this act shall take effect immediately.

Submission to voters

SEC. 3. This act shall be submitted to the people of the State of California for their ratification at the next general election, to be held in the month of November, 1944, and all ballots at said election shall have printed thereon and in a square thereof, the words: "For the Veterans Bond Act of

1943," and in the same square under said words the following in brevier type: "This act provides for a bond issue of thirty million dollars ($30,000,000) to be used by the Veterans' Welfare Board in assisting California war veterans to acquire farms or homes." In the square immediately below the square containing such words, there shall be printed on said ballot the words, "Against the Veterans Bond Act of 1943," and in the same square immediately below said words, "Against the Veterans Bond Act of 1943," in brevier type shall be printed "This act provides for a bond issue of thirty million dollars ($30,000,000) to be used by the Veterans' Welfare Board in assisting California war veterans to acquire farms or homes." Opposite the words "For the Veterans Bond Act of 1943" and "Against the Veterans Bond Act of 1943," there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against said act, and those voting for said act shall do so by placing a cross opposite the words "For the Veterans Bond Act of 1943" and those voting against the said act shall do so by placing a cross opposite the words "Against the Veterans Bond Act of 1943." Provided, that where the voting of said general election is done by means of voting machines used pursuant to law in such manner as to carry out the intent of this section, such use of such voting machines and the expression of the voters' choice by means thereof, shall be deemed to comply with the provisions of this section. The Governor of this State shall include the submission of this act to the people, as aforesaid, in his proclamation calling for said general election.

Favorable vote

SEC. 6. The votes cast for or against this act shall be counted, returned and canvassed and declared in the same manner and subject to the same rules as votes cast for State officers; and if it appear that said act shall have received a majority of all the votes cast for and against it at said election as aforesaid, then the same shall have effect as hereinbefore provided, and shall be irrepealable until the principal and interest of the liabilities herein created shall be paid and discharged, and the Governor shall make proclamation thereof; but if a majority of the votes cast as aforesaid are against this act then the same shall be and become void.

Publication of act

SEC. 7. It shall be the duty of the Secretary of State in accordance with law to have this act published in at least one newspaper in each county, or city and county, if one be published therein, throughout this State, for three months next preceding the general election to be held in the month of November, 1944, the costs of publication shall be paid out of the General Fund, on Controller's warrants duly drawn for that purpose and shall be refunded to the General Fund out of the Veterans' Farm and Home Building Fund. Said refund shall be made upon Controller's warrants duly drawn against said fund for said purpose upon demands audited by the State Department of Finance.

CHAPTER 586

An act to amend Section 6902 of the Labor Code, relating to operation personnel of railroads, declaring the urgency thereof, to take effect immediately.

Stats. 1937, p. 185, amended

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.]

In effect immediately

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

SECTION 1. Section 6902 of the Labor Code is hereby amended to read as follows:

Stats. 1937, p 185

6902. No common carrier operating more than four trains each way per day of 24 hours on any main track or branch line of railroad within this State, or on any part of such main track or branch line, shall run or permit to be run, on any part of such main track or branch line, any freight, mixed, or work train on which there is not employed at least one conductor and the following:

Operating personnel

(a) One engineer and one fireman for each steam locomotive where the train is propelled or drawn by steam.

(b) One motorman for each train propelled or run by electricity.

(c) One motor or power control man for each train propelled by motive power other than steam or electricity.

(d) Two brakemen.

(e) Three brakemen for 50 cars, four brakemen for 76 cars and an additional brakeman for every additional 25 cars on any such train running on a track which attains a grade of less than 1 per cent for more than one-half mile.

(f) Three brakemen for 50 cars and an additional brakeman for every 25 cars or fraction of 25 greater than 12 cars on any such train running on a track which attains a grade of more than 1 per cent and less than 1½ per cent for more than one-half mile.

(g) Three brakemen for 50 cars and an additional brakeman for every 15 cars or fraction of 15 greater than seven cars on any such train running on a track which attains a grade of more than 1½ per cent for more than one-half mile.

Relaxation for duration: Application and permit

Until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs, the Railroad Commission may, upon the application of a carrier after hearing held upon notice thereof, issue a permit granting and allowing variations from the requirements of subdivisions (e), (f) or (g), specifying therein the scope and extent of such allowable variations, and the conditions under which allowable, if the commission finds that the requirements of subdivisions (e), (f) and (g), or certain of those requirements, operate in impairment of the war effort and if it further finds that the variations from such requirements specified in the permit will

be helpful in furthering the war effort without unreasonably increasing the risk of impairing the health or safety of the employees or of the traveling public, in view of the emergency; and the Railroad Commission may at any time revoke, suspend or modify any such permit upon proof being made that the terms and conditions thereof have been violated or that the variations specified in the permit are no longer necessary.

Urgency

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

It is essential to the successful prosecution of the war that existing transportation facilities and personnel be used to the fullest extent possible and such limitations as are now contained in the laws amended by this act are impeding the successful prosecution of the war.

CHAPTER 587

Stats 1933, p 394, amended

An act to amend Section 404 of the Fish and Game Code, relating to licenses.

In effect August 4, 1943

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.]

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

Stats 1937, p 587

SECTION 1. Section 404 of the Fish and Game Code is amended to read:

Lost or destroyed licenses

404. Not more than one license of the same class shall be issued to a person for the same license year, except upon affidavit showing the loss or destruction of the license previously issued. Any person authorized by the commission to issue licenses may administer the oath without any fee to accompany the affidavit.

CHAPTER 588

Stats 1939, p 1274, amended

An act to amend Sections 10751 and 10758 of, and to add Section 10753.5 to, the Revenue and Taxation Code, relating to the vehicle license fee.

In effect August 4, 1943

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.]

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

Stats. 1941, p 605

SECTION 1. Section 10751 of the Revenue and Taxation Code is amended to read:

Levy of license fee

10751. A license fee is hereby imposed for the privilege of operating upon the public highways in this State any vehicle

of a type which is subject to registration under the Vehicle Code.

SEC. 2. Section 10753.5 is added to the Revenue and Taxation Code, to read: New section

10753.5. The following shall determine and establish the market value of vehicles for the calendar years 1944 and 1945: Market value for vehicles in 1944-1945

(a) For vehicles first sold prior to January 1, 1943, the market values shall be the same as compiled and published by the department on January 1, 1943.

(b) For vehicles first sold after January 1, 1943, the market values shall be determined by the department on the basis of the selling price of such class of vehicles.

(c) Notwithstanding the provisions of subdivisions (a) and (b), if prior to October 1, 1944, the actual market value of any class of vehicle falls below the 1945 market value established by this section, the department shall determine such lower value and shall assess the 1945 license fee thereon.

This section shall remain in effect until December 31, 1945. Duration While this section is in effect, it shall supersede Section 10753 of the Revenue and Taxation Code; but Section 10753 is not Existing law repealed by this section and after this section is no longer effective, Section 10753 shall have the same force as though this section had not been enacted.

SEC. 3. Section 10758 of said code is amended to read: Stats 1941, p 605

10758. The license fee imposed under this part is in lieu Exemption from ad valorem taxes of all taxes according to value levied for State or local purposes on vehicles of a type subject to registration under the Vehicle Code whether or not the vehicles are registered under the Vehicle Code.

CHAPTER 589

An act to amend Section 776 of the Vehicle Code, and Section 11001 of the Revenue and Taxation Code, relating to the reporting and depositing of application and license fees received by the Department of Motor Vehicles, to take effect immediately.

Stats 1935, p 93, amended
Stats 1939, p 1274, amended

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.] In effect immediately

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

SECTION 1. Section 776 of the Vehicle Code is amended to read: Stats 1937, p 2228 See also Stats 1943, Ch 877

776. Report and Deposit of Money. The department shall file monthly with the State Controller a report of all money received by the department covering all fees for applications accepted by the department and at the same time deposit all money so reported with the State Treasurer. Of such moneys so reported and deposited, the Treasurer shall place to the Deposit of funds

"Motor Vehicle Support Fund"

credit of the "Motor Vehicle Support Fund," which fund is hereby created, (a) 36½ per cent of all fees received as registration and weight fees and penalties thereon, and fees for special plates, (b) all other moneys received by the department and not otherwise appropriated.

"Motor Vehicle Fund"

The balance of the money so received and reported as registration and weight fees and penalties thereon, and fees for special plates, shall be placed to the credit of the "Motor Vehicle Fund," which fund is hereby created in the State treasury.

Payment of salaries and expenses

All salaries and expenses of the department, including deductions for retirement pay, shall be paid from the Motor Vehicle Support Fund.

Stats 1941, p 605

SEC. 2. Section 11001 of the Revenue and Taxation Code is hereby amended to read as follows:

See also Stats 1943, Ch 877

11001. All money collected by the department for accepted applications under this part shall be reported monthly to the Controller and at the same time deposited in the State treasury to the credit of the Motor Vehicle License Fee Fund, which fund is continued in existence.

Motor Vehicle license fee fund

Current expenses

SEC. 3. This act, inasmuch as it makes an appropriation for the usual current expenses of the State, shall under the provisions of Section 1 of Article IV of the Constitution take effect immediately, and shall become operative July 1, 1943.

CHAPTER 590

Stats 1935, p. 93, amended

An act to amend Sections 452, 525, 528 and 596 of, and to add Sections 459.1 and 459.2 to, the Vehicle Code, relating to traffic regulations.

In effect August 4, 1943

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.]

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

Stats 1935, p. 93

SECTION 1. Section 452 of the Vehicle Code is amended to read:

Persons riding bicycles or animals

452. Traffic Laws Apply to Persons Riding Bicycles or Animals. Every person riding a bicycle or riding or driving an animal upon a highway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this division, except those provisions which by their very nature can have no application.

New section

SEC. 2. Section 459.1 is added to the Vehicle Code, to read:

Local regulatory ordinances

459.1. Local Regulation of Pedestrians and Turning Movements. (a) The provisions of Chapter 10 of Division 9 of this code regulating pedestrians shall not be deemed to prevent local authorities, by ordinance, from adopting ordinances prohibiting pedestrians from crossing roadways at other than crosswalks.

(b) The provisions of Chapter 8 of Division 9 of this code regulating the turning of vehicles shall not be deemed to

prevent local authorities, by ordinance, from prohibiting the making of any turning movement by any vehicle at any intersection.

SEC. 3. Section 459.2 is added to the Vehicle Code, to read: New section

459.2. Establishment of Crosswalks. The provisions of this division shall not prevent local authorities, by ordinance, from establishing crosswalks between intersections. Crosswalks

SEC. 4. Section 525 of the Vehicle Code is amended to read: Stats 1941, p. 2722

525. Drive on Right Side of Roadway. (a) Upon all roadways of sufficient width a vehicle shall be driven upon the right half of, and as close as practicable to the right-hand curb or edge of, such roadway, except as follows: Right side of roadway

Exceptions

(1) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement.

(2) When placing a vehicle in a lawful position for, and when such vehicle is lawfully making a left turn.

(3) When the right half of a roadway is closed to traffic while under construction or repair.

(4) Upon a roadway designated and signposted for one-way traffic.

(b) The State Department of Public Works shall by regulation determine a distinctive roadway marking which shall indicate no driving over such marking, and is authorized either by such marking or by signs and markings to designate any portion of a State highway where the volume of traffic or the vertical or other curvature of the roadway renders it hazardous to drive on the left side of such marking or signs and marking. When such markings or signs and markings are in place, the driver of a vehicle shall not drive along the highway to the left thereof, but this shall not prevent turning to the left across any such markings at any intersection or private driveway. Roadway marking

(c) It is unlawful to drive any vehicle upon any State highway which has been divided into two or more roadways by means of a physical barrier or by means of a dividing section of not less than two feet in width delineated by curbs, lines or other markings on the roadway except to the right of such barrier or dividing section, or to drive any vehicle over or cross any such dividing section, or to make any left turn or semicircular or U-turn on any such divided highway, except through an opening in such physical barrier or through a plainly marked opening in such dividing section. Divided highways

SEC. 5. Section 528 of the Vehicle Code is amended to read: Stats 1935, p. 93

528. Overtaking a Vehicle on the Left. The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to the limitations and exceptions hereinafter stated: Passing on the left

(a) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at

a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(b) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

Stats 1935, p 93

SEC. 6. Section 596 of the Vehicle Code is amended to read:

Obstruction of view or mechanism

596. Obstruction to Driver's View or Driving Mechanism. No person shall drive a vehicle when it is so loaded, or when there are in the front seat such number of persons as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle. The provisions of this section shall not apply to the loading of passenger common carrier vehicles subject to the regulations of the California Railroad Commission, but as to such vehicles specific rules and regulations of that commission shall apply.

Exception

CHAPTER 591

Stats 1935, p 93, amended

An act to add Section 44.8 to the Vehicle Code, relating to authorized emergency vehicles, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.]

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

New section

SECTION 1. Section 44.8 is added to the Vehicle Code, to read:

Civilian defense vehicle

44.8. A motor vehicle owned by the State (or owned by a State officer or employee) when authorized by the Chief of the California Highway Patrol after certification by the State Director of Civilian Defense and when used in the performance of duties imposed upon a State officer or employee by the California War Powers Act, is an authorized emergency vehicle.

Duration

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section; but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

Existing law

Urgency

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

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

Because of conditions due to war conditions the enactment of this act is necessary to preserve the public health, safety and peace.

CHAPTER 592

An act to amend Section 2 of the Fish and Game Code, relating to definitions of terms used in said code.

Stats 1933, p 394, amended

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 2 of the Fish and Game Code is amended to read:

Stats 1941, p 2849

2. As used in this code:

Definitions

a. "Person" includes association, partnership, and corporation.

b. "Department" means Department of Natural Resources.

c. "Commission" means the Fish and Game Commission and "commissioner" means a member of the Fish and Game Commission.

d. "District" means fish and game district.

e. "Take" means hunt, pursue, catch, capture, kill, or possess.

f. "Bird" means wild bird or meat thereof.

g. "Mammal" means wild mammal or meat thereof.

h. "Bag limit" means the maximum limit, in number or amount of birds, mammals, fish, mollusks, or crustaceans which may lawfully be taken by any one person during a specified period of time.

i. "Open season" means that period of time during which the taking of birds, mammals, fish, mollusks, or crustaceans is allowed.

j. "Closed season" means that period of time during which the taking of birds, mammals, fish, mollusks, or crustaceans is prohibited.

k. "Transport" includes offer or receive for transportation.

l. "Sell" includes offer for sale, possess for sale, barter, exchange, and trade.

m. "Day" means calendar day, and "week" means calendar week.

n. Whenever in this code the doing of an act between certain dates or from one date to another is allowed or prohibited, the period of time thereby indicated includes both dates specified. The first date specified designates the first day of the period, and the second day specified designates the

last day of the period. No period of time specified in this code exceeds one year unless otherwise expressly provided.

o. "Section" means a section of this code unless some other statute is expressly mentioned.

p. "Chumming" means the placing in the water of fish, parts of fish, or other material upon which fish feed, for the purpose of attracting fish to a particular area in order that they may be taken.

q. "Angling" means the taking of, or attempting to take, fish by hook and line with the line held in the hand, or by hook and line with the line attached to a pole or rod which is held in the hand, or closely attended, in such manner that the fish voluntarily takes the bait or lure in its mouth.

r. "Set line" means any line, including trawl lines, with a hook or hooks attached thereto which is used to take or attempt to take fish otherwise than by angling.

s. "Resident" means any person who is a citizen of the United States and who has resided continuously in the State of California for six months or more prior to the date of his application for a license or a permit.

t. "Nonresident" means any person who is a citizen of the United States and who has not resided continuously in the State of California for six months prior to the date of his application for a license or permit.

CHAPTER 593

Stats. 1933, p 394, amended

An act to amend Section 1011.5 of the Fish and Game Code, relating to sharks and shark livers, to take effect immediately.

In effect immediately

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.]

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

Stats 1941, p 3205

SECTION 1. Section 1011.5 of the Fish and Game Code is amended to read:

Transportation of shark livers

1011.5. It is unlawful to transport or carry shark livers out of this State without a permit from the Fish and Game Commission. The commission shall issue such permit when it appears that the provisions of this section have been complied with in relation to the shark livers as to which the permit is sought.

It is unlawful to bring shark carcasses ashore or onto any pier or wharf within the waters of the State of California, unless they either are in the round or have only the livers and entrails removed. It is unlawful to bring ashore or onto any pier or wharf within the waters of the State of California shark livers removed from carcasses unless the carcasses are segregated as to sex and unless the livers of the males and females are kept in separate containers. It is unlawful to

bring ashore or onto any pier or wharf within the waters of the State of California from any vessel, shark livers, unless a corresponding number of carcasses are unloaded and unless each such carcass has head, fins and evidence of sex intact and attached. Possession of shark livers on any vessel without a corresponding number of carcasses shall be prima facie evidence of a violation of this section.

The provisions of this section shall not apply to shark livers or other parts of sharks imported from without the State and accompanied by a bona fide bill of lading or other shipping document showing that the origin of the shipment was outside of this State, nor to shark livers or parts of sharks brought ashore from vessels operating under a customhouse clearance for foreign ports. Exceptions

SEC. 2. If any sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act and each sentence, clause and phrase thereof irrespective of the fact that any one or more of the sentences, clauses or phrases be declared unconstitutional. Constitutionality

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

Due to conditions arising out of the war it has become increasingly important to obtain food and vitamins from all possible sources. Shark livers are one of the most important sources of vitamins and shark carcasses are an important item of food. This act, if put into immediate effect, will encourage the taking and bringing into California of shark livers and shark carcasses which are vitally needed in the war effort.

CHAPTER 594

An act to amend Section 842 of the Fish and Game Code, relating to the unlawful use of nets, traps, lines or appliances. Stats 1933, p 394, amended

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.] In effect August 4, 1943

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

SECTION 1. Section 842 of the Fish and Game Code is amended to read: Stats 1933, p 394

842. It is unlawful to use or operate or assist in using or operating any net, trap, line or appliance other than by angling, in taking fish, mollusks, or crustaceans, except as provided in this chapter. Unlawful use of nets, etc

CHAPTER 595

Stats 1933, p 394, amended

An act to add Section 797.1 to the Fish and Game Code, relating to abalones, and declaring the urgency of this act, to take effect immediately.

In effect immediately

[Approved by Governor May 18, 1943. Filed with Secretary of State May 18, 1943.]

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

New section

SECTION 1. Section 797.1 is added to the Fish and Game Code, to read:

Transportation of abalone

797.1. Abalone meat other than canned abalone may not be transported out of the State. Abalone trimmings made into chowder stock or dried as meal may be transported out of this State.

Duration

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs.

Existing law

While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section; but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

Urgency

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

The increasing demand for food and fishery products necessary for the successful prosecution of the war makes it essential that restrictions upon the use of the fish resources be lifted whenever doing so is consistent with sound conservation. This bill will make abalones available for shipment out of the State and will tend to increase the food supply available for military and civilian purposes by the Federal Government and will release an equivalent amount of other foods for the people of this State.

CHAPTER 596

An act to add Section 174 to the State Civil Service Act, relating to reinstatement of persons who leave the civil service to serve as seamen on vessels of the United States in time of war.

Stats 1937, p. 2085, amended

[Approved by Governor May 19, 1943. Filed with Secretary of State May 19, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 174 is added to the State Civil Service Act, to read:

New section

Sec. 174. Any officer or employee of the State having civil service status who in time of war leaves or has left his position to serve as a seaman on board any vessel of the United States shall retain all civil service rights to his position and shall be reinstated to his position upon application within 90 days after the termination of such service or the termination of the war, as proclaimed by the President of the United States, whichever is the earlier; provided, however, that any such officer or employee whose service shall be terminated in a foreign country and who shall leave the foreign country to return to the United States within 90 days after termination of service shall have 90 days after return to the United States within which to make application.

Return to office or employment after maritime service

As used in this section the term "seaman" means any person, including the master and officers, employed on board any vessel of the United States in the care, preservation, operation, management or navigation of such vessel, but it does not include any person who is a member of the land or naval forces of the United States; and the term "vessel of the United States" means any vessel registered, enrolled or licensed under the laws of the United States, any vessel acquired by the United States under the provisions of the act entitled "An act to authorize the acquisition by the United States of title to or the use of domestic or foreign merchant vessels for urgent needs of commerce and National defense, and for other purposes," approved June 6, 1941, as amended, or any other merchant or cargo vessel not of foreign registry owned or operated by or on behalf of the United States, except that the term does not include any fishing or whaling vessel or yacht.

"Seaman"

"Vessel of United States"

1941 U S Stats. at Large, Ch 174, 1st Sess

CHAPTER 597

Stats 1923, p 394, amended

An act to amend Section 658.1 of the Fish and Game Code, relating to salmon.

In effect August 4, 1943

[Approved by Governor May 19, 1943 Filed with Secretary of State May 19, 1943.]

Stats 1941, p 2743

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

See also Stats 1943, Ch 859

SECTION 1. Section 658.1 of the Fish and Game Code is amended to read:

Districts 10, 11

658.1. In Districts 10, except that portion thereof within Tomales Bay, and 11, salmon may be taken with hook and line between September 1st and October 31st. In Tomales Bay salmon may be taken with hook and line between September 1st and the last day of February. The bag limit is two per day. Not more than one daily bag limit may be possessed by any person during any one day. No such salmon may be sold.

Tomales Bay

For the purposes of this section Tomales Bay consists of all of the waters and tidelands southerly of a line from the most northerly point on Pierce's Point to the most westerly point on Sand Point.

CHAPTER 598

An act validating grants by municipal corporations or any State agency to the United States of America for military or naval purposes.

In effect August 4, 1943

[Approved by Governor May 19, 1943. Filed with Secretary of State May 19, 1943.]

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

Validation of city grants

SECTION 1. Every grant, including lease, to the United States of America for military or naval uses, of property of any municipal corporation heretofore made by any legislative body thereof, whether with or without consideration and whether or not previous authority for such grant or lease existed, hereby is ratified and validated; provided, that such grant or lease contains a reservation to the State of deposits of oil and gas and other hydrocarbon and mineral deposits and of rights of way for access to all such deposits as prescribed in Section 6402 of the Public Resources Code, except in the case where any such lands have been granted to such municipal corporation without reserving such deposits to the State.

Validation of State agency grants

SEC. 2. Every grant and lease of real property of the State executed by any State agency to the United States of America for military or naval purposes, is hereby ratified and validated if it was approved by the Governor and if it reserved to the State the mineral deposits and right of way as described in Section 1 hereof.

CHAPTER 599

An act to amend Section 8c of the State Employees' Retirement Act, relating to city firemen and the forestry and fire officers and employees of contracting public agencies.

Stats. 1931, p. 1442, amended

[Approved by Governor May 19, 1943. Filed with Secretary of State May 19, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 8c of the act cited in the title is amended to read:

Stats. 1939, p. 2605

Sec. 8c. "City fireman" shall mean any officer or employee of a fire department of a contracting city, any officer or employee of a county forestry department or county fire department of a contracting county, and any officer or employee of a contracting fire protection district who has been included under the retirement system and excludes such employees of the department or district whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise and whose functions do not clearly fall within the scope of active fire fighting and prevention service; provided, that the foregoing exclusions shall not apply to persons employed in said department or district and qualifying as firemen, hosemen or equal or higher rank, even though assigned to said excluded duties.

"City fireman"

CHAPTER 600

An act to add Sections 695.4 and 695.5 to the Political Code, relating to services furnished by State agencies, and repealing Section 695 of the Political Code, as added by Chapter 923, Statutes of 1933.

[Approved by Governor May 19, 1943. Filed with Secretary of State May 19, 1943.]

In effect August 4, 1943

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

SECTION 1. A new section is hereby added to the Political Code, to be numbered 695.4, and to read as follows:

New section

695.4. Whenever an agency or officer supported by the General Fund of the State renders services for, or furnishes materials to, an agency or officer not supported by the General Fund, the cost of such services or materials shall be a charge against the fund out of which is derived the support of the agency or officer receiving the services or materials.

Cost of services or materials

SEC. 2. A new section is hereby added to the Political Code to be numbered 695.5, and to read as follows:

New section

695.5. The State Board of Control shall determine quarterly the amounts expended by the State Controller, State Treasurer, and the Department of Finance for the supervision or administration of the State Government or service to the

Quarterly payments for supervision and administration

various departments, divisions, bureaus, boards, commissions, offices, institutions or other agencies thereof. Each department, division, bureau, board, commission, office, institution or other agency which is supported in whole or in part otherwise than by appropriations from the General Fund in the State treasury shall pay quarterly to the State Controller, to be by him deposited in the State treasury to the credit of the General Fund, that percentage of the amount determined by the Board of Control to have been expended for such supervision, administration or service which the Board of Control in its discretion shall determine to be the fair share of such State agency after taking into consideration such factors of cost distribution as the board may deem necessary. In determining such fair share, the Board of Control may take into consideration the approximate amount of interest earned on such special funds. The board may estimate such interest, and shall not be required to compute the same.

Deposit in State treasury

Charge

The share of the amounts expended for supervision or administration of the State Government or service to the various State departments, divisions, bureaus, boards, commissions, offices, institutions, or other agency due from any such agencies under the provision of this section shall constitute a charge against any appropriations made for the support of such agency from any fund or funds in the State treasury other than the General Fund.

Certification and notification

The Board of Control shall certify quarterly to the State Controller the amount due from the various State agencies under the provisions of this section and the State Controller shall notify each such agency of the amount due from it.

Stats 1933, p 2399

SEC. 2. Section 695 of the Political Code, as added by Chapter 923, Statutes of 1933, is hereby repealed.

Continuation

SEC. 3. Section 695.5 of the Political Code as added by this act shall be deemed a continuation of Section 695 of the Political Code repealed by Section 2 hereof. Any statutory references to the section repealed shall be deemed to refer to Section 695.5.

CHAPTER 601

Stats 1937, p 1005, amended

An act to amend Section 120 of, and to add Section 120.5 to, the Welfare and Institutions Code, relating to the State Department of Social Welfare.

In effect August 4, 1943

[Approved by Governor May 19, 1943. Filed with Secretary of State May 19, 1943.]

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

Stats 1939, p 1574

SECTION 1. Section 120 of the Welfare and Institutions Code is amended to read:

Cooperation with Federal Government

120. The department may act as the agent or representative of or cooperate with the Federal Government in any

matters within the scope of the functions of the department, for the administration of Federal funds granted to this State or for any other purpose in furtherance of these functions.

The department may cooperate with the Federal Government, its agencies or instrumentalities, in establishing extending, and strengthening services for the protection and care of homeless, dependent, and neglected children, and children in danger of becoming delinquent and may receive and expend all funds made available to the department, the State, a county, a district, a municipal corporation, or a political subdivision by the Federal Government for such purposes.

Approval of Department of Finance

Any contract or agreement entered into by the department with the Federal Government or any agency thereof for the expenditure of any funds in the exercise of any power granted to the department by this section shall be subject to approval by the State Department of Finance.

New section

SEC. 2. Section 120.5 is hereby added to the Welfare and Institutions Code, to read:

Service as Federal agency

120.5. In aid of the Federal war powers, the functions of the department may include the administration and the supervision of the administration of public assistance as an agent of the Federal Government and acting as a service agency for the Federal Government in the field of social service and welfare.

Duration

SEC. 3. Section 120.5 of the Welfare and Institutions Code shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs.

CHAPTER 602

An act to add Section 9603.6 to the Revenue and Taxation Code, relating to the motor vehicle transportation license tax, declaring the urgency thereof, to take effect immediately.

Stats. 1939, p. 1274, amended

[Approved by Governor May 19, 1943. Filed with Secretary of State May 19, 1943.]

In effect immediately

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

New section

SECTION 1. Section 9603.6 is added to the Revenue and Taxation Code, to read:

Persons not operators

9603.6. "Operator" does not include any person who is excluded from such term by Section 9603 who, for the purpose of conserving tires, motor vehicle equipment or motor vehicle supplies, pursuant to directives from Federal agencies created by executive order of the President under authority granted him by Congress, or by reason of orders received

from military or naval authorities, enters into a pooling agreement with another person or persons not included in the term "operator" for the joint use of their motor vehicles for the transportation of their own property, or enters into an agreement to lease his motor vehicle with or without a driver to a person subject to license under this part.

Duration

This section shall remain effective until the ninety-first day after the final adjournment of the Fifty-sixth Session of the Legislature or until the Governor finds and determines, after investigation, that the transportation emergency has ceased, and issues a proclamation to that effect, whichever is earlier In making the investigation and determination the Governor shall consider such findings and recommendations on the transportation emergency as may be issued by Federal agencies concerned with the problem of tire and vehicle conservation.

Urgency

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

The Federal Government has declared the existence of a transportation emergency and has issued executive orders through its duly authorized agencies to govern the use of commercial motor vehicles for the purpose of conserving tires, vehicle equipment, and vehicle supplies, and, to eliminate the waste and duplication of transportation facilities. Full compliance with these orders is vitally necessary for the successful prosecution of the war effort. However, such compliance may at the same time result in the violation of the motor vehicle transportation license tax law. This the Legislature and the people of this State believe would be unfair to those particularly involved and detrimental to the Nation at large; and believe, further, can be corrected upon the taking effect of this act at the earliest possible date.

CHAPTER 603

Stats 1933, p 394, amended

An act to amend Section 970 of the Fish and Game Code, relating to crab traps.

In effect August 4, 1943

[Approved by Governor May 19, 1943 Filed with Secretary of State May 19, 1943.]

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

Stats 1939, p 2257

SECTION 1. Section 970 of the Fish and Game Code is amended to read:

Crab traps

970. Crab traps may be used in Districts 1½, 5, 6, 7, 8, 9, 10, 11, 12, 13, 17, 18, and 19 to take crabs only.

CHAPTER 604

An act to establish a War Catastrophe Reserve, to make an appropriation, and to provide for its expenditure, declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 19, 1943. Filed with Secretary of State May 19, 1943.] In effect immediately

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

SECTION 1. There is hereby appropriated out of any moneys in the State treasury not otherwise appropriated the sum of twenty-five million dollars ($25,000,000) as a War Catastrophe Reserve to be expended pursuant to this act. Appropriation War Catastrophe Reserve

SEC. 2. Expenditures from this reserve may be made only for the immediate and temporary relief, protection and safeguarding of the health and safety of persons in this State in the event, and made necessary or expedient by reason, of an enemy attack (military, naval or aerial) on, or an enemy invasion of, any part of this State. Protection against enemy attack

SEC. 3. Said reserve shall become available for expenditure only upon written authorization of the Governor, accompanied by a resolution by the California State War Council certifying that any unexpended portion of the reserve is needed for the immediate and temporary relief, protection and safeguarding of the health and safety of persons in this State. Such authorization may provide for the allocation and expenditure of sums so made available by such State officers as the Governor may elect. Authorization of expenditures

SEC. 4. Expenditures from the War Catastrophe Reserve are exempted from the provisions of Sections 664, 669, 675a and 677.5 of the Political Code. Expenditure exemptions

SEC. 5. The appropriation made by this act shall be exempt from the provisions of Section 435 of the Political Code, and shall constitute a reserve within the General Fund in the State treasury not available for expenditure except as provided in this act. Any balance in such War Catastrophe Reserve which has not been authorized for expenditure as provided in Sections 2 and 3 shall be excluded in determining the surplus, excess, deficit or deficiency in the General Fund in any balance sheet or other statement of financial condition of the State of California. Exemption from 435, Pol C Exclusion

SEC. 6. The moneys appropriated by this act may be invested and reinvested by the Director of Finance in bonds or other obligations of the United States, or for which the full faith and credit of the United States are pledged, having a maturity date not more than three years from date of investment, and such securities may be sold or exchanged by the Investments

Director of Finance if, in his discretion, such sale or exchange appears to be in the best interest of the State in effectuating the purposes of this act. The increment from such investments shall revert to the General Fund.

Augmentation of reserve

SEC. 7. The War Catastrophe Reserve, and any moneys authorized for expenditure therefrom, may be augmented by any money granted, donated or otherwise contributed to the State or any agency, political subdivision or municipal corporation thereof, by any source for the purposes of this act.

Urgency

SEC. 8. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

The time of an enemy attack on, or invasion of, the State of California is unpredictable. It may well occur after the final adjournment of this session of the Legislature and before the statutes would normally take effect if not enacted as urgency measures. It is therefore imperative that no risk be taken that the State will be powerless to expend moneys necessary for the immediate and temporary relief, protection and safeguarding of the health and safety of persons in this State in the case of such an event.

It is also essential to the successful prosecution of the war that all moneys in the State treasury not required for immediate expenditures be made available to the Government of the United States by means of purchases of securities of said Government, and insofar as this act authorizes the immediate expenditure of all or a portion of the moneys appropriated for this act it will contribute to the successful prosecution of the war.

CHAPTER 605

Stats 1935, p 93, amended

An act to amend Section 1711.5 of the Welfare and Institutions Code and to make an appropriation for the support of the Youth Authority, to take effect immediately.

In effect immediately

[Approved by Governor May 19, 1943. Filed with Secretary of State May 19, 1943.]

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

Appropriation: Youth Authority

SECTION 1. Subject to allocation by the Governor there is hereby appropriated to the Youth Authority (established under Division 2.5 of the Welfare and Institutions Code) in addition to any other appropriation thereto, out of any money in the

State treasury not otherwise appropriated, the sum of one hundred seventy thousand dollars ($170,000) for the support of such Authority during the Ninety-fourth and Ninety-fifth Fiscal Years. Revolving funds may be withdrawn from the appropriation herein made in accordance with the provisions of Section 4 of the "Budget Act of 1943" or Section 4 of the "Budget Act of 1941." Revolving funds

SEC. 2. Section 1711.5 of the Welfare and Institutions Code is amended to read: Ex Sess., 1942, Ch 1 See also Stats 1943, Ch 690

1711.5. This section shall remain in effect until September 1, 1943, unless earlier repealed. While this section is in effect to the extent that it conflicts with Sections 1711 and 1722, this section controls. Duration

Any superintendent of a State correctional school for boys, also any probation officer of a county, is eligible to accept and hold the office of member of the Authority and to continue to hold office as such superintendent or as such probation officer (subject, in the latter case, to the consent, permission, or approval of the board of supervisors or other appropriate county authority or authorities), devoting such time to his duties as member as the duties of his other office permit, but during the period of such dual holding he shall receive no salary as member of the Authority, though he shall receive his actual necessary traveling expenses as such member and such salary and expenses as may be otherwise provided for the office of superintendent or of probation officer. The rate of pay fixed by the State Personnel Board for the superintendent of a correctional school for boys for full-time employment shall not be diminished because the superintendent is serving as a member of the Authority. Membership on authority of superintendent of correctional school, etc

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

The United States is at war. It is more than ever necessary that the youth of this Nation be conserved so that they may assume their obligations during the war and during the period of reconstruction thereafter. The appropriation and the amendments made by this act will enable the Authority to function effectively pending the determination of the permanent program and thus contribute to the public peace, health and safety of this Nation and this State.

CHAPTER 606

Stats 1869-1870, p 646
Stats 1893, p 75, repealed

An act to make an appropriation to pay off a portion of the outstanding indebtedness of the State under "An act to provide for the payment of the funded indebtedness of the State of California and to contract a funded debt for that purpose," approved April 2, 1870, and to repeal "An act to provide for the payment of interest on the outstanding bonds of the State of California, held in trust for the University Fund and the State School Fund; to repeal an act of the Legislature of the State of California, approved March 4, 1881, entitled 'An act to appropriate money to reimburse the University of California, for moneys heretofore appropriated to the Endowment Fund thereof, which moneys have by mistake been withheld therefrom and appropriated to other State purposes,' and making an appropriation to pay the interest on said outstanding bonds, from January 1 to July 1, 1893," approved March 3, 1893.

In effect August 4, 1943

[Approved by Governor May 19, 1943. Filed with Secretary of State May 19, 1943.]

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

Appropriation Payment of indebtedness

SECTION 1. Out of any money in the State treasury not otherwise appropriated, the sum of two million three hundred fifty-seven thousand, two hundred fifty dollars ($2,357,250), or so much thereof as may be necessary, is hereby appropriated to pay off a portion of the outstanding indebtedness of the State in the manner following, to wit: If provision for the payments provided for in subparagraphs (a) and (b) of this section is not otherwise made, on or after July 1, 1945, upon the direction of the Director of Finance:

Transfer to Interest and Sinking Fund

(a) The Controller shall transfer two million two hundred seventy-seven thousand five hundred dollars ($2,277,500) to the Interest and Sinking Fund, to be used to pay off the principal of the funded debt bonds, the issuance of which was authorized by "An act to provide for the payment of the funded indebtedness of the State of California and to contract a funded debt for that purpose," approved April 2, 1870, all of which bonds are held by the State in trust for the University Fund and the State School Fund. When the sum is transferred to the Interest and Sinking Fund the Treasurer shall redeem the bonds held by him in trust for the University Fund and the School Fund, and the bonds shall be paid and retired.

Stats 1869-1870, p 646

$79,750 to University of California

(b) The State Treasurer shall, upon warrants drawn by the Controller according to law, pay the sum of seventy-nine thousand seven hundred fifty dollars ($79,750) to The Regents of the University of California to repay moneys heretofore appropriated to the Endowment Fund, but by mistake withheld therefrom and used for other State purposes.

Investments

SEC. 2. The Director of Finance shall invest and reinvest the amount appropriated by this act in bonds or obligations of the United States of America or for the payment of which the faith and credit of the United States are pledged.

SEC. 3. The act entitled "An act to provide for the payment of interest on the outstanding bonds of the State of California, held in trust for the University Fund and the State School Fund; to repeal an act of the Legislature of the State of California, approved March 4, 1881, entitled 'An act to appropriate money to reimburse the University of California, for moneys heretofore appropriated to the Endowment Fund thereof, which moneys have by mistake been withheld therefrom and appropriated to other State purposes,' and making an appropriation to pay the interest on said outstanding bonds, from January 1, to July 1, 1893," approved March 3, 1893, is hereby repealed, effective July 1, 1945. Stats 1893, p 75

CHAPTER 607

An act granting certain salt marsh, tide and submerged lands of the State of California to the City of Oakland, including the management, use and control thereof.

[Approved by Governor May 19, 1943. Filed with Secretary of State May 19, 1943.] In effect August 4, 1943

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

SECTION 1. There is hereby granted to the City of Oakland, a municipal corporation of the State of California, and to its successors, all of the right, title and interest of the State of California held by said State by virtue of its sovereignty in and to all lands, salt marsh, tidelands and submerged lands, whether filled or unfilled, included within that portion of the unincorporated territory of the County of Alameda, State of California, described as follows: Grant

Bounded on the northeast and east by the southwesterly boundary line of the Rancho San Leandro as finally confirmed to Jose Joaquin Estudillo, and the patent of which was recorded November 30, 1863 in Book "A" of patents, at page 105, Alameda County records; on the southwest by the boundary line of the City of Oakland as extended by the board of supervisors of the County of Alameda by its Resolution No. 32731 filed on August 10, 1938 with the Secretary of State of the State of California, and the northeast boundary of tide lots numbered 4, 3, 14 and 15, section 33, T. 2 S., R. 3 W., as shown on Sale Map No. 10 of salt marsh and tidelands, etc., prepared under the direction of the Board of Tide Land Commissioners of the State of California; and on the northwest by the boundary line of the City of Oakland; saving and excepting therefrom the right of way or strip of land occupied by the railroad line of Southern Pacific Company.

To be forever held by said city, and its successors, in trust for the uses and purposes and upon the express conditions following, to wit: Conditions

(a) That said lands shall be used by said city, and its successors, only for the establishment, improvement and conduct

of a harbor, including an airport or aviation facilities, and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays and other utilities structures, facilities and appliances necessary or convenient for the promotion and accommodation of commerce and navigation by air as well as by water, and said city, or its successors, shall not, at any time, grant, convey, give or alien said lands, or any part thereof, to any individual, firm or corporation for any purposes whatever; provided, that said city, or its successors, may grant franchises thereon for limited periods (but in no event exceeding 50 years), for wharves and other public uses and purposes and may lease said lands, or any part thereof, for limited periods (but in no event exceeding 50 years), for purposes consistent with the trust upon which said lands are held by the State of California, and with the requirements of commerce and navigation at said harbor.

(b) That said lands shall be improved by said city without expense to the State, and shall always remain available for public use for all purposes of commerce and navigation, and the State of California shall have at all times, the right to use, without charge, all wharves, docks, piers, slips, quays, and other improvements and facilities constructed on said lands, or any part thereof, for any vessel or other water or air craft, or railroad, owned or operated by the State of California.

(c) That in the management, conduct or operation of said harbor, or of any of the utilities, structures, appliances or facilities mentioned in paragraph (a), no discrimination in rates, tolls, or charges or in facilities for any use or service in connection therewith shall ever be made, authorized or permitted by said city or its successors.

Fishing rights

(d) There is hereby reserved, however, in the people of the State of California the absolute right to fish in the waters of said harbor with the right of convenient access to said waters over said lands for said purposes.

Mineral deposits

(e) There is hereby excepted and reserved to the State of California all deposits of minerals, including oil and gas, in said land, and to the State of California, or persons authorized by the State of California, the right to prospect for, mine, and remove such deposits from said land.

Use of lands without compensation

(f) The lands herein described are granted subject to the express reservation and condition that the State may at any time in the future use said lands or any portion thereof for highway purposes without compensation to the city, its successors or assigns, or any person, firm or public or private corporation claiming under it, except that in the event improvements have been placed upon the property taken by the State for said purposes, compensation shall be made to the person entitled thereto for the value of his interest in the improvements taken or the damages to such interest.

CHAPTER 608

An act to amend Section 30 of the State Employees' Retirement Act, relating to the membership of the retirement system established thereunder.

Stats. 1931, p. 1442, amended

[Approved by Governor May 19, 1943. Filed with Secretary of State May 19, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 30 of the State Employees' Retirement Act is amended to read:

Stats. 1941, p. 2553

Sec. 30. Elective officers, other than elective officers who file with the Board of Administration an election in writing to become members; provided, that any person so excluded from membership, who later becomes a member hereof, shall have the option of making contributions to the retirement system in the amount which he would have contributed had he not been so excluded, and he shall then receive credit for prior service in the same manner as if he had not been so excluded. If he shall affirmatively exercise the option, the contributions of the State, or of the contracting city because of his membership, shall be the same as they would have been had he not been so excluded.

Elective officers

CHAPTER 609

An act to add Parts 3 and 4, comprising Sections 7301 to 8557, inclusive, to Division 6 of the Public Resources Code, and to add Sections 10014, 10015, and 10016 to Division 10 thereof, thereby revising and consolidating the law relating to the natural resources of the State, including the sale and exchange of land, and granting and taking rights and interests therein, and regulating the use thereof, by the State and its political subdivisions.

Stats. 1939, p. 1067, amended

[Approved by Governor May 19, 1943. Filed with Secretary of State May 19, 1943.]

In effect August 4, 1943

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

SECTION 1. Parts 3 and 4, comprising Sections 7301 to 8557, inclusive, are added to Division 6 of the Public Resources Code, to read:

New parts

PART 3. SALE OF PUBLIC LANDS

CHAPTER 1. SALE OF SCHOOL LANDS

Article 1. Lands Not Suitable for Cultivation, and Reserved Lands

Sale of land not suitable for cultivation

7301. The unsold and unreserved portions of the sixteenth and thirty-sixth sections of school lands, the unsold portions of the 500,000 acres granted to the State for school purposes, and the unsold portions of the listed lands selected of the

See also Stats. 1943, Ch. 759

United States in lieu of the sixteenth and thirty-sixth sections and losses to the school grant, which are not suitable for cultivation shall be sold to citizens of the United States, or to a municipal corporation, public corporation, quasi public corporation, or to the State Highway Commission, State Park Commission, or other State bodies authorized to purchase and hold land, by the commission under rules and regulations prescribed by it and at a price fixed by it. Payment shall be made in cash to the commission at Sacramento.

Protection of occupancy

7302. Every occupant of a sixteenth or thirty-sixth section is protected in his occupancy for three months after the township has been sectionized.

Sale of lands in place reserved from sale
See also Stats 1943, Ch 759

7303. The commission may also sell in like manner for cash any of the lands in place reserved from sale by Section 7402 which have not been used as bases for indemnity selections or otherwise disposed of under any law of this State. Whenever the commission deems it to the advantage of the State so to do, it may, pursuant to law, exchange any of the lands in place so reserved from sale for lands of the United States of equal area, and the lands so acquired in exchange may be thereafter sold in the manner and for cash as provided by this article.

Exchange

Bases for indemnity scrip
See also Stats 1943, Ch 759

7304. Nothing in this article affects the right of the commission to use as bases for indemnity scrip any of the lands reserved from sale by Section 7402 and not otherwise disposed of under this article.

Patent

7305. When payment has been made for land sold under this article, the purchaser shall be entitled to a patent.

Easements, etc
See also Stats 1943, Ch 759

7306. The commission may grant easements and rights of way to the Department of Public Works to or over any of the lands mentioned in Section 7301 for the purposes of rights of way for highways and for use in protecting highways from damage or destruction by natural forces.

Article 2. Land Suitable for Cultivation

Sale to settlers
See also Stats 1943, Ch 759

7351. The unsold portions of the sixteenth and thirty-sixth sections of school lands not included within the exterior boundaries of National reservations, the unsold portions of the 500,000 acres granted to the State for school purposes, and the unsold portions of the listed lands selected of the United States in lieu of the sixteenth and thirty-sixth sections and losses to the school grant, which are suitable for cultivation shall be sold to actual settlers, in quantities not exceeding 320 acres to any one person, as provided by this article.

Purchase price
See also Stats 1943, Ch 759

7352. The price of the lands shall be fixed by the commission.

Payment of the purchase price shall be made as follows: The full purchase price of the land, or 10 per cent thereof and interest to the first day of January following, at the rate of 5 per cent per annum on the unpaid balance of the purchase price.

The unpaid balance of the purchase price shall bear interest at the rate of 5 per cent per annum, payable in advance on the first day of each year, at which time the purchaser may pay as many one-tenths of the purchase price as he may desire. The Legislature may require the payment of the unpaid balance of the purchase price within five years after the passage of an act requiring such payment.

Residence

7353. No application to purchase land under this article shall be approved until applicant has resided in good faith on the land for a period of not less than one year, to the exclusion of any other residence or fixed place of habitation during such time.

Preferred purchaser

7354. Any person who in good faith settles upon any land in the belief that it is suitable for cultivation shall, in the event the commission, upon inspection, determines the land is unsuitable for cultivation, be a preferred purchaser for a period of six months from the date of the decision.

Protection of occupancy

7355. Every occupant of a sixteenth or thirty-sixth section is protected in his occupancy for three months after the township has been sectionized. Any person settling upon a sixteenth or thirty-sixth section after a township has been sectionized has 60 days after such settlement in which to file the application required by this article.

Application to purchase

7356. Any person desiring to purchase any portion, not less than the smallest legal subdivision, of any of the lands mentioned in Section 7351, situated in any township which has been surveyed by the United States, shall make an application therefor in the form of an affidavit as follows:

(a) That he is a citizen of the United States, or has filed his intention to become a citizen, and a resident of this State of lawful age.

(b) That he desires to purchase lands, describing the lands by legal subdivisions under the provisions of this article.

(c) That he has made a personal examination of each legal subdivision of the land described.

(d) That there is no occupation of the lands adverse to any that he has, or if there is an adverse occupation the affidavit shall show that the township has been sectionized three months, and that the adverse occupant (giving his name) has been in such occupation more than 60 days since the plat was filed in the United States land office.

(e) That he desires to purchase the lands for his own use and benefit, and for the use or benefit of no other person or persons whomsoever, and that he has made no contract or agreement to sell the lands.

(f) That the land is suitable for cultivation, that the applicant is an actual settler thereon, and that he has not entered any portion of any lands mentioned in Section 7351, which, together with that now sought to be purchased, exceeds 320 acres.

No application shall contain lands situate in more than one county.

Land suitable for cultivation. Defined

7357. The commission shall make and enforce all necessary rules and regulations to prevent the sale of school lands suitable for cultivation to any person not an actual settler thereon. Any smallest legal subdivision of school lands shall be deemed suitable for cultivation if any part not less than one-half of its area will, without artificial irrigation, but with or without the clearing of timber or other growth therefrom, by the ordinary processes of tillage, produce ordinary agricultural crops in average quantity.

Contest of right to purchase

7358. Any contest of the applicant's right to purchase, arising from the character of the land as cultivable or otherwise, may be referred to the superior court of the proper county, as in other cases, for determination. No contest of the applicant's right to purchase, arising from adverse occupation, shall be maintained, except by a prior adverse occupant, who has filed an application to purchase the land under this article and no occupation of land by a person other than the applicant is an adverse occupation within the meaning of this section, unless the occupation is by a person who is entitled to purchase the lands under the provisions hereof, and who files his application therefor within the time prescribed by Section 7355.

Land not open to entry

7359. If any portion of the land applied for is not open to entry, the commission shall file the application for such portion as is open to entry, and shall eliminate from the application such land as is not open to entry.

False statement

7360. Any false statement contained in the application affidavit provided for in Section 7356 defeats the right of the applicant to purchase the land, or to receive any evidence of title thereto, and, if wilfully false, subjects him also to punishment for perjury.

Timber lands

7361. Timber lands belonging to this State shall be sold for cash only. The commission shall make and enforce all necessary rules and regulations to prevent the sale of or issuance of any evidence of title to any timber lands of this State, except on payment, in cash, of the full price therefor.

Contest

Determination

7362. If two or more persons claim the same land, the contest shall be determined as provided in Article 6 of Chapter 4 of this part; but no person has a right to purchase by reason of any settlement or improvement, unless application is made within the time prescribed by this article.

Limitation

No contest of any location or application to purchase State school lands, or of any order of approval made thereof, or of any certificate of purchase issued thereon or pursuant thereto, shall be filed, heard, determined, referred or allowed unless the contest is filed, heard, determined, referred or allowed within five years from and after the date on which the certificate of purchase is issued.

Article 3. Lieu Lands

"Permanent reservation"

7401. As used in this article, "permanent reservation" applies only to a National reservation established by proclamation of the President of the United States.

"Temporary reservation" applies to any withdrawal of public lands from entry, for any purpose, and lands within the exterior boundaries of any such withdrawal, where the withdrawal has not become a permanent reservation by proclamation of the President of the United States. "Temporary reservation"

7402. All sixteenth and thirty-sixth sections, both surveyed and unsurveyed, which are now or hereafter included within the exterior boundaries of a military, Indian, forest, or other National reservation, or of a reserve, or of a National forest, National park, or National monument, or within the exterior boundaries of lands withdrawn from public entry, shall be withheld from sale by the State and shall be used as bases for indemnity selections except as otherwise provided in Article 1 of this chapter. Whenever such land is withdrawn by authority of the United States, for any purpose, or place within any reservation, or the exterior boundaries thereof, whether temporary or permanent, the lands shall not thereafter be subject to purchase, entry or sale, or be or constitute base or bases for indemnity selections, except as provided in this article and in Article 1 of this chapter. 16th and 36th sections See also Stats 1943, Ch 759

7403. No person shall have the right to apply for or be entitled to designate or have selected or located for him by the commission in the United States land offices any lands in lieu of loss to the State in or to any grant made to it by the United States except upon the surrender of an indemnity certificate or scrip, as provided in this article. Surrender of indemnity scrip

7404. All sixteenth and thirty-sixth sections situated within the exterior boundaries of a permanent reservation, and also all losses sustained by the State to its school grants, are valid bases for indemnity selections, and shall be available as bases when indemnity certificates or scrip have been issued therefor and sold. Where indemnity selections are based upon surveyed school sections included within the exterior boundaries of permanent reservations, if the lands applied for are finally listed to the State in lieu of the sections constituting such bases, the title of the State to such bases shall vest in the United States without further act on the part of the State, and the title of the State to such bases shall be deemed to have been conveyed to the United States, as of the date of the listing. Bases for indemnity selection

Vesting of title in United States

7405. Whenever the State has the right to select lands from the United States, for any of the causes or reasons for which it may be entitled to make indemnity selections, the commission shall ascertain from time to time the number of acres of land to which the State is entitled as indemnity and shall keep on file a statement showing of what such bases consist. In determining the bases in lieu of which the State is entitled to indemnity, the commission shall also include all sixteenth and thirty-sixth sections which were surveyed at the time of the withdrawal of such lands from public entry, or at any time thereafter, except that if the land department of the United States determines that such surveyed sections are improper or invalid bases, the commission shall not be required thereafter to consider or Indemnity selection See also Stats 1943 Ch 759

Base

Improper base

treat the sections as bases for indemnity selection. No base shall be deemed a proper base for indemnity selections, where the base exists by reason of its inclusion within a reservation unless it is included within the exterior boundaries of a permanent reservation, but all such bases shall be withheld from sale, or other disposition, until the temporary reserve or withdrawal becomes a permanent reservation.

Commission as general State agent

7406. The commission is the general agent of the State for the location in the United States land offices of the lands desired to be selected and located in lieu of the sixteenth and thirty-sixth sections granted to the State for the use of the public schools, and in lieu of any and all losses sustained by the State to its school grant, whenever the commission is authorized by law to make such location or locations, or whenever for any reason it is authorized to select lands in lieu of grants made to the State; but no such selection or reselection, designation or redesignation or amended selection shall be made, except pursuant to Section 7303 or upon the surrender to the commission, as in this article provided, of a certificate of indemnity or scrip.

Surrender of certificate

7407. No selection of any land for which a certificate of purchase is outstanding shall be made until the certificate of purchase issued therefor has been surrendered.

Acceptance under U S C Title 30, Sec 121, et seq

7408. The commission may accept the benefits of the act of Congress approved July 17, 1914, entitled: "An act to provide for agricultural entry of lands withdrawn, classified, or reported as containing phosphate, nitrate, potash, oil, gas, or asphaltic minerals," and on behalf of the State, or of any assignee of the State, accept and receive lists and patents to lands selected by the State as agricultural lands, which were subsequently withdrawn, classified or reported as being valuable for phosphate, nitrate, potash, oil, gas, or asphaltic minerals, and containing a reservation to the United States of all deposits on account of which the lands were withdrawn, classified, or reported as being valuable, together with the right to prospect for, mine and remove the same, as provided in said act of Congress.

Patents to agricultural lands

Sale of indemnity certificates

7409. Whenever the State is entitled to make indemnity selections for any reason, the commission may, on behalf of the State, issue and sell indemnity certificates of location or scrip.

Persons purchasing indemnity certificates

7410. No person may purchase an indemnity certificate of location or scrip unless he is qualified to purchase State lands as provided by law, and no person may purchase such a certificate representing more than 640 acres of land. As the commission from time to time ascertains the number of acres to which the State is entitled as indemnity, it may sell at its office in the City of Sacramento, for cash and to persons qualified to purchase State land, indemnity certificates or scrip, at a price fixed by the commission at not less than one dollar and twenty-five cents ($1.25) an acre and in such quantities as the commission deems are for the best interests of the State.

Written authorization to agent

7411. No person shall purchase indemnity certificates or scrip for or on behalf of any other person without an authorization in writing so to do, executed by the principal, which authorization shall be filed in the office of the commission, together with the affidavit of the principal that he is qualified to purchase State lands.

Issuance of indemnity certificate of location

7412. When certificates of indemnity or scrip are sold, the commission shall issue to the purchaser an indemnity certificate of location or scrip, in such form as may be provided by it, containing the date of the sale, a description of the land or a statement of the facts or other cause constituting the bases by reason of which the State is entitled to indemnity, the name of the person to whom issued, the price paid therefor, and the fact that such certificate may be surrendered to the commission, and that the holder and owner thereof, if he is the original purchaser of the certificate of indemnity or scrip, shall be entitled to have selected from the vacant unappropriated lands of the United States within the State open to selection, the same number of acres as represented by the certificate surrendered, which the person who makes the surrender shall designate. If the lands applied for are not open to entry the holder of a certificate of indemnity may apply for other lands or receive restitution to the amount paid for the certificate.

Affidavit etc

7413. At the time of surrendering a certificate the person surrendering it shall make and file the same affidavit and application, as is required for the purchase of State school lands and shall pay all fees as provided in connection with the sale of State school lands, and the issuing of evidences of title therefor. The certificates of indemnity or scrip shall be accepted as the full purchase price of the land sought to be purchased by the applicant.

Assignment of rights

7414. A certificate of indemnity is not subject to sale or assignment; but if the purchaser dies without having selected lands in accordance therewith, his successors in interest or legal representatives may surrender the certificate and be entitled to restitution for the amount paid therefor.

Cancellation and restitution

7415. If it appears, when any certificate of indemnity or scrip is surrendered that the owner of the certificate was not qualified to purchase State lands when the certificate was purchased, the certificate shall be canceled and become null and void, and he shall be entitled to restitution therefor.

Procedure

7416. If any applicant desires to purchase any of the lands mentioned in Section 7406, he shall, before filing his application with the commission, properly prepare all papers and documents on the forms prescribed by the commission and the Department of the Interior, and shall also surrender the indemnity certificate or scrip which he desires the commission to use as bases for indemnity. The commission shall, if the applicant complies with the provisions of this article and of law, thereupon communicate with the United States land offices and ask that the lands sought to be purchased be listed to the State in lieu of the bases named in the surrender certificate.

The applicant shall also pay to the commissior at the time of the presentation of the application all fees required by the United States land offices for the location, shall furnish all county recorders' or other certificates required, and shall pay for publication of all notices required by the United States land offices.

The county recorder, upon the request of any person or his agent or attorney shall forthwith on the payment of the fees allowed by law, furnish the certificate required by this section, or any other certificate that may be required by the rules or regulations of the United States Land Office.

Approval of application

7417. When the commission receives from the register or receiver of the United States Land Office, or both, a notice to the effect that any indemnity school land selection, has been filed and accepted, subject to future approval, the said commission shall, subject to the provisions of Sections 7701 to 7705, inclusive, approve the application in accordance with the acceptance, and shall issue a certificate of purchase for the land sought by the applicant showing full payment therefor.

State laws governing

7418. All the provisions of the laws of this State governing the sale and disposition of State school land, where not in conflict with the provisions of this article, shall apply equally to lands purchased upon the surrender of certificates of indemnity or scrip.

Entry

7419. No person shall be considered as having made an entry of State lands under this article until the lands have been listed to the State.

Disposition of moneys

7420. All moneys received by the commission under this article shall be disposed of in the same manner as other moneys received from the sale of State school lands.

Invalid base Substitution

7421. Whenever it appears to the satisfaction of the commission that the base named in any certificate of indemnity or scrip is invalid, or has been used in a previous State indemnity selection, or will not be accepted by the Land Department of the United States, the owner and holder thereof may surrender the certificate of indemnity or scrip to the commission. The certificate of indemnity or scrip shall thereupon be canceled, and the commission shall issue a new certificate of indemnity or scrip in lieu thereof containing an equal amount of acres of valid bases. If the base land described in the canceled certificate of indemnity or scrip has been used in making a State indemnity selection for the owner, the commission shall forward to the United States Land Office an amendatory of the State indemnity selection by substituting the base land described in the new certificate of indemnity or scrip for the base land in the certificate canceled by it.

Loss or destruction of certificate

7422. If a certificate of indemnity or scrip is lost or destroyed, the owner, upon filing an affidavit with the commission showing the facts constituting the loss or destruction, may have issued to him a duplicate, across the face of which shall be marked in red ink the word "Duplicate," which shall have the same force and effect as the original.

Surrender of certificate Payment

7423. Whenever any person has the right to recover from the State, or desires to receive from the State, any sum of money paid by him for a certificate of indemnity or scrip, he shall surrender the certificate or scrip to the commission, which shall thereupon cancel it and issue to him a certificate showing the amount paid and the class of land upon which the payment was made. Upon the surrender to the Controller of the certificate showing the amount paid, he shall draw his warrant in favor of the person surrendering it for the amount therein specified upon the Treasurer of the State, who shall pay the amount of the warrant out of the fund into which the purchase money was paid.

In cases where certificates of purchase have been issued for the land selected in lieu of the base described in the indemnity certificate of location or scrip, the owner of the certificate of purchase shall be governed by the provisions of Sections 7971, 7972, and 7973 (or Section 3571 of the Political Code).

Relinquishment of unlisted lieu land

7424. The commission may relinquish to the United States any unlisted lieu land for which there is no pending application to purchase from the State. The commission may relinquish any such land upon the request of the holder of a certificate of purchase for the land, upon the surrender of the certificate of purchase issued by the State for the land, the conveyance to the State of his interest in and to the land by a quitclaim deed, and the furnishing to the commission of satisfactory evidence that whatever title was conveyed by the State through the issuance of the certificate of purchase is revested in the State.

Chapter 2. Sale of Swamp and Overflowed Lands

Article 1. Swamp and Overflowed Lands Subsequent to September 19, 1939

Sale

See also Stats. 1943, Ch. 759

7501. Swamp and overflowed lands belonging to the State shall be sold by the commission under rules and regulations prescribed by it and at a price fixed by it, payment to be made in cash to the commission. The proceeds from such sales of swamp and overflowed lands shall be paid into the State treasury to the credit of the State Lands Act Fund. This section shall not affect the sale of swamp and overflowed lands under any application filed with the commission prior to September 19, 1939.

Article 2. Swamp and Overflowed Lands Sold Prior to September 19, 1939

Payment of purchase price

7521. The swamp and overflowed lands belonging to the State were sold prior to September 19, 1939, at the rate of one dollar ($1) an acre. Twenty per cent of the principal is payable within 50 days from the date of the approval of the survey by the commission. The balance, bearing interest at the rate of 7 per cent per annum, payable annually in advance, is due and payable one year after the passage of any act of the Legislature requiring such payment, or before, if desired

by the purchasers. Bonds or warrants of reclamation districts having an outstanding indebtedness are receivable at par in payment for lands in such districts.

Segregation

7522. The commission shall not approve any application nor issue evidence of title for swamp and overflowed land, until six months after the land has been segregated by authority of the United States.

Unacceptable applications

7523. No claim shall be made by the State to any land as swamp or overflowed, which has not been returned as such by the United States, nor to lands for which preemption or homestead patents have been issued by the United States, or upon which there are settlers, occupying the land in good faith, who have filed their preemption or homestead declaratory statements. The commission shall not receive any application to purchase as swamp or overflowed lands, any land not returned as such by the United States, unless the application be accompanied by a certificate from the Register of the United States Land Office for the district in which the land is situated, or by the affidavits of two disinterested persons, that there is no preemption or homestead settler upon the land sought to be purchased, or if there is such settler, that he has resided on the land more than six months prior to the time of making such application. The application shall be invalid in every case where there is a valid preemption filing or homestead entry on the land sought to be purchased at the time the application is made.

Purchaser's affidavit

7524. Any person desiring to purchase swamp and overflowed lands shall make an affidavit and file it in the office of the commission, that he is a citizen of the United States, or has filed his intention to become so; that he is a resident of the State, of lawful age; that he desires to purchase lands (describing them) under the law providing for the sale of swamp and overflowed lands; that he does not know of any valid claim to the lands, other than his own; that he knows the land applied for and the exterior bounds thereof, and knows, of his own knowledge, that there are no settlers thereon; or, if there are, that the land has been segregated more than six months by authority of the United States; and that the land which he now owns (swamp and overflowed), together with that sought to be purchased, does not exceed 640 acres.

False statement

7525. Any false statement contained in the affidavit defeats the right of the applicant to purchase the land, or to receive any evidence of title thereto, and if wilfully false, subjects him also to punishment for perjury.

Reference to superior court

7526. If at any time after such affidavit is filed in the office of the commission, and prior to the issuance of a patent for the lands described therein it is made to appear to the commission by the affidavit of any settler or person occupying such land for farming purposes, that he, or those under whom he claims, have been in the possession and occupancy of such lands, or any part thereof, for farming purposes, for over 10

years next prior to the date of the filing of the affidavit of the person desiring to purchase, and that his or their occupancy was open and notorious and was evidenced by actual enclosure, or by ditches, or monuments, or embankments, or levees, showing the actual extent thereof, and that he, or they under whom he claims, had, at the time of the filing of the affidavit by the person desiring to purchase, actually reclaimed such land and reduced it to a state of cultivation, and had been farming and cultivating the land; or if it appears from such affidavit filed by such person, that the affidavit filed by the person desiring to purchase the land is false in any of the statements made therein, the commission shall make an order referring the questions raised by such affidavits to the superior court of the county in which the land, or some part thereof, is situated.

Action

7527. Within 30 days from the date of such order of reference, the party filing the affidavit raising such questions shall commence, in such court, an action to determine the questions. In his complaint in the action he shall set forth copies of the affidavit filed by the person desiring to purchase the land, and of the affidavit filed by himself with the commission. The production of a certified copy of the order of reference shall give the court full and complete jurisdiction to hear and determine the action. Pending the final judgment in the action, all proceedings in the commission's office respecting the lands shall be stayed.

Judgment

7528. If upon the trial of such action it appears that any of the statements made in the affidavit filed by the person desiring to purchase the land were false, or if it appears that the statements made in the affidavit filed by the settler or occupant of such land are true, the approval of location or certificate of purchase, if any has been made or issued, shall be canceled by judgment of the court. But if it appears that the statements contained within the affidavit of the person desiring to purchase the land are true, and that the statements made in the affidavit of the settler or occupant are untrue, the court shall enter its judgment accordingly.

Cancellation or approval

7529. Upon the filing with the commission of a copy of the final judgment of the court, the commission shall, if the judgment of the court cancels the location or certificate of purchase, enter an order of cancellation accordingly. But if by the judgment it is decreed that the person desiring to purchase the land is entitled to purchase it, the commission shall approve the location, or issue the certificate of purchase or other evidence of title, in accordance with the judgment.

Land survey

7530. Any person desiring to purchase lands, as provided in this article, which have been segregated by authority of the United States, but which have not been sectionized by the same authority, shall apply to the surveyor of the county in which the land is situated, to have the land which he desires to purchase surveyed. A certificate of such survey shall be attached to the affidavit required for the purchase of the lands.

All surveys required of county surveyors by this section shall conform, as nearly as practicable, to the system adopted by the United States for the survey of the public lands.

Payments

7531. All payments shall be made by the purchaser to the county treasurer of the county in which the land is situated. The treasurer shall receive the amounts to be paid including the fee for the certificate of purchase, if any. The treasurer shall endorse upon the certificate of purchase the amount of all payments and shall direct the purchaser to take the certificate of purchase, so endorsed, to the county auditor who shall charge the treasurer with the amount received and make his check upon the endorsed receipt.

County treasurer's report

7532. Upon the first day of July of each year the county treasurer shall prepare a report showing all moneys received for swamp and overflowed and tide lands during the preceding year, the number of the location or survey, the name of the purchaser, and the amount paid since the date of his last report, whether as principal or interest. The payment of the fee for the certificate of purchase shall also be entered in the proper column. The treasurer shall then send the report to the auditor who shall compare the items with the account of the treasurer and if it agrees with his entries countersign it and return it to the county treasurer.

Credit to purchaser

7533. These reports shall be forwarded to the commission, and upon receipt thereof the commission shall enter the payment so reported to the credit of the purchaser, and shall notify the county treasurer of the receipt of his report, or if it is not correct return it for correction.

Swamp land fund

7534. The county treasurer shall retain all money arising from the sale of swamp and overflowed lands and place it to the credit of a fund known as the swamp land fund of the county. He shall compute interest on all sales of such lands from the date of the approval of the survey or the date of the certificate of location to the first day of January following such date, or, if for lands already purchased, up to the first of January following the day upon which the interest falls due, after which time all payments of principal and interest fall due on the first day of January.

Article 3. Provisions Relating to All Swamp and Overflowed Lands

Preferred purchasers

7551. Settlers upon swamp and overflowed lands belonging to the State who occupy such lands for farming or grazing purposes, and whose occupation is evidenced by actual enclosure, or by ditches or monuments showing the actual extent thereof, are preferred purchasers of such lands for six months after segregation.

Character of land

7552. Lands within this State which are returned by the United States as swamp and overflowed lands, and shown as such on approved township plats, shall, as soon as patents are issued therefor by this State, be held to be of the character so returned. Nothing in this section shall be construed to affect the

rights of any homestead or preemption settler claiming under the laws of the United States, nor to prejudice the rights of any settler located upon such lands to perfect title to the lands if permitted under existing laws.

Patent lost or destroyed

7553. When the original patent to swamp and overflowed land of the State has been lost or destroyed, and is not of record in the county where the land is situate, and no duplicate or copy thereof is in the office of the Secretary of State or in the office of the commission, a patent shall be issued to the original purchaser for the same land, as other patents are issued, when it is proven to the satisfaction of the commission from the data in the office of the Secretary of State, or in the office of the commission, that an original patent has been lawfully issued to the original purchaser, and from other satisfactory proof that it has been lost or destroyed, and is not of record in the recorder's office of the county in which the land is situate. The patent so reissued shall have the same force and effect as the original patent, and shall contain the clause "This patent is issued to take the place of the original patent issued for the same land, on the (give date of original patent, and by whom issued), and is not intended to change the title of the persons in whom the land is now vested and only to complete the record title from the State of California." The commission shall collect the same fee therefor as in issuing original patents.

Reissuance

Procedure for reissuance

7554. Any person having a vested interest in any swamp and overflowed land, covered by a patent lost or destroyed, and not of record in the county where the land is situate, in order to obtain the reissuing of the patent as provided in Section 7553, shall make an affidavit and file it in the office of the commission, setting forth that he has a vested interest in the land, or a part thereof, to which he makes application for a patent to be reissued from the State of California. He shall also state in the affidavit the chain of title from the original patentee to and including the present owners of the land described in the original patent.

Quiet title action

7555. In any case where the State has sold lands acquired by it as swamp and overflowed lands, the person claiming or deraigning title to any lands through or under any purchase thereof from the State may bring suit against the State in any court of competent jurisdiction of the State to establish the boundaries of and to quiet title to the land or any portion thereof, and may prosecute such suit to final judgment. The complaint in any such action shall contain a plat of the property described therein, which plat shall show the location of the property in respect to a section corner, the location of which is shown on an approved United States Government township plat, or in respect to a monument which has been established by reference to any such section corner.

Summons

Service of summons in such suits shall be made upon the Chairman of the State Lands Commission and upon the Attorney General, and the Attorney General shall represent the State in all such suits.

Costs

No costs against the State shall be allowed in any such suit.

Lands excluded

7556. All swamp and overflowed lands within one mile of the State Prison at San Quentin, within the City and County of San Francisco, City of Oakland, or within five miles of the corporate limits of either, are excluded from the operation of this chapter.

CHAPTER 3. SALE OF INLAND LAKE AND UNSEGREGATED SWAMP AND OVERFLOWED LANDS

Application to purchase

7601. Any person desiring to purchase any of the lands uncovered by the recession or drainage of the waters of inland lakes, and inuring to the State by virtue of her sovereignty, or the swamp and overflowed lands not segregated by the United States, shall make an application therefor to the commission. The application shall be accompanied by the applicant's affidavit that he is a citizen of the United States, or has declared his intention to become such, that he is a resident of this State, of lawful age, that he desires to purchase such lands (describing them by legal subdivisions, or by metes and bounds, if the legal subdivisions are unknown), under the provisions of this chapter, for his own use and benefit, and for the use and benefit of no other person whomsoever, and that he has made no contract or agreement to sell the lands, and that he does not now own any State lands which, together with that now sought to be purchased, exceeds 640 acres.

Affidavit

Exception

This section shall not affect or apply to any land uncovered by the recession or drainage of the waters of any lake or other body of water, the waters of which are so impregnated with minerals as to be valuable for the purpose of extracting therefrom such minerals.

Survey

7602. Upon the filing of such application, if the land has not been sectionized, the commission shall authorize the county surveyor of the county where the whole or the greater portion of the land lies, to survey the land. He shall make an actual survey thereof, at the expense of the applicant, establishing four corners to each quarter-section, and connecting the survey with a United States survey. Within 30 days he shall file with the commission a copy, under oath, of his field-notes and plat, and a statement under oath, showing whether or not the land is occupied by any actual settler. If the surveyor thus authorized fails to make his return to the commission within the time specified, the commission may designate another person to make the survey.

Approval

7603. No application to purchase land under this chapter shall be approved until the expiration of 90 days from the filing thereof, and meanwhile the land is subject to the adverse claim of any actual settler who resided thereon when the application was filed.

Purchase price

See also Stats. 1943, Ch. 759

7604. The lands designated in this chapter shall be sold at the price of two dollars and fifty cents ($2.50) per acre, and on the terms and manner of payment provided in Article 2 of Chapter 2 of this part for swamp and overflowed lands. All

moneys received for such lands shall be paid into the swamp-land fund of the county in which the lands are situated, and shall be treated and disposed of in the same manner as moneys arising from the sale of segregated swamp and overflowed lands sold prior to September 19, 1939.

Lands suitable for cultivation

7605. If any of the lands described in this chapter are suitable for cultivation without reclamation, they shall be sold only to actual settlers in tracts not exceeding 160 acres.

Reclamation

7606. Any of the lands designated in this chapter which, by reason of periodical overflow, need, and are susceptible of, reclamation, may be reclaimed by the formation of districts, in the same manner and subject to all of the provisions of law regulating the reclamation of swamp and overflowed lands. The board of supervisors of the county in which the lands, or the greater part thereof, are situated, shall first determine, upon proper petition presented therefor by the holders of the title, or evidence of title, representing one-half or more of any body of such land, that such reclamation is necessary and feasible.

Contest

7607. When land has been sold under this chapter, no contest can be maintained against the purchaser on the ground that the land is not of the character stated in the application, unless it is shown that it is not of the character recited in Section 7601.

Uncanceled certificates

7608. All uncanceled certificates of purchase and patents issued prior to May 20, 1907, and payments made prior to May 20, 1907, for any lands as swamp and overflowed lands, which belong to any of the classes described in Section 7601, whether or not such lands were segregated or sectionized, are for all purposes valid, and have the same force and effect as if such lands had been at all times subject to sale as swamp and overflowed lands.

Validity of plats

7609. All plats of any of the lands described in Section 7601, which were made prior to May 20, 1907, under authority of the United States Surveyor General, and which plats designate the lands as swamp and overflowed land, shall be deemed valid and effectual as surveys of such lands from and after the date thereof.

Chapter 4. Provisions Relating to Public Lands Generally

Article 1. Applications for Purchase of Lands

Applications

7701. All applications for the purchase of State lands, other than for lands sold for cash under rules and regulations of the commission, filed with the commission shall be retained 90 days before approval. Before approval of the application by the commission, the applicant shall appear before the commission in person, or before some person authorized to administer oaths, designated by the commission, at such time and place as it may fix, and answer, under oath, such interrogatories as may be put to him regarding his application, or the truth of the application, or any fact or circumstance connected

Hearing

therewith, and shall furnish such other or further evidence thereof as may be required by the commission.

Notice

7702. The commission shall mail to each applicant, addressed to the applicant at the address given in the application, a letter or notice specifying the time and place of such hearing. The letter or notice shall be mailed at least 10 days before the hearing.

Approval

7703. If it appears to the commission that the application is made in good faith, and that all the facts stated in the application are true, and that the land applied for is subject to sale, it shall approve the application, otherwise it shall disapprove the application.

Unapproved applications

7704. All unapproved applications which have been on file over six months, wherein the applicant has not, before the expiration of such time, submitted himself for examination, and wherein proof has not been furnished as required by the commission, or wherein a contest has not been referred to court or a demand made for an order of reference, as provided in Section 7921, are null and void, except that where applications are filed subject to the rights of a previous applicant, such subsequent applications shall not be approved until the rights of the first applicant have expired.

Disapproved applications

7705. No application shall be approved:

(a) For land situated in more than one county, or land situated in more than one United States land district.

(b) For any sixteenth or thirty-sixth section of school land belonging to the State which is situated within the exterior boundaries of a military, Indian, or forest reservation created by authority of the United States, or of a National forest, National park or National monument, or within the exterior boundaries of lands withdrawn from public entry for forest purposes.

(c) For swamp and overflowed land until the swamp and overflowed land is segregated by authority of the United States except for such lands sold pursuant to Chapter 3 of this part.

Fee

7706. Each application for lands shall be accompanied by a fee of five dollars ($5), and no application shall be received, filed, or noted in any way until the fee is paid. Such fees shall be paid into the State treasury on the first Monday of each month, and placed to the credit of the State Lands Act Fund. The commission shall, on the first Monday of each month, make a written report to the State Controller, stating the amount of fees so paid, together with the sources from which they were derived, and the several amounts, by items.

Report

Article 2. Payments, Certificates of Purchase, and Patents

Presentation and payment

7720. Except as otherwise expressly provided, whenever any survey or location is made or approved, the purchaser shall, within 20 days from the date of approval or location, present his copy thereof to the commission, which shall receive

the amount to be paid and the fee for the certificate of purchase, endorse the receipt thereof upon the certificate of location or survey, and return it to the purchaser.

Reversion to State

7721. In case payment is not made within the time required by law, the lands described in the survey or location revert to the State without suit, and the survey or location is void. Except as otherwise expressly provided, all subsequent payments shall be made to the commission in like manner, and the commission shall endorse the receipt thereof upon the certificate of purchase.

Certificate of purchase

7722. Whenever an applicant for purchase of State lands has made the first payment, the commission shall issue to the person entitled thereto a certificate of purchase, showing the class of land purchased, the number of acres, the price per acre, the date of payment, the date from which interest is to be computed, the amount paid, and the amount remaining unpaid, which certificate is prima facie evidence of title.

Sale of certificate

7723. Certificates of purchase, and all rights acquired thereunder, are subject to sale, by deed or assignment, executed and acknowledged before any officer authorized by law to take acknowledgments of conveyances of real property.

Report and recordation of sales

7724. All such sales shall, when the deed or assignment is recorded by the county recorder, be reported by him to the commission, to be entered in its books.

Fee

7725. The recorder is entitled to receive from the purchaser, for making such report, a fee of fifty cents ($0.50).

Loss or destruction of certificate

7726. If the owner of a certificate of purchase claims that it has been lost, destroyed, or is beyond his control, the commission shall take testimony concerning the loss, destruction, or reason why the certificate of purchase is beyond his control. The owner shall, before the hearing make an affidavit that he has not sold the certificate of purchase, or the land described therein, and shall publish a notice in some newspaper in the county where the land is situated, or if there is no newspaper published in the county, then in some newspaper of general circulation in the county, for at least four weeks, describing the certificate and the lands for which it was issued, stating the name of the person to whom it was issued and the person then claiming to own it, together with the time and place of hearing.

Duplicate

7727. If the commission is satisfied of the loss or destruction of the certificate, or that it is beyond the control of the person owning it, the commission shall issue to the owner thereof a duplicate, with the word "Duplicate" written across the face thereof in red ink, which duplicate shall have the same force and effect as the original.

Contest

7728. If there is a contest as to the issuing of a duplicate certificate, the commission may hear and determine the contest, or may refer it to the proper court, as provided in Section 7921. All proceedings hereunder shall be construed as special proceedings after a question of fact has arisen within the meaning of Section 2021 of the Code of Civil Procedure. The adverse party shall be considered the contestant, and if there is no

contest the commission shall for such purpose be considered the adverse party.

Patent

7729. Whenever a person becomes entitled to a patent, the commission, upon the surrender of the certificate of purchase, shall prepare a patent for the land. The patent shall be issued in the name of the original applicant. The commission shall send it to the Governor, together with a certificate that the laws in relation thereto have been complied with, that payment in full has been made, and that the person named in the prepared patent is entitled to it. The patent so issued shall inure to the benefit of the assigns, grantees, or successors in interest of said original applicant.

Signatures

7730. The patent shall then be signed by the Governor, attested by the Secretary of State, sealed with the Great Seal of the State, and countersigned by the commission.

Relinquishment

7731. No patent shall issue until the lands are relinquished to the State by authority of the General Land Office at Washington. Such relinquishment is not required for locations of the sixteenth and thirty-sixth sections in place, or for swamp and overflowed lands, shown to be such by the official surveys made by authority of the United States.

Recordation

7732. The commission shall record all patents in books to be kept in its office for that purpose, and then deliver them to persons entitled thereto.

Patent to deceased person

7733. Where a patent for lands is issued in the name of a deceased person, the title is vested in the heirs, devisees, or assignees of such person in the same manner as if the patent had issued to such person during life.

Article 3. Delinquent Interest on Certificates of Purchase Issued on or After May 1, 1911

Penalty

7751. If any interest on the unpaid portion of the purchase price of any State lands for which a certificate of purchase was issued on or after May 1, 1911, is not paid on or before the thirtieth day of June following the first day of January upon which such interest becomes due, 10 per cent of the amount thereof shall be added as a penalty for such delinquency.

Additional penalty

7752. If the delinquent interest, and penalty, are not paid on or before the thirty-first day of December of such year, an additional penalty of 10 per cent of the amount of the delinquent interest shall be imposed upon the person or persons liable for the payment thereof. If the delinquent interest, and penalties, are not paid on or before the thirtieth day of June of the year following, the certificate of purchase shall ipso facto become null and void, and the lands described therein revert to the State without suit, and shall again become subject to entry and sale in the same manner and subject to the same conditions as apply to other lands of like character.

Reversion to State

Money paid on account

7753. In the event of the happening of the contingency mentioned in Section 7752, all money previously paid on account of the purchase price of the lands, whether for principal or interest, is forfeited to the State, and neither the delinquent

purchaser nor any one claiming under him may recover the money so paid or any part thereof.

When penalties inapplicable

7754. The penalties and forfeitures provided for in this article shall not apply to any land for which certificates of purchase were issued prior to May 1, 1911, nor to lands within any reclamation district, after certificate of the board of supervisors that works of reclamation have been commenced in the district has been filed with the commission

Collection

7755. Whenever any penalty imposed by this article has accrued, the commission or the county treasurer, as the case may be, shall in all cases collect the full amount thereof before endorsing the receipt of the payment upon the certificate of purchase.

Notice of forfeiture

7756. Immediately following the thirtieth day of June of each year, the commission shall note upon its records all forfeitures under this article, and shall forward to the recorder of each county wherein any of the lands are situate, a notice of such forfeiture. The notice shall state the name and post-office address of the purchaser, and the name and post-office address of the assignee, grantee, or successor in interest of such purchaser in all cases wherein notice of any assignment of the certificate of purchase, or of any conveyance or other transfer of title to any part of the lands therein described has been filed with the commission prior to the date of the forfeiture. The notice shall also show the number and date of the survey or location and of the certificate of purchase, and shall contain a description of the lands affected thereby. The recorder shall receive and file the notice and shall record it in the proper book. The notice is, from the time it is filed in the recorder's office, constructive notice of the contents thereof to subsequent purchasers and mortgagees and to all other persons who may thereafter attempt to acquire any interest in, or lien upon, any of the lands described in the notice.

Filing and recording

Article 4. Delinquent Interest on Certificates of Purchase Issued Prior to May 1, 1911

Forfeiture of land

7771. Any land sold by this State for which a certificate of purchase was issued prior to May 1, 1911, for which full payment was not made at the time of purchase, and upon which any interest upon any part of the unpaid portion of the purchase price thereof is delinquent or at any time becomes delinquent, shall be forfeited to the State, without the necessity of reentry or judicial ascertainment, and shall revert to the particular class of land to which it originally belonged, to be resold under the provisions of existing law, unless payment of all interest delinquent at the time of payment and of all the costs and penalties specified in this article, is made on or before the thirtieth day of June of the year following the year for which the delinquency occurred.

Annual statements

7772. On or before the first day of October, of each year the commission shall prepare statements showing, by counties, and by proper legal descriptions, all lands in each of the

counties in this State for which there is outstanding and not annulled as provided by Article 5 of this chapter, any certificate of purchase which was issued prior to May 1, 1911, and upon which any interest upon any part of the unpaid portion of the purchase price is delinquent. The statements shall also show the name and post-office address of the purchaser as it appears upon the records of the commission, and the name and post-office address of the assignee, grantee or successor in interest of the purchaser in all cases wherein notice of any assignment of the certificate of purchase, or of any conveyance or other transfer of title of any part of the lands therein described has been filed with the commission prior to the date of preparation of the statement. The statement shall also show the number and date of the survey or location and of the certificate of purchase, the amount of interest paid, the amount of interest unpaid, and the amount of interest then due.

No lands within any reclamation district shall be embraced in any such statement if the certificate of the board of supervisors that works of reclamation have been commenced in the district has been filed with the commission prior to August 14, 1929.

Demand

7773. Demand is hereby made upon all persons who are or who may become liable for the payment of any interest which is delinquent or which may become delinquent upon any part of the unpaid portion of the purchase price of any of the lands embraced within any of such statements for the payment of all such delinquent interest, together with the costs imposed by this article, on or before the thirty-first day of December of the year for which such delinquency occurs.

Penalty

7774. In the event of the nonpayment of any portion of such delinquent interest, as provided in Section 7773, a penalty of 20 per cent of the aggregate amount then delinquent shall be imposed upon the person liable for the payment thereof.

Forfeiture

7775. Except as provided in Sections 7776, 7777, and 7778, in the event any portion of the delinquent interest, together with the penalty and costs, and all additional interest falling due on the first day of January following is not paid before the thirtieth day of June following, all lands on account of the purchase price of which the delinquency then exists are forfeited to the State, together with all money previously paid on account of the purchase price thereof, whether for principal or interest, and all such certificates of purchase are null and void from and after such thirtieth day of June.

Extension of time of payment

7776. If the owner of any such certificate of purchase has died, without disposing of the lands therein described, and no administration of his estate has been had, the time of payment limited by the provisions of this article is extended for a period of six months, but appropriate probate proceedings shall be commenced in each case not later than the

thirty-first day of December of the year for which the interest became delinquent, and written notice thereof forwarded by registered mail to the commission. In such cases the 20 per cent penalty shall not attach until six months after the time set therefor, and the forfeiture shall not become operative until one year after the time set therefor in Section 7775.

Protection of land from forfeiture

7777. Any person who has a conveyance of the whole or any portion of the lands described in any certificate of purchase included in any such statement, but to whom the certificate has never been surrendered, may protect his lands from forfeiture by paying such proportion of the interest delinquent upon all the lands described in the certificate as the acreage claimed by him bears to the aggregate acreage embraced in the certificate. He shall first, however, file with the commission satisfactory evidence of his possessory right to such land, and obtain from the commission a certificate directed to the treasurer of the proper county, permitting such payment and stating the amount to be paid, which shall in all cases include the costs imposed by Section 7782. Upon such payment being made within the time limited by this article, the land shall be excepted from the forfeiture prescribed in this article, and the certificate of purchase shall become null and void only as to the remaining lands therein described. The commission in preparing for record the notices of forfeiture provided for in Section 7783 shall omit therefrom all lands upon which the delinquent interest has been paid as in this section permitted. If due compliance is made with all other provisions of law governing the issuance of patents, a patent shall issue in the name of the original purchaser of such excepted land, but shall be delivered to the person by whom such payment was made, and the title thereby granted shall inure to the benefit of such person, his heirs or assigns.

Certificate

Unlisted lieu lands, etc

7778. This article shall extend to and include all unlisted lieu lands and all unsegregated swamp and overflowed lands sold under the authority of any law of this State, except that instead of the land itself becoming forfeit for nonpayment of delinquent interest, all right, title and interest therein or thereto acquired by the original purchaser, his heirs and assigns, shall become forfeit to the State in the event of such nonpayment, and except that all purchasers of such lands, their heirs and assigns, who protect themselves against such forfeiture by making the payments required by this article, shall not thereby be deprived of any existing right to receive restitution of all sums paid on account of the purchase price of such lands, whether for principal or interest, upon duly complying with all provisions of law governing such restitution.

Demand and notice

7779. Upon completing the statements required by Section 7772, the commission shall add thereto a demand that all interest shown to be delinquent therein shall be paid on

or before the thirty-first day of the following December, to the treasurer of the proper county, together with the sum of three dollars ($3) costs, and a notice that if payment is not so made a penalty of 20 per cent will be added thereto, and a further notice that unless the whole sum delinquent, together with such costs and penalty, and all additional interest falling due the first day of the following January, be paid on or before the thirtieth day of the following June, the lands described in the statements, together with all moneys previously paid on account of the purchase price thereof, whether for principal or interest, will be forfeit to the State in accordance with the provisions of this article, and that all such certificates of purchase will become ipso facto null and void. The commission shall thereupon cause each such statement, together with the demand and notice, to be published once a week for four weeks successively in some newspaper published in the county wherein the lands described in the statement are situate, or, if there is no newspaper published in such county, publication shall be made in a newspaper published in an adjoining county.

Transmission of documents

7780. The commission shall, not later than October 15th, of each year, forward copies of such statements, demands and notice, by registered mail to the treasurer and to the auditor and to the assessor of each county wherein any of the lands are situate, and shall likewise forward by registered mail to each person shown by the records of the commission to have any interest in any of such lands, either as purchaser, or as assignee, grantee, distributee, or other successor in interest of a purchaser, a copy of so much of the statements as pertains to the lands therein such person appears to have any interest, together with such demand and notice, directed to such person at his last known place of residence or of business as appears upon the records of the commission.

Comparison with records of assessments

7781. Each county assessor to whom a copy of any such statement is sent shall, immediately upon receipt thereof, cause it to be carefully compared with the records of assessments in his office of all tracts of land appearing in the list. If it appears from such comparison that any person whose name is not included in the statement is shown by such assessment records to have any interest in any part of the lands described in the statement, the assessor shall forthwith return, by registered mail, to the commission a statement containing a description of the land affected and the name and address, as they appear upon his records, of any person appearing to have any interest therein and not included in the commission's statement. In every such case the assessor shall return his statement to the commission within 10 days after the receipt by him of the commission's statement. Upon receipt of any such return the commission shall without delay, forward to each person therein named, in the same manner as provided in Section 7780, a copy of so much of the statement as pertains to the lands wherein such person is

shown by the assessor's return to have any interest, to which shall be appended the demand and notice

Costs

7782. Costs in the sum of three dollars ($3) to cover the costs of publication and of mailing as provided in this article are hereby imposed upon the owner or owners of each such certificate of purchase, as well as upon each person who has acquired by purchase an interest in all or some portion of the lands described in such certificate, but to whom the certificate has never been surrendered. The treasurer of each county wherein any part of such land is situate shall require the payment of such costs, in all cases, in addition to the delinquent interest, and penalty, if any, and shall account therefor in his settlements with the State Controller and Treasurer, who shall pay all sums so collected for costs into the State Lands Act Fund.

Recordation of forfeiture

7783. Immediately following the thirtieth day of June, of each year, the commission shall note upon its records the forfeiture declared by this article, and shall forward to the recorder of each county wherein any of the lands are situate a notice of such forfeiture, in which there shall be embodied the same data required by Section 7772, supplemented by a statement of the costs, penalties, and additional interest accrued at the date of forfeiture. The recorder shall receive and file the notice and record it in the proper book. The notice from the time it is filed with the recorder for record is constructive notice of the contents thereof to subsequent purchasers and mortgagees and to all other persons who may thereafter attempt to acquire any interest in, or lien upon, any of the lands described in the notice. If any additional forfeiture occurs on the first day of January following, as provided in Section 7776, the commission and each county recorder shall proceed with respect to such lands as before, and with like force and effect.

Action to annul forfeiture

7784. If any land is forfeited under the provisions of this article upon which all interest, costs, penalties and accruing interest have been actually paid prior to such forfeiture, though for any reason not properly credited, the person having a beneficial interest therein may within one year following the date of such forfeiture, commence an action in the Superior Court of the County of Sacramento against the commission for the purpose of having the forfeiture annulled and set aside. If it is proven to the satisfaction of the court, at the trial of the action, that payment was in fact made prior to the date upon which the forfeiture occurred, the court shall render judgment annulling and setting aside the forfeiture, and thereupon the plaintiff in the action shall be restored to his former estate in the land, upon making payment of all interest accruing thereon to the date of restoration.

Remedies cumulative

7785. This article is cumulative and shall not be construed to deny to the State the right to institute any legal proceedings that are deemed necessary to enforce the payment of any delinquent interest, or to procure judgments foreclosing the

interests of any person in any of such lands, and annulling any such certificate of purchase. Nor shall anything herein contained give to or confer upon the holder of any certificate of purchase, as against the State, any other or greater right to any land therein described than is now possessed by the holder of such certificate.

Article 5. Proceedings Against Delinquent Purchasers

Delinquent list to district attorney

7901 The commission may, on the first day of May of each year, forward to the district attorney of each county a statement embracing all the lands in the county upon which payments have not been made. The statement shall show the name of the purchaser, the post-office address of the purchaser, the number and date of the survey or location and of the certificate of purchase, the amount paid, the amount unpaid, and the amount then due.

No lands within any reclamation district shall be embraced in such statement after the receipt by the commission of the certificate of the board of supervisors that works of reclamation have been commenced.

Notice of suit

7902. Upon the receipt of the delinquent list the district attorney shall add thereto a notice that if the amount due is not paid in 50 days after the date thereof he will commence suit to foreclose the interest of purchasers in the lands, and shall publish the list and notice for four weeks immediately following the date of the notice in a newspaper published in the county, or if there is no newspaper published therein, he shall post copies of the list and notice in at least five public places in the county.

Suit to foreclose

7903. After the expiration of the 50 days, he shall, in the name of the people of the State, commence actions in the superior court against all purchasers, or holders of certificates of purchase, who have not either paid the amount due, together with the cost of publication, or surrendered the title to the State, as provided in Section 7975, to obtain a judgment of foreclosure of the interest of the purchaser in the land, and to annul the certificate of purchase.

Summons

7904. Service of the summons in such action may be made by publication for four weeks in some newspaper published in the county, or if no newspaper is published in the county, then by posting one copy of the summons for four weeks at the courthouse door of the county, and two copies in public places in the township where the land is situated.

Filing

7905. Within 20 days after the entry of judgment, the district attorney shall file certified copies thereof with the commission and in the recorder's office of the county in which the land is situated.

Dismissal of suit on payment

7906. The holder of the certificate of purchase may, at any time before such filing, pay to the sheriff the amount due the State, and the costs of suit that have accrued up to the time of payment; whereupon the district attorney shall dismiss the

suit or vacate the judgment, and the purchaser or holder of the certificate of purchase is restored to his rights in the premises.

Redemption

7907. After judgment foreclosing the interest of a purchaser or holder of a certificate has been entered, the purchaser, his executor, administrator, or successor in interest has 12 months, within which to redeem the land, by paying to the county treasurer, for the benefit of the fund or persons entitled thereto, all delinquent interest, and interest that would have accrued in case there had been no foreclosure, and all costs of foreclosure. When such payment is made, and endorsed on the certificate of purchase, specifying the amount paid as interest and for costs, and duly reported to the commission, the annulment shall be canceled by the commission, and the rights of the purchaser are fully restored.

Judgment binds assignee

7908. A judgment against the purchaser binds the assignee, unless the notice of the assignment was filed with the commission before the commencement of the action.

District attorney's fee

7909. The district attorney is entitled to receive and retain for his own use fifteen dollars ($15) for each suit brought, to be taxed as costs, the provisions of any section of the Political Code to the contrary notwithstanding.

Reentry and resale

7910. After judgment foreclosing the interest of the purchaser or the holder of the certificate has been entered and the certified copies filed, and after the termination of the period for redemption provided in Section 7907, the land is again subject to entry and sale.

Judgment for costs

7911. Upon the rendition of a judgment foreclosing the interest of the purchaser or of his assigns in the land and annulling the certificate of purchase, judgment for costs shall be entered against the defendant. If execution issued thereon is returned not satisfied, the judgment and costs shall be paid from the total principal or interest paid by the purchaser upon the original location, and if such paid-in principal and interest are insufficient, the balance of the judgment and costs shall be audited and paid from the General Fund of the State treasury if the payments of principal and interest on the purchase of the land were paid into the State treasury.

Who may defend

7912. Any person who has a conveyance of the whole or any portion of the lands described in any certificate of purchase, to annul which suit has been commenced, but to whom the certificate has never been surrendered, may defend the action. If it appears to the court that he is entitled to any portion of the lands described, and the holder of such certificate does not pay the amount due, the court shall order the certificate annulled and a new one to issue to such person upon payment into court by him of the amount due the State upon the whole tract. Such person is thereupon entitled to two certified copies of the decree, one of which he shall file in the county recorder's office and the other with the commission.

Article 6. Contests

Commission may hear contest

7921. When a contest arises before the commission concerning the approval of a survey or location, or concerning a certificate of purchase or other evidence of title, the commission may, when the question involved is as to the survey, or one purely of fact, or whether the land applied for is a part of the swamp or overflowed lands of the State, or whether it is included within a confirmed grant, the lines of which have been run by authority of law, proceed to hear and determine the contest. When, in the judgment of the commission, a question of law is involved, or when either party demands a trial in the courts of the State, the commission shall make an order referring the contest to the superior court of the county in which the land is situated, and shall enter the order in a record book in its office.

Court reference

Action in superior court

7922. After such order is made, either party may bring an action in the superior court of the county in which the land in question is situated, to determine the conflict, and the production of a certified copy of the entry made by the commission gives the court full and complete jurisdiction to hear and determine the action.

Intervenor

7923. Any person, legally qualified to purchase from the State public lands of the same character as the land involved in the action, may, after such order of reference has been made, present to the commission his application, in due form as required by law, to purchase the land, or any part thereof not less than the smallest legal subdivision. Upon presenting to the court in which the action is pending, a certificate of the commission, showing that such application has been so presented, and a certified copy of such application, the court may, at any time before the trial, upon such terms as may be just, allow such party to intervene in the action and contest the right of any other party thereto to purchase the land applied for by the intervenor, and to have his own right determined.

Statement and affidavit

7924. When any contest arises as provided for in this article there shall be filed with the commission a statement by the contestant of the grounds of contest, and such statement, other than as to matters of record or law, shall be corroborated by the affidavit of some competent person having personal knowledge of the facts set forth therein.

Approval of commission

7925. When a copy of the final judgment of the court is filed with the commission, it shall approve the survey or location, or issue the certificate of purchase or other evidence of title in accordance with the judgment.

Limitation

7926. Unless the party contestant commences his action within 30 days after the order of reference is made, his rights in the premises and under his application cease.

Article 7. Correction of Incorrect Descriptions of Patented Lands

New survey

7951. When payment has been made in full for any lands which were public lands of the State and a patent has been issued therefor, and the purchaser or his successor in interest has, for a period of five years, been in possession, claiming under such patent the lands intended to be described therein and thereby, but which lands are incorrectly described in the patent, the person so in possession of the lands may have a new and correct survey made of the lands covered by the patent. The plat or map and field-notes constituting the survey shall be made and certified by the county surveyor of the county in which the land is located or by any other surveyor licensed by the State.

Approval and recordation

7952. After the map or plat and field-notes constituting the survey have been made, the field-notes and the map or plat shall be submitted to the commission for approval. If approved by it, the commission shall so certify and a copy of the map or plat and field-notes shall be filed in the office of the commission and a copy recorded in the office of the county recorder of the county in which the land is situated. Such map or plat shall thereafter be the official map or plat of the land so surveyed.

Petition for correction of errors

7953. After the filing and recording of the map or plat and field-notes, the purchaser or his successors in interest holding lands under such patent may file a verified petition in the superior court of the county in which all or the greater part of the property is located for the correction of the errors in the description. He shall set forth a copy of the patent in the petition, together with a statement showing a correct description of the lands intended to be described therein as is shown upon the plat or map and field-notes, and shall pray that a decree be entered by the court confirming the descriptions as so amended.

Hearing

7954. Upon the filing of the petition, the court shall set a day for the hearing thereof not less than 20 days from the date of the filing of the petition. A copy of the petition and of the order fixing time of hearing shall be served upon all owners of lands which are or may be affected by the decree of confirmation at least 10 days before the hearing and such owners may appear upon the day fixed and oppose the petition.

Service

Decree

7955. If, after the hearing, the court is satisfied that the descriptions as corrected are the true descriptions, it shall render a decree confirming the descriptions, which thereafter shall have the same effect as if the patent described the land in accordance with the corrected descriptions.

Costs

7956. The cost of making the survey, map or plat and field-notes and all other necessary costs incurred in a suit brought under this article shall be apportioned among the petitioners and owners of lands affected by the decree in such proportions as the court may deem equitable.

Filing decree

7957. Certified copies of the decree entered in the suit shall be filed in the office of the county recorder and in the office of the commission.

Joinder of parties

7958. Any number of land owners whose lands are contiguous or would be affected by the decree may unite in one petition under this article.

Article 8. Procedure on Improper Sales and Abandonment of Entries

Conveyance to State

7975. Whenever a purchaser of land upon credit desires to abandon the location or entry made by him, he may do so by conveyance of his title to the State and surrender of the certificate of purchase, or, if it has been lost, by filing an affidavit of that fact with the commission.

Where restitution not made

7976. Whenever any person has, in conformity with law, conveyed any land to the State by quitclaim deed, duly executed, delivered, and accepted by the commission, for the purpose of receiving restitution of the purchase price thereof, as provided by law, and such restitution has not been made, and a patent for such land is thereafter issued in the name of the original purchaser, the title granted by such patent shall vest in, and inure to the benefit of, such original purchaser, his heirs, assigns, and successors in interest, notwithstanding the execution, delivery and acceptance of the quitclaim deed, as fully and completely as if the quitclaim deed had never been made, executed, delivered, or accepted.

Certificate

7977. Upon the issuance of such patent, the commission shall make and issue to the patentee therein named, his heirs, assigns, and successors in interest, a certificate under the seal of the commission, reciting the making, execution, delivery and acceptance of the quitclaim deed, and further reciting the fact that no restitution of the purchase price of the land was made. Upon the presentation of such certificate to the county recorder of the county wherein such land is situate, the recorder shall record it in the proper book in the records of such county.

Article 9. Miscellaneous Provisions Relating to State Lands

Withholding from sale

7991. The shore and the bed of the ocean or of any navigable channel or stream or bay or inlet within the State, between ordinary high and low water mark, over which the ordinary tide ebbs and flows is hereby withheld from sale.

Intruder

7992. If any person, under any pretense of any claim inconsistent with the sovereignty and jurisdiction of the State, intrudes upon any of the waste or ungranted lands of the State, the district attorney of the county shall immediately report the intrusion to the Governor, who shall thereupon, by a written order, direct the sheriff of the county to remove the intruder. If resistance to the execution of the order is made or threatened, the sheriff may call to his aid the power of the county, as in cases of resistance to the writs of the people.

Sale of lands for delinquent taxes

7993. When State lands, upon which the full purchase price has not been paid, have been sold to the State for delinquent taxes and the deed therefor to the State has been forwarded to and filed with the commission, such lands shall again become subject to entry and sale in the same manner, and subject to the same conditions, as apply to State lands of like character.

Interest rate

7994. On and after the first day of January, 1938, the rate of interest on all outstanding contracts for the sale of school lands is reduced to 5 per cent per annum.

CHAPTER 5. SALE OF UNIVERSITY LANDS

Agricultural college land

8101. The Regents of the University of California may order the selection of the 150,000 acres of land granted to the State for the use of an agricultural college, and dispose of the land at the price and in the manner fixed by them.

Land agent of University of California

8102. The land agent of the university, as the agent of the State, shall select the lands according to the instructions of the board, and issue certificates of purchase and patents to purchasers who comply with the conditions fixed by the board The Regents shall invest all moneys accruing from the sale of lands as they may deem best, subject to the conditions of the act of Congress granting such lands.

Delinquent list

8104. All persons who have purchased any portion of either of the grants mentioned in Section 8103, and who have not paid in full therefor, shall be included in the delinquent-list, and the district attorney shall proceed against such delinquents as provided in Sections 7902 and 7903, and the provisions of Sections 7903 to 7912, inclusive, are made applicable to such proceedings. If such lands revert to the State, they pass under the control of and may be sold by The Board of Regents of the University.

Affidavit

8105. Whenever any resident of this State desires to purchase any part of the 150,000 acres of land granted to the State for the use of an agricultural college, he shall make an affidavit before any officer authorized to administer oaths, that he is a citizen of the United States or, if an alien, that he has filed his intention of becoming a citizen, a resident of the State, of lawful age; that he desires to purchase land, giving a description thereof by legal subdivisions; that there are no improvements of any kind on the land other than those of the applicant, or if there are improvements other than his own, he shall state that such improvements are the property of (giving his name), and have been upon the land for three months or over, and that the township has been sectionized and the plats of survey filed in the land office of the district in which the land is located, for three months or over. The application shall be forwarded to the said land agent of the university.

Contest

8106. When a contest arises between two or more persons concerning the right of such persons to purchase any portion of the land granted to the State for the use of an agricultural college, if either party demands a trial in the courts of the

Court reference

State, the land agent of the university, as the agent of the State, shall make an order, referring the contest to the superior court of the county in which the land involved is situated, and shall enter the order in the proper record book of his office. The party making such demand shall prosecute his contest to judgment within six months from the date of the demand, unless for cause satisfactory to the court. Either party may bring an action in the superior court of the county in which the land in question is situated, to determine the conflict. The proffer of a certified copy of the entry, made by the agent, shall give the superior court full and complete jurisdiction to hear and determine the conflict. Upon the filing, with the agent, of a copy of the final judgment of the court, he shall issue the certificate of purchase, or other evidence of title, in accordance with the final judgment.

Court action

Final judgment

PART 4. FEDERAL LANDS

CHAPTER 1. SITES FOR AIDS TO NAVIGATION

Conveyance to United States

8301. The Governor, on application therefor by a duly authorized agent, may convey to the United States any tract of land not exceeding 10 acres, belonging to the State and covered by navigable waters, for the site of a lighthouse, beacon, or other aid to navigation. After conveyance, the United States shall have jurisdiction over the tract, subject to the right of the State to have concurrent jurisdiction so far that all process, civil or criminal, issued under authority of the State may be executed by the proper officers thereof within the tract, upon any person amenable thereto, in like manner and with like effect as if the conveyance had not been made.

Concurrent jurisdiction

CHAPTER 2. RIGHTS OF WAY OVER STATE LANDS

Right of way

See also Stats. 1943, Ch. 1124

8351. A right of way is hereby granted over the proprietary lands of this State, and over any land which may hereafter be held or owned by this State in its proprietary capacity, to the United States, for all telegraph, telephone, power or light lines, roads, railroads, tramways, dikes, levees, dams, mounds, embankments, tunnels, ditches or canals, or other works, structures or excavations requiring rights of way built, erected, excavated or constructed under the provisions of the act of Congress, approved June 17, 1902, relating to irrigation and reclamation; but no such right of way shall be so exercised nor shall anything be so built, erected, excavated, or constructed in connection therewith or in relation thereto, as to interfere with or affect, in any way, the natural conditions of any interstate lake or the banks or bed thereof or the flow of waters therein or into the same or the outflow of waters therefrom.

U.S.C., Title 43, Ch. 12

Patents

8352. All patents or conveyances of such lands which are hereafter located or filed on shall be issued subject to the rights of way provided for in this chapter.

Chapter 3. Conveyances by Counties for National Park Purposes

National parks

8401. The boards of supervisors of the several counties may grant, transfer and convey, without consideration, any real property or interest therein now owned or hereafter acquired by any county, to the United States to be used for National park purposes.

Eminent domain

8402. The use of land for National park purposes by the United States is a public use, and the right of eminent domain is granted and extended to every county availing itself of the provisions of this chapter for every purpose of condemnation, appropriation or disposition intended by this chapter. Any such county may condemn and appropriate all lands and rights whatsoever necessary or convenient for carrying out the provisions of this chapter. Such right of eminent domain may be exercised in accordance with the provisions of Title 7 of Part 3 of the Code of Civil Procedure.

Powers of supervisors

8403. The boards of supervisors of the several counties may do and perform all acts that may be necessary to carry out the provisions of this chapter.

Chapter 4. Grazing Lands

Article 1. Regulating Grazing on Federal Lands

"Person"

8501. As used in this article, "person" includes individuals, companies, partnerships and associations.

Unlawful grazing

8502. It is unlawful to graze livestock on any part of the unreserved and unappropriated public lands of the United States in this State when such grazing will or does prevent, restrict or interfere with the customary use of such land for grazing livestock by any person who, by himself or his grantors or predecessors, has become established, either exclusively or in common with others, in the grazing use of such lands under and in accordance with the customs of the graziers of the region involved. This article shall not prohibit the grazing on any part of such public lands of livestock owned, kept or used for work or milking purposes by any ranch owner or bona fide settler, for his domestic use, as distinguished from commercial use, nor prohibit the grazing on such public lands of any livestock necessary for and used in connection with any mining or construction work or other lawful work of similar character.

Exceptions

Customary use as graziers

8503. Customary or established use as graziers, otherwise than under operation of law, as used in this article, includes the continuously open, notorious, peaceable and public use of such range, seasonally, for a period of five years or longer immediately prior to August 21, 1933, excepting adverse climatic conditions, by the person or his grantors or predecessors in interest except in cases where initiated without protest or conflict to prior use or occupancy thereof. Any change in such customary use so established shall not be made hereafter so as to prevent, restrict or interfere with the customary or established use of any other person or persons.

Established user allowed

8504. This article shall not be construed to prohibit any such established user from continuing his grazing use, as established in accordance with such customs.

Penalties

8505. Any person who violates any of the provisions of this article is guilty of a misdemeanor, and independently of the penalty therefor, is liable to any person injured for all damages sustained by reason of such violation, and for such exemplary damages as the circumstances may warrant.

Injunction

8506. The violation of any provision of this article may be restrained by injunction, issued by a court of competent jurisdiction, pursuant to the provisions of law and principles of equity relating to injunctions.

Transit over public domain

8507. Nothing in this article shall be construed to prohibit free transit over and rights in the public domain where such are provided by the acts of Congress.

Construction

8508. This article is an exercise of the police power of the State, for the protection of the economic welfare and peace of the people of the State, and all of its provisions shall be liberally construed for the accomplishment of its purposes. Nothing in this article shall be construed as amending or repealing existing law regarding the grazing use of the public lands or of water for the purpose of watering livestock or as modifying or compromising any valid rights or priorities as may exist therein at the time of its enactment.

New section

SEC. 2. Section 10014 is added to Division 10 of said code, to read:

Repeals

10014. The following acts, together with all acts amendatory thereof or supplementary thereto, are hereby repealed:

Year	Ch.	Pg.
1852:	54:	127
1852:	82:	158
1853:	39:	55
1861:	45:	37
1862:	351:	476
1862:	393:	517
1863:	376:	573
1865–6:	258:	284
1865–6:	536:	710
1867–8:	108:	90
1867–8:	200:	194
1867–8:	533:	708
1869–70:	329:	428
1869–70:	407:	572
1869–70:	563:	862
1871–2:	581:	859
1871–2:	605:	893
1873–4:	222:	327
1873–4:	258:	356
1873–4:	363:	523
1873–4:	380:	543
1875–6:	527:	798
1881:	55:	65
1881:	98:	114(E.S.)
1887:	165:	176
1889:	278:	428
1891:	157:	221
1893:	151:	181
1893:	229:	341
1899:	131:	166
1907:	193:	238
1911:	720:	1408
1911:	727:	1415
Ex. Sess.		
1911:	21:	108
1913:	43:	44
1915:	66:	70
1915:	148:	305
1915:	267:	468
1915:	268:	469
1915:	395:	634
1915:	490:	818
1917:	488:	570
1917:	674:	1218
1917:	753:	1561
1919:	54:	81

Year	Ch.	Pg.	Year	Ch.	Pg.
1919	220	322	1929	846	1851
1921	173	180	1931	684	1422
1925	121	269	1933	176	622
1925	215	364	1941	1228	3087
1929	629	1042			

SEC. 3. Section 10015 is added to Division 10 of said code, to read: New section

10015. Sections 1, 2, 3, and 4 of Chapter 389 of the Statutes of 1915 are hereby repealed. Repeals

Section 9 of Chapter 70 of the Statutes of 1937 is hereby repealed. Repeal

SEC. 4. Section 10016 is added to Division 10 of said code, to read: New section

10016. The following sections of the Political Code are hereby repealed: Repeals

35	3408c	3441	3497	3521	3553
42	3408d	3442	3498	3522	3554
484	3408e	3443	3499	3523	3555
485	3408f	3443a	3500	3524	3556
487	3410	3445	3502	3533	3566
497	3414	3493m	3503	3534	3567
498	3415	3493n	3512	3536	3568
500	3416	3493o	3513	3546	3569
502	3417	3493p	3514	3547	3570
3398	3440	3493q	3515	3548	3573
3406	3440.5	3493r	3516	3549	3574
3406a	3440a	3493s	3517	3550	3788
3407	3440b	3493t	3518	3551	
3408a	3440c	3494	3519	3552	
3408b	3440d	3495	3520		

CHAPTER 610

An act making an appropriation to the Reclamation Board for the purpose of acquiring by purchase, condemnation or other legal means, property, lands, rights of way and easements for the construction, completion and operation of the Yolo By-pass and for the construction of incidental works and for settlement and payment of claims for damages done to property by the flood waters of the Yolo By-pass; and declaring the urgency hereof, to take effect immediately.

[Approved by Governor May 19, 1943 Filed with Secretary of State May 19, 1943.] In effect immediately

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

SECTION 1. In addition to any money otherwise appropriated, the sum of one million one hundred twenty-nine thousand dollars ($1,129,000) or so much thereof as may be necessary, is hereby appropriated out of any money in the State Appropriation Reclamation Board

treasury not otherwise appropriated, to the Reclamation Board to be expended during the Ninety-fifth and Ninety-sixth Fiscal Years in accordance with law for the acquisition by purchase, condemnation or other legal means, of property, lands, rights of way and easements for the construction, completion and operation of the Yolo By-pass and for the construction of incidental works, and for settlement and payment of claims for damages done to property by the flood waters of the Yolo By-pass in the year 1940 and subsequent years.

Powers of board re Yolo By-pass

SEC. 2. The Reclamation Board shall have complete power and authority, subject to the approval of the Director of Finance, to execute all contracts, conveyances and instruments necessary to acquire, in the name of the Sacramento and San Joaquin Drainage District, by purchase or other legal means and to institute and prosecute in the name of said district and in accordance with law, any proceeding in eminent domain, to acquire property, lands, rights of way and easements, for the construction, completion and operation of the southerly portion of the Yolo By-pass, a part of the Sacramento River Flood Control Project, in accordance with plans therefor adopted by the Reclamation Board and the United States. The Reclamation Board shall also have power and authority, subject to the approval of the State Board of Control, to settle and pay claims for damages done to property by the flood waters of the Yolo By-pass in the year 1940 and subsequent years. The Reclamation Board shall exercise all powers and authority and do all things, in accordance with law, necessary to acquire the property, lands, rights of way, and easements for the earliest possible completion of the construction and operation of the southerly portion of said Yolo By-pass and for the settlement and payment of such claims for damages.

Claims for damages

Urgency

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

Lack of funds has heretofore prevented the acquisition of the necessary property, lands, rights of way and easements requested of the State by the United States for the construction, completion and operation of the Yolo By-pass over land in Reclamation District No. 536 and land southerly thereof, in accordance with the plans for the construction of the Sacramento River Flood Control Project as adopted by the Reclamation Board and the California Debris Commission, an agency of the United States. As a result of the completion of said flood control project northerly from said lands, the flood waters of the Yolo By-pass in the years 1940 and 1942 inundated said area, doing many thousands of dollars damage and endangering lives. Until said portion of said flood control project is completed, said agricultural and residential area is

constantly in danger of flood water from said by-pass and destruction of crops and of life and property. Construction must be done during summer and early fall months.

CHAPTER 611

An act to provide for the payment of a portion of the bonded indebtedness of the State of California, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 19, 1943. Filed with Secretary of State May 19, 1943.] In effect immediately

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

SECTION 1. There is hereby created in the State treasury the Bond Sinking Fund of 1943, and there is appropriated to said fund out of any money in the State treasury not otherwise appropriated, the sum of fourteen million, five hundred eighty-eight thousand, two hundred and forty-nine dollars ($14,588,249). Bond Sinking Fund of 1943

SEC. 2. Expenditures shall be made from the fund for the purpose of paying the principal and interest on bonds issued by the State and which mature in the Ninety-seventh, Ninety-eighth, Ninety-ninth and One Hundredth Fiscal Years, the principal and interest to be deemed to have matured at such time as the law authorizing the issuance of any of the bonds shall provide for the payment of any sums into the respective sinking funds therein created, or provide for payment of principal and interest from either the fund therein created or from the General Fund. Payment of principal and interest

SEC. 3. When principal and interest shall mature as provided in Section 2, a sum equal to the matured principal and interest shall be transferred from the fund herein created to the proper fund. Expenditures from the Bond Sinking Fund of 1943 shall be limited to the payment of principal and interest on the following issues: Expenditures authorized

(a) California State Buildings of 1913, issuance of which was authorized by Chapter 235, Statutes of 1913;

(b) San Francisco State Buildings, issuance of which was authorized by the San Francisco State Building Act;

(c) State University Buildings of 1915, issuance of which was authorized by the University of California Building Bond Act;

(d) State Buildings and University Buildings, issuance of which was authorized by the California State Buildings and State University Building Bond Act;

(e) California State Parks of 1927, issuance of which was authorized by the California State Parks Bond Act of 1927;

(f) Unemployment Relief of 1934, issuance of which was authorized by Article XVI, Section 10, of the Constitution.

Investments

SEC. 4. Any unexpended money in the Bond Sinking Fund of 1943 shall be invested and reinvested by the Director of Finance in bonds of the United States or for which the full faith and credit of the United States is pledged and any interest or gains accruing from such investment and reinvestment shall be credited to the Bond Sinking Fund of 1943.

Urgency

SEC. 5. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

The State treasury has a large surplus at the present time, and the longer investment of the surplus is delayed the smaller will be the accrual to the State from such investment. The United States is now engaged in a costly and deadly war and it is in dire need of funds to successfully prosecute the war. It is to the interest of the peace, health and safety of the State that its surplus funds be made immediately available to the United States for prosecution of the war.

CHAPTER 612

Stats 1935, p. 4, amended

An act to amend Section 1 of an act entitled "An act expressing the consent of the Legislature of the State of California to the acquisition of lands in the State under the provisions of the act of Congress entitled 'An act to enable any State to cooperate with any other State or States, or with the United States, for the protection of the watersheds of navigable streams and to appoint a commission for the acquisition of lands for the purpose of conserving the navigability of navigable rivers,' approved March 1, 1911, as amended," approved by the Governor September 20, 1934, relating to the acquisition of land in the State by the United States.

In effect August 4, 1943

[Approved by Governor May 19, 1943 Filed with Secretary of State May 19, 1943]

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

Stats 1935, p. 4

SECTION 1. Section 1 of the act cited in the title hereof is amended to read:

Federal acquisition of State lands

Section 1. The Legislature of the State of California hereby consents to the acquisition by the United States by purchase, gift or condemnation with adequate compensation, of such lands in the State of California as in the opinion of the Government of the United States may be needed for the establishment, consolidation and extension of National forests in this State under the provisions of the act of Congress approved March 1, 1911, and entitled "An act to enable any State to cooperate with any other State or States or with the United

States for the protection of the watersheds of navigable streams and to appoint a commission for the acquisition of lands for the purpose of conserving the navigability of navigable rivers," as amended; provided, that the State of California shall retain a concurrent jurisdiction with the United States in and over lands so acquired so far that civil processes in all cases, and such criminal processes as may issue under the authority of the State of California against any person charged with the commission of any crime without or within said jurisdiction, may be executed thereon in like manner as if this consent had not been granted; provided further, that the State of California shall retain a concurrent jurisdiction to tax persons and corporations and their property and transactions on such lands so acquired; and provided further, that no such lands shall be so acquired within any county or city and county without the concurrence of the board of supervisors thereof; and provided further that existing contracts heretofore initiated and actually in the process of consummation on or before April 1, 1943, are specifically exempted from the requirements of such concurrence. Reservations

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CHAPTER 613

An act making an appropriation for the control and eradication of oriental fruit moth, and declaring the urgency thereof to take effect immediately.

[Approved by Governor May 19, 1943. Filed with Secretary of State May 19, 1943.] In effect immediately

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

SECTION 1. There is hereby appropriated to the State Department of Agriculture out of any moneys in the State Treasury not otherwise appropriated, the sum of four hundred thirty-one thousand nine hundred eighty-four dollars ($431,984), to be expended during the Ninety-fifth and Ninety-sixth Fiscal Years for the purpose of controlling, eradicating (other than by host removal), preventing the spread, and conducting surveys to determine the location of infestations of oriental fruit moth. Appropriation State Department of Agriculture

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

The oriental fruit moth is a destructive pest of deciduous fruits which has recently been found in California for the first time. It is now limited to a small area in the southern part of the State, and its further spread would seriously interfere

with the production of deciduous fruits and would result in an annual fixed charge on that important industry for all time.

The pest is now active and in order to permit control and eradication measures to proceed without delay, it is necessary that funds be made available at the earliest possible date.

CHAPTER 614

Stats. 1933 p. 60, amended

An act to add Sections 153.1, 153.2, and 153.3 to the Agricultural Code, relating to eradication of oriental fruit moth and indemnification for host plants removed and destroyed in connection therewith, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor May 19, 1943. Filed with Secretary of State May 19, 1943.]

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

New section

SECTION 1. Section 153.1 is added to the Agricultural Code, to read:

Necessity of act

153.1. It is hereby declared that the eradication of oriental fruit moth is essential to the public welfare and the protection of the deciduous fruit industry of the State; that in order to accomplish such eradication it is found necessary to remove and destroy certain host plants and crops, including commercially profitable fruit trees, in areas where oriental fruit moth is known to exist; that the removal and destruction of such host plants and crops from relatively small areas is in the public interest and for the public benefit, and is for the purpose of protecting the large and important deciduous fruit industry throughout the State from the great losses which would occur if the oriental fruit moth should be permitted to spread; and that it is the intent of the Legislature that the owners of commercially profitable host plants so removed and destroyed shall be at least partially compensated for the loss which they are to sustain by reason of the removal and destruction thereof.

New section

SEC. 2. Section 153.2 is added to said code, to read:

Oriental moth eradication district

153.2. To provide for the eradication of the oriental fruit moth, the director may declare any portion of the State where oriental fruit moth is known or found to exist to be an oriental fruit moth eradication district by prescribing the boundaries thereof in a proclamation setting forth said facts and such boundaries and having a copy thereof printed in one or more papers of general circulation in said district.

Public nuisance

All known host plants of the oriental fruit moth within an oriental fruit moth eradication district are hereby declared to be a public nuisance.

The director or his authorized agents may cause the destruction and removal in a summary manner of any such host plant in its entirety or any part thereof, including the fruit. Destruction

SEC. 3. Section 153.3 is added to said code, to read: New section

153.3. At any time within 60 days after the destruction of any host plant removed and destroyed under the provisions of Section 153.2, the owner may present his claim to the director in an amount not to exceed two-thirds of the appraised value, as determined hereunder, of the host plants so destroyed. The director shall approve the claim, if he finds the claimant entitled to the amount claimed, and the claim so approved shall be presented to the State Controller and shall be paid out of any funds made available therefor. Claim

For the purpose of appraising the value, the Director of the University of California Agricultural Experiment Station shall prepare a table or tables of normal values of host plants for the area or areas included in any oriental fruit moth eradication district. The Director of the University of California Agricultural Experiment Station, the Director of Agriculture, and the Director of Finance, shall constitute an appraisal board, and may adopt a schedule of normal values, based upon such tables, or upon such other facts and data as they deem necessary to determine fairly and equitably the normal appraised values for all such plants by age, size, and species or variety, which shall apply to all such plants removed and destroyed within the district, without regard to physical condition or productivity. Appraisal Appraisal board

An appeal board is hereby created, consisting of the Director of Agriculture, or his appointed agent; the county agricultural commissioner, or his appointed agent, in the county in which the property is located; and a third member to be selected by them, who must be a resident of said county who is not the owner of host plants of a kind subject to destruction and indemnification under the eradication program. The appeal board, on its own motion, or on appeal by the owner in writing within 30 days after the removal and destruction of said host plants, if it finds the physical condition or productivity of the host plants, or both, to justify, in its opinion, an appraised value different than that set forth in the schedule of normal values adopted by the appraisal board, may make such adjustments in value as it deems proper, and such adjusted value shall be the appraised value as to those host plants so reappraised. Appeal board

SEC. 4. There is hereby appropriated to the State Department of Agriculture, out of any moneys in the State Treasury not otherwise appropriated, the sum of four hundred thirty-two thousand seven hundred twenty dollars ($432,720), to be expended during the Ninety-fifth and Ninety-sixth Fiscal Years for the removal and destruction of oriental fruit moth host plants, of which amount not to exceed two hundred seventy thousand seven hundred twenty dollars ($270,720) may Appropriation

be used for the payment of indemnities to the owners of host plants removed and destroyed.

Constitutionality

SEC. 5. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of the act. The Legislature hereby declares it would have passed this act, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Urgency

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

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

The oriental fruit moth is a new pest to California, and is seriously destructive to deciduous fruits in other parts of the United States where it has occurred for some time. It has been found in a small area in the southern part of this State. Its eradication is essential to the welfare of the large deciduous fruit industry of this State. Its further spread within the State would seriously interfere with the production of deciduous fruits so vitally needed and would result in an annual fixed charge on such industry for all time in the future.

The pest is now active, and any delay in instituting eradication measures would permit further spread of the pest and increase the ultimate cost of eradication and might prevent its successful eradication.

CHAPTER 615

Stats 1933, p 60, amended

An act to amend Sections 736.14 and 737.6 of the Agricultural Code, relating to assessments for administration of stabilization and marketing plans for fluid milk and fluid cream.

In effect August 4, 1943

[Approved by Governor May 19, 1943. Filed with Secretary of State May 19, 1943.]

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

Stats 1941, p 3008

SECTION 1. Section 736.14 of the Agricultural Code is amended to read:

Distributors' fees

736.14. Distributors who are subject to the provisions of this article shall pay to the director on all milk fat contained in fluid milk and fluid cream purchased from producers, including their own production, if any, a fee in mills per pound of milk fat equal to that required to be deducted from the payments due producers of fluid milk under Section 737.6 of this code. Such assessed fees received by the director shall be used in the administration and enforcement of this chapter

Use of fees

or any stabilization or marketing plan established by this chapter.

At the close of each fiscal year any amounts which have been collected and which the director finds are in excess of those which may reasonably be required for the administration and enforcement of this chapter shall be refunded pro rata to all distributors from whom such sums were due and collected pursuant to the provisions of this section. Refund

SEC. 2. Section 737.6 of said code is amended to read: Stats 1943, Ch 387

737.6. The fees for all licenses shall be as follows, based on the volume of fluid milk and fluid cream handled for the previous year, provided that any distributor who has not previously engaged in such business during such prior year shall pay such minimum license fee as provided by this chapter. Distributor's license fee

(a) Distributors purchasing or handling an average daily quantity of fluid milk of less than 50 gallons shall pay a license fee of three dollars ($3); distributors purchasing or handling an average daily quantity of 50 gallons and less than 100 gallons shall pay a license fee of five dollars ($5); distributors purchasing or handling an average daily quantity of 100 gallons, and less than 200 gallons, shall pay a license fee of ten dollars ($10); distributors purchasing or handling an average daily quantity of 200 gallons, and less than 300 gallons, shall pay a license fee of fifteen dollars ($15); distributors purchasing or handling an average daily quantity of 300 gallons, and less than 500 gallons, shall pay a license fee of twenty-five dollars ($25); distributors handling an average daily quantity of 500 gallons or more shall pay a license fee of fifty dollars ($50).

The same license requirements shall apply to purchases of fluid cream, except, for the purpose of computation of the required license fee, 10 gallons of fluid cream shall be deemed the equivalent of 100 gallons of fluid milk.

(b) Distributors who are subject to the provisions of any stabilization and marketing plan made effective by this chapter, shall deduct from payments due producers for fluid milk, fluid cream or both, including each distributor's own production, the sum of two mills ($0.002) per pound milk fat on all milk fat contained in fluid milk, fluid cream or both, or in the case of distributors who do not purchase or receive fluid milk, fluid cream or both, in milk fat pounds, the sum of seven mills ($0.007) for each 10 gallons of fluid milk sold. The amount of the assessments so deducted shall be paid to the director on or before the fifteenth of the month following the month during which such fluid milk or fluid cream was received. The amounts of all such assessments so received by the director shall be used in the administration and enforcement of this chapter, or any stabilization and marketing plan established by this chapter. Deductions from payments due producers Payment to director

At the close of each fiscal year any amounts which have been collected and which the director finds are in excess of those which may reasonably be required for the administration and Refunds

enforcement of this chapter shall be refunded pro rata to all producers and/or distributors from whom such sums were due and collected pursuant to the provisions of this section.

CHAPTER 616

Stats. 1901, p. 576, amended

An act to add Section 18 to "An act to establish police courts in cities of the second class, to fix their jurisdiction, and provide for officers of said courts, and fix the compensation of certain officers thereof," approved March 23, 1901, relating to jurors' fees.

In effect August 4, 1943

[Approved by Governor May 19, 1943. Filed with Secretary of State May 19, 1943.]

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

New section

SECTION 1. Section 18 is added to the act cited in the title hereof, to read:

Jurors' fees

Sec. 18. The fees of jurors in courts established under this act in criminal cases, shall be three dollars ($3), in lawful money of the United States, for each day's attendance, and mileage, to be computed at the rate of fifteen cents ($0.15) per mile for each mile necessarily traveled in attending court, in going only. Such fees and mileage shall be paid out of the city treasury.

Repeal

All acts and parts of acts in conflict herewith are repealed so far as the same conflict with this section.

CHAPTER 617

Stats. 1933, p. 60, amended

An act to amend Section 577 of the Agricultural Code, relating to oleomargarine.

In effect August 4, 1943

[Approved by Governor May 19, 1943. Filed with Secretary of State May 19, 1943.]

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

Stats. 1941, p. 475

SECTION 1. Section 577 of the Agricultural Code is hereby amended to read as follows:

Oleomargarine

577. The following manufactured substances, mixtures, and compounds with or without butter, milk or cream, are "oleomargarine":

(a) All substances heretofore known as oleomargarine, oleo, oleomargarine oil, butterine, lardine, suine, and neutral.

(b) All mixtures and compounds containing any edible oils or fats other than milk fat, and all mixtures and compounds containing milk fat which do not conform to the standard for butter, when made in imitation or semblance of butter or when so made, intended to be sold as or for butter or butter substitute.

CHAPTER 618

An act to amend Section 575 of the Welfare and Institutions Code of the State of California by providing that in counties of the second class the compensation of the referee of the juvenile court shall be three hundred fifty dollars ($350) per month.

Stats. 1937, p. 1005 amended

[Approved by Governor May 19, 1943. Filed with Secretary of State May 19, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 575 of the Welfare and Institutions Code is amended to read:

Stats. 1937, p. 1005

575. In counties of the first and the third class, such referees shall serve without compensation, save that in each county of the first class having a charter the board of supervisors shall fix the compensation for at least two such referees, and in each county of the third class the board of supervisors shall fix the compensation for at least one referee. In counties of the second class the compensation of the referee shall be three hundred fifty dollars ($350) per month.

Compensation of referees

CHAPTER 619

An act to amend Sections 736.2 and 736.15 of the Agricultural Code, relating to the stabilization and marketing of fluid milk and fluid cream provisions of said code and to control boards thereunder, declaring the urgency of this act, to take effect immediately.

Stats. 1933, p. 60 amended

[Approved by Governor May 19, 1943. Filed with Secretary of State May 19, 1943.]

In effect immediately

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

SECTION 1. Section 736.2 of the Agricultural Code is amended to read:

Stats. 1937, p. 42

736.2. The director may appoint local control boards for the marketing areas established as prescribed herein to assist and advise him in matters pertaining to the production and marketing of fluid milk or fluid cream or both or to the operation of a stabilization and marketing plan. The board shall consist of seven members who shall be producers who supply fluid milk or fluid cream to the particular marketing area. The term of office of each such member shall be two years, unless the plan is terminated before said term expires. Said local board shall meet in regular session each month, and each member shall be allowed ten dollars ($10) per diem and mileage at the rate of five cents ($0.05) per mile for attending such regular meetings. The board, or any member thereof,

Local control boards—producers

may be allowed actual and necessary expenses incurred in attending any meeting or conference called or authorized by the director within or outside of the boundaries of the State of California. Said board with the previous approval of the director may employ such personnel as may be necessary in the performance of its duties and shall adopt rules and regulations for its conduct. The board shall submit a budget of its expenses to the director for his approval. The funds to be used for the maintenance of the board shall be paid from the proceeds of assessments and licenses paid to the director under the plan upon verified claims presented by the board to the director. The board shall not incur any expenses other than those for per diem and mileage, unless approved by the director.

Stats. 1933, Ch. 111

SEC. 2. Section 736.15 of the Agricultural Code is amended to read:

Local control boards—distributors

736.15. The director may appoint local control boards for the marketing areas established pursuant to this chapter to assist and advise him in matters pertaining to the marketing, distribution and sale of fluid milk or fluid cream or both. The board shall consist of seven members, who shall be residents of or engaged in business within the marketing area for which they are appointed by the director, three of whom shall be persons whose major interest is the distribution, marketing or sale of fluid milk or fluid cream or both, one producer-distributor, two retail storekeepers and one person, representative of the consuming public, who has no connection with the milk or cream business. The terms of office of each member shall be two years, unless the plan is terminated before said term expires Said local board shall meet in regular session each month, and each member shall be allowed ten dollars ($10) per diem and mileage at the rate of five cents ($0.05) per mile for attending such regular meetings The board, or any member thereof, may be allowed actual and necessary expenses incurred in attending any meeting or conference called or authorized by the director within or outside of the boundaries of the State of California. Said board with the previous approval of the director may employ such personnel as may be necessary in the performance of its duties and shall adopt rules and regulations for its conduct. The board shall submit a budget of its expenses to the director for his approval. The funds to be used for the maintenance of the board shall be paid from the proceeds of fees and licenses paid to the director under the plan upon verified claims presented by the board to the director. The board shall not incur any expenses other than those for per diem and mileage, unless approved by the director.

Urgency

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

The following is a statement of facts constituting such necessity:

The constant need for fluid milk producer and distributor representatives to be able to confer with administrative and enforcement officials of local, State and Federal governments on matters relating to fluid milk and fluid cream stabilization, marketing and prices both within and outside of their particular marketing area, is being impaired seriously by the fact that neither producer nor distributor control board members are able thus to attend and assist at necessary conferences or to recover traveling expenses. Attempts to accomplish this by volunteer attendance and through personal expense have proved ineffectual.

CHAPTER 620

An act to amend Section 1300.1 of the Agricultural Code, relating to processors of farm products.

Stats 1933, p 60, amended

[Approved by Governor May 19, 1943 Filed with Secretary of State May 19, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 1300.1 of the Agricultural Code is amended to read:

Stats 1939, p 2335

1300.1. No person shall act as a processor or agent without having first obtained a license as provided in this chapter. Every person, before acting as a processor, shall file an application with the director for a license to so act, and such application shall be accompanied by a license fee of twenty-five dollars ($25) for each applicant processing or handling as a processor 100 tons or more of farm products in their raw state or the equivalent in processed tonnage derived from 100 tons or more of raw farm products, or a license fee of ten dollars ($10) for each applicant processing or handling as a processor less than 100 tons of raw farm products or the equivalent in processed tonnage derived from less than 100 tons of raw farm products.

License required

Such applicant shall further satisfy the director of his or its character, responsibility and good faith in seeking to carry on the business stated in the application.

Every person before acting as an agent, shall file an application with the director for a license to so act, and such application shall be accompanied by a license fee of one dollar ($1).

Application for license

Applications shall in each case state:

(a) The full name of the applicant;

(b) If the applicant be a firm, exchange, association or corporation the full name of each member of the firm, or the names of the officers of the exchange, association or corporation;

(c) The principal business address of the applicant in the State of California;

(d) The name or names of the person or persons authorized to receive and accept service of summons for the applicant;

(e) In case the licensee was licensed in the preceding year under this chapter, whether or not more than 100 tons of farm products in their raw state were processed by such licensee; and

(f) Whether or not the applicant intends to process more than 100 tons of raw or fresh farm products during the license year.

Issuance of license

Upon the filing of such application and the payment of such fee the director shall issue to such applicant a license entitling the applicant to conduct the business of processor or act as agent within the State of California for a year from the date thereof, or until the same shall have been revoked in the manner and upon the grounds hereinafter specified; provided, however, that the director may refuse to issue a license to any applicant who has, prior to the filing of the application herein provided for, been engaged in the business of processor, produce broker, dealer, or commission merchant, and who, during the conduct of such business has failed to comply with a valid and final order made and entered against such applicant by the director.

Renewal penalty

(g) Should any processor fail, refuse or neglect to apply for the renewal of a preexisting license within 30 days after expiration thereof, a penalty of 20 per cent shall apply to and be added to the original fee, and shall be paid by the applicant before the renewal license may be issued.

CHAPTER 621

Stats. 1933, p. 60, amended

An act to add Section 1152.5 to the Agricultural Code, relating to cooperative agreements to effectuate the purposes of marketing laws.

In effect August 4, 1943

[Approved by Governor May 19, 1943. Filed with Secretary of State May 19, 1943.]

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

New section

SECTION 1. Section 1152.5 is added to the Agricultural Code, to read:

Cooperative agreements with Federal Government

1152.5. The director shall have authority to enter into cooperative agreements with any department or agency of the Federal Government or with any other State or agency thereof in order to effectuate the purposes of this division or of any marketing law, including any marketing order, marketing program, rule or regulation, issued thereunder, the responsibility for the administration and enforcement of which is with the director.

CHAPTER 622

An act to amend Sections 1261, 1268, 1269, 1271 and 1273, and to repeal Sections 1268.5 and 1270 of the Agricultural Code, relating to produce dealers and brokers.

Stats 1933, p 60, amended

[Approved by Governor May 19, 1943. Filed with Secretary of State May 19, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 1261 of the Agricultural Code is amended to read:

Stats 1939, p 2227

1261. As used in this chapter:

Definitions

(a) The term "person" includes any individual, firm, association, partnership or corporation.

(b) The term "producer" means any person engaged in the business of growing or producing any farm product.

(c) "Farm products" shall include all agricultural, horticultural, viticultural and vegetable products of the soil, poultry and poultry products, live stock and live stock products, hay, dried beans, honey and cut flowers, but shall not include timber and timber products, or milk and milk products subject to the licensing and bonding provisions of Chapter 10 of Division 4.

(d) The term "consignor" includes any person who ships or delivers to any commission merchant or dealer any farm products for handling, sale or resale.

(e) The term "commission merchant" means any person who shall receive on consignment or solicit from the producer thereof any farm product for sale on commission on behalf of such producer, or who shall accept any farm product in trust from the producer thereof for the purpose of resale, or who shall sell or offer for sale on commission any farm product, or who shall in any way handle for the account of or as an agent of the producer thereof any farm product.

(f) The term "dealer" means any person other than a commission merchant who contracts for or obtains from the producer thereof possession or control of any farm product except by payment to the producer, at the time of obtaining such possession or control, of the full agreed price of such commodity in lawful money of the United States; provided, that any person licensed as a slaughterer under the provisions of Article 3 of Chapter 1 of Division 3 of this code shall not be required to obtain a license as a dealer under this chapter, and provided that the term "dealer" as herein defined shall not include retail merchants having a fixed or established place of business in this State; provided, however, that the foregoing exemption of retail merchants shall not be deemed to apply to retail merchants who also sell at wholesale farm products purchased from producers, or who deal in hay.

(g) The term "broker" means any person, other than a commission merchant or dealer, engaged in the business of soliciting or negotiating the sale of any farm product.

(h) The term "agent" means any person who, on behalf of any commission merchant, or dealer, or broker receives contracts for or solicits any farm products from a producer thereof or who negotiates the consignment or purchase of any farm product on behalf of any commission merchant, dealer or broker.

Stats 1941, p 1770

SEC. 2. Section 1268 of the Agricultural Code is amended to read:

Investigation re solicitation, etc.

1268. The director on his own motion may or upon the verified complaint of any interested party shall investigate, examine or inspect any transaction involving solicitation, receipt, sale or attempted sale of farm products by any person or persons acting or assuming to act as a commission merchant, dealer, broker or agent; failure to make proper and true account of sales and settlement thereof as in this chapter required; the intentional making of false statements as to condition and quantity of any farm products received or in storage; the intentional making of false statements as to market conditions; the failure to make payment for farm products within the time required by this chapter; or investigate, examine or inspect any and all other injurious transactions, and in furtherance of any such investigation, examination or inspection, the director or any authorized representative, may examine that portion of the ledgers, books, accounts, memoranda and other documents, farm products, scales, measures, and other articles and things used in connection with the business of such person relating to the transactions involved. When a producer-consignor, or seller, of farm products fails to obtain settlement satisfactory to him in any transaction after having notified the consignee, or buyer, a verified complaint may be filed with the director who shall undertake to effect a settlement, and in the event that he shall fail to effect such settlement, he shall call a hearing as provided for herein.

Settlement: Verified complaint

Refusal or revocation of license

The director, after due hearing, may refuse to grant any license herein provided, and may, upon his own motion, after hearing, or upon a verified complaint signed and filed with the director by any interested person, revoke, suspend or refuse renewal of any such license as the case may require, when he is satisfied that any applicant or licensee has violated any provision of this chapter. Upon the filing of such a verified complaint, the director shall cause a copy thereof, together with a notice of the time and place of hearing of such complaint to be served personally or by mail upon the person or persons named as respondent or respondents therein. Such service shall be made at least ten (10) days before said hearing, which shall be held in the city or town in which is situated the principal place of business of the licensee or respondent, or in which the transaction or violation complained of is said

Notice

to have occurred, or in the county seat of the county in which the transaction or violation complained of is said to have occurred, or in the nearest office of the State Department of Agriculture, at the discretion of the director. At the time and place appointed for such hearing the director or his agents shall hear the parties to said complaint, and shall enter in the office of the director at Sacramento a decision either dismissing such complaint or specifying the facts established on such hearing. Such decision may include an order refusing, revoking or suspending the license applied for or held by the respondent, or affixing such other conditional and probationary orders as may be proper for the enforcement of this chapter. A copy of the decision shall be furnished to the licensee and complainant.

Hearing on complaint

Decision

After any decision including any conditional or probationary orders, should respondent fail, refuse or neglect to comply with any of such orders, the director may thereupon and in the premises issue to and serve upon said respondent an order directing said respondent to show cause why the license of said respondent should not be suspended or revoked for the failure to comply with such conditional or probationary orders as above described. A copy of the said order to show cause, together with the notice of the time and place of hearing upon said order shall be served personally or by mail upon said respondent. Said order shall refer to an attached copy of the conditional or probationary orders in such a way as to advise and inform the respondent of the charge or violation upon which said order is based and pursuant to which it is issued. Such service shall be made at least ten (10) days before said hearing, which shall be held in the city or town in which is situated the principal place of business of the respondent, or in which the transaction or violation complained of is said or charged to have occurred, or in the county seat of the county in which the transaction or violation complained of is said or charged to have occurred, or at the nearest office of the State Department of Agriculture at the discretion of the director.

Order to show cause

Notice

At the time and place appointed for such hearing the director or his agents shall hear the matter set forth in the order, and the showing of the licensee in the premises, and shall enter in the office of the director at Sacramento an order and decision specifying the facts, dismissing the order to show cause or directing the suspension or revocation of the license or licenses held by the licensee, or making such further conditional or probationary orders as the director may deem proper, upon the evidence presented at such hearing. A copy of said order and decision shall be furnished to the licensee. Previous violation by any applicant or by any person connected with said applicant of any provision of this chapter shall be good and sufficient ground for denial, revocation or suspension of a license.

Hearing

Order

Continuance of hearing

Should either party to the hearing request a continuance after due notice as herein provided, the party requesting the continuance must make such request forty-eight (48) hours prior to the time of hearing; provided further, that the party requesting such continuance shall be required to pay the costs attached to such continuance.

Nothing in this section contained may be construed as limiting the power of the director, after hearing, to revoke or suspend a license when he is satisfied of the existence of any of the facts specified in Section 1269 of this chapter.

Stats. 1941, p. 1770

SEC. 3. Section 1268.5 of said code is repealed.

Stats. 1941, p. 1779

SEC. 4. Section 1269 of said code is amended to read:

Causes for refusal, etc., of license

1269. (1) The director may refuse to grant a license and may revoke or suspend any license, as the case may require, when after a hearing as herein provided, he is satisfied of the existence of any of the following facts, the existence of which is hereby declared to be a violation of this chapter:

(a) That fraudulent charges or returns have been made by the applicant, or licensee, for the handling, sale or storage of, or for rendering of any service in connection with the handling, sale or storage of any farm products.

(b) That the applicant, or licensee, has failed or refused to render a true account of sales, or to make a settlement thereon, or to pay for farm products received, within the time and in the manner required by this chapter.

(c) That the applicant, or licensee, has made any false statement as to the condition, quality or quantity of farm products received, handled, sold or stored by him.

(d) That the applicant, or licensee, directly or indirectly, has purchased for his, or its own account farm products received by him upon consignment without prior authority from consignor together with price fixed by consignor or without promptly notifying the consignor of such purchase. This shall not prevent any commission merchant from taking to account of sales, in order to close the day's business, miscellaneous lots or parcels of farm products remaining unsold, if such commission merchant shall forthwith enter such transaction on his account of sales.

(e) That the applicant, or licensee, has intentionally made any false or misleading statement as to the conditions of the market for any farm products.

(f) That the applicant, or licensee, has made fictitious sales or has been guilty of collusion to defraud the producer.

(g) That a commission merchant to whom any consignment is made has reconsigned such consignment to another commission merchant and has received, collected, or charged by such means more than one commission for making the sale therefor for the consignor, unless by written consent of such consignor.

(h) That the licensee was intentionally guilty of fraud or deception in the procurement of such license.

(i) That the licensee or applicant has failed or refused to file with the director a schedule of his charges for services in connection with produce handled on account of or as an agent of another; that the applicant, or licensee has indulged in any unfair practice.

(j) That the licensee has rejected, without reasonable cause, or has refused to accept, without reasonable cause, any farm product bought or contracted to be bought from a producer by such licensee.

(k) That the licensee has otherwise violated any provision of this chapter.

(*l*) That the licensee has knowingly employed an agent, as defined in this chapter, without causing said agent to comply with the licensing requirements of this chapter applicable to agents.

Previous violation

(2) Previous violation by the applicant or by any person connected with him or it of any of the provisions of this chapter shall be good and sufficient ground for denial of a license.

Bankruptcy or insolvency

(3) The director, after hearing, or investigation may refuse to grant a license and may revoke or suspend any license as the case may require, when he is satisfied that the licensee has become bankrupt or insolvent, and is thereby unable to pay producer-creditors of the licensee, or producers with whom the licensee has executory or executed contracts for the purchase of farm products, or for the handling of farm products on consignment.

Time for hearing shortened

In such cases, if the director is satisfied that to permit the dealer or commission merchant to continue to purchase or to receive further shipments or deliveries of farm products would be likely to cause serious and irreparable loss to said producer-creditors, or to producers with whom the said dealer or commission merchant has said contracts, then the director within his discretion may thereupon and forthwith shorten the time herein provided for hearing upon an order to show cause why the license of said dealer or commission merchant should not be forthwith suspended or revoked; provided, however, that the time of notice of said hearing shall in no event be less than 24 hours, and shall within that period call a hearing, at which the dealer or commission merchant proceeded against shall be ordered to show cause why his or its license should not be suspended, or revoked, or continued under such conditions and provisions, if any, as the director may consider just and proper and for the protection of the best interests of the producer-creditors involved. Said hearing, in the case of such emergency, may be called upon written notice, said notice to be served personally or by mail on the dealer or commission merchant involved, and may be held at the nearest office of the director or at such place as may be most convenient at the discretion of the director, for the attendance of all parties involved.

Notice

Hearing

SEC. 5. Section 1270 of said code is repealed.

Stats 1933, p 60

Stats 1939, p 2430

SEC. 6. Section 1271 of said code is amended to read:

Required records

1271. (1) Every commission merchant, having received any farm products for sale as such commission merchant, shall promptly make and keep a correct record showing in detail the following with reference to the handling, sale, or storage of such farm products.

(a) The name and address of the consignor.

(b) The date received.

(c) The condition and quantity upon arrival.

(d) Date of such sale for account of consignor.

(e) The price for which sold.

(f) An itemized statement of the charges to be paid by consignor in connection with the sale.

(g) The names and addresses of all purchasers if said commission merchant has any financial interest in the business of said purchasers, or if said purchasers have any financial interest in the business of said commission merchant, directly or indirectly, as holder of the other's corporate stock, as copartner, as lender or borrower of money to or from the other, or otherwise, such interest shall be noted in said records following the name of any such purchaser.

(h) A lot number or other identifying mark for each consignment, which number or mark shall appear on all sales tags and/or other essential records needed to show what the produce actually sold for.

(i) Any claim or claims which have been or may be filed by the commission merchant against any person for overcharges or for damages resulting from the injury or deterioration of such farm products by the act, neglect or failure of such person and such records shall be open to the inspection of the director and the consignor of farm products for whom such claim or claims are made.

(2) Every dealer purchasing any farm products from the producer thereof shall promptly make and keep for one year a correct record showing in detail the following:

(a) The name and address of the grower.

(b) The date received.

(c) The price to be paid.

(d) An itemized statement of any charges paid by the dealer for the account of the producer.

Memorandum of sale

(3) Every broker, upon negotiating the sale of farm products, shall issue to both buyer and seller a written memorandum of sale, showing price, date of delivery, quality, and other details concerned in the transaction. A copy of this memorandum shall be retained by the broker for a period of one year.

Stats 1939, p 2327

SEC. 7. Section 1273 of said code is amended to read:

Penalties

1273. (1) Any person is guilty of a misdemeanor and is punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment in the county jail for not more than one year or by both who assumes or attempts to act or

acts as a commission merchant, dealer, broker or agent without a license, or who:

(a) Imposes false charges for handling or services in connection with farm products.

(b) Fails to account promptly, correctly, fully and properly and to make settlement therefor as herein provided.

(c) Intentionally makes false or misleading statement or statements as to market conditions.

(d) Makes fictitious sales or is guilty of collusion to defraud the producer.

(e) Directly or indirectly purchases for his own account, goods received by him upon consignment without prior authority from the consignor, or fails promptly to notify the consignor of such purchases, if any, on his own account. This clause does not prevent any commission merchant from taking to account of sales, in order to close the day's business, miscellaneous lots or parcels of farm products remaining unsold, if such commission merchant forthwith enters such transaction on his account of sales.

(f) Intentionally makes false statement or statements as to the grade, conditions, markings, quality or quantity of goods shipped or packed in any manner.

(g) Fails to comply in every respect with the provisions of this chapter.

(2) Civil suits and criminal prosecutions arising by virtue of any of the provisions of this chapter may be commenced and tried in either the county where the products were received by the commission merchant, dealer, broker or agent, or within the county in which the principal place of business of such commission merchant, dealer, broker or agent is located, or within the county in which the violation of this chapter occurred.

Injunction

(3) The director may bring an action to enjoin the violation or the threatened violation of any provision of this chapter or of any order made pursuant to this chapter in the superior court in the county in which such violation occurs or is about to occur. There may be enjoined in one proceeding any number of defendants alleged to be violating the same provisions or orders, although their properties, interests, residences, or places of business may be in several counties and the violations separate and distinct. Any proceeding brought hereunder shall be governed in all other respects by the provisions of Chapter 3 Title 7 of Part 2 of the Code of Civil Procedure.

Civil penalties

(4) Any person who violates any provision of this chapter shall be liable civilly in an amount not to exceed the sum of five hundred dollars ($500) for each and every violation, such sum to be recovered in an action by the director in any court of competent jurisdiction. All sums recovered under this section shall be deposited in the State Treasury to the credit of the Department of Agriculture Fund.

CHAPTER 623

Stats 1933, p 60, amended

An act to add Section 818.1 to the Agricultural Code, relating to potatoes for seed purposes.

In effect August 4 1943

[Approved by Governor May 19, 1943 Filed with Secretary of State May 19, 1943.]

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

New section

SECTION 1. Section 818.1 is added to the Agricultural Code, to read:

Potatoes for seed purposes

818.1. Potatoes for seed purposes, unless certified under the provisions of Article 4 of Chapter 5 of Division 5 of this code, shall comply with all of the requirements of this chapter relating to potatoes Potatoes for use within this State for seed purposes, which fail to conform to the standards prescribed by Section 818 only by reason of serious damage due to greening and green ends, are as to such damage exempt from such standard when conspicuously marked and identified for seed purposes, or when bearing a notice accompanied by an order directing the disposition of the potatoes for seed purposes only. The notice and order herein provided shall have the same force and effect as the warning notice and disposal order provided in Section 830.1, and shall be subject to all the provisions of this chapter relating thereto.

CHAPTER 624

An act to amend Section 4265 of the Political Code, relating to the salaries, fees and expenses of officers in counties of the thirty-sixth class.

In effect August 4, 1943

[Approved by Governor May 19, 1943. Filed with Secretary of State May 19, 1943.]

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

Stats 1941, p 1601

SECTION 1. Section 4265 of the Political Code is amended to read:

Madera County salaries

4265. In counties of the thirty-sixth class the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums:

Auditor

1. The auditor, two thousand seven hundred dollars ($2,700) per annum.

District attorney

2. The district attorney, three thousand dollars ($3,000) per annum.

Supervisors

3. Each member of the board of supervisors, two thousand one hundred dollars ($2,100) per annum, in full payment for services as member of the board of supervisors, and as member of the board of equalization. Each member shall receive his actual mileage as road commissioner not to exceed three hundred dollars ($300) per annum.

4. Grand jurors and jurors in the superior court shall receive the following fees: For each day's attendance three dollars ($3), and for each mile actually traveled in attending court as a juror, or otherwise traveled in the performance of their duties, six cents ($0.06) per mile each way. Jurors

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CHAPTER 625

An act to amend Section 6 of the Municipal Court Act of 1925, relating to municipal courts in cities of the first class. Stats 1925, p 648, amended

[Approved by Governor May 19, 1943 Filed with Secretary of State May 19, 1943.] In effect August 4, 1943

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

SECTION 1. Section 6 of the act cited in the title hereof is amended to read: Stats 1931, p 979

SEC 6. The municipal court in a city or city and county of the first class shall be constituted and the judges, officers and attaches thereof, shall receive compensation as follows: Judges and employees in cities of first class

(a) There shall be 12 judges, each of whom shall receive eight thousand five hundred dollars ($8,500) per annum, payable in equal monthly installments;

(b) There shall be one clerk to be appointed by the judges of the court, who shall receive a salary of six thousand dollars ($6,000) per annum, payable in equal monthly installments;

(c) The clerk shall appoint the following:

1. One jury commissioner, with all the powers of jury commissioner of the superior court in so far as the same may be applicable to municipal courts, and who shall receive an annual salary of five thousand four hundred dollars ($5,400), payable in equal monthly installments.

2. And such other deputies and attaches as may be provided for by the board of supervisors in the annual salary ordinance.

CHAPTER 626

An act to amend Section 4247 of the Political Code, relating to salaries and expenses of officers.

[Approved by Governor May 19, 1943. Filed with Secretary of State May 19, 1943.] In effect August 4, 1943

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

SECTION 1. Section 4247 of the Political Code is amended to read: Stats 1941, p 1601

4247. In counties of the eighteenth class, the following shall receive as compensation for services required of them by law or by virtue of their offices the following sums: Santa Barbara County salaries

1. The auditor, four thousand dollars ($4,000) per annum. Auditor

District attorney

2. The district attorney, five thousand dollars ($5,000) per annum for all services. The district attorney shall devote his entire time during office hours to the duties of his office and shall not engage in private practice of the law during his term of office.

Supervisors

3. Each supervisor for all services required of him as supervisor and ex officio road commissioner, three thousand dollars ($3,000) per annum. Where necessary official business requires any supervisor to travel beyond the boundaries of the county, he shall receive actual necessary traveling expenses incurred therefor. No other mileage or remuneration and no other traveling expenses shall be allowed.

Jurors

4. Grand jurors three dollars ($3) per diem and trial jurors in the superior court three dollars ($3) in civil and criminal actions, and trial jurors in courts of justices of the peace two dollars ($2) in civil and criminal actions, for each day's attendance. In addition, mileage fees shall be allowed all jurors to be computed at the rate of fifteen cents ($0.15) per mile for each mile traveled in attending court or in attending sessions of the grand jury, in going only.

CHAPTER 627

Stats 1935, p 1338, amended

An act to add Chapter 6, comprising Sections 980 to 981.7, inclusive, to Division 4 of the Military and Veterans Code, relating to the education of veterans, and making an appropriation therefor.

In effect August 4, 1943

[Approved by Governor May 19, 1943. Filed with Secretary of State May 19, 1943.]

I object to the item of $500,000 in Section 2 of Senate Bill No. 560 and I reduce said amount to $300,000. With this reduction I approve the bill.

EARL WARREN,
Governor of California

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

New chapter

SECTION 1. Chapter 6, comprising Sections 980 to 981.7, inclusive, is hereby added to Division 4 of the Military and Veterans Code, to read:

CHAPTER 6. VETERANS OF WORLD WAR II

Article 1. Veterans

"Veteran"

980. As used in this chapter, "veteran" means any person who served in the military or naval service of the United States on or after December 7, 1941, and before the termination of hostilities in the present war as determined by proclamation of the President or by concurrent resolution of the Congress, and receives an honorable discharge therefrom or is released from active duty under honorable conditions and who was, at the time of his enlistment, induction, commission,

or drafting, a bona fide resident of this State, but does not include:

(a) A person who was separated from such forces under other than honorable conditions at any time after December 7, 1941.

(b) A person who was separated from such forces on account of alienage at any time after December 7, 1941.

(c) A person who performed no military duty whatever or refused to wear the uniform.

(d) A person who has received from another State a bonus, compensation, or benefit, the prerequisite of which is service in such forces, which service is the basis for the claim of benefits under this chapter.

Article 2. Educational Assistance

California Veterans' Educational Institute

981. There is in the State Government an educational institution known as the California Veterans' Educational Institute, which is under the management and control of the Veterans' Welfare Board. The purpose of the institute is to provide opportunities for veterans to continue their education.

Admission to the institute

981.1. Any veteran who desires to continue his education may apply for admission to the institute and if, in the opinion of the board, the educational needs and desires of the veteran can be satisfactorily met in educational institutions in this State, the board shall assume State wardship and supervision over the education of such veteran. The board may provide educational counsel for students and assist them in securing admission to suitable institutions of learning in either public or private school field.

Payment of expenses

981.2. The board, insofar as the funds permit, may provide:

(a) For the payment of tuition and other fees.

(b) For the purchase of necessary books and supplies.

(c) For the monthly payment of an allowance for the living expenses of the student in an amount not exceeding forty dollars ($40) per month for the time the student is in satisfactory and actual attendance at a day school, absence during the month on account of illness to be included as a part of such attendance.

Limit expended

981.3. The amount expended on account of any one veteran under the provisions of this article shall not exceed one thousand dollars ($1,000).

Order of admission

981.4. The board shall consider the application of veterans for admission to the institute in the order in which they are received. If the funds available are insufficient to meet the obligations which would arise from the guardianship of all worthy applicants, the board shall assume wardship over such veterans as are most urgently in need of further education.

Cooperation

981.5. The board may cooperate and confer with authorized agencies of the United States in carrying out the provisions of this article.

Exception

981.6. No veteran who has taken advantage of the benefits provided by Article 3 of this chapter may take advantage of the provision of this article.

Saving clause

981.7. Nothing in this article shall be construed as repealing the provisions of Chapter 579, Statutes of 1921, appropriating money for educational assistance to veterans.

Appropriation

SEC. 2. Out of any money in the treasury not otherwise appropriated there is hereby appropriated the sum of five hundred thousand dollars ($500,000) to the Veterans' Welfare Board for expenditures under Article 2 of Chapter 6 of Division 4 of the Military and Veterans Code.

CHAPTER 628

An act to add Section 66a to the Code of Civil Procedure and to amend Section 737vv of the Political Code, relating to the number of superior court judges and providing for the appointment of an additional superior court judge in and for the County of Solano, providing for his compensation, and making an appropriation.

In effect August 4, 1943

[Approved by Governor May 20, 1943. Filed with Secretary of State May 20, 1943.]

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

New section

SECTION 1. Section 66a is added to the Code of Civil Procedure, to read:

Superior court judges

66a. In the County of Solano there shall be two judges of the superior court.

Stats. 1939, p. 2452

SEC. 2. Section 737vv of the Political Code is amended to read:

Salary of superior court judges

737vv. The annual salary of each of the judges of the superior court in and for the County of Solano is seven thousand dollars ($7,000).

Additional judge

SEC. 3. Within 10 days after this act becomes a law the Governor shall appoint one judge of the superior court in the County of Solano in addition to the superior court judge already provided by law in said County of Solano who shall hold office until the first Monday after the first day of January, 1945. At the elections to be held in 1944, one additional judge of the superior court of Solano County shall be elected in said county as provided by law, who shall be the successor to the judge appointed hereunder and who shall hold office for the term prescribed by the Constitution and by law.

Appropriation

SEC. 4. Out of any money in the State treasury not otherwise appropriated there is hereby appropriated the sum of eight thousand dollars ($8,000) in addition to, and in augmentation of, Item 20 in Section 2 of the "Budget Act of 1943."

CHAPTER 629

An act to add Sections 588 and 589 to the Military and Veterans Code, relating to care, treatment and benefits of members of the State Guard, declaring the urgency thereof, to take effect immediately.

Stats 1935, p 1338, amended

[Approved by Governor May 20, 1943. Filed with Secretary of State May 20, 1943.]

In effect immediately

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

SECTION 1. Section 588 is added to the Military and Veterans Code, to read:

New section

588. Every member of the State Guard shall continue to receive Workmen's Compensation Insurance benefits under subdivision (f) of Section 555.2 with respect to injuries sustained prior to its repeal.

Savings clause

SEC. 2. Section 589 is added to said code, to read:

New section

589. Sections 577 and 578 shall be applicable to those members of the State Guard who were incapacitated by injury or illness while in active service, where such injury or illness was not compensable under subdivision (f) of Section 555.2.

Benefits extended

Nothing in this code, nor in any law, shall limit the power of The Adjutant General to exercise the authority granted to him under Sections 577 and 578 to provide for a member of the State Guard who was incapacitated by injury or illness while in active service.

Authority of The Adjutant General

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

Urgency

On July 1, 1943, the provisions of law relating to the care, treatment and benefits of members of the State Guard will be modified and changed. It is necessary that this act take effect immediately in order to preserve the rights to care, treatment and benefits accorded to members of the State Guard after such change, for injuries and illnesses sustained and incurred by them prior to such change.

CHAPTER 630

An act to amend Section 5010 of the Public Resources Code, relating to the State Park Maintenance Fund.

Stats 1939, p 1067, amended

[Approved by Governor May 20, 1943. Filed with Secretary of State May 20, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 5010 of the Public Resources Code is amended to read:

Stats 1939, p 1217

5010. The State Park Commission, whenever in its judgment it is practicable to do so, shall collect fees, rentals, and

State Park Maintenance Fund

cther return for the use of any State park area, the amounts to be determined by the Park Commission and to be paid into the State Treasury to the credit of the State Park Maintenance Fund, which is continued in existence. This fund is hereby appropriated for construction, improvement, equipment, and maintenance of State parks.

CHAPTER 631

Stats 1935, p 1153, amended

State Reconstruction and Reemployment Act

An act to repeal an act entitled "An act providing for State planning and a State Planning Board, and prescribing the powers, duties and jurisdiction thereof," approved by the Governor, June 14, 1935, to establish the "State Reconstruction and Reemployment Commission" and prescribing its powers and duties; authorizing the State Reconstruction and Reemployment Commission to make investigations, reports, recommendations and plans for a program for the promotion, development, conservation and utilization of the human, natural, and economic resources of the State; making an appropriation; and to transfer the duties, powers, purposes, responsibilities, unexpended moneys, and jurisdiction of the State Planning Board to the State Reconstruction and Reemployment Commission.

In effect August 4, 1943

[Approved by Governor May 20, 1943. Filed with Secretary of State May 20, 1943.]

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

Title

SECTION 1. This act shall be known as the State Reconstruction and Reemployment Act.

State Planning Commission property

SEC. 2. The Department of Finance shall be in possession and control of all records, books, papers, offices, equipment, moneys, funds, appropriations, and real and personal property now or hereafter held for the benefit or use of the State Planning Commission from the effective date of this act until the creation and qualification of the State Reconstruction and Reemployment Commission and the title to all property held by said State Planning Board for the use and benefit of the State is hereby transferred to the State of California to be held in the possession of said Department of Finance until the creation and qualification of the State Reconstruction and Reemployment Commission, at which time possession, custody, and control of all said property shall be surrendered and transferred to the State Reconstruction and Reemployment Commission.

Purpose

SEC. 3. It is hereby declared to be the public policy of this State and the purpose of this act to prevent unemployment, conserve and develop the natural, social and economic resources of the State, promote development of new industries, create new markets; promote the reemployment of discharged service men and readjustment of displaced war workers, and

the conversion of industry and commerce from war to peace standards, to provide for postwar adjustment and reconstruction, and to encourage economic and social improvement of the general public.

Commission

SEC. 4. There is hereby created the State Reconstruction and Reemployment Commission designated in this act as the commission, to consist of nine members as follows:

(a) The Director of Public Works, chairman

(b) Director of Finance, vice chairman

(c) Director of Professional and Vocational Standards

(d) President of the University of California, or his representative, with the approval of the Governor

(e) Director of Natural Resources

(f) Director of Agriculture

(g) Director of Industrial Relations

(h) Superintendent of Public Instruction

(i) Executive Secretary of the Governor

Duties of commission

SEC. 5. It shall be the duty of the commission to:

(a) Collect, assemble, study, and analyze data concerning the human, natural and economic resources of the State

(b) Endeavor to formulate and promote plans and programs to:

(1) Reemploy discharged service men and women

(2) Rehabilitate discharged veterans through purchase of homes and farms

(3) Provide for and encourage the resumption of the education of veterans whose education has been interrupted

(4) Readjust displaced war workers

(5) Convert industry and commerce from war to peace standards

(6) Encourage the development, preservation and restoration of industry

(7) Encourage and promote the full development of the natural resources of California

(8) Encourage and arrange for cooperation with the other western States in the development of a regional economy

(9) Plan for and promote the improvement and expansion of the highway and freeway systems of the State

(10) Plan for and support the necessary reconstruction and expansion of State buildings, particularly State hospitals and institutions

(11) Prepare for postwar adjustments generally

(c) Cooperate with Federal, State, and other public and private agencies to effect the purposes of this act

(d) Prepare and submit a quarterly report to the Governor

(e) Prepare and submit an annual report and recommendations to the Governor and the Legislature.

Citizens advisory committee

SEC. 6. Each member of the commission shall act as chairman of a citizens advisory committee of five members selected by the Governor upon nomination by such member, and qualified as specialists in the respective fields of activity of this commission. Members of these advisory committees

shall receive no compensation for their services under this act, but shall be reimbursed for their actual and necessary expenses incurred in connection with their duties hereunder. The members of these advisory committees shall serve at the pleasure of the committee chairman.

Organization

SEC. 7. Within 15 days after the appointment of this commission the commission shall meet at Sacramento and organize for the transaction of business.

Chairman

SEC. 8. The Director of Public Works shall be the chairman and the Director of Finance the vice chairman of this commission. A majority of the members of the commission in office constitutes a quorum and the vote of such a majority is necessary to the transaction of the business of the commission. The commission shall by rule provide for such regular and special meetings as it may determine and for the method of calling such meetings.

Quorum

Meetings

Director of Reconstruction and Reemployment

SEC. 9. The office of Director of Reconstruction and Reemployment is hereby created and is filled by appointment by the Governor. He serves at the pleasure of the Governor and receives such salary as the commission shall designate, not in excess of ten thousand dollars ($10,000) annually, with the approval of the Director of Finance, and the actual and necessary expenses incurred by him in the performance of his duties. He also may be removed from office by a vote of a majority of the members of the commission then in office.

Powers of director

SEC. 10. The director shall be the chief executive officer for the administration of this act, but the commission shall require the prior approval by it of any or all contracts involving the expenditure of more than five hundred dollars ($500) that may be executed by the director. The director may delegate any of the powers vested in him by this act, except the power to contract, to employees and officers engaged in the administration of this act. Any power so delegated may at any time be modified, withdrawn or terminated by the director.

Head of department

SEC. 11. The director is the head of a department within the meaning of Sections 353, 354, 355, and 356 of the Political Code.

Contracts

SEC. 12. The director may contract with such other agencies, public or private, as he deems necessary or desirable for the rendition and affording of such services, facilities, studies and reports to him as will assist in carrying out the provisions of this act.

Offices

SEC. 13. The director may procure and maintain offices in such parts of the State as to him appears necessary or convenient in order to effectuate the purposes of this act. The director has power to do such other acts and things as may be necessary and incidental to the full discharge of duties expressly conferred or imposed upon him.

Rules

SEC. 14. In the execution of their powers and duties under this act, officers and employees engaged in the administration of this act shall be governed by such rules as the commission may from time to time make.

Officers and employees

SEC. 15. The commission shall create positions, fix the compensation and prescribe the powers and duties of officers and employees necessary for the administration and to effectuate the purposes of this act. The compensation fixed shall be subject to the approval of the Director of Finance. All such officers and employees shall be appointed by and serve at the pleasure of the Governor.

Assistance

SEC. 16. Upon the request of the commission or the director every officer and employee of this State shall consult and advise the commission or the director, as the case may be, and each department, division, bureau, board, commission, and officer of this State and each agency or political subdivision of this State shall render all possible assistance to the commission and the director for the purpose of carrying out the provisions of this act.

Gifts

SEC. 17. The commission is hereby authorized to accept gifts from any person, agency, organization, partnership, business trust, corporation, the United States of America, or any agency thereof, the State of California, or any political subdivision or agency thereof, and to use same in accordance with the terms of the grant.

Appropriation

SEC. 18. There is hereby appropriated from any funds in the State treasury, not otherwise appropriated, the sum of seventy-four thousand dollars ($74,000) or so much thereof as may be necessary to carry out the provisions of this act.

Succession

SEC. 19. The State Reconstruction and Reemployment Commission shall succeed to and is hereby vested with all the duties, powers, purposes, responsibilities and jurisdiction of the State Planning Board under the provisions of the act cited in the title of this act, or of any other law, and of the several officers, deputies and employees of or under the State Planning Board, and whenever by the provisions of any statute or law now in force or which hereafter be enacted, a duty or jurisdiction is imposed or authority conferred upon the State Planning Board, or upon any of the officers, deputies or employees of or under either thereof, such duty, jurisdiction and authority are hereby imposed upon and transferred to the State Reconstruction and Reemployment Commission with the same force and effect as if the title of said last-named commission had been specifically set forth and named therein, in lieu of the name of the State Planning Board, or any such officer, deputy or employee thereof or thereunder. For the purposes of this act, the term State Planning Board, or similar designation, and of the several officers, deputies and employees of or under either thereof, when used in any statute or law now in force or which may hereafter be enacted, shall be construed to refer to and mean the State Reconstruction and Reemployment Commission, the same as if the title of such commission had been specifically set forth and named therein. The State Planning Board and office and the positions of all deputies, officers and employees of or under either thereof are

and each of them is hereby abolished and shall have no further legal existence.

Expenditures

SEC. 20. From the time of the creation of the State Reconstruction and Reemployment Commission, it shall be and is hereby authorized to expend the moneys in any appropriation or in any special fund in the State treasury now remaining or made available by law for expenditure by the State Planning Board.

Constitutionality

SEC. 21. If any provisions of this act or the application thereof to any person or circumstances is held invalid, the remainder of the act, and the application of such provisions to other persons or circumstances shall not be affected thereby.

Stats. 1935, p 1153

SEC. 22. The act cited in the title hereof is repealed.

CHAPTER 632

An act making an appropriation to meet the deficiency in the appropriation for workmen's compensation benefits of State officers and employees and providing that this act shall take effect immediately.

In effect immediately

[Approved by Governor May 20, 1943. Filed with Secretary of State May 20, 1943.]

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

Appropriation: Workmen's compensation benefits

SECTION 1. The sum of twenty-five thousand dollars ($25,000) is hereby appropriated out of any money in the State treasury not otherwise appropriated to meet a deficiency in the appropriation for workmen's compensation benefits of State officers and employees during the Ninety-fourth Fiscal Year. The amount hereby appropriated shall be in addition to, and in augmentation of, the appropriation contained in Item 215 in Section 2 of the "Budget Act of 1941."

Current expenses

SEC. 2. This act, inasmuch as it provides an appropriation for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately.

CHAPTER 633

Stats 1937, p. 1005, amended

An act to add Section 140 to the Welfare and Institutions Code, relating to public assistance, and providing a procedure for the issue and payment of duplicate warrants therefor, in case of the loss or destruction of the original warrants.

In effect August 4, 1943

[Approved by Governor May 20, 1943. Filed with Secretary of State May 20, 1943.]

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

New section

SECTION 1. Section 140 is added to the Welfare and Institutions Code, to read:

Issuance of duplicate warrant when original lost or destroyed

140. Whenever a warrant for public assistance granted under any provision of this code, including Chapter 1 of Part 2 of Division 2, Chapter 1 of Division 3, Chapter 2 of Division 4, and Chapters 1 and 3 of Part 1 of Division 5, has been lost

or destroyed before it has been paid by the county treasurer, the amount due thereon may be recovered by the payee by filing with the county auditor an affidavit setting forth the fact of the loss or destruction of the warrant, together with all material facts relative thereto known to the affiant, the amount, the name of the payee, and the date and number of the warrant if the same are known to the affiant. Upon receipt of the affidavit, and without the filing of any bond by the payee, the county auditor shall issue and deliver to the payee of the original warrant a duplicate warrant for the full amount of the original warrant, and the county treasurer shall pay the duplicate warrant in lieu of the original warrant.

A warrant shall be considered to have been lost if it has been mailed, and has not been received by the addressee within 20 days after the date of mailing.

CHAPTER 634

An act to amend Sections 14726, 14727, 14728, 14730, 14776, and 14777 of the Education Code, relating to district and joint district retirement plans.

Stats 1943, Ch 71, amended

[Approved by Governor May 20, 1943. Filed with Secretary of State May 20, 1943.]

In effect August 4, 1943

Note.—See Stats. 1943, Ch. 71.

CHAPTER 635

An act to amend Sections 4530, 4531 and 4532 of the Penal Code, relating to escapes.

[Approved by Governor May 20, 1943. Filed with Secretary of State May 20, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 4530 of the Penal Code is amended to read:

Stats. 1941, p 1080

4530. Every prisoner confined in a State prison who escapes or attempts to escape therefrom, is punishable by imprisonment in a State prison for a term of not less than one year; said second term of imprisonment to commence from the time he would otherwise have been discharged from said prison.

Punishment for escape from State prison

SEC. 2. Section 4531 of the Penal Code is amended to read:

Stats 1941, p. 1080

4531. Every prisoner committed to a State prison who escapes or attempts to escape while being conveyed to or from such prison or any other State prison, or any prison road

Penalty for escape from prison camp, etc

camp, prison forestry camp, or other prison camp or prison farm or any other place while under the custody of prison officials, officers or employees; or who escapes or attempts to escape from any prison road camp, prison forestry camp, or other prison camp or prison farm or other place while under the custody of prison officials, officers or employees; or who escapes or attempts to escape while at work outside or away from prison under custody of prison officials, officers, or employees is punishable by imprisonment in a State prison for a term of not less than one year and on conviction thereof the term of imprisonment therefor shall commence from the time such prisoner would otherwise have been discharged from said prison.

Stats 1941, p 1080

SEC. 3. Section 4532 of the Penal Code is amended to read:

Punishment for escape from county jail, etc

4532. Every prisoner charged with or convicted of a felony or misdemeanor who is confined in any county or city jail or prison or industrial farm or industrial road camp or who is engaged on any county road or other county work or who is in the lawful custody of any officer or person, who escapes or attempts to escape from such county or city jail, prison, industrial farm or industrial road camp or from the custody of the officer or person in charge of him while engaged on or going to or returning from such county work or from the custody of any officer or person in whose lawful custody he is, is guilty of a felony and is punishable by imprisonment in the State prison not exceeding 10 years, or in the county jail not exceeding one year.

CHAPTER 636

Stats 1921, p 354, amended

An act to amend Sections 1 and 3 of, and add Section 1.5 to, an act entitled "An act to create the office of public defender, to provide for the election of such officers, and prescribing their duties and compensation," approved May 24, 1921, relating to the office of the public defender.

In effect August 4, 1943

[Approved by Governor May 20, 1943. Filed with Secretary of State May 20, 1943.]

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

Stats 1921, p 354

SECTION 1. Section 1 of the act cited in the title hereof is amended to read:

Office of public defender

Section 1. There is hereby created in each county and city and county of the State of California, the board of supervisors of such county or city and county so deciding, the office of public defender, and the person to be elected or appointed to this office shall be known as the public defender.

Eligibility

No person shall be eligible to the office of public defender who shall not have been a practicing attorney in all of the courts

of the State for the period of at least one year next preceding the date of his election.

SEC. 2. Section 1.5 is added to said act, to read: New section

Sec. 1.5. The board of supervisors shall, at the time it establishes the office, decide whether the public defender is to be appointed or elected. If to be appointed, he shall be appointed by the board to serve at its will. How selected

SEC. 3. Section 3 of said act is amended to read: Stats 1921, p 354

Sec. 3. The term of office of an elected public defender shall be four years from and after the first Monday in January next following his election. Term of office

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CHAPTER 637

An act to add Section 19311 to the Education Code, relating to cafeterias. Stats 1943, Ch 71, amended

[Approved by Governor May 20, 1943. Filed with Secretary of State May 20, 1943.] In effect August 4, 1943

Note.—See Stats. 1943, Ch. 71.

CHAPTER 638

An act to amend Section 11010 of the Business and Professions Code, relating to real estate subdivision. Stats 1937, p 1229, amended

[Approved by Governor May 20, 1943. Filed with Secretary of State May 20, 1943.] In effect August 4, 1943

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

SECTION 1. Section 11010 of the Business and Professions Code is amended to read: Stats 1943, Ch 127

11010. Prior to the time when subdivided lands are to be offered for sale or lease, the owner, his agent or subdivider shall notify the commissioner in writing of his intention to sell such offering. Notice of intention to sell subdivided lands

The notice of intention shall contain the following information:

(a) The name and address of the owner.

(b) The name and address of the subdivider.

(c) The legal description and area of lands.

(d) A true statement of the condition of the title to the land, particularly including all encumbrances thereon.

(e) A true statement of the terms and conditions on which it is intended to dispose of the land, together with copies of any contracts intended to be used.

(f) A true statement of the provisions, if any, that have been made for public utilities in the proposed subdivision, including water, electricity, gas and telephone facilities.

(g) Such other information as the owner, his agent, or subdivider, may desire to present.

CHAPTER 639

An act to amend Section 4310 of the Political Code, relating to sheriffs' special funds.

In effect August 4, 1943

[Approved by Governor May 20, 1943. Filed with Secretary of State May 20, 1943.]

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

Stats 1931, p. 1281

SECTION 1. Section 4310 of the Political Code is amended to read:

Sheriff's special fund

4310. There is hereby created in every county having a population of 90,000 or more, a fund to be known as the sheriff's special fund. It shall be the duty of the board of supervisors, within 30 days after this act takes effect, and annually thereafter at the beginning of the fiscal year, to transfer from the general fund to the sheriff's special fund such sum or sums as may be necessary from time to time, so that there shall be in such fund at the beginning of each fiscal year, available for use by the sheriff, the following amounts: In counties, or cities and counties having a population of 500,000 or more, the sum of five thousand dollars ($5,000); in all other counties having a population of 90,000 but less than 500,000, such sum as the board of supervisors shall set aside, not to exceed two thousand five hundred dollars ($2,500).

In counties having a population of less than 90,000, the board of supervisors may, but need not, establish a sheriff's special fund in such sum as the board of supervisors may set aside, not to exceed two thousand five hundred dollars ($2,500).

On the presentation of his requisition therefor by the sheriff to the auditor, said auditor shall draw his warrant in favor of the sheriff on such fund for such amounts as the sheriff may require from time to time; on presentation, the treasurer shall cash such warrant.

Use

All such sums may be used by the sheriff for his expenses incurred in criminal cases arising in the county and for such expenses necessarily incurred by him in the preservation of peace and the suppression of crime.

Vouchers

The sheriff shall file vouchers with the auditor at the end of the fiscal year and may file vouchers from time to time during the year showing what disposal he has made of any of the moneys received from such fund and the particular purpose for which it was spent; provided, that if at the end of the fiscal year a criminal proceeding be pending or under investigation, as to any moneys spent in such proceeding or investigation, such vouchers need not be filed until the trial of the criminal proceeding be ended or the investigation concluded.

Upon the filing of such vouchers at the end of the fiscal year, and at such other times as the sheriff may file said vouchers, the board of supervisors may reimburse said fund

in a sum not to exceed the amount accounted for by said vouchers. Said reimbursement shall be made in the same manner as provided for the establishment of the fund.

Provided, that nothing in this section shall be construed as a limitation or affecting in any way the provisions of Section 4307 of this code or any provision of law relative to the expenses of the sheriff which may be incurred by him and paid as are other county claims, after allowance by the board of supervisors, but the fund herein shall be in addition to any funds at the disposal of the sheriff as now provided by law. Construction

Provided, this section shall not apply to any county or city and county operating under a charter where provision for a similar fund is made by law. The population herein provided for is to be fixed by the Federal census taken in the year A.D. 1930. Application of section

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CHAPTER 640

An act to add Sections 3e, 3f, 8d, 38f, 38g, 101b, 101c, 103a, and 114 to, and to amend Sections 8, 9, 28, 28a, 38c, 38e, 46, 47, 49, 51, 58b, 65a, 65b, 65e, 79, 83, 84, 85, 90, 92, 94, 100, 101 and 111 of, the State Employees' Retirement Act, relating to a retirement system for public officers and employees. Stats 1931, p 1442, amended

[Approved by Governor May 20, 1943. Filed with Secretary of State May 20, 1943.] In effect August 4, 1943

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

SECTION 1. Section 3e is added to the State Employees' Retirement Act, to read: New section

Sec. 3e. "Public agency" shall mean any public district or other local authority or public body whatsoever. "Public agency"

SEC. 2. Section 3f is added to said act, to read: New section

Sec. 3f. "Contracting public agency" shall mean any public agency in the State which has elected to have all or any part of its employees become a part of the retirement system and which has contracted with the board for such purpose. For the purpose of applying the provisions of this act to public agencies, whenever in this act reference is made to "city," "contracting city," "city employee," "city clerk," "municipal corporation," or "legislative body" of any city or municipal corporation, such words shall be construed to read, respectively, as "public agency," "contracting public agency," "public agency employee," "secretary of governing board or analogous authorized employee of the public agency," "public agency," or "governing board or head of a public agency not managed by a board." "Contracting public agency," etc

SEC. 3. Section 8 of said act is amended to read: Stats 1939, p 2605

Sec. 8. "State service" shall mean service rendered as an employee or officer employed, appointed or elected, of the "State service"

State or the university or, for the purposes of this act, service rendered as an employee of any contracting city, for compensation, and, for the purposes of this act, a member shall be considered as being in the "State service" only while he is receiving compensation from the State, the university, or the contracting city for such service, except as provided in Section 47 hereof.

New section

SEC. 3.5. Section 8d is added to said act, to read:

"Fire service," "police service"

Sec. 8d. "Fire service" and "police service" shall mean service rendered as a city fireman or a city policeman, respectively, and for the purpose of this act, a member shall be considered as being in "fire service" or "police service," as the case may be, while he is receiving compensation from a city for such service, except as provided in Section 47. Firemen employed by Fire Protection Districts shall be considered as city firemen.

Stats. 1941, p. 2553

SEC. 4. Section 9 of said act is amended to read:

"Prior service"

Sec. 9. "Prior service" shall mean all State service, other than service as an employee of the university, or of a contracting city, rendered before the first day of January, 1932; all State service rendered as an employee of the university before the twenty-seventh day of August, 1937; and all State service rendered as an employee of a contracting city before the effective date of the city's participation in the retirement system, and allowable as provided in Section 49 of this act. Notwithstanding the sentence next preceding, "prior service" as applied to a person, employed by the State, including the university, who became a member while employed on a part-time basis, because of amendments to this retirement act, or as applied to a person who became a member prior to said amendments because of a change in the employment status to a full-time basis, shall mean all State service rendered before the effective date of said membership.

Stats. 1933, p. 1238

SEC. 5. Section 28 of said act is amended to read:

Reentry into State service

Sec. 28. Every employee who reenters State service after the date this system becomes effective, and who, prior to such reentry has completed six months of State service, uninterrupted by a break of more than one month, shall become a member of the retirement system upon such reentry. Time during which an employee of a school district is absent from State service during official vacations, shall be counted as service in determining eligibility for membership under this section or Section 27.

Stats. 1937, p. 2391

SEC. 6. Section 28a of said act is amended to read:

Highway Patrol, etc.

Sec. 28a. Persons who are city firemen, city policemen or members of the California Highway Patrol become and remain members of the retirement system in the same manner as in the case of other eligible State officers or employees, except that when any such person is disabled or killed by injury or illness arising out of and in the course of such duties, such person, in respect to such disability or death, is deemed a member of the retirement system while in State service prior

to the completion of the six months of service referred to in Section 27, to the same extent as if such six months of service were completed prior to such disability or death.

"Member of the California Highway Patrol," and "member of the highway patrol of a county," for the purpose of the retirement system, includes persons employed in the Motor Vehicle Department or by a county in connection with its highway patrol function, respectively, whose principal duties consist of active law enforcement service and excludes such persons whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise clearly not falling within the scope of active law enforcement service, even though such person is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement service.

Stats 1943, Ch 559

SEC. 7. Section 38c of said act is amended to read:

Participation by cities Contracts

Sec. 38c. After receiving from the Board of Administration, a quotation of the approximate contribution provided for in Section 58b, any municipal corporation in the State may participate in the State Employees' Retirement System, making its employees members of said system, by contract entered into between the legislative body of said municipal corporation and the Board of Administration of the said retirement system, subject to the provisions of this act. Said contract may include any provisions consistent with this act, necessary in the administration of the retirement system as it affects said employees and municipal corporation. The approval and termination of said contract shall be subject to the following provisions, in addition to the other provisions of this act:

Approval and termination

Resolution

(1) Said legislative body shall adopt a resolution giving notice of intention to approve said contract, which resolution shall contain a summary of the major provisions of the proposed retirement system. Such contract shall not be approved unless and until an election has been held to permit the employees proposed to be included in the retirement system to express by secret ballot their approval or disapproval of said retirement proposal. The ballot at such election shall include the summary of the retirement system as set forth in the foregoing resolution. The election shall be conducted in such a manner as to permit the firemen, the policemen, and the other city employees proposed to be included in the system separately to express their approval or disapproval thereof. Said election shall be conducted in such manner as shall be prescribed by the legislative body of the city. Approval of the contract shall be by ordinance adopted by the affirmative vote of two-thirds of the members of said legislative body, not less than 20 days after the adoption of said resolution, or by an ordinance adopted by a majority vote of the electorate of the city voting thereon. The legislative body shall not include in the retirement system any of the three groups

Election

Favorable vote

above mentioned, a majority of whose members voted to disapprove the proposed system.

Notice of termination

(2) If the contract was approved by an ordinance adopted by the legislative body, said legislative body may terminate said contract by the adoption of a resolution giving notice of intention to terminate, and by the adoption, not less than one year after the adoption of said resolution and by the affirmative vote of two-thirds of the members of said legislative body, of an ordinance terminating said contract. If the contract was approved by an ordinance adopted by a majority vote of the electorate voting thereon, the legislative body may terminate said contract in the manner provided in this subdivision but only under authority granted by ordinance adopted by such a majority vote of the electorate of the contracting city.

Ordinance

Required termination

(3) The Board of Administration may and it shall be its duty to terminate said contract, by resolution adopted by a majority vote of its members, effective 60 days after notice of the adoption of said resolution has been mailed by registered mail to the legislative body of said city; provided, said city shall fail for one year to pay to the system any installment of contributions required of it by this act.

Accumulated contributions

(4) Forthwith upon the termination of said contract, all memberships in the retirement system existing because of said contract, shall be terminated, and for the purposes of Section 75, the employees whose memberships are terminated, shall be considered as permanently out of State service, and their accumulated contributions shall be refunded accordingly. Notwithstanding anything in this act to the contrary, no event occurring on or after the effective date of said termination, shall be considered in determining the right of any such employee to a death benefit or to retire for service or disability.

Rights of persons retired

The right to a retirement allowance, of a person who has retired prior to the effective date of the termination of said contract, or who has qualified and applied for retirement by written document received at the board's office in Sacramento, California, prior to said effective date, even though the board shall not approve said application until a later date, and the right of any person to a benefit on account of a death which occurred prior to said effective date, shall not be affected by said termination of said contract, except as herein provided in the event the contracting city shall fail to make contributions required of it because of the participation of its employees in the system.

(5) Upon the termination of said contract, the Board of Administration shall refund to said contracting city such portion of the accumulated contributions then held by the retirement system and credited to, or as having been made by it, as are in excess of an amount actuarially equivalent, as determined by the actuary and approved by the board, to all benefits the system is obligated to pay after the effective date of said termination, to or on account of persons who are or have been employed by said city, and on account of service rendered

by said persons to said city. If the said accumulated contributions credited to, or as being made by said city at the date of said termination, shall not be at least equal to said actuarial equivalent, said city shall contribute to the retirement system under terms fixed by the Board of Administration, an amount equal to the difference between said accumulated contributions and said actuarial equivalent. If said city shall fail to make such contribution, the portion of benefits described in the first sentence of this paragraph, payable after the board declares said city in default of said contribution, from the contributions previously made by said city, shall be reduced in the proportion the said accumulated contributions credited to, or as having been made by said city, bears to said actuarial equivalent of said benefits as of the date said board declared the default. The right of an employee of a contracting city, or his beneficiary, to a benefit under the system, whether before or after retirement or death, shall be subject to the adjustment provided in the sentence next preceding. The Board of Administration may postpone the payment of any amount due to said city, under this paragraph, if to make said payment would require the sale of securities, which, in the opinion of the board, would affect adversely the interests of the retirement system. If the board delays said payment longer than the period reasonably necessary for the determination of the amount due and for the necessary action by the board, interest shall be allowed on the amount remaining due and unpaid from time to time, at the rate then in use under the system, and shall be paid to the contracting city at the same time and in the manner as the original amount due.

Employees included within contract

(6) Said municipal corporation shall include under said contract all of its firemen and policemen and/or all of its other employees, except as exclusions in addition to the exclusions specified in this act, may be agreed to between it and the Board of Administration, said exclusions to be based on groups of employees such as by departments, by duties or by age, and not on individual employees. The Board of Administration, however, shall have the right to disapprove the exclusion of any group, if in its opinion said exclusion affects adversely the interests of said retirement system. Membership in the retirement system shall be compulsory for all employees included under said contract.

Correction of errors

(7) Errors in said contract may be corrected through amendments approved by the adoption of suitable resolutions by the contracting parties. Excluded employees may be included under said contract, by groups, through amendments to said contract approved in the manner prescribed in this section for the approval of contracts. Additional benefits on account of prior service, provided in this act but not included in said contract, may be included in said contract, through amendments approved in the manner prescribed in this section for the approval of contracts, except that an election among employees shall not be required.

Stats. 1939, p 2690

SEC. 8. Section 38e of said act is amended to read:

Contract with school district

Sec. 38e. Any school district in this State may participate in the State Employees' Retirement System, making all or some of its employees who are not eligible for membership in the California State Teachers' Retirement System, created by the School Code, members of such State Employees' Retirement System by contract entered into between the governing board of the school district and the board of administration of the retirement system. The provision of this act relating to cities, employees of cities, the entering into contracts between cities and the board, the method of computing benefits and the benefits payable to city employees, and all other provisions of this act which relate to cities which elect to include employees under the State Employees' Retirement System shall also apply to school districts in the same manner, to the same extent, and with the same effect as if school districts instead of cities were expressly referred to in such provisions, except as provided in this section. Such provisions shall not apply to employees of school districts who are eligible for membership in the California State Teachers' Retirement System, unless said employees are also employed in a status which is not subject to said Teachers' Retirement System, and in that event, such provisions shall apply only to the extent of said status. Service in two or more school districts governed by the same governing board, shall be considered as though the service were rendered in one school district, but contributions required because of service rendered after the effective date of participation shall be paid by the respective districts, according to the compensation paid to the member by said districts. Contributions required because of prior service, shall be paid by the district or districts by which the member is employed at the time he becomes a member of the retirement system, and in proportion to the compensation being paid by the respective districts to the member at that time.

Dual status

New section

SEC. 9. Section 38f is added to said act, to read:

Participation of any public agency

Sec. 38f. Any public agency in this State, which is not already authorized to do so, may participate in the State Employees' Retirement System, making all or some of its employees members of said system, by contract entered into between the governing board or head of such agency, and the Board of Administration of the retirement system. The provisions of this act relating to cities, employees of cities, the entering into contracts between cities and the board, the method of computing benefits, and the benefits payable to city employees, and all other provisions of this act, which relate to cities which elect to include employees under the State Employees' Retirement System, shall also apply to public agencies in the same manner, to the same extent, and with the same effect, as if public agencies, instead of cities, were expressly referred to in such provisions.

SEC. 10. Section 38g is added to said act, to read: New section

Sec. 38g. An employee of the State or a contracting city shall receive credit, subject to the provisions of this act, for all service rendered by him as an employee of the State or a contracting city, and the cost of benefits based on such service shall be borne by the respective employers in whose service it was rendered, unless the termination of employment by the State or a contracting city is followed by entry into employment by the State if the previous employment was by a contracting city, or contracting city if the previous employment was by the State or a different contracting city, more than one year after such termination, in which event service as applied to a member who is an employee of the State or an employee of a contracting city, shall be limited to service rendered as an employee of the State or of the contracting city, as the case may be. If a person is employed concurrently by more than one contracting city, or by the State and one or more contracting cities, his status under the retirement system shall be determined in the same manner as if he were employed in more than one office or department of the State. Credit for prior service; Concurrent service

SEC. 11. Section 46 of said act is amended to read: Stats. 1941, p. 2753

Sec. 46. It shall fix and determine how much service rendered in any fiscal year shall be the equivalent of a year of service and parts thereof, but shall credit one year for 250 or more days of service rendered by employees on a per diem basis and one year for 10 months or more of service rendered by employees on a monthly basis, but not more than one year for all service in any fiscal year. In determining the credit to be granted for service rendered on a part-time basis, for purposes of calculating retirement allowances, the service shall be reduced to a full-time basis according to the service required, in the next preceding sentence, for credit for one year of service. In calculating benefits based on service so determined, except in calculating the additional pension provided in Section 84, compensation earnable shall be taken as the compensation which would be earnable if the employment had been on a full-time basis, and with a compensation derived by multiplying the member's compensation by the ratio of full time to the time he was required by his employment to engage in his duties. In calculating the credit to be granted for service rendered on a part-time basis, for purposes of determining qualification for retirement, and of calculating benefits payable upon death before retirement, the service required in this paragraph for credit for a year of service shall not be used, but instead, a year of service shall be credited for each year during which the member was employed throughout the year on a part-time basis and was engaged in his duties the full amount of time he was required by his employment to be so engaged. Credit for fractional years will be granted to the extent of the fraction derived by dividing the time during which the member was engaged in his duties within the year, Service credits; Part-time services

by the time he was required by his employment to be so engaged.

Stats 1941, p 356

SEC. 12. Section 47 of said act is amended to read:

Absentees

Sec. 47. Time during which a member is absent from State service without compensation shall not be allowed in computing service; except that time during which a member is absent from State service by reason of having been ordered on duty with the armed forces of the United States, or by reason of voluntary service by the member in said forces or on ships operated by or for the United States Government, either during a war involving the United States as a belligerent or in any other National emergency, and for 90 days thereafter shall be considered as time spent in State service, for the purpose of qualification for retirement and death benefits, but not for calculation of retirement benefits unless the member elects to contribute and contributes, under the retirement system. Any member so absent and until his return to service within the said 90 days may resign from the system. Any member so absent shall have the right to contribute to said system, either during his service with the armed forces of the United States or in the Merchant Marine of the United States, and 90 days thereafter or upon his return to the State service, at times and in a manner fixed by the Board of Administration, amounts equal to the contributions which would have been made by him to the system on the basis of his compensation earnable at the commencement of his absence. If he does so contribute, he shall receive credit for State service for such time in the same manner as if he had not been absent from State service. Whenever a member elects to continue and continues his contributions, the State or the contracting city shall thereupon contribute an amount equal to that which it would have contributed under Sections 108 and 109 of this act or under the contract between the board and the legislative body, as the case may be, if the member had not been absent from State service.

Exceptions

Accumulated contributions

Any member so absent or any member absent from State service by reason of having been ordered by an authorized official of the State of California or the United States, to duties outside State service shall be paid upon his request, his accumulated contributions. Such payment shall terminate any election by said member under this section to contribute.

Absence for injury or illness

Time during which a member is absent from State service by reason of injury or illness determined within one year after the end of such absence as arising out of and in the course of his employment, shall be considered as spent in State service, for the purpose of qualification for retirement and death benefits, but not for calculation of retirement benefits, except as he receives compensation, as defined in this act and as distinguished from disability indemnity under the Labor Code, during the absence, and then only to the extent of compensation received.

SEC. 13. Section 49 of said act is amended to read: Stats. 1941, p. 2553

Credit for prior service

Sec. 49. Credit for prior service shall be granted to each person other than persons who are employees of the university or of a contracting city at the time of becoming members of the retirement system, who has rendered such service as defined in this act, and who has become a member of the retirement system on January 1, 1932, or within three years after last rendering prior service, the prior service credited, however, to be one-half year less than the total prior service rendered by him. Credit for prior service shall be granted to each person who is employed by the university at the time of becoming a member of the retirement system regardless of whether he has been retired under the system prior to the effective date hereof, who has rendered such service as defined in this act and who has become a member of the retirement system on August 27, 1937, or within three years after last rendering prior service, the prior service credited, however, to be one-half year less than the total prior service rendered by him.

Credit for prior service shall be granted to each person who is employed by a contracting city at the time of becoming a member of the system, who has rendered such service as defined in this act, and who has become a member of the retirement system within three years after last rendering prior service. Notwithstanding the three sentences next preceding, credit for prior service shall be granted to each person employed by the State including the university, who became a member while employed on a part-time basis, because of amendments to this retirement act, or who became a member prior to said amendments, because of a change in status to a full-time basis, but the prior service credited shall be one-half year less than the total prior service rendered by him. The credit for prior service to be granted persons employed by a contracting city who are included under the retirement system shall be established by contract between the board and the legislative body of such city; and such credit as may be granted to a person shall be in the form of a percentage, not to exceed the analogous percentage applicable to employees of the State, for each year of prior service, of his final compensation in the case of city firemen and city policemen, or average compensation earnable during the three years immediately preceding the date upon which the group or class in which said person was employed, is included in the system in the case of all other employees; and provided further, that said percentage shall be uniform for all city firemen and city policemen employed by any contracting city, according to age at entry into the service of the city, and uniform for all other employees of such city regardless of age at said entry. Prior service so credited shall be the basis for a retirement allowance or benefit as provided in this act only if the membership in the retirement system continues unbroken until retirement on retirement allowance or until the granting of such

other benefit; provided, that termination of membership by withdrawal of accumulated contributions followed by the redeposit of such contributions upon reentrance into State service as herein provided shall not constitute a break in membership, but this section shall not be construed to entitle any person to credit as prior service for time during which he was not in State service as defined in this act.

Stats 1937, p 2281

SEC. 14. Section 51 of said act is amended to read:

Actuarial valuation

Sec. 51. It shall keep in convenient form such data as shall be necessary for the actuarial valuation of the Retirement Fund created by this act. On July 1, 1932, and at the end of every four-year period thereafter, it shall cause to be made an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries under the provisions of this act, and shall further cause to be made an actuarial valuation of the assets and liabilities of the Retirement Fund herein created, and from time to time shall determine the rate of interest being earned on the Retirement Fund.

Postponement

If the war in which the United States is now engaged is not ended before July 1, 1944, the board may postpone the investigation, except as it applies to the mortality among retired persons, and valuation which would otherwise be made in 1944, but such postponement shall not extend beyond the second July 1st next following the end of the war. Upon the basis of any or all of such investigation, valuation, and determination, said board shall adopt such mortality, service and other tables and such interest rate, in lieu of the interest rate specified herein, or any of such items as it shall deem necessary, and shall make such revision in rates of contribution of members as it may deem necessary to comply with the provisions of Section 65 and 65a hereof. No adjustment shall be included in the new rates for time prior to the effective date of such revision.

Stats 1939, p 2605

SEC. 15. Section 58b of said act is amended to read:

Contribution quotation

Sec. 58b. When the legislative body of a municipal corporation desires to consider the participation of said municipal corporation in the retirement system, said body shall ask the Board of Administration for a quotation of the approximate contribution to the retirement system which would be required of the municipal corporation because of such participation. Said approximate contribution quoted by the board and the definitive contribution certified by the board as provided in Section 58c, shall be determined by actuarial valuations of the prior and future service liability under the retirement system, on account of employees of such municipal corporation whose memberships are contemplated, in the determination of the approximate contribution, or who become members, in the determination of the definitive contribution, in the same manner as the contribution required of the State on account of its employees was originally determined; provided, that in consideration of the number of employees of the municipal corporation or other circumstances, a different manner of determining said contribution may be adopted by the board, upon

recommendation of the actuary. The approximate and definitive contributions are similar to premiums under insurance policies. Said approximate contribution shall be quoted by the board to the municipal corporation, subject to the understanding that the definitive contribution certified by the board after the approval of a contract as provided in Section 38c, may differ from said approximate contribution because of (1) change in number or salaries of employees included; (2) change in prior service benefits; (3) time elapsed between said quotation and effective date of said contract; (4) change in effective date of membership; (5) change in manner of determining contribution; and (6) any other changes in the facts or assumptions upon which said determination was based.

Data to be furnished by city

It shall be the duty of the municipal corporation to furnish to the Board of Administration such data about its employees as the board may deem necessary for such valuations including an investigation into the experience among said employees. It shall also be the duty of the municipal corporation, at the option of the Board of Administration, to have such valuations and the investigation and valuation required by Section 51 with respect to its employees, made through a consulting actuary, selected by the board, under contract between the consulting actuary and the municipal corporation, said contract to be subject to the approval of the board, and said valuations to be under the direction of the actuary of the retirement system. The services under said contract shall be deemed services rendered to the municipal corporation and not to the State.

Election of Board of Administration

The Board of Administration, however, may elect to have such valuations made in its office under the direction of the actuary of the retirement system, in lieu of having said valuations made through a consulting actuary. Regardless of how such valuations are made, all data in connection therewith, including work sheets, final results, and reports from said consulting actuary, shall be the property of the Board of Administration and shall be delivered to said board at the conclusion of said valuations. The expense of determining initially such approximate and definitive contributions, and of the investigation and valuation required by Section 51 with respect to its employees, shall be assessed against and paid by the municipal corporation on whose account it is incurred, said payment being made directly to said consulting actuary for services rendered under said contract and directly to the Board of Administration for services rendered by its employees. The board may include each year in the contribution required of the contracting city, a reasonable amount which may differ from city to city as determined annually, to cover the costs of administering the system as it affects the active and retired employees of said city. All such payments made to the Board of Administration by municipal corporations shall be credited to the current appropriation for support of the board and available for expenditure by the board.

Stats 1937, p. 2391
Contribution by Highway Patrol members

SEC. 15.1. Section 65a of said act is amended to read:

Sec. 65a. The normal rates of contribution of each member, who is also a member of the California Highway Patrol, shall be based on his age at July 1, 1935, or at his later entrance into the retirement system, and his age when he entered highway patrol service, both ages being taken to the next lower completed quarter year. The age at entrance into the highway patrol service, if said entrance was prior to July 1, 1935, shall be determined by deducting the total of such service credited to the member at July 1, 1935, from his age at that date. The normal rates of contribution of each such member who entered highway patrol service at or below age 45 shall be such as, on the average for such member, if his service on full salary be uninterrupted and when accumulated with regular interest, added to the equal accumulated contributions of the State and applied according to the tables adopted by the board will provide a retirement allowance upon retirement for service at the age of 60 years, or upon completion of 20 years of highway patrol service at an age higher than 60 years, equal to one-half of his final compensation, less that part of the retirement allowance set forth in Section 83a, which is to be provided by contributions of the State on account of highway patrol service rendered prior to January 1, 1932, if such member affirmatively exercises the option in Section 65d; otherwise, less a pension calculated in the same manner as the pension in Section 83a, but on the basis of highway patrol service rendered by him prior to July 1, 1935. If such member entered highway patrol service at an age greater than 45 years, then his normal rate of contribution shall be such as will provide an average annuity at age 65 equal to one-eightieth of his final compensation, according to tables adopted by the board, for each year of highway patrol service after July 1, 1935, or after entrance into the retirement system if he affirmatively exercises the option in Section 65d. The normal rate of contribution of any member who received credit for service rendered as a member of the highway patrol of a county in California, shall be adjusted in such manner as may be necessary to comply with this section.

Stats 1937, p 2281
Accumulated contributions. Transfer in State service

SEC. 15.2. Section 65b of said act is amended to read:

Sec. 65b. If a member ceases to be a member of the California Highway Patrol or a city fireman or city policeman and continues to be a member of the retirement system in a different employment status, or if the reverse be true, then the accumulated contributions standing to his credit or redeposited by him shall remain in his individual account, and the rate of his contribution thereafter shall be the normal rate provided herein for persons in his new group or class of employment and at his then attained age.

Stats. 1939, p. 2605
Contributions by city policemen or firemen

SEC. 15 3. Section 65e of said act is amended to read:

Sec. 65e. The normal rates of contribution of each member who is also a city fireman or city policeman shall be based on his age at his entrance into the retirement system and his age

when he entered fire or police service, both ages being taken to the next lower completed quarter year. The age at entrance into fire or police service shall be determined by deducting the total of such service from his age at his entrance into the retirement system. The normal rates of contribution of each member who is a city policeman or city fireman and who entered the fire or police service of the city, or became a member of the retirement system, if no credit for prior service is granted, at or below age 45 shall be such as, on the average for such member, if his service on full salary be uninterrupted and when accumulated with regular interest, added to the annual accumulated contributions of the contracting city and applied according to the tables adopted by the board will provide a retirement allowance upon retirement for service under Section 79, at the minimum age at which said retirement is permitted, or upon completion of 20 years of service at an age higher than said minimum age, equal to one-half of his final compensation. If such member entered the fire or police service of the city, or became a member of the retirement system, if no credit for prior service is granted, at an age greater than 45 years, then his normal rate of contribution shall be such as will provide an average annuity at age 65 equal to one-eightieth of his final compensation, according to tables adopted by the board, for each year of fire or police service as a member.

Stats. 1941, p. 2553

SEC. 15.4. Section 79 of said act is amended to read:

Service retirement, etc

Sec. 79. Upon attaining the age of 60 or more years and completing 20 years of continuous State service credited under this act, any member, who is not a member of the California Highway Patrol, city fireman or city policeman, shall be retired upon his written application to the board.

A member who is also a member of the California Highway Patrol and who has completed 20 years of continuous State service credited under this act and attained the age of 50 or more years shall be retired upon his written application to the board.

A city fireman or city policeman who has completed at least 20 years of continuous State service credited under this act, and who has attained at least the minimum optional retirement age, which shall be not less than 55 years or more than 60 years, specified in the contract provided by Section 38c, in lieu of 60 years required of other members, shall be retired upon his written application to the board. Any member, other than members employed by a contracting city and members of the California Highway Patrol, who is separated from State service because of a curtailment of such service or a change in the manner of performing such service, but not because of resignation or dismissal under charges, and who has attained the age of 50 years and is credited with 15 or more years of State service, shall be retired upon his written application to the board; provided, said board determines said separation to be of an extended and uncertain duration,

and not the separation normally experienced by members in positions known at the time of employment to be of limited duration or employed on a seasonal or intermittent basis.

Stats 939, p 2605

SEC. 15.5. Section 83 of said act is amended to read:

Additional pension

Sec. 83. An additional pension, purchased by the contributions of the State, for members other than persons who are employees of the university at the time of becoming members, and members employed by a contracting city. Such additional pension shall be equal to one-seventieth of the average annual compensation earnable by him during the three years ending December 31, 1931, multiplied by the number of years of prior service other than highway patrol service credited to him, except that if a member retires before attaining the age of 65 years, the additional pension shall be reduced to that amount which the value of the pension computed as provided in this paragraph as deferred to age 65, will purchase at the actual age of retirement.

Stats 1939, p 2605

SEC. 16. Section 84 of said act is amended to read:

Second additional pension

Sec. 84. When a member enters the retirement system with credit for prior service, and retires after attaining the age of 70 years, if his final compensation was such that one-half thereof is in excess of the total of his pension, annuity, and additional pension for prior service, a second additional pension for prior service sufficient to cause his retirement allowance to amount to one-half of such final compensation shall be paid him on account of prior service, but in no event shall a greater second additional pension be paid than will cause the total retirement allowance, exclusive of the annuity provided by his accumulated additional contributions, to amount to the sum of four hundred eighty dollars ($480) per year. The provisions of this section shall not apply to the members who are employees of a contracting city unless provided for by contract between the board and the contracting city, but if a member be employed by more than one of such cities, his aggregate retirement allowances shall be taken into account in applying said provisions, and said application shall be made as if the member was employed by one or more offices or departments of the State.

Stats 1939, p 2605

SEC. 17 Section 85 of said act is amended to read:

Retirement for disability Member of Highway Patrol or employee of contracting city

Sec. 85. Any member who is also a member of the California Highway Patrol or is a city policeman or city fireman shall be retired for disability regardless of age or amount of service, if incapacitated for the performance of duty as the result of an injury or disease arising out of and in the course of his employment Incapacity for performance of duty shall be determined by the Board of Administration, but the Industrial Accident Commission shall determine, in the same manner as for all other State employees, whether such incapacity is the result of injury or disease arising out of and in the course of employment. In the absence of an application to the Industrial Accident Commission, filed by a proper party, the board shall proceed with retirement and with the payment of

Absence of application

benefits payable under the retirement system when disability does not result from injury or disease arising out of and in the course of their employment. If the Industrial Accident Commission determines on the basis of such an application subsequently filed, that disability resulted from injury or disease arising out of and in the course of employment, an amount equal to said benefits shall be deducted from the benefits payable under the retirement system because of such determination. Any such member incapacitated for the performance of duty by reason of a cause not included in the immediately preceding sentence, and any other member so incapacitated, regardless of the cause, shall be retired regardless of age but only after 10 years of service to the State, or to the contracting city.

Stats 1941, p. 2553

SEC. 18. Section 90 of said act is amended to read:

Medical examination

Sec. 90. The Board of Administration, may, at its pleasure require any disability beneficiary, under the age of 60, to undergo medical examination. Such examination shall be made by a physician or surgeon, appointed by the board, at the place of residence of said beneficiary or other place mutually agreed upon. Upon the basis of such examination the board shall determine whether said disability beneficiary is still incapacitated, physically or mentally, for service in the office or department of the State or of the contracting city, where he was employed and in the position held by him when retired for disability, or for duties proposed to be assigned to him. If the Board of Administration determines that said beneficiary is not so incapacitated, his retirement allowance shall be canceled forthwith. If he was an employee of the State or of the university he shall be reinstated to the position held by him when retired for disability or to a position in the same classification with duties within his capacity. If he was an employee of a contracting city, the board shall notify the proper official of said city that said disability has been terminated and that said person is eligible for reinstatement to duty. The fact that said person was retired for disability shall not prejudice any right to reinstatement to duty which he may have or claim to have.

In the case of such a member who is an employee of a contracting city, and who for any reason is not so reinstated or is not reemployed by said city in a position subject to the retirement system, he shall be paid an amount which is the actuarial equivalent of his annuity at that time, as based on a disabled life, but said amount shall not exceed the amount of his accumulated contributions as such amount stood at the time of his retirement for disability.

Stats 1941, p 2553

SEC. 19. Section 92 of said act is amended to read:

Gainful occupation, etc

Sec. 92. Should a disability beneficiary, prior to attaining age 60, engage in a gainful occupation not in the State service or should he reenter the State service in a capacity ineligible for membership in the retirement system, the Board of Administration shall reduce the amount of his monthly

pension to an amount which, when added to the compensation earned monthly by him in such occupation, shall not exceed the amount of his monthly compensation at the time of his retirement. Should the earning capacity of such beneficiary be further altered, the board may further alter his pension to an amount which shall not exceed the amount upon which he was originally retired, but which, subject to such limitation, shall equal, when added to the compensation earned by him, the amount of his compensation at the time of his retirement. When such a disability beneficiary reaches age 60, his retirement allowance shall be made equal to the amount upon which he was originally retired, and shall not again be modified for any cause.

Stats 1931, p 1442

SEC. 20. Section 94 of said act is amended to read:

Cancellation

Sec. 94. Should the retirement allowance of any disability beneficiary be canceled for any cause other than reentrance into the State service he shall be paid an amount which is the actuarial equivalent of his annuity at that time, based on a disabled life, but said amount shall not exceed the amount of his accumulated contributions as such amount stood at the time of his retirement for disability.

Stats 1939, p 2605

SEC. 21. Section 100 of said act is amended to read:

Death in service, etc.

Sec. 100. Upon the death before retirement of a member while in the State service, or within four months after the discontinuance of State service, or while physically or mentally incapacitated for the performance of his duty, if such incapacity has been continuous from discontinuance of State service, the retirement system shall be liable for a death benefit, which if an amount is due under clause (3) next following, and if there is a surviving wife or surviving children under 18 years of age, shall be paid in monthly installments and to the surviving wife and children as prescribed therein, otherwise such death benefit shall be paid to his estate, or to such person having an insurable interest in his life as he has nominated by written designation duly executed and filed with the retirement board. Such death benefit shall consist of:

(1) His accumulated contributions, and in addition thereto,

(2) An amount, provided from contributions by the State, or by a contracting city, which shall be equal to one-twelfth of the annual compensation earnable by the deceased during the 12 months immediately preceding his death, multiplied by the number of completed years of service under the system, but not to exceed 50 per centum of such compensation.

If no amount is due under clause (3) next following, a member, or a beneficiary after the death of a member, may elect, by written designation, duly executed, and filed with the Board of Administration to have the death benefit provided in clauses (1) and (2), paid in monthly installments, fixed in number or amount, all subject to such rules and regulations as the board may adopt. Regular interest shall be credited on the unpaid balance of such benefit, at rates then in use under the system, as adopted by the board from time to time.

If such member is a member of the California Highway Patrol or is a city policeman or city fireman and if, as determined by the Industrial Accident Commission in the same manner as for all other State or city employees, death shall be the result of injury or disease arising out of and in the course of employment, then in addition to the amounts set forth in clauses (1) and (2), there shall be paid

(3) An amount sufficient, when added to the amounts provided in the next preceding paragraphs (1) and (2), to provide, when applied according to tables adopted by the board, a monthly death benefit allowance, equal to one-half of the compensation earnable by such member during the five years immediately preceding his death, to be paid to the surviving wife to whom said member was married prior to sustaining said injury, to continue as long as she shall live or until her remarriage; or if there is no widow, or if the widow dies or remarries before all children of such deceased member attain the age of 18 years, then to his child or children under said age collectively, to continue until every child dies or attains said age. If payment of the allowance is stopped because of remarriage of the widow or attainment of the age of 18 years by a child, before the sum of the monthly payment made equals the sum of the amounts provided in the next preceding clauses (1) and (2), then an amount equal to the difference between said sums shall be paid in one amount to the remarried widow, or if there is no widow, to the surviving children of the deceased member, share and share alike.

Absence of application to I A C.

In the absence of an application to the Industrial Accident Commission, filed by a proper party, the board shall proceed with the payment of benefits payable under the retirement system when death does not result from injury or disease arising out of and in the course of their employment. If the Industrial Accident Commission determines on the basis of such an application subsequently filed, that death resulted from injury or disease arising out of and in the course of employment, an amount equal to the portion of said benefits which were provided by contributions of the State, shall be deducted from the benefits payable under the retirement system because of such determination.

Stats 1941, p 2553

SEC. 21.5. Section 101 of said act is amended to read:

Effect of workmen's compensation insurance

Sec. 101. No modification of the benefits provided herein shall be made on account of any amounts payable to a beneficiary, as defined herein, under Division 4 of the Labor Code, except that the portion of any retirement allowance or death allowance which is provided by contributions of the State or of a contracting city and which is payable by the retirement system because of the death or retirement of any member of the California Highway Patrol or of any city policeman or city fireman, as a result of injury or illness arising out of and in the course of employment, shall be reduced in the manner hereinafter described, by the amount of any benefits, other

than medical benefits, payable to or on account of such member under Division 4 of the Labor Code, because of his death or the disability resulting in his retirement.

If said benefits under Division 4 of the Labor Code shall run concurrently with said allowance hereunder and shall be due the beneficiary in payments which are equal to or less than said portion of the retirement allowance or death allowance, then said portion shall be reduced each month by the amount of said benefits so due during said month, and the beneficiary shall have no more right to such reduction than if the retirement system had never existed.

If said benefits under Division 4 of the Labor Code shall run concurrently with the allowance hereunder and shall be due to the beneficiary in payments which are greater than said portion of the retirement allowance or death allowance, then payment of said portion shall be withheld until the total of the amounts so withheld shall equal the total of said benefits paid, and the beneficiary shall have no more right to such amounts withheld than if the retirement system had never existed.

It is the purpose of the preceding paragraphs of this section to reduce the portion of the retirement or death allowance payable from the retirement fund and which is provided by contributions of the State or by a contracting city, by the amount of benefits, other than medical benefits, due to the beneficiary concurrently with said portion, under Division 4 of the Labor Code, and the payment before due date by the commutation through compromise or otherwise of such benefits shall not prevent the reduction of said portion, as provided in this section, in the amounts which would have been payable concurrently with the retirement allowance in the absence of such commutation.

If any benefits, other than medical benefits, shall have been paid under Division 4 of the Labor Code because of a permanent disability concurrently with payments of wages or salary, to said beneficiary, then payment of said portion of the retirement allowance or death allowance shall be withheld until the total of the amounts so withheld shall equal the total of such benefits paid because of the permanent disability, and the beneficiary shall have no more right to such amounts withheld than if the retirement system had never existed. Said benefits which are payable for time during which salary is not paid and prior to the effective date of the retirement or death allowance, shall not be considered hereunder.

New section

SEC. 22. Section 101b is added to said act, to read:

Agreement with State Compensation Insurance Fund

Sec. 101b. The board may enter into an agreement with the State Compensation Insurance Fund under which said insurance fund shall represent the retirement system, as its agent, in such proceedings instituted or to be instituted before the Industrial Accident Commission under authority of Sections 85 and 100, as may be referred to it by the board for such purpose. The agreed cost of such service and the

expenses incidental thereto shall be paid from the fund out of which the compensation of an injured State employee is paid, or by the contracting city by which an injured member is employed.

New section

SEC. 23. Section 101c is added to said act, to read:

Recovery from tortfeasor

Sec. 101c. If an injury, known to result in the retirement of and/or the death of a member of the retirement system is the proximate consequence of the act of a person other than his employer, the board shall have the right to recover from said person, on behalf of the retirement system, an amount which shall be the actuarial equivalent of the benefits which are provided by contributions of the State and for which the retirement system shall be liable because of said injury and/or death. The board may enter into a contract with the State Compensation Insurance Fund under which the said insurance fund, for a consideration to it, in its own name or in the name of the board, may do any and all things necessary to recover on behalf of the retirement system any and all amounts which the board might recover from third persons under Chapter 5 of Part 1 of Division 4 of the Labor Code, or under any provisions of this act, or which an insurer might recover under Section 11662 of the Insurance Code, or otherwise, including the right to commence and prosecute actions, to file liens, to intervene in court proceedings, or to compromise claims before or after commencement of suit, except that any claim in favor of the retirement system, against such third person, may be compromised only in such amount as may be recommended by said insurance fund and approved by a person duly authorized by the board for such purpose. The agreed cost of such service and the expense incidental thereto is a proper charge against the fund out of which the compensation of an injured State employee is paid; and such cost and expense shall be reimbursed to the retirement system by the contracting city by which an injured member is employed.

Contract with State fund

Application of sums recovered

Any amount recovered by way of subrogation by the employer, workmen's compensation insurer or retirement system shall be applied first to the amounts which the employer or its insurer shall have paid or become obligated to pay, and second, on the amounts which the retirement system shall have paid or become obligated to pay.

Amounts by which retirement and death allowances are reduced under the provisions of Section 101, and net amounts recovered from third persons under the provisions of this section, shall be paid by the retirement system to the fund out of which the compensation of the injured member is paid, or to the contracting city which pays the compensation of the injured member, as the case may be.

New section

SEC. 23.5. Section 103a is added to said act, to read:

Right to allowance

Sec. 103a. After a member has qualified as to service and disability for retirement for disability, or as to age and service for retirement for service, nothing shall deprive him of the right to a retirement allowance as determined under this act.

Such retirement allowance and qualification therefor, shall be subject otherwise to the provisions of this act.

Stats 1931, p 1442
Reimbursement of fund

SEC. 24. Section 111 of said act is amended to read:

Sec. 111. Any fund out of which payments are made under the provisions of Section 109 of this act may be reimbursed to the extent of such payments by transfer of a sufficient sum for such reimbursement from another fund or funds under the control of the same disbursing officer. The disbursing officer shall certify to the State Controller the amount or amounts to be thus transferred, the fund or funds from which and to which the transfer is to be made, and the Controller shall thereupon make the transfer as directed in the certificate.

New section
Adjustment of payments

SEC. 25. Section 114 is added to said act, to read:

Sec. 114. If more or less than the correct amount of contribution required by this act of members, the State, or contracting city, is or has been paid, proper adjustment shall be made in connection with subsequent payments, or such adjustments may be made by direct cash payments between the member, State, or contracting city, in connection with whom the error was made, and the Board of Administration. Adjustments to correct any other errors in payments to or by the Board of Administration may be made in the same manner.

CHAPTER 641

Stats 1939, p 1067, amended

An act to add Sections 6210.3, 6210.4 and 6220 to the Public Resources Code, relating to reservations of easements for convenient access, in sale, lease or rental of State owned lands, and to acceptance of quitclaim deeds by the State Land Commission.

In effect August 4, 1943

[Approved by Governor May 20, 1943. Filed with Secretary of State May 20, 1943.]

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

New section

SECTION 1. Section 6210.3 is added to the Public Resources Code, to read:

Easement Lakes

6210.3. No lands owned by the State which lands front upon any lake or are near to any lake, convenient access to which is not provided by public road or roads, or otherwise, shall ever be sold, leased or rented, without reserving to the people of the State an easement across the lands for convenient access to the waters of the lake.

New section

SEC. 2. Section 6210.4 is added to said code, to read:

Easement: Other State land

6210.4. No lands owned by the State, which lands provide the only convenient means of access to other lands owned by the State, shall ever be sold, leased or rented without reserving therefrom to the State and its successors in interest in the other lands, an easement for convenient access to the other lands.

SEC. 3. Section 6220 is added to said code, to read: New section

6220. Whenever authority is not vested in another officer, agency or commission to accept quitclaim deeds on behalf of the State, the authority is vested in the State Lands Commission. Authority to accept deeds

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CHAPTER 642

An act to amend Sections 1547 and 2762 of the Penal Code and to repeal Section 2783 of the Penal Code, relating to prisoners.

[Approved by Governor May 20, 1943. Filed with Secretary of State May 20, 1943.] In effect August 4, 1943

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

SECTION 1. Section 1547 of the Penal Code is amended to read: Stats 1905, p 223

1547. The Governor may offer a reward not exceeding one thousand dollars ($1,000) payable out of the General Fund, for the apprehension— Rewards for apprehension of fugitives from justice

1. Of any convict who has escaped from a State's prison, prison camp, prison farm, or the custody of any prison officer or employee or as further provided in Sections 3059, 4530, or 4531 of the Penal Code;

2. Of any person who has committed, or is charged with the commission of an offense punishable with death;

3. For the arrest of each person engaged in the robbery of, or any attempt to rob any person or persons upon or having in charge in whole or in part any stagecoach, wagon, railroad train or other conveyance engaged at the time in carrying passengers or any private conveyance within this State.

The reward to be paid to the person or persons making the arrest, immediately upon the conviction of the person or persons so arrested.

SEC. 2. Section 2762 of the Penal Code is amended to read: Stats 1941, p 2119

2762. Said department shall fix the rate to be expended for such labor at not to exceed two dollars and fifty cents ($2.50) per day for each day which each convict actually performs labor upon the construction, improvement or maintenance of a State highway, and shall monthly set aside funds to pay for such labor. Said department shall set up an account for each convict which shall be credited monthly with an amount computed by multiplying the daily rate by the number of days such convict actually performed labor during the month. Such account shall be debited monthly with such convict's expenses for transportation; his drawings from the commissary, such as clothing and toilet articles; and his proportionate share of all expenses for the proper maintenance of the road camp, including the expenses for food, medicine, medical attendance, clerical help. The net credits to each convict's See also Stats 1943 Ch 643 Payment for convict labor

account shall not be permitted to exceed an average of seventy-five cents ($0.75) per day for each day of actual work performed in the road camp. The Department of Public Works in computing the debits to be made to the convict's accounts, may add not to exceed ten (10) per cent on all items except transportation.

Stats 1941, p 1648

SEC. 3. Section 2783 of the Penal Code is hereby repealed

CHAPTER 643

An act to amend Section 2762 of the Penal Code, relating to prison road camps.

In effect August 4, 1943

[Approved by Governor May 20, 1943 Filed with Secretary of State May 20, 1943.]

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

Stats 1943, Ch 642

SECTION 1. Section 2762 of the Penal Code is amended to read:

Payment for convict labor

2762. Said department shall fix the rate to be expended for such labor at not to exceed three dollars ($3) per day for each day which each convict actually performs labor upon the construction, improvement or maintenance of a State highway, and shall monthly set aside funds to pay for such labor. Said department shall set up an account for each convict which shall be credited monthly with an amount computed by multiplying the daily rate by the number of days such convict actually performed labor during the month. Such account shall be debited monthly with such convict's expenses for transportation; his drawings from the commissary, such as clothing and toilet articles; and his proportionate share of all expenses for the proper maintenance of the road camp, including the expenses for food, medicine, medical attendance, clerical help, and the pro rata cost of reward for capturing escapes from the road camp, which award is hereby fixed at the sum of one hundred fifty dollars ($150) for the capture of each escaped prisoner, payable to any individual or peace officer. The net credits to each convict's account shall not be permitted to exceed an average of seventy-five cents ($0.75) per day for each day of actual work performed in the road camp.

The Department of Public Works, in computing the debits to be made to the convict's accounts, may add not to exceed 10 per cent on all items except transportation and awards for escapes. When any prisoner escapes the Department of Public Works, after debiting the accounts of the convicts in the camp from which the escape was made, shall set aside the sum of one hundred fifty dollars ($150), and at any time within four years after said escape shall pay the award to the person entitled thereto. No such award can be claimed or paid more than four years after the escape to which it relates. All

Sum set aside for award

amounts to the credit of any convict who escapes shall be applied to the payment of said award before any debit is made against the remainder of the prisoners in the camp so that the amounts debited shall be the difference between one hundred fifty dollars ($150) and the amount to the credit of the escaped convict.

CHAPTER 644

An act to amend Sections 14084 and 14200 of the Health and Safety Code, relating to weed abatement and removal of fire hazards in fire protection districts in unincorporated areas, declaring the urgency thereof, to take effect immediately.

Stats 1939, p 482, amended

[Approved by Governor May 20, 1943 Filed with Secretary of State May 20, 1943.]

In effect immediately

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

SECTION 1. Section 14084 of the Health and Safety Code is hereby amended to read:

Stats 1939, p 482

14084. It may order the clearing of land or the removal of dry grass, stubble, brush, rubbish, litter, or other inflammable material, if, in its judgment, the inflammable material endangers the public safety by creating a fire hazard. The provisions of Part 5, Division 12, of this code are made applicable to the fire protection districts organized and existing pursuant to this chapter. In the application of the provision of said Part 5, Division 12, to proceedings under this chapter, the terms "board of supervisors," or "board" when used in said Part 5, shall mean the board of fire commissioners acting under this chapter; and the officers designated in Section 14890, of said Part 5, shall mean the members of the fire department of said district.

Land clearance

Board of fire commissioners

SEC. 2. Section 14200 of the Health and Safety Code is hereby amended to read:

Stats 1939, p 482

14200. When the respective territories of any city and any district are contiguous they may contract, for one year or more, for fire protection service by the district throughout or within part of the area of the city. Occupants of property in the vicinity of the district not included within the territory of any city or other fire protection district, and such district may contract, for one year or more, for fire protection service by the district for the property described in the contract, which such contract shall provide for fixed annual payment of agreed amount by the occupant of the property to the district to be paid in advance at the date of the making of such contract, and on the even date thereof for each subsequent year covered by the contract.

Contracts with cities, etc

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of

Urgency

Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

Large areas of weed and rubbish infested territory are scattered in through and around fire protection districts in such quantities that conflagrations therein are very often of such dimensions that they are beyond the powers of district fire fighting equipment to combat adequately. Such fire hazards are an annual menace which develop particularly during the dry months. Such fire hazard menace will develop in the areas of fire districts before this act would go into effect unless this is made an urgency measure. In order that such fire hazards may be eliminated before the approaching dry season to the greater security of life and property it is desirable that this act go into immediate effect.

CHAPTER 645

Stats 1943, Ch 71, amended

An act to amend Section 8812 of the Education Code, relating to the establishment of junior colleges.

In effect August 4, 1943

[Approved by Governor May 20, 1943. Filed with Secretary of State May 20, 1943.]

Note.—See Stats. 1943, Ch. 71.

CHAPTER 646

Stats 1933, p 60, amended

An act to amend Section 92 of the Agricultural Code, relating to the basis of allocation to county, district or combined county and district fairs.

In effect August 4, 1943

[Approved by Governor May 20, 1943. Filed with Secretary of State May 20, 1943.]

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

Stats 1941, p 2730

SECTION 1. Section 92 of the Agricultural Code is hereby amended to read as follows:

State premium money

92. The Department of Finance shall apportion any money appropriated by the State for the encouragement of county, district or combined county and district fairs to the various agricultural fairs on the basis of the amount which each fair actually paid in premiums for agricultural, horticultural, mineral and live stock exhibits, and exhibits of domestic arts and agricultural mechanics made or manufactured for other than commercial purposes in each year. The money so apportioned shall be paid to the several counties and district agricultural associations as soon as such apportionment is determined.

Advances

The Department of Finance, out of any money on hand to be apportioned, may advance to any county or district agri-

cultural association, for the purpose of paying premiums, at any time during the year, any portion of the money to which, in the opinion of the Director of Finance, the county or district agricultural association will become entitled for that year. The county or district agricultural association shall deposit such money in a separate bank account approved by the Director of Finance in accordance with the provisions of Section 10 of an act entitled "An act to authorize and control the deposit in banks of money belonging to or in the custody of the State and to repeal all acts or parts of acts in conflict with this act," approved April 12, 1923, as amended. Such money may be expended for premiums, capital outlay, including purchase of land, construction, improvements, equipment, or other purposes for the encouragement of county or district agricultural association fairs pursuant to a budget submitted to, and approved by, the Department of Finance subject to the provisions of Section 677.5 of the Political Code.

Deposit in banks

Stats. 1935, p. 21

Expenditures

All sums expended from such moneys for construction and improvements by counties shall be subject to the provisions of Section 4041.18 of the Political Code. The county auditor or secretary of any such fair desiring to share in any such appropriation shall file with the Department of Finance on or before December 31st, of each year, a sworn statement setting forth the actual amount paid for premiums by such fair held in that year.

Statement of premiums paid

Six thousand dollars ($6,000) shall be the maximum base of allocation paid any fair for its first year of operation, and thereafter in each subsequent year in which a fair is held the maximum base of allocation shall increase by 10 per cent over the maximum base for the year in which a fair was last held.

Allocation base

In the event the premiums paid during any year in which a fair is held are less than the maximum base of allocation for that year, the base of allocation for that year shall be the premiums so paid during such year. For any fair operated prior to 1933 which received, or was qualified to receive, money from appropriations for the support of agricultural fairs, the basis may be increased 10 per cent for each year in which a fair was held from the time the fair was first held, except that if no fair was held by the county or district for a period of five or more years the percentage of increase shall apply only from the first fair held after said period. Any fair may pay premiums in an amount greater than that used as the base of apportionment to it.

The Department of Finance shall prescribe rules and regulations for the judging of exhibits, and the maximum amount of premiums which may be offered and paid for all classes, sections, and types of exhibits. No fair shall receive any apportionment of funds under this section unless it complies with such rules and regulations.

Department of Finance Rules and regulations

No allotment from the appropriation herein provided shall be made for more than one fair in any one year in any county or district. The fact that a county or district contracts one

Restrictions on allotments

with the other or with a county fair association, to hold an agricultural fair shall not bar it from receiving a proper proportion of the moneys herein appropriated, except that no county or district may hold a joint or combined fair and receive an allotment of money under the provisions of this section. No fair for which a separate appropriation is made by the State shall participate in the apportionment of any money appropriated for the encouragement of county and district agricultural fairs. On or after January 1, 1943, allotments from the appropriation herein provided shall be made only to district agricultural associations or counties which received allotments under this section on the basis of the premiums paid at fairs held during the calendar year 1941 except that: (1) A district agricultural association which did not receive an allotment under this section on the basis of the premiums paid at a fair held during the calendar year 1941 may receive an allotment as provided in this section unless a county whose area lies in whole or in part within the boundaries of the agricultural district received an allotment under this section on the basis of the premiums paid at a fair held during the calendar year 1941; (2) A district agricultural association which did not receive an allotment under this section on the basis of the premiums paid at a fair held during the calendar year 1941 may receive an allotment as provided in this section; provided, the board of supervisors of each county, whose area lies in whole or in part within the boundaries of the agricultural district and which received an allotment under this section on the basis of the premiums paid at a fair held during the calendar year 1941, shall by resolution announce its intention to permanently discontinue the holding of fairs for which the county would be eligible to participate in the allocation from the appropriation herein provided. A certified copy of said resolution shall be filed with the Department of Finance. Upon adoption of said resolution by the board of supervisors, and the filing thereof as herein provided, the county referred to shall no longer be eligible to receive allotments under this section and the district agricultural association which becomes eligible to receive an allotment due to the adoption of said resolution shall, for the purpose of determining the maximum base of allocation for said association, be entitled to receive credit for the fairs previously held by said county and said fairs shall be considered as fairs held by the association in calculating the maximum base for said association as provided herein. Within one year from and after the date said resolution is adopted, the county shall pay to said district agricultural association the unexpended balance of any moneys previously apportioned to said county under this section.

Exceptions

Resolution

Examination of books and records

The Department of Finance, in its discretion, may at any time examine the books and records of any fair to determine the correctness of any statement or report filed with the Department of Finance.

CHAPTER 647

An act to add Sections 784.9 and 789.1 to the Agricultural Code, relating to fruits, nuts and vegetables.

Stats 1933, p 60, amended

[Approved by Governor May 20, 1943 Filed with Secretary of State May 20, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 784.9 is added to the Agricultural Code, to read:

New section

784.9. It is unlawful to prepare, pack, place, deliver for shipment, deliver for sale, load, ship, transport or sell any nuts or fresh fruits or vegetables in bulk or in any container or subcontainer unless 90 per cent by weight or more of such fruits, nuts or vegetables in bulk or in any container or subcontainer, as established by the inspection of a representative sample, are free from insect injury which has penetrated or damaged the edible portion, worms, mold or decay. This section applies only to those fruits, nuts or vegetables for which specific quality standards are not otherwise established in this chapter.

Freedom from insect injury

Application of section

SEC. 2. Section 789.1 is added to said code, to read:

New section

789.1. No person, forwarding company or common carrier transporting any fruits, nuts or vegetables at the request of the shipper or owner thereof shall be deemed to be in violation of any provision of this chapter, unless such person, forwarding company or common carrier shall wilfully fail or refuse to stop the transportation thereof with reasonable dispatch after being notified in writing by any enforcing officer of this chapter that such products are found to be delivered for shipment in violation of this chapter.

Refusal to stop shipment after notice

CHAPTER 648

An act to add Section 45.1 to the California Irrigation District Act, and Section 26232 to the Water Code, relating to the assessment and redemption of property.

Stats 1897, p 254, amended

Stats. 1943, Ch 368, amended

[Approved by Governor May 20, 1943. Filed with Secretary of State May 20, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 45.1 is added to the California Irrigation District Act, to read:

New section

Sec. 45.1. No incorrect statement or estimate of the amount of irrigation district assessments due or amount required to redeem property from delinquent irrigation district assessments shall be binding upon the district or its officers unless such incorrect statement or estimate was in writing signed by the collector of the district and relied upon in good faith by the party paying the amount designated therein.

Incorrect estimate of assessments

Note.—See Stats. 1943, Ch. 368.

Effect, Stats. 1943, Ch. 368

SEC. 3. Section 2 of this act becomes operative only if the Water Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said code takes effect; at which time Section 45.1 of the California Irrigation District Act added by this act is hereby repealed.

Repeal

CHAPTER 649

Stats 1943, Ch. 71, amended

An act to amend Section 8406 of the Education Code, relating to kindergartens.

In effect August 4, 1943

[Approved by Governor May 20, 1943. Filed with Secretary of State May 20, 1943.]

Note.—See Stats. 1943, Ch. 71.

CHAPTER 650

Stats 1937, p 1005, amended

An act to amend Sections 5355 and 5356 of and to add Sections 5355.1, 5356.1 and 5356.2 to the Welfare and Institutions Code, relating to the commitment, support, parole, and discharge of narcotic addicts.

In effect August 4, 1943

[Approved by Governor May 20, 1943. Filed with Secretary of State May 20, 1943.]

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

Stats. 1941, p 3203

SECTION 1. Section 5355 of the Welfare and Institutions Code is hereby amended to read as follows:

Order committing

5355. If, after a hearing and examination, the judge believes the person charged is a drug addict, he shall make an order committing such person to the Department of Institutions for placement in a designated hospital for an indeterminate period of not less than eight months nor more than two years; but no such order shall be made in respect to any person who has theretofore been committed to and has received treatment at any State hospital unless there has been first filed with the court a written report of the superintendent of the hospital stating that the person is a suitable case for treatment at a State hospital and if such report is not filed, the drug addict shall forthwith be discharged.

Good character

Before a person is committed to a State hospital, however, satisfactory evidence shall be submitted to the trial judge showing that the person to be committed is not of bad repute or bad character, apart from his habit for which the commitment is made, and that there is reasonable ground for believing that the person if committed will be permanently benefited by treatment.

SEC. 2. Section 5355.1 is hereby added to the Welfare and Institutions Code, to read as follows: New section

5355.1. Any person committed as a drug addict except such persons as have been committed under the provisions of Section 5360, may be paroled after the expiration of eight months under the same rules and conditions under which the insane are paroled, and the Department of Institutions may, upon recommendation of the superintendent, discharge any person committed under this article after the expiration of eight months and before the expiration of the maximum term of confinement when it is satisfied that he will not receive substantial benefit from hospital treatment. Parole

SEC. 2.5. Section 5356 of the Welfare and Institutions Code is hereby amended to read as follows: Stats 1941, p. 3203

5356. At the hearing the court shall inquire into the financial condition of the person committed or, if the person is a minor, of the parent, guardian, or other person charged with his support. If the court finds such person or persons able to do so in whole or in part, a further order shall be made requiring him or them to pay, to the extent the judge considers just, the expenses of the proceedings in connection with his commitment, and to pay to the county of which he is a bona fide resident, such sums as the court deems proper, during such time as the person committed remains in the hospital or on parole to a licensed home for the care of such person. The court shall make a further order requiring such person or persons to pay to the Department of Institutions the expense of delivery of the patient to the State hospital for placement in which he was committed, which shall be paid to and collected by the department and credited to the appropriation for transportation of patients. Payment of expenses

The county auditor shall keep a record of such payments ordered to be made to the county, and shall receive, receipt for, and record such payments made, pay over such payments to the county treasurer, see that the persons ordered to make such payments comply with such orders, and report to the court any failure on the part of such persons to make such payments. Record

SEC. 3. Section 5356.1 is hereby added to the Welfare and Institutions Code, to read as follows: New section

5356.1. The county from which each person is committed under Section 5355 shall pay the State the cost of care of such person, for the time the person committed remains an inmate of the institution or on parole to a licensed home for the care of such person, at the monthly rate therefor as fixed and determined by the Director of Institutions from time to time, but in no case shall it exceed the rate of forty dollars ($40) per month. County payments

SEC. 4. Section 5356.2 is hereby added to the Welfare and Institutions Code, to read as follows: New section

5356.2. Each county auditor shall include in his State settlement report rendered to the Controller in the months of State settlement report

January and June, the amount due under the provision of Section 5356.1, and the county treasurer, at the time of the settlement with the State in such months, shall pay to the State Treasurer, upon the order of the Controller, the amounts so due.

CHAPTER 651

Stats 1937, p 1005, amended

An act to add Section 6564 to the Welfare and Institutions Code, relating to nonprofit stores on the grounds of State institutions.

In effect August 4, 1943

[Approved by Governor May 20, 1943. Filed with Secretary of State May 20, 1943.]

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

New section

SECTION 1. Section 6564 is hereby added to the Welfare and Institutions Code, to read as follows:

Canteen for institution inmates

6564. The Director of Institutions may set aside and designate any space on the grounds of any of the institutions under the jurisdiction of the department that is not needed for other authorized purposes, to enable such institution to establish and maintain therein a store or canteen for the sale to or for the benefit of inmates of the institution of candies, cigarettes, sundries and other articles. The stores shall be conducted subject to the rules and regulations of the department under the direction of the superintendents of the institutions who shall fix such rental, utility and service charges as will reimburse the institutions for the cost thereof. The stores shall be conducted on a nonprofit basis but any profits derived shall be deposited in the benefit fund of each institution from which derived as set forth in Section 165.

Determination

Before any store is authorized or established, the Director of Institutions shall first determine that such facilities are not being furnished adequately by private enterprise in the community where it is proposed to locate the store, and the director may hold public hearings or cause surveys to be made to determine the same.

Rental of space

The Director of Institutions may rent such space to private individuals, for the maintenance of a store or canteen at any of the said institutions upon such terms and subject to such regulations as are approved by the Department of Finance, in accordance with the provisions of Section 675 of the Political Code.

CHAPTER 652

An act to amend Sections 5701 and 5701.5 of the Welfare and Institutions Code, relating to licensing of private institutions.

Stats. 1937, p. 1005, amended

[Approved by Governor May 20, 1943. Filed with Secretary of State May 20, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 5701 of the Welfare and Institutions Code is hereby amended to read as follows:

Stats. 1941, p. 2433

5701. Every application for a license shall be accompanied by a plan of the premises proposed to be occupied, describing the capacities of the buildings for the uses intended, the extent and location of grounds appurtenant thereto, and the number of patients proposed to be received therein, with such other information, and in such form, as the department requires. The application shall be accompanied by the proper license fee.

Plan of premises

The amount of the license fee for each fiscal year is that fixed by the following schedule:

License fee schedule

(a) For establishments other than those designated in Section 5701.5, licensed to receive not more than six (6) patients, the fee is five dollars ($5).

(b) For establishments licensed to receive more than six (6) but not more than twenty-five (25) patients, the fee is twenty-five dollars ($25).

(c) For establishments licensed to receive more than twenty-five (25) but not more than fifty (50) patients, the fee is fifty dollars ($50).

(d) For establishments licensed to receive more than fifty (50) patients, the fee is seventy-five dollars ($75).

In case of the issuance of a license on or after the first day of January next succeeding the beginning of the fiscal year, the license fee for the remainder of the fiscal year is one-half the sum fixed for the entire fiscal year. The department shall require a license fee, in situations where licensed establishments increase their number of patients during any fiscal year, based upon a pro rata charge under the schedule set forth herein.

No additional fee will be required in the event of an application for transfer of a license to another person to operate the same establishment. No additional license fee shall be required for the transfer of a license issued in the name of one person to operate an establishment at a certain location where an application is received to transfer that license to the same person to operate an establishment at a different location.

Transfer of license

SEC. 2. Section 5701.5 of the Welfare and Institutions Code is hereby amended to read as follows:

Stats. 1939, p. 2019

5701.5. The department may grant a license to a private home to care for patients paroled from State hospitals up to

License to private home

and including six in number without payment of any license fee.

CHAPTER 653

Stats 1937, p 1005, amended

An act to amend Sections 165, 6656.5, 6660.5 and 6661 of the Welfare and Institutions Code, relating to funds and personal property belonging to patients in State institutions.

In effect August 4, 1943

[Approved by Governor May 20, 1943. Filed with Secretary of State May 20, 1943.]

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

Stats 1937, p 1005

SECTION 1. Section 165 of the Welfare and Institutions Code is hereby amended to read as follows:

Deposit of inmate's funds

165. The superintendent of any State institution under the jurisdiction of the Department of Institutions may deposit any funds of inmates in his possession in any bank in the State. The superintendent may deposit the interest accruing on such funds in a special fund, to be designated the "Benefit Fund," of which he shall be the trustee. He may expend the moneys in any such fund for the education or entertainment of the inmates of the institution.

"Benefit Fund"

Stats 1941, p 2505

SEC. 2. Section 6656.5 of the Welfare and Institutions Code is hereby amended to read as follows:

Personal deposit fund

6656.5. There is at each institution under the jurisdiction of the Department of Institutions, with the exception of the correctional schools and the home and workshops for the blind, a fund known as the patients' personal deposit fund. Any funds coming into the possession of the superintendent, belonging to any inmate in that institution, shall be deposited in the name of that patient in the patients' personal deposit fund, except that if a guardian of the estate is appointed for the patient then he shall have the right to demand and receive such funds. Whenever the sum belonging to any one patient, deposited in the patients' personal deposit fund, exceeds the sum of one hundred fifty dollars ($150), the excess may be applied to the payment of the care, support and maintenance and medical attendance of the patient while in the institution. Any of the sum of one hundred fifty dollars ($150) or under may be used to purchase the personal necessities of the patient or be applied to the payment of his burial expenses.

Stats 1941, p 2505

SEC. 3. Section 6660.5 of the Welfare and Institutions Code is hereby amended to read as follows:

Personal property under $300

6660.5. Whenever it appears that a patient confined in a State institution owns personal property which requires safekeeping for the benefit of the patient, and the total value of the estate of such patient in this State does not exceed three hundred dollars ($300), the Secretary of the Department of

Institutions may remove or cause to be removed such personal property from wherever located to a place of safekeeping for the benefit of the patient.

Expenses

The expenses of such removal and safekeeping shall be paid from funds appropriated for the support of the institution of which the patient is an inmate. The Secretary of the Department of Institutions shall have the powers and privileges of a peace officer so far as necessary to carry out the provisions of this section.

Sale at public auction

When it appears at any time after one year after the removal for safekeeping of such personal property of any patient, that the patient is incurably insane or is likely to remain in the State institution indefinitely, then any of those articles of personal property which can not be used by the patient at the institution may be sold at public auction and the proceeds therefrom shall first be applied in reimbursement of the expenses so incurred and the balance shall be deposited to the patient's credit in the patients' personal deposit fund. All moneys so received as reimbursement shall be deposited in the State treasury in augmentation of the appropriation from which the expenses were paid.

Stats 1941, p. 2508

SEC. 4. Section 6661 of the Welfare and Institutions Code is hereby amended to read as follows:

Collection of money owed inmate. Affidavit

6661. When a person under commitment to the Department of Institutions has money due or owing to him, the total amount of which does not exceed the sum of three hundred dollars ($300), the superintendent of the institution of which the person is an inmate may collect any money so due or owing upon furnishing to the person, representative, officer, body or corporation in possession of or owing any such sums, an affidavit executed by the superintendent and the Secretary of the Department of Institutions. The affidavit shall contain the name of the institution of which the person is an inmate, and the statement that the total amount of such sums known to be due to the person does not exceed the sum of three hundred dollars ($300). Such sums shall be delivered to the superintendent and shall be deposited by him in the patients' personal deposit fund as provided in Section 6656.5 of this code.

Receipt

The receipt of such superintendent shall constitute sufficient acquittance for any payment of money made pursuant to the provisions of this section and shall fully discharge such person, representative, officer, body or corporation from any further liability with reference to the amount of money so paid.

Annual account

The superintendent of each institution shall annually on the thirtieth day of June of each year render an account to the Secretary of the Department of Institutions, which account shall, in addition to such other matters as may be required by the Secretary of the Department of Institutions, contain a full, true, and accurate account, under oath, of all moneys received by him in accordance with the provisions of this section, of all disbursements thereof, and showing the balance at the date of the rendering thereof.

CHAPTER 654

Stats. 1933, p. 1533, amended

An act to amend Section 6 of an act entitled "An act to provide for the replacement and/or the reconstruction in whole or in part of all city, county, school district, or other special district buildings wholly or partially destroyed by earthquakes since January, 1933, declaring the urgency thereof and providing that this act shall take effect immediately," approved May 26, 1933, relating to the payment, disposition and expenditure of rentals payable under said act.

In effect August 4, 1943

[Approved by Governor May 20, 1943. Filed with Secretary of State May 20, 1943.]

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

Stats 1933, p. 1533

SECTION 1. Section 6 of the act cited in the title hereof is amended to read:

Rentals

Sec. 6. All rentals payable by a city, county, school district, or other special district shall be payable at such times as the Board of Public Building Reconstruction may designate, and when due shall be transmitted by the governing board of each city, county, school district, or other special district concerned to the Board of Public Building Reconstruction, which shall deposit said sums in the State Treasury to the credit of the "Public Building Reconstruction Fund," except that the Board of Public Building Reconstruction may require each such city, county, school district, or other special district to pay such rentals direct to an authorized representative of the Reconstruction Finance Corporation for credit to the account of the Board of Public Building Reconstruction. All moneys paid into the "Public Building Reconstruction Fund" shall be devoted solely to the purposes specified in this act and to the repayment of advances made by the Federal Government and placed therein.

Public Building Reconstruction Fund

CHAPTER 655

Stats 1933, p 60, amended

An act to amend Sections 122 and 123 of, and to add Sections 123.55, 123.56, 123.57 and 123.58 to, the Agricultural Code, relating to inspection and certification of nursery stock.

In effect August 4, 1943

[Approved by Governor May 20, 1943. Filed with Secretary of State May 20, 1943.]

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

Stats 1939, p 1414

SECTION 1. Section 122 of the Agricultural Code is amended to read:

Notice and inspection

122. It is unlawful for any person to receive or bring into any county or locality of the State from another county or locality within the State any nursery stock, or such plants,

appliances or other things or any shipment thereof as the commissioner or the director may consider and designate as liable to be infected or infested with pests, without notifying the commissioner of the arrival of such articles immediately after the arrival thereof, and holding the same for immediate inspection by the commissioner, without unnecessarily moving or placing such articles where they may be harmful.

Exemption

Shipments of less than five pounds of field, vegetable and flower seed or comprised of packages of less than three pounds of each kind of such seed are exempt from the provisions of this section and the shipping permit required by Section 123 may be waived by the commissioner.

Intracounty shipments

Any shipment of nursery stock moved from one locality to another within the same county, carrying a valid certificate of inspection and release issued by the commissioner of that county, is exempt from the requirements of this section.

Intercounty shipments

Any shipment of nursery stock moved from one county to another carrying a valid intercounty nursery stock certificate issued in accordance with the provisions of this chapter by the commissioner of the county of origin is exempt from the requirements of this section providing the manifest hereinafter referred to has been forwarded to the commissioner of the county of destination.

Stats 1941, p 2710

SEC. 2. Section 123 of the Agricultural Code is amended to read:

Marking of shipments

123. It is unlawful to ship or cause to be shipped any nursery stock from one county or locality of the State to another county or locality within the State without having marked thereon in a conspicuous manner and place the name and address of the shipper, owner, or person forwarding the same, and also the name of the person, or his agent, to whom the same is forwarded.

Shipping permit

It is unlawful to sell, deliver, or transport any nursery stock from one county to another county within the State without having affixed thereto in a conspicuous place a shipping permit issued by the commissioner having jurisdiction in the county of origin, warning that inspection at destination is required, or in lieu of such shipping permit a valid intercounty nursery stock certificate issued by the commissioner of the county of origin.

Permit or certificate of inspection

It is unlawful to sell, deliver, or transport any nursery stock from one locality to another locality within the same county without having affixed thereto in a conspicuous place a shipping permit or in lieu thereof a certificate of inspection and release issued by the commissioner of that county, giving notice that inspection at destination is not required. A shipping permit or certificate of inspection and release need not be affixed to nursery stock sold at retail and delivered to the purchaser on premises where a certificate of inspection and release of a size suitable for display is exhibited in a manner and in such location or locations as may be prescribed by the commissioner.

Manifest

It is unlawful to sell, deliver, or transport any nursery stock, except nursery stock accompanied by a certificate of inspection and release, without forwarding, at or prior to the time of shipment, to the commissioner having jurisdiction at destination, a manifest stating by name the complete contents of each such shipment, the name of the locality where the contents were grown, and the means whereby such shipment is being transported, whether by freight, express, mail, truck, boat, airplane or otherwise.

New section

SEC. 3. A new section, numbered 123.55 is added to the Agricultural Code, to read:

Agreement to issue intercounty nursery stock certificate

123.55. The commissioner may with the approval of the director enter into an agreement with the commissioner of another county for the purpose of issuing intercounty nursery stock certificates for use on shipments of nursery stock sold, transported, or delivered for planting in such other county or counties as may be designated in said agreement, and may thereupon with the approval of the director issue such certificates.

The commissioner may with the approval of the director issue rules and regulations governing the use within his county of intercounty nursery stock certificates issued by him and may require an accounting of any or all such certificates issued.

Revocation or suspension of certificates

The commissioner may revoke or suspend the right to use intercounty nursery stock certificates issued to any person who shall fail to render such accounting, or who shall fail to observe any of said regulations, and shall revoke the right to use such certificates as to any person if notified by the director that approval for issuance and use of such certificates has been withdrawn.

It is unlawful for any person, whose right to use intercounty nursery stock certificates has been revoked or suspended, to refuse to deliver to the commissioner upon demand any unused intercounty nursery stock certificates, or to retain or have in his possession any such certificates.

New section

SEC. 4. A new section, numbered 123.56, is added to the Agricultural Code, to read:

Rules

123.56. The director may issue rules regulating the issuance of intercounty nursery stock certificates and the use thereof between counties.

Approval

The director shall approve issuance of such certificates only after he has determined that there is no likelihood of the dissemination by such shipments into a designated county of any pest not already of general distribution therein.

Withdrawal of approval

The director shall upon request of the commissioner of any county immediately concerned, reconsider approval previously granted for issuance and use of intercounty nursery stock certificates as to such county. He shall withdraw the approval for their issuance and use whenever he shall find that by reason of issuance and use of such certificates there is danger of dissemination into any designated county of any pest not

already of general distribution therein or whenever he shall find that a commissioner has issued such certificates in disregard of any of the rules of the director regulating such issuance and use.

SEC. 5. A new section, numbered 123.57, is added to the Agricultural Code, to read: New section

123.57. The commissioner of any county upon receiving notice from the director of withdrawal of approval for the issuance and use of intercounty nursery stock certificates shall immediately revoke the right to use any such certificates previously issued by him. Revocation of certificate

SEC. 6. A new section, numbered 123.58, is added to the Agricultural Code, to read: New section

123.58. It is unlawful for any person to alter, or to use in any manner other than as provided in this chapter, any shipping permit, certificate of inspection and release, or intercounty nursery stock certificate. Unlawful use

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CHAPTER 656

An act to add Section 512 to the Vehicle Code, relating to speed limits on highways under construction or repair. Stats 1935, p 93, amended

[Approved by Governor May 20, 1943. Filed with Secretary of State May 20, 1943.] In effect August 4, 1943

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

SECTION 1. A new section to be numbered 512 is hereby added to the Vehicle Code, to read as follows: New section

512. Speed Limit On Highways Under Construction Or Repair. No person shall drive a vehicle at a speed greater than 25 miles per hour upon any portion of a highway where employees of the agency in charge thereof are engaged in construction or repair work on the roadway, or so close to the roadway as to be endangered by passing traffic. The provisions of this section shall apply only when appropriate signs, indicating the limits of the restricted zone, and the speed limit applicable therein, are placed within 400 feet of each end of such zone. Such signs shall display the figures "25" as provided in Section 468 and shall indicate the purpose of the speed restriction, but otherwise need not comply with the details set forth in Section 468. Nothing in this section shall be deemed to relieve any operator of a vehicle from complying with the provisions of Section 510. Speed limits Highway under construction

CHAPTER 657

Stats 1913, p 1012, amended
Stats 1943, Ch 368 amended

An act to add Section 37i to the Water Commission Act, and Chapter 9 to Part 4 of Division 2 of the Water Code, relating to methods and procedure to carry into effect decrees providing for the distribution of water and for the allocation and payment of the expenses thereof.

In effect August 4, 1943

[Approved by Governor May 20, 1943 Filed with Secretary of State May 20, 1943.]

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

New section

SECTION 1. Section 37i is added to the Water Commission Act, to read:

Provisions applicable

Sec. 37i. The provisions of the foregoing Sections 37 to 37h, both inclusive, shall be applicable to this section, so far as adaptable thereto or consistent therewith, and whenever rights to water have been ascertained and determined as specified in Section 37 of this act the State Water Commission may

Conformance with court decree

elect to proceed under this section. Insofar as the provisions of said foregoing sections may not be adaptable to or may be inconsistent with the provisions of any decree of court, the State Water Commission may conform to the requirements of such decree of court and observe the provisions of the foregoing sections only insofar as the same may be adaptable to or consistent with such decree of court. In the event an order or decree of court provides for an allocation among and payment of costs of water distribution by the owners of the rights decreed, the State Water Commission, in lieu of the procedures provided in Section 37f or 37h for allocation and payment of costs, may proceed in accordance with such decree and as

Recordation of decree

hereinafter provided. A certified copy of the order or decree shall be recorded in the county or counties wherein the water is diverted or used and a certified copy filed in the office of the commission and such recordation and filing shall constitute constructive notice of the provisions of the order or decree to the owners of the rights decreed and their successors in

Enforcement of obligation to pay

interest. Obligations to pay for the respective allocations of cost set forth in the order or decree may be enforced by the commission against the respective owners or their successors by execution or as may be otherwise provided in such order

Payment of annual costs

or decree. One-half of the entire annual cost of the work to be performed by the commission in rendering watermaster service and incidental duties required under the order or decree shall be paid out of the general support funds of the commission into the State Watermaster Service Fund prior to commencement of said work and the other one-half shall be paid by the owners and deposited into said fund by the commission as received from the respective owners. The total sum thus made available shall be subject to expenditure by the commission in performing said work, and any money remaining at the end of any year shall be available for use the

following year for the respective watermaster district to which credited. Any moneys collected or received by the commission for or on account of owners of the rights involved may be placed in a special deposit fund and paid out in accordance with the provisions of the order or decree or as provided for by the agreement between the owners of the rights affected thereby.

Note.—See Stats. 1943, Ch. 368.

SEC. 3. The provisions of Section 2 of this act shall take effect only if the Water Code is adopted at the Fifty-fifth Session of the Legislature and in that event at the same time said code takes effect, at which time Section 37i of the Water Commission Act added by this act is repealed.

Effect Stats 1943, Ch 368

Repeal

CHAPTER 658

An act to add Parts 8 and 9, comprising Sections 13301 to 16652, inclusive, to Division 2 of the Revenue and Taxation Code, and to add Section 50014 thereto, thereby consolidating and revising the law relating to taxation and the raising of revenue, including the provisions of the Inheritance Tax Act of 1935, the Gift Tax Act of 1939, and Section 445 of the Political Code, and repealing acts and parts of acts specified therein.

Stats 1939, p 1274, amended

[Approved by Governor May 20, 1943. Filed with Secretary of State May 20, 1943.]

In effect July 1, 1945

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

SECTION 1. Parts 8 and 9, comprising Sections 13301 to 16652, inclusive, are added to the Revenue and Taxation Code, to read:

New parts

PART 8. INHERITANCE TAX

CHAPTER 1. DEFINITIONS

13301. This part is known and may be cited as the "Inheritance Tax Law."

Short title

13302. Except where the context otherwise requires, the definitions given in this chapter govern the construction of this part.

Definitions

13303. "Estate" or "property" means the real or personal property or interest therein of a decedent or transferor, and includes all of the following:

"Estate" or "property"

(a) All intangible personal property of a resident decedent within or without the State or subject to the jurisdiction thereof.

(b) All stock of a California corporation, or of a Federal corporation or National bank which has its principal place of business in California, and all other intangible personal property in California belonging to a deceased nonresident of the United States.

"Transfer" 13304. "Transfer" includes the passage of any property, or any interest therein or income therefrom, in possession or enjoyment, present or future, in trust or otherwise.

"Decedent" or "transferor" 13305. "Decedent" or "transferor" means any person by or from whom a transfer is made, and includes any testator, intestate, grantor, bargainor, vendor, assignor, donor, joint tenant, or insured.

"Transferee" 13306. "Transferee" means any person to whom a transfer is made, and includes any legatee, devisee, heir, next of kin, grantee, donee, vendee, assignee, successor, survivor, or beneficiary.

"Class A transferee" 13307. "Class A transferee" means any of the following:

(a) A transferee who is the husband, wife, lineal ancestor, or lineal issue of the decedent.

(b) A transferee whose relationship to the decedent is that of a child adopted by the decedent in conformity with the laws of this State.

(c) A transferee to whom the decedent for not less than 10 continuous years prior to the transfer stood in the mutually acknowledged relationship of a parent, if the relationship commenced on or before the transferee's fifteenth birthday.

(d) Any transferee who is the lineal issue of a child mentioned in subdivision (b) or (c).

"Class B transferee" 13308. "Class B transferee" means any of the following:

(a) A transferee who is the brother, sister, or descendant of a brother or sister of the decedent.

(b) A transferee who is the wife or widow of a son, or the husband of a daughter, of the decedent.

"Class C transferee" 13309. "Class C transferee" means any of the following:

(a) A transferee who is the brother or sister of the father or mother of the decedent.

(b) A transferee who is the descendant of a brother or sister of the father or mother of the decedent.

"Class D transferee" 13310. "Class D transferee" means any transferee who is not a Class A, B, or C transferee.

"Market value" 13311. "Market value," in respect to property included in any transfer, means the market value of the property as of the date of the transferor's death, whether or not the transfer was made during the lifetime of the transferor.

"Clear market value" 13312. "Clear market value" means the market value of any property included in any transfer, less any deductions allowable by this part.

"Superior court having jurisdiction" 13313. "Superior court having jurisdiction" means the superior court given jurisdiction by Chapter 12 of this part to hear and determine questions relating to any tax imposed by this part.

"County treasurer" 13314. "County treasurer" means the treasurer of the county of the superior court having jurisdiction.

"Inheritance tax appraiser" 13315. "Inheritance tax appraiser" means the inheritance tax appraiser of the county of the superior court having jurisdiction.

13316. "Additional tax" means the tax imposed by Article 2 of Chapter 2 of this part. "Additional tax"

13317. "Territory" includes the District of Columbia. "Territory"

CHAPTER 2. IMPOSITION AND COMPUTATION OF TAX

Article 1. Inheritance Tax

13401. An inheritance tax is hereby imposed upon every transfer subject to this part. Tax imposed

13402. The tax is computed upon the clear market value of the property transferred, but only upon that portion in excess of the exemptions allowable on the date of the transferor's death, and at the rates which are then in effect. Computed on clear market value, etc

The tax is computed in accordance with this section whether or not the transfer involved was made during the lifetime of the transferor.

13403. In computing the tax, the exemptions allowed by Articles 1 and 2 of Chapter 5 of this part are deducted from the clear market value of the property transferred, and the tax is computed on the remainder of the property at the same rates that would have been applicable had the exemptions not been allowed. Deduction of exemptions

13404. In the case of a transfer to a Class A transferee, the rates of tax are as follows: Rates Class A transferee

(a) 2 per cent of the clear market value of the property transferred up to $25,000.

(b) 3 per cent of the excess value over $25,000 and up to $50,000.

(c) 4 per cent of the excess value over $50,000 and up to $100,000.

(d) 7 per cent of the excess value over $100,000 and up to $200,000.

(e) 9 per cent of the excess value over $200,000 and up to $500,000.

(f) 10 per cent of the excess value over $500,000.

13405. In the case of a transfer to a Class B transferee the rates of tax are as follows: Class B transferee

(a) 5 per cent of the clear market value of the property transferred up to $25,000.

(b) 7 per cent of the excess value over $25,000 and up to $50,000.

(c) 10 per cent of the excess value over $50,000 and up to $100,000.

(d) 12 per cent of the excess value over $100,000 and up to $300,000.

(e) 14 per cent of the excess value over $300,000 and up to $500,000.

(f) 15 per cent of the excess value over $500,000.

13406. In the case of a transfer to a Class C transferee, the rates of tax are as follows: Class C transferee

(a) 6 per cent of the clear market value of the property transferred up to $25,000.

(b) 9 per cent of the excess value over $25,000 and up to $50,000.

(c) 12 per cent of the excess value over $50,000 and up to $300,000.

(d) 15 per cent of the excess value over $300,000.

Class D transferee

13407. In the case of a transfer to a Class D transferee, the rates of tax are as follows:

(a) 7 per cent of the clear market value of the property transferred up to $25,000.

(b) 10 per cent of the excess value over $25,000 and up to $50,000.

(c) 12 per cent of the excess value over $50,000 and up to $300,000.

(d) 15 per cent of the excess value over $300,000 and up to $500,000.

(e) 16 per cent of the excess value over $500,000.

More than one transfer

13408. When more than one transfer subject to this part has been made by a decedent to the same person, the tax is computed upon the aggregate market value of all of the property so transferred in the same manner and to the same extent as if all of the property had actually been transferred by a single transfer at the date of the decedent's death.

Renunciation of legacy

13409. If a legatee under a will renounces the legacy, or any part of it, or agrees that the estate, or any part of it, shall be distributed otherwise than as provided in the will, in consideration of the withdrawal of a contest to the will or for any other reason, the tax is nevertheless computed in accordance with the terms of the will admitted to probate.

Possibility of divestment

13410. Notwithstanding that a transferee by his act or omission can divest himself of the property transferred to him, the tax on the transfer is computed as if there were no possibility of divestment.

Transfer subject to contingency

13411. In the case of a transfer made subject to a contingency or condition upon the occurrence of which the right, interest, or estate of the transferee may, in whole or in part, be created, defeated, extended, or abridged, the tax is computed as though the contingency or condition has occurred, and at the highest rate possible.

Article 2. Additional Tax

Where tax imposed less than Federal credit

13441. In the event that a Federal estate tax is payable to the United States in a case where the inheritance tax payable to this State is less than the maximum State tax credit allowed by the Federal estate tax law, a tax equal to the difference between the maximum credit and the inheritance tax payable is hereby imposed.

Where no tax imposed

13442. If no inheritance tax is payable to this State in a case where a Federal estate tax is payable to the United States, a tax equal to the maximum State tax credit allowed by the Federal estate tax law is hereby imposed.

CHAPTER 3. COMMUNITY PROPERTY

13551. Upon the death of a husband: Death of husband

(a) At least one-half of the community property is subject to this part.

(b) The one-half of the community property which belongs and goes to the surviving wife pursuant to Section 201 of the Probate Code is not subject to this part.

(c) All of the community property passing to anyone other than the wife is subject to this part.

13552. When a husband by a will making a testamentary disposition of the community property forces his surviving wife to elect whether to share in his estate under the will or to take her one-half of the community pursuant to Section 201 of the Probate Code, and she elects to take under the will, the property thus taken up to a value not exceeding one-half of the value of the community is not subject to this part. Wife's election

13553. Upon the death of a wife the one-half of the community property which belongs to her surviving husband pursuant to Section 201 of the Probate Code is not subject to this part. Likewise, the community interest which goes to a surviving husband pursuant to Section 201 of the Probate Code in the absence of his wife's testamentary disposition of the interest to another, or which passes to him under her will, is not subject to this part. Death of wife

13554. Where community property is transferred other than by will or the laws of succession from one spouse to the other: Transfer other than by will

(a) One-half of the property transferred is subject to this part if the wife is the transferee.

(b) None of the property transferred is subject to this part if the husband is the transferee.

13555. For the purpose of this part, community property includes any intangible personal property acquired while domiciled elsewhere, which would not have been the separate property of either spouse if acquired while domiciled in this State. Intangibles acquired elsewhere

13556. As against any claim made by the State for the tax imposed by this part, there is no presumption that property acquired by a spouse after marriage is community property. Any person who claims that any property acquired after marriage is community property has the burden of proving that it is such. Presumption

CHAPTER 4. TRANSFERS SUBJECT TO PART

Article 1. Transfers by Will and Laws of Succession

13601. A transfer by will or the laws of succession of this State from a person who dies seized or possessed of the property transferred while a resident of this State is a transfer subject to this part. Transfer by will or succession Resident

Same: Nonresident

13602. A transfer by will or the laws of succession of property within this State from a decedent who was a nonresident of this State at the time of his death is a transfer subject to this part.

Bequest to executor in lieu of statutory fee

13603. If a decedent makes a bequest or devise of property to an executor or trustee named in his will in lieu of compensation for services fixed by or pursuant to law, the passage to the executor of that portion of the property in excess of the statutory compensation fixed by Section 901 of the Probate Code, or to the trustee of that portion of the property in excess of a reasonable compensation fixed by the court having jurisdiction of the trust, is a transfer subject to this part.

Article 2. Homestead and Family Allowance

Statutory homestead

13621. The vesting in the surviving spouse or any other person of any property constituting a homestead created pursuant to the Civil Code is a transfer subject to this part.

Probate homestead

13622. The setting apart to the surviving spouse or minor child of any homestead or exempt property by court order pursuant to the Probate Code is a transfer subject to this part.

Family allowance

13623. The making or granting of any family allowance by court order pursuant to the Probate Code is a transfer subject to this part.

Article 3. Inter Vivos Transfers

Generally

13641. Any transfer specified in this article made during lifetime by a resident or, if the property transferred is within this State, by a nonresident, by deed, grant, bargain, sale, assignment, or gift, without a valuable and adequate consideration, is a transfer subject to this part.

"Valuable and adequate consideration"

"Valuable and adequate consideration" is a consideration equal in money or in money's worth to the full value of the property transferred.

Contemplation of death

13642. A transfer conforming to Section 13641 and made in contemplation of the death of the transferor is a transfer subject to this part.

"Contemplation of death" includes that expectancy of death which actuates the mind of a person on the execution of his will. The term is not restricted to that expectancy of death which actuates the mind of a person making a gift causa mortis.

Deferred possession and enjoyment

13643. A transfer conforming to Section 13641 and made with the intention that it take effect in possession or enjoyment at or after the death of the transferor is a transfer subject to this part.

Reservation of life interest

13644. A transfer conforming to Section 13641 and under which the transferor expressly or impliedly reserves for his life an income or interest in the property transferred is a transfer subject to this part.

Promise to care for transferor

13645. A transfer conforming to Section 13641 and under which the transferee promises to make payments to or care for the transferor is a transfer subject to this part.

Revocable trust

13646. A revocable transfer in trust conforming to Section 13641 is a transfer subject to this part.

Advancement

13647. A transfer conforming to Section 13641 and made as an advancement is a transfer subject to this part.

Avoidance of probate

13648. It is hereby declared to be the intent and purpose of this part to tax every transfer made in lieu of or to avoid the passing of property by will or the laws of succession.

Article 4. Joint Tenancies

Joint tenancy

13671. Where two or more persons hold property in joint tenancy, or deposit property in a bank or similar depositary in their joint names subject to payment to either or the survivor, upon the death of one the right of each survivor to the immediate ownership or possession and enjoyment of the property is a transfer subject to this part to the same extent as though the property had belonged absolutely to the decedent and been devised or bequeathed by him to the survivor. However, excluded from the transfer is such portion of the property as the survivor proves belonged originally to him and never belonged individually to the decedent.

Article 5. Powers of Appointment

"Charitable beneficiary"

13691. "Charitable beneficiary," as used in this article, means a transferee of property which is within the exemption specified in Article 3 of Chapter 5 of this part.

Gift before June 25, 1935

13692. Except as otherwise provided in this article, a gift of a general or limited power of appointment made in conjunction with a disposition of property effected before or after 5 p.m. of June 25, 1935, is a transfer subject to this part from the donor to the donee at the date of the donor's death.

Same Where power exercised after June 25, 1935

13693. Where a general or limited power of appointment given in conjunction with a disposition of property effected before 5 p.m. of June 25, 1935, by a donor who died prior to that date, is exercised after that date by the donee, the exercise of the power is a transfer subject to this part from the donee to the person appointed at the time of the exercise, as though the property to which the power relates belonged absolutely to the donee and is transferred by him by will.

Power limited in favor of charitable beneficiary

13694. If at the date of the donor's death a power of appointment is irrevocably limited, in whole or in part, to be exercised in favor of a charitable beneficiary, to the extent that it is so limited the gift of the power is not a transfer subject to this part from the donor to the donee.

Power exercised in favor of charitable beneficiary Before tax

13695. In the case of a gift of a general or limited power of appointment, if the donee irrevocably exercises, or obligates himself to exercise, the power, in whole or in part, in favor of a charitable beneficiary before any tax on the gift has been finally determined, to the extent that the power is so exercised, or obliged to be exercised, the gift of the power is not a transfer subject to this part from the donor to the donee.

Same after tax

13696. If a gift of a general or limited power of appointment is taxed under this part as a transfer from the donor to the donee, and thereafter the donee irrevocably exercises, or obligates himself to exercise, the power, in whole or in part, in favor of a charitable beneficiary, the court which originally fixed the tax, on satisfactory proof to it, pursuant to an application after notice to the Controller made within six months after execution of the document exercising the power, or obliging the donee to exercise the power, in favor of the charitable beneficiary, shall modify its original order fixing the tax by a new order eliminating as a taxable transfer the gift of the power to the extent that the power is exercised, or obliged to be exercised, in favor of the charitable beneficiary.

Property passing to charitable beneficiary on nonexercise of power after tax

13697. If a gift of a general or limited power of appointment is taxed under this part as a transfer from the donor to the donee, and thereafter, as the result of a nonexercise of the power, in whole or in part, the whole or any part of the property subject to the power passes to a charitable beneficiary, the court which originally fixed the tax, on satisfactory proof to it, pursuant to an application after notice to the Controller made within six months after the passage of the property to the charitable beneficiary, shall modify its original order fixing the tax by a new order eliminating as a taxable transfer the gift of the power to the extent that the property subject to the power passes to the charitable beneficiary.

Revocation, etc., of power by donor

13698. A gift of a power of appointment made during the lifetime of the donor is not a transfer subject to this part if any of the following should occur prior to the donor's death:

(a) The donee dies.

(b) The donee waives or relinquishes the power.

(c) The donor revokes the power.

Article 6. Insurance

"Insurance policy"

13721. "Insurance policy," as used in this article, means a life or accident insurance policy the proceeds of which are payable by reason of the death of the insured.

Policy payable to estate

13722. The transfer of the proceeds of any insurance policy payable to the estate, executor of the will, administrator of the estate, or personal representative of the insured is a transfer subject to this part.

Policy payable to named beneficiary

13723. Except to the extent specified in Section 13724, the payment or right to receive payment of the proceeds of either of the following insurance policies is a transfer subject to this part:

(a) Any insurance policy issued after June 25, 1935, which is payable to a named beneficiary.

(b) Any insurance policy issued on or before June 25, 1935, which is payable to a named beneficiary and under which the insured has the right to change the beneficiary or has the right of cash surrender.

Exclusion

13724. In addition to the exemptions allowed by this part, the payment or right to receive payment of fifty thousand

dollars ($50,000) of the proceeds of either of the insurance policies mentioned in Section 13723 is not subject to this part, with the following limitations: Limitations

(a) Where there is more than one policy, whether of the same or a different type, only fifty thousand dollars ($50,000) of the aggregate proceeds is not subject to this part.

(b) Where there is more than one beneficiary, the fifty thousand dollars ($50,000) shall be prorated among the beneficiaries in proportion to the amount of insurance payable to each.

Chapter 5. Exemptions

Article 1. Specific Exemption

13801. Property of the clear market value of twenty-four thousand dollars ($24,000) transferred to the wife of the decedent, of twelve thousand dollars ($12,000) transferred to a minor child of the decedent, and of five thousand dollars ($5,000) transferred to any other Class A transferee is exempt from the tax imposed by this part. Class A transferee

13802. Property of the clear market value of two thousand dollars ($2,000) transferred to any Class B transferee is exempt from the tax imposed by this part. Class B transferee

13803. Property of the clear market value of five hundred dollars ($500) transferred to any Class C transferee is exempt from the tax imposed by this part. Class C transferee

13804. Property of the clear market value of fifty dollars ($50) transferred to any Class D transferee is exempt from the tax imposed by this part. Class D transferee

Article 2. Previously Taxed Property Exemption

13821. "Previously taxed property," as used in this article, means property transferred by a present decedent to any person who is a Class A transferee with respect to the present decedent where both of the following concur: "Previously taxed property"

(a) The property had previously been transferred to the present decedent not more than five years before his death by a prior decedent in relation to whom the present decedent was a Class A transferee.

(b) An inheritance tax was paid to this State on the transfer from the prior decedent.

13822. In determining the net amount of previously taxed property transferred in the present decedent's estate, its value is taken as of the date of the prior decedent's death or as of the date of the present decedent's death, whichever is lower. Due allowance shall be made under rules prescribed by the Controller for the proportion of deductions and exemptions chargeable against the property in the prior decedent's estate, and for the proportion of deductions chargeable against the property in the present decedent's estate. Value of property; Deductions and exemptions

13823. "Proportionate exemption," as used in this article, means the amount which bears the same proportion to the "Proportionate exemption"

exemptions, other than the exemption in this article, allowed on all property transferred by the present decedent to the person to whom the previously taxed property is transferred, as the value of the net amount of previously taxed property bears to the value of the net amount of all property transferred by the present decedent to the person to whom the previously taxed property is transferred.

Extent of exemption

13824. The net amount of previously taxed property, less the amount of the proportionate exemption, is exempt from the inheritance tax, but not from the additional tax, imposed by this part.

Article 3. Charitable Exemption

Transfer to governmental agency, etc

13841. Property transferred to any of the following is exempt from the tax imposed by this part:

(a) The United States.

(b) This State.

(c) A public corporation.

(d) A society, corporation, institution, or association exempt from taxation.

Transfer to charitable organization, etc

13842. Property transferred to any society, corporation, institution, or association exclusively engaged in or devoted to any charitable, educational, public, or other like work, pecuniary profit not being its object or purpose, or to any person, society, corporation, institution, or association in trust exclusively for or to be devoted exclusively to any charitable, educational, public, or other like work, is exempt from the tax imposed by this part, if any of the following conditions is present:

(a) The society, corporation, institution, or association is organized solely for charitable, educational, public, or other like work under the laws of this State or of the United States.

(b) The property transferred is limited for use within this State.

(c) In the event that the society, corporation, institution, or association is organized or existing under the laws of a Territory or another State of the United States or of a foreign state or country, at the date of the decedent's death either of the following concurred:

(1) The Territory, other State, foreign state, or foreign country did not impose a legacy, succession, or death tax of any character in respect to property transferred to a similar society, corporation, institution, or association organized or existing under the laws of this State.

(2) The laws of the Territory, other State, foreign state, or foreign country contained a reciprocal provision under which property transferred to a similar society, corporation, institution, or association organized or existing under the laws of another Territory or State of the United States or foreign state or country was exempt from legacy, succession, or death taxes of every character, if the other Territory or State of the United States or foreign state or country allowed a similar

exemption in respect to property transferred to a similar society, corporation, institution, or association organized or existing under the laws of another Territory or State of the United States or foreign state or country.

Article 4. Intangibles Exemption

Intangibles of nonresident

13851. Intangible personal property is exempt from the tax imposed by this part if the decedent at the time of his death was a resident of a Territory or another State of the United States or of a foreign state or country which then imposed a legacy, succession, or death tax in respect to intangible personal property of its own residents, but either:

(a) Did not impose a legacy, succession, or death tax of any character in respect to intangible personal property of residents of this State; or

(b) Had in its laws a reciprocal provision under which intangible personal property of a nonresident was exempt from legacy, succession, or death taxes of every character if the Territory or other State of the United States or foreign state or country in which the nonresident resided allowed a similar exemption in respect to intangible personal property of residents of the Territory or State of the United States or foreign state or country of residence of the decedent.

Article 5. War Risk Insurance Exemption

Federal war risk insurance

13861. All proceeds of any Federal war risk insurance policy of any veteran of World War I or World War II which are or may become payable to the estate of the veteran are exempt from the tax imposed by this part.

Chapter 6. Valuation and Deductions

Article 1. Valuation

Valuation date

13951. For the purpose of this part, the value of property included in any transfer subject to this part, whether or not the transfer was made during the lifetime of the transferor, is the market value of the property as of the date of the transferor's death.

Same: Future interest, etc

13952. In the case of a transfer of any estate, income, or interest (a) for a term of years or for life, or (b) determinable upon any future or contingent event, or (c) constituting a remainder, reversion, or other expectancy, the entire property by which the estate, income, or interest is supported, or of which it is a part, is valued as of the date of the decedent's death.

Valuation of future, etc, interests

13953. The value of a future, contingent, or limited estate, income, or interest is determined in accordance with the rules, methods, and standards of mortality and value that are set forth in the actuaries' combined experience tables of mortality for ascertaining the values of life insurance policies and annuities and for determining the liabilities of life insurance companies, save that the rate of interest used in computing

the present value of the estate, income, or interest is five (5) per cent per annum.

Same Yearly income, etc

13954. In determining the present value of a future, contingent, or limited estate, income, or interest, other than an annuity in a fixed amount, the yearly income, or the annual value of the use or income, of the estate, income, or interest is considered equivalent to 5 per cent of the appraised value of the property upon which the estate, income, or interest is based.

Death of annuitant or life tenant prior to fixing of tax

13955. If an annuity or a life estate is terminated by the death of the annuitant or life tenant or by the happening of a contingency, and the tax upon the transfer of the annuity or estate has not been determined, the value of the annuity or estate is the present value, at the date of the transferor's death, of the amount of the annuity or income actually paid or payable to the annuitant or life tenant during the period he was entitled to the annuity or was in possession of the estate.

No allowance for contingency

13956. In determining the value of any estate or interest to the beneficial enjoyment or possession of which there is a person presently entitled, no allowance is made on account of any contingent incumbrance on the estate or interest, nor on account of any contingency upon the happening of which the estate or interest, or some part of it, might be abridged, defeated, or diminished.

Article 2. Deductions

Limitation on deductions

13981. This article is a limitation on deductions allowable. It is not intended by this article to allow as a deduction anything that does not actually reduce the amount of an inheritance or transfer.

Conditions of allowance

13982. In determining the market value of property included in any transfer subject to this part, the deductions specified in this article, and no others, are allowed against the appraised value of the property, if the deductions:

(a) Are obligations of the decedent or his estate, except as otherwise indicated in this article; and

(b) Are paid by the estate or the transferee.

Debts owed at death

13983. Debts of a decedent owed by him at the date of his death are deductible from the appraised value of property included in any transfer subject to this part made by the decedent.

Debt erroneously allowed

13984. Where it is proved to the satisfaction of the superior court having jurisdiction that any deduction for a debt was erroneously allowed, the court may enter an order assessing tax upon the amount of the deduction.

For the purpose of this part, there is no limitation governing the time within which it may be proved that any deduction for a debt was erroneously allowed, nor the time within which an order assessing tax on the amount erroneously deducted may be made.

Debt established after order fixing tax

13985. If a debt is established against an estate after the order fixing tax is made, the order may on petition after notice to the Controller be modified equitably.

For the purpose of this part, there is no limitation governing the time within which a debt may be established against an estate after the order fixing tax is made. However, any petition to have the order modified after the establishment of the debt shall be filed within one year after the debt is established.

Funeral expenses

13986. The funeral and last illness expenses of a decedent, including the funeral and last illness expenses of a deceased wife, whether or not she is survived by a husband financially able to pay those expenses, are deductible from the appraised value of property included in any transfer subject to this part made by the decedent.

Taxes

13987. All State, county, and municipal taxes and assessments which are a lien at the date of a decedent's death against the property included in any transfer subject to this part made by the decedent are deductible from the appraised value of the property.

Expenses of administration

13988. The ordinary expenses of administration in the estate of any decedent are deductible from the appraised value of property included in any transfer subject to this part made by the decedent.

Included in "ordinary expenses of administration" are the following:

(a) The ordinary commissions allowed executors and administrators under Section 901 of the Probate Code, computed on the value of the decedent's estate as of the date of the decedent's death.

(b) The ordinary fees allowed attorneys for executors and administrators under Section 910 of the Probate Code, computed on the value of the decedent's estate as of the date of the decedent's death.

(c) Any fees and expenses paid to the inheritance tax appraiser under this part out of the property transferred or by the transferee.

Federal estate tax

13989. Any amount due or paid the Government of the United States as a Federal inheritance or estate tax in the estate of any decedent is deductible from the appraised value of property included in any transfer subject to this part made by the decedent. The amount deductible is limited to an amount computed by the inheritance tax appraiser upon an application of the Federal inheritance or estate tax exemptions and rates (commencing at the primary rates) in force at the date of the decedent's death to that portion of the decedent's property the transfer of which is subject to the tax imposed by this part, and upon his own valuation of that portion.

No deduction in proceeding after distribution to State

13990. No deduction is allowed in a proceeding to determine tax in the Superior Court of the County of Sacramento which is incident to a petition filed in that court asserting

a claim or right to an estate distributed to the State of California where the decedent left no one to take the estate.

CHAPTER 7. GIFT TAX CREDIT

"Inheritance tax"

14051. "Inheritance tax," as used in this chapter, means the tax imposed by Article 1 of Chapter 2 of this part.

"Gift tax"

14052. "Gift tax," as used in this chapter, means the tax imposed by Part 9 of this division.

"Includible gift"

14053. "Includible gift," as used in this chapter, means any gift, before the allowance of any exemptions other than the intangibles or charitable exemptions, as defined in Part 9 of this division, constituting a transfer which was subject to the gift tax and, at the death of the donor, is also subject to the inheritance tax.

"Proportionate annual exemption"

14054. "Proportionate annual exemption," as used in this chapter, means the amount which bears the same proportion to the total annual exemption allowed by Part 9 of this division for all gifts to the donee in the year the includible gift was made as the value of the includible gift at the date of gift or the date of the donor's death, whichever is lower, bears to the total value at the date of gift of all gifts by the donor to the donee in that year.

"Net includible gift"

14055. "Net includible gift," as used in this chapter, means the value of the includible gift at the date of gift or the date of the donor's death, whichever is lower, less the proportionate annual exemption.

"Net reduced includible gift"

14056. "Net reduced includible gift," as used in this chapter, means the net includible gift, less the proper proportion (as determined by the Controller) of any deductions permitted by this part for the payment of which the net includible gift is wholly or partially liable.

"Gross value, etc"

14057. "Gross value of property transferred to the donee," as used in this chapter, means the value of all property transferred within the meaning of this part to the donee from the donor, after allowing for the deductions and before allowing for the exemptions permitted by this part.

"Gift tax paid on the includible gift"

14058. "Gift tax paid on the includible gift," as used in this chapter, means the amount which bears the same proportion to the entire gift tax paid on all gifts made by the donor to the donee in the year in which the includible gift was made as the amount of the includible gift bears to the total amount of all gifts by the donor to the donee in the year that the includible gift was made.

Gift tax credit

14059. The inheritance tax payable on an includible gift shall be reduced by a gift tax credit equal to the gift tax paid on the includible gift. However, the credit shall not exceed an amount which bears the same proportion to the total inheritance tax imposed by this part on transfers to the donee from the donor as the net reduced includible gift bears to the gross value of the property transferred.

CHAPTER 8. PAYMENT OF TAX

Article 1. Generally

Liability for tax

14101. The following persons are liable for the payment of the tax imposed by this part:

(a) The executor of the will or the administrator of the estate of the transferor.

(b) If the property in respect to which the tax is imposed was transferred in trust, the trustee of the property.

(c) The transferee of the property in respect to the transfer of which the tax is imposed.

Liability for payment of the tax continues until the tax is paid.

Due date

14102. Every tax imposed by this part is due and payable at the date of the transferor's death.

Delinquent date

14103. Every tax imposed by this part is delinquent at the expiration of two years from the date on which it became due and payable, if it is not paid within that time.

Payment to county treasurer

14104. Every tax imposed by this part shall be paid to the county treasurer as provided in this chapter.

Article 2. Duties of Executor, Administrator, or Trustee

Deduction and collection of tax

14121. Except as otherwise provided in this article, every executor, administrator, or trustee in charge of or holding in trust any property the transfer of which is subject to the tax imposed by this part, shall deduct the tax from the property, if the property is money, or, if the property is not money, shall collect the tax from the transferee. He shall not deliver or be compelled to deliver the property to any person until he deducts or collects the tax.

Collection from transferee of real property

14122. Whenever any legacy as to which there is a tax imposed by this part is a charge upon or payable out of real property, the executor, administrator, or trustee shall collect the tax from the transferee of the real property. The tax remains a charge on the property until paid, subject to the provisions of this part pertaining to liens.

Legacy for limited period

14123. If a money legacy as to which a tax is imposed by this part is given to any person for a limited period, the executor, administrator, or trustee shall deduct the tax from the whole amount given. If a legacy for a limited period as to which the tax is imposed is not money, the executor, administrator, or trustee shall, if necessary, apply to the superior court having jurisdiction for a determination of the tax to be paid into his hands by the legatee, and for such further determination as the case may require.

Life estate and remainder over

14124. Where a transferor has given one person any right, interest, or estate for life or for a term of years, and another person the remainder over, in the same property, the executor, administrator, or trustee shall pay the tax on each transfer out of the corpus of the property. The tax shall not be

charged against the right, interest, or estate of, nor shall it be collected from, either transferee.

Transfer subject to a contingency

14125. Where a transfer has been made subject to a contingency or condition upon the occurrence of which the right, interest, or estate of the transferee may, in whole or in part, be created, defeated, extended, or abridged, the executor, administrator, or trustee shall pay the tax out of the corpus of the property transferred. The tax shall not be charged against the right, interest, or estate of, nor shall it be collected from, the transferee.

Payment of additional tax

14126. The additional tax imposed by this part shall be paid out of such funds as are used for the payment of any ordinary charge against the estate.

Sale of decedent's property

14127. To enable him to pay the tax imposed by this part, the executor, administrator, or trustee may sell so much of the decedent's property as may be necessary, in the same manner as he may be authorized by law to sell the decedent's property for the payment of the decedent's debts. He may be compelled to make the sale by order of the superior court having jurisdiction.

Payment to county treasurer

14128. Within 30 days after the date of the deduction or collection of a tax by him, the executor, administrator, or trustee shall pay the tax to the county treasurer.

Article 3. Tax Receipt

Receipt in triplicate

14141. Upon receiving payment of the tax imposed by this part, the county treasurer shall issue a receipt for payment in triplicate. He shall deliver one copy of the receipt to the person paying the tax, and shall immediately send the original and one copy to the Controller.

Countersignature by Controller

14142. The Controller shall charge the county treasurer with the amount of the tax. He shall retain one of the receipts, and the other he shall countersign and seal with the seal of his office and transmit immediately to the clerk of the superior court having jurisdiction.

Prerequisite to distribution

14143. No executor, administrator, or trustee liable for the payment of any tax imposed by this part is entitled to credits in his accounts or to a discharge from liability for payment, nor shall the estate of the person who made the transfer on which the tax is imposed be distributed, unless a receipt countersigned and sealed by the Controller pursuant to this article, or a copy of such a receipt certified by the Controller, is filed with the superior court having jurisdiction.

Fee for duplicate receipt

14144. Upon payment of the sum of fifty cents ($0.50) to any county treasurer, any person is entitled to a duplicate or copy of any receipt that may have been issued by the treasurer for the payment of any tax imposed by this part.

Article 4. Discount

Discount

14161. In the event that an inheritance, but no additional, tax is imposed by this part on any transfer, and the inherit-

ance tax is paid within six months from the date it is due and payable, a discount equal to 5 per cent of the amount of the tax payable is allowed against the tax.

Article 5. Deferment of Payment

Election

14171. Where a transfer has been made subject to a contingency or condition upon the occurrence of which the right, interest, or estate of the transferee may, in whole or in part, be created, defeated, extended, or abridged, the transferee or, if a trust is involved, the trustee may elect to defer the payment of the tax until the contingency or condition occurs

Bond

14172. If the transferee or trustee elects to defer the payment of the tax, he shall execute a bond to the people of the State of California in a penalty of the amount of the tax imposed, plus interest on the tax for five years at the rate of 7 per cent per annum, with such sureties as the superior court having jurisdiction may approve, conditioned as follows:

Conditions

(a) For the payment of the tax imposed, or any lesser tax which may become payable on the happening of the contingency or condition, plus interest on the tax at the rate of 7 per cent per annum commencing on the delinquent date of the tax imposed, at such time as the contingency or condition occurs.

(b) That if there is a noncompliance with the provisions of this article regarding the renewal of the bond and the making of returns, the amount of the tax imposed and the interest on the tax shall immediately become due and payable.

Filing

14173. The bond shall be filed in the office of the clerk of the superior court having jurisdiction, and a certified copy shall be immediately transmitted to the Controller.

Time for filing

14174. The bond shall be filed within 90 days after the entry of the order or decree fixing the tax on the transfer, or within such period thereafter as the superior court having jurisdiction may permit.

Verified return of property transferred

14175. Within one year from the date of the order or decree fixing the tax, and at such times thereafter as the superior court having jurisdiction, on the application of the Controller, may require, the transferee or trustee shall file in the office of the clerk of the court a full and verified return of the property transferred.

Renewal bond

14176. The transferee or trustee shall renew the bond every five years from and after the date on which the bond was approved by filing in the office of the clerk of the superior court having jurisdiction a new bond with such sureties as the court may approve, and transmitting a certified copy to the Controller. The penalty of each renewal bond shall be increased by an additional five years' interest at the rate of 7 per cent per annum on the unpaid tax.

Penalty

Action on bond

14177. If the bond is not renewed before the expiration of each five-year period, it becomes due and payable immediately, and if it is not paid forthwith, the Controller may file

an action on it to recover the penalty specified. No demand for payment is necessary before the institution of the action.

Insufficient surety

14178. Whenever it appears to the satisfaction of the superior court having jurisdiction that any surety on any bond on file has for any reason become insufficient, the court may, on motion of the Controller after such notice to the transferee or trustee as the court may require, order the filing of a new bond with sufficient sureties in lieu of the bond on file. If the order is made and either a new bond is not filed within the time specified in the order or the sureties on the bond fail to justify when required, all rights obtained by the filing of the original bond or any subsequent bond shall cease, and the tax imposed, plus the interest on the tax, shall become due and payable immediately.

Article 6. Tax Compromises

14191. The Controller may compromise:

Transfer upon contingency

(a) With the executor, administrator, or trustee in charge of the property involved, the taxability of any transfer made subject to a contingency or condition upon the occurrence of which the right, interest, or estate of the transferee may, in whole or in part, be created, defeated, extended, or abridged.

Transfer by nonresident

(b) The tax payable on any transfer of property included in the estate of any decedent who it is claimed was not a resident of this State at the time of his death.

Confirmation

14192. No compromise pursuant to this article is legally effective until the superior court having jurisdiction by order confirms a report of the inheritance tax appraiser prepared in accordance with the settlement. The order constitutes a final determination of the matters covered by it, and the payment of the tax as fixed by the order discharges the executor, administrator, or trustee from all liability with respect to the tax.

Article 7. Delinquent Tax Bond

When required

14201. If any executor or administrator fails to pay any tax imposed by this part for which he is liable prior to the delinquent date of the tax, he shall, on motion made by the Controller in his discretion, be required by the superior court having jurisdiction to execute a bond to the people of the State of California in a penalty of 135 per cent of the amount of the tax with such sureties as the court may approve, conditioned for the payment of the tax, plus interest on the tax at the rate of 7 per cent per annum commencing on the delinquent date of the tax imposed, within a certain time to be fixed by the court and specified in the bond.

Filing

14202. The bond shall be filed in the office of the clerk of the court, and a certified copy shall be immediately transmitted to the Controller.

Failure to file

14203. If the bond is not filed within 20 days after the date of the filing of the order requiring it, the letters of the executor or administrator affected shall be revoked upon motion of the Controller.

Article 8. Interest

Interest

14211. The tax does not bear interest if it is paid prior to the date on which it otherwise becomes delinquent. However, except as otherwise provided in this article, if it is paid after that date it bears interest at the rate of 10 per cent per annum from the date it became due and payable and until it is paid.

Remission of interest

14212. If, in the judgment of the superior court having jurisdiction, the estate, or any part of the estate, of any transferor can not be settled prior to the delinquent date of any tax on a transfer of property included in the estate, because of claims against the estate, necessary litigation, or other unavoidable cause of delay, and the tax is not paid before that date, the tax bears interest at the rate of 7 per cent per annum from the delinquent date and until the cause of the delay is removed or until it is paid, whichever is earlier. If paid after the cause of the delay is removed, the tax bears interest at the rate of 7 per cent per annum from the delinquent date and until the cause of delay is removed, and at the rate of 10 per cent interest per annum from the date the cause of delay is removed and until it is paid.

Litigation to defeat the payment of the tax is not considered necessary litigation.

Article 9. Application of Delinquent Payments

Application of payments

14221. Every payment on a delinquent tax is applied, first, to any interest due on the tax at the date of payment, and then, if there is any balance, to the tax itself.

Chapter 9. Collection of Tax

Article 1. Lien of Tax

Lien

14301. Every tax imposed by this part, together with any interest on the tax, is a lien upon the property included in the transfer on which the tax is imposed. Except as otherwise provided in this chapter, the lien remains until the tax and interest are paid in full.

Duration

Future interests, etc

14302. In the case of a transfer of any estate, income, or interest (a) for a term of years or for life, or (b) determinable upon any future or contingent event, or (c) constituting a remainder, reversion, or other expectancy, the tax imposed by this part, together with any interest on the tax, remains a lien until paid upon the entire property by which the estate, income, or interest is supported, or of which it is a part.

Sale to bona fide purchaser

14303. Unless suit for collection of the tax is instituted within five years after the tax becomes due and payable, the lien ceases as to any bona fide purchaser, mortgagee, or lessee of, or beneficiary under a deed of trust on, the property subject to the lien.

Sale under Probate Code

14304. If property subject to the lien is sold, exchanged, or otherwise transferred pursuant to the Probate Code, the

lien ceases as to the property and attaches to the proceeds or other consideration received.

Subordination of lien

14305. If property subject to the lien is mortgaged, hypothecated, or leased pursuant to the Probate Code, the lien becomes subject and subordinate to the rights and interests of the mortgagee, lessee, or other person so secured or created, and attaches to the proceeds of the mortgage, hypothecation, or lease.

Cessation on approval after deferment bond

14306. Upon the approval of a bond for the deferment of payment of the tax imposed on a transfer subject to a contingency or condition upon the occurrence of which the right, interest, or estate of the transferee may, in whole or in part, be created, defeated, extended, or abridged, the lien upon the property included in the transfer ceases.

Article 2. Writ of Execution

Issuance

14321. At any time after two years from the date of any decedent's death, the Controller may have a writ of execution issued for the enforcement of any order, decree, or judgment fixing tax in respect to any transfer made by the decedent.

Property subject to

14322. The writ may be executed against any property in the decedent's estate, including any property which has been transferred within the meaning of this part, or against any property belonging to the transferee liable for the tax.

Provisions of Code of Civil Procedure

14323. The writ shall be levied and the property sold or otherwise subjected to execution pursuant to the provisions of the Code of Civil Procedure relating to execution and sales on execution.

Proceeds

14324. The proceeds of the execution shall be paid by the officer levying the writ to the county treasurer.

For the purpose of computing discount or interest on the tax, the proceeds of the execution are deemed paid to the county treasurer as of the date the proceeds are received by the officer levying the writ.

Fees prohibited

14325. No fee shall be exacted from the Controller for the issuance or execution of the writ, or for any sale pursuant to it.

Duties of executor unaffected

14326. The enforcement of any order, decree, or judgment fixing tax pursuant to this article against property in a decedent's estate shall not in any way affect the duties of the executor or administrator relative to the payment of the tax.

Article 3. Withholding by Third Persons

Corporate stock

14341. Unless the written consent of the Controller, or of a person authorized in writing by the Controller to issue the consent, is first secured, no corporation organized or existing under the laws of this State shall transfer on its books or issue a new certificate for any share of its capital stock belonging to or standing in the name of a decedent, belonging to or standing in the joint names of a decedent and one or more other persons, or held in trust for a decedent.

Safe deposit boxes Notice agreements

14342. No safe deposit company, trust company, corporation, bank, other institution, or person engaged in the business of renting safe deposit boxes or similar receptacles shall rent any safe deposit box or similar receptacle without first requiring every person given access to the box or receptacle to agree in writing to notify such depositary, bailee, or lessor of the death of any other person having the right of access before seeking access after the death of such other person.

Notice to safe deposit company

14343. Every person having the right of access upon the death of any other person having the right of access to any safe deposit box or similar receptacle rented from a safe deposit company, trust company, corporation, bank, other institution, or person engaged in the business of renting safe deposit boxes or similar receptacles, shall notify such depositary, bailee, or lessor of the death of such other person before seeking access after such event.

Unlawful access to safe deposit box

14344. Unless the consent of the Controller, or of a person authorized in writing by the Controller to issue the consent, is first secured, it is unlawful for any safe deposit company, trust company, corporation, bank, other institution, or person in possession, control, custody, or partial custody of any safe deposit box or similar receptacle to permit access to the box or receptacle by any person after the death of any other person who at the time of his death had the right or privilege of access as principal, deputy, agent, or cotenant.

Unlawful to deliver property without withholding tax, etc

14345. No safe deposit company, trust company, corporation, bank, other institution, or person in possession, control, custody, partial control, or partial custody of any securities, deposits, or other property, including shares of the capital stock of or any other interest in any such organization or institution, belonging to or standing in the name of a decedent, whether a resident or nonresident, or belonging to or standing in the joint names of such a decedent and one or more other persons, shall deliver or transfer the property to, or upon the order or request of, any executor of the will, administrator of the estate, legal representative, agent, deputy, attorney, trustee, legatee, heir, or successor in interest of the decedent, or any survivor if held in the joint names of the decedent and one or more other persons, or any other person:

(a) Without retaining a sufficient portion or amount of the property to pay any tax and interest which may thereafter be assessed pursuant to this part; and

(b) Unless notice of the time and place of the delivery or transfer is first served upon the Controller and county treasurer at least 10 days prior to the delivery or transfer.

Noncompliance on consent

The Controller, or any person authorized in writing by the Controller, may consent in writing to the delivery or transfer, in which event compliance with this section is not required.

Examination of property

The Controller or county treasurer may examine any property specified in this section at the time of its delivery or at any other time.

List of contents of safe deposit box

14346. Upon payment to the county treasurer of a fee not exceeding the sum of one dollar ($1), the following persons and no others are entitled to receive from the county treasurer any copy prepared by the Controller or county treasurer of any list of the contents of any safe deposit box to which a decedent had access:

(a) An executor of the decedent's will.

(b) The administrator of the decedent's estate.

(c) The attorney for the executor or administrator.

(d) A surviving joint tenant or cotenant of the safe deposit box.

(e) Any heir of the decedent or beneficiary under the decedent's will.

(f) Any person whom the superior court having jurisdiction by order directs should be allowed to obtain a copy of the list.

Penalty

14347. Any safe deposit company, trust company, corporation, bank, other institution, or person required to comply with the provisions of this article, but failing to do so, is liable to a penalty of not more than twenty thousand dollars ($20,000), and, in addition, is liable for the amount of any tax, interest, or penalty due and payable under this part on the transfer of the property involved.

The liabilities imposed by this section may be enforced by the Controller in an action brought in any court of competent jurisdiction.

Article 4. Statute of Limitations

Limitation

14355. The provisions of the Code of Civil Procedure relative to the time of commencing civil actions do not apply to any action or proceeding for the collection of any tax, interest, or penalty imposed by this part.

Chapter 10. Refunds

Article 1. Overpayment: Erroneous Order Fixing Tax

Refund after order modified

14361. If any tax has been paid to the county treasurer pursuant to an order fixing the tax, after notice to the Controller, which order is subsequently modified or reversed either by the superior court which made it or by an appellate court on appeal, the county treasurer shall refund to the person who paid the tax such portion of the tax as may exceed the amount fixed by the order as modified or reversed.

Application

14362. An application for the refund shall be filed within one year from the modification or reversal by the superior court of its order fixing the tax, or, if an appeal was taken from that order, within one year from the final determination of the appeal.

Article 2. Overpayment: Correct Order Fixing Tax

Refund of erroneous payment

14371. Any person who has made a payment of tax to the county treasurer in excess of the amount specified in the order

fixing tax, is entitled to a refund in the amount erroneously paid.

Application

14372. An application for the refund shall be filed with the superior court having jurisdiction within one year after the date of the entry of the order fixing tax or of the decree of final distribution of the estate, whichever is later.

Notice

Notice of the filing of the application shall be given the Controller.

Court order

14373. On proof satisfactory to it that the applicant is entitled to a refund, the court shall by order direct the county auditor to draw his warrant upon the county treasurer in favor of the person who paid the tax in the amount erroneously paid, and the county treasurer shall refund that amount.

Article 3. Excess Additional Tax

Refund of excess additional tax

14381. If the amount of any additional tax paid to the county treasurer is later found to exceed, or, when added to the amount of the inheritance tax imposed by this part, to result in a total tax in excess of, the maximum State tax credit allowed by the Federal estate tax law, the person who paid the tax is entitled to a refund in the amount over and above the credit.

Application

14382. An application for the refund shall be filed with the superior court having jurisdiction within six months after the maximum credit has been determined by the Federal Government.

Notice

Notice of the filing of the application shall be given the Controller.

Court order

14383. On proof satisfactory to it that the applicant is entitled to a refund, the court shall by order direct the county auditor to draw his warrant upon the county treasurer in favor of the applicant in the amount in excess of the maximum credit, and the county treasurer shall refund that amount.

Article 4. Tax on Power of Appointment Where Property Passes to Charitable Beneficiary on Exercise or Nonexercise

Refund where power exercised in favor of charitable beneficiary

14391. If a donee of a gift of a power of appointment on which a tax has been paid to the county treasurer irrevocably exercises, or obligates himself to exercise, the power, in whole or in part, in favor of a charitable beneficiary, and the superior court having jurisdiction modifies its original order fixing the tax by a new order eliminating the gift as a taxable transfer to the extent that the power is so exercised, or obliged to be exercised, the county treasurer shall refund to the person who paid the tax such portion of the tax as is allocable to the gift eliminated.

Refund where property passes to charitable beneficiary on nonexercise of power

14392. If property subject to a power of appointment on the gift of which a tax has been paid to the county treasurer goes, in whole or in part, to a charitable beneficiary as the result of a nonexercise of the power, in whole or in part, by

the donee of the power, and the superior court having jurisdiction modifies its original order fixing the tax by a new order eliminating the gift as a taxable transfer to the extent that the property goes to the charitable beneficiary, the county treasurer shall refund to the person who paid the tax such portion of the tax as is allocable to the gift eliminated.

Application

14393. An application for any refund allowed by this article shall be filed within one year from the modification by the superior court of its original order fixing the tax, or, if an appeal is taken from the order of modification, within one year from the final determination of the appeal.

Article 5. Tax Where Property Valued Without Allowance for Incumbrance or Contingency

Refund where property valued without allowance for contingency

14401. If any tax has been paid to the county treasurer on a transfer subject to a contingent incumbrance or any contingency which might burden, abridge, defeat, or diminish the estate or interest of the transferee, and the gift was valued without allowance for the incumbrance or contingency, upon the taking effect of the incumbrance or the happening of the contingency the person who paid the tax is entitled to a refund in an amount equal to the difference between the tax paid and any smaller tax that would have been paid on a valuation of the estate or interest actually enjoyed or of the estate or interest remaining after the taking effect of the incumbrance or the happening of the contingency.

Application

14402. An application for the refund shall be filed with the superior court having jurisdiction within six months after the taking effect of the incumbrance or the happening of the contingency.

Notice

Notice of the filing of the application shall be given the Controller.

Court order

14403. On proof satisfactory to it that the applicant is entitled to a refund, the court shall by order direct the county auditor to draw his warrant upon the county treasurer in favor of the applicant in the amount of the difference between the tax paid and the tax that would have been paid, and the county treasurer shall refund that amount.

Article 6. Tax Paid on High Contingency

Refund where lower tax payable on happening of contingency

14411. If any tax has been paid to the county treasurer at the highest rate possible on a transfer subject to a contingency or condition upon the occurrence of which the right, interest, or estate of the transferee may, in whole or in part, be created, defeated, extended, or abridged, and thereafter on the happening of the contingency or condition the property involved, or any part of it, goes to a person to whom a transfer of the property is exempt or to a person to whom a transfer of the property is taxable at a rate less than the rate on which the tax paid was computed, the executor or trustee who paid the tax is entitled to a refund either, as the case may be, in the

amount of the tax paid or in an amount equal to the difference between the tax paid and the tax which would have been paid had the property originally gone directly to the person who receives it on the happening of the contingency or condition.

Application

14412. An application for the refund shall be filed with the superior court having jurisdiction within six months after the happening of the contingency or condition.

Notice

Notice of the filing of the application shall be given the Controller.

Court order

14413. On proof satisfactory to it that the applicant is entitled to a refund, the court shall by order direct the county auditor to draw his warrant upon the county treasurer in favor of the applicant in the amount of the difference between the tax paid and the tax that would have been paid, and the county treasurer shall refund that amount.

Refund part of corpus

14414. The amount of the refund shall go into and form a part of the corpus of the property transferred.

Article 7. Debts Proved After Distribution

Refund where debt proved after distribution

14421. If any debt is proved against the estate of any decedent after the distribution of any property on the transfer of which the tax imposed by this part has been deducted from the property or collected from the transferee, and the latter is required by order of the superior court having jurisdiction after notice to the Controller to pay the debt or any part of it, the transferee is entitled to a refund of an equitable proportion of the tax after making the payment.

Application

14422. An application for the refund shall be filed within one year after the debt paid is allowed by the court.

Duty to make refund

14423. If the tax has not been paid to the county treasurer, the executor, administrator, or trustee shall make the refund. If the tax has been paid to the county treasurer, the latter shall make the refund.

Limitation

14424. For the purpose of this part, there is no limitation governing the time within which debts may be proved against the estate of a decedent after the distribution of any property in the estate.

Article 8. Interest on Refunds

Interest disallowed

14431. No person is entitled to interest upon any refund allowed by this chapter.

Interest on judgment for refund

14432. A judgment for a refund allowed by this chapter bears interest after the judgment becomes final and the refund is refused upon demand after such final judgment, but then only from the date of refusal.

Chapter 11. Proceedings For Determination of Tax

Article 1. Estates in Probate

Appointment of appraiser

14501. At or prior to the time of the appointment of the probate appraiser or appraisers pursuant to Section 605 of

the Probate Code, the superior court having jurisdiction in probate of the estate of any decedent, or a judge of that court, shall designate and appoint an inheritance tax appraiser to ascertain and submit a report to the court on the following:

(a) The clear market value of the property included in each transfer subject to this part from the decedent to any person sharing in the estate, whether the property transferred is in the estate or not.

(b) The amount of tax, if any, which is due and payable on each transfer.

(c) Such other facts regarding the tax as will assist the court in the determination of the tax.

Powers of appraiser

14502. Upon his designation and appointment the inheritance tax appraiser has:

(a) Jurisdiction to require the attendance before him of the executor, administrator, any person interested in the estate, or any other person who he may have reason to believe possesses knowledge of the estate, of any property transferred by the decedent by a transfer subject to this part, or of any facts that will aid the appraiser or the court in the determination of the tax.

(b) All the powers of a referee of the superior court.

Subpenas

14503. The appraiser may issue subpenas compelling the attendance of any person before him for the purpose of:

(a) Appraising any property included in any transfer subject to this part made by the decedent.

(b) Determining the amount of any tax due and payable on the transfer.

Examination of witnesses

14504. The appraiser may examine and take the testimony under oath of any person appearing before him concerning any transfer subject to this part made by the decedent, the property included in the transfer, and the value of the property.

Contempt

14505. Any person served with a subpena issued by the appraiser requiring him to appear and testify before the appraiser in respect to any appraisement, or to produce any book or paper under his control or custody which is relevant to the appraisement, who refuses or neglects to do so, is guilty of a contempt of the court by whom the appraiser was designated and appointed.

Report

14506. Upon the completion of his appraisement the appraiser shall file a written report with the superior court setting forth the following:

(a) The clear market value of the property included in each transfer subject to this part from the decedent to any person sharing in the estate, whether the property transferred is in the estate or not.

(b) The amount of tax which is due and payable on each transfer.

(c) Such other facts as may advise the court in regard to the tax, or which the court may require.

In addition to filing the report, the appraiser may file with the court any deposition, exhibit, other evidence, or other information taken before or submitted to him.

Copy to Controller

14507. Upon filing the report the appraiser shall mail a copy to the Controller.

Notice of filing

14508. On the day that the report is filed, or on the next succeeding judicial day, the clerk of the superior court shall give notice of the filing to all persons interested by causing a notice to be posted at the courthouse in the county where the court holds its sessions, and shall mail a copy of the notice to the Controller and to each person chargeable with any tax in the report who has appeared in the probate proceeding.

Order fixing tax where no objections

14509. If no objection to the report is filed prior to the expiration of 10 days from and after the posting and mailing of the notice, the superior court, a judge of the court, or, if the court is located in a county or city and county having a population of 900,000 or more, a court commissioner appointed by the court may, without further notice, make an order confirming the report and fixing the tax in accordance therewith.

Objections

14510. At any time prior to the making of the order, any person interested, including the Controller, may file a written objection to the report.

Notice of hearing

14511. If an objection is filed, the clerk of the superior court shall fix a time, not less than 10 days after the filing, for a hearing on the objection, and shall give notice of the hearing by posting a notice of hearing at the courthouse in the county where the court holds its sessions, and by forthwith mailing a copy of the objection and of the notice to the Controller, the county treasurer, and the inheritance tax appraiser.

Report presumed correct

14512. For the purpose of the hearing the report of the inheritance tax appraiser is presumed to be correct, and at the hearing it is the duty of the objector to proceed in support of his objection.

Order

14513. Upon the completion of the hearing the court may make such order as to it may seem appropriate.

No tax certificate

14514. If it appears to the inheritance tax appraiser upon the completion of his appraisement that no tax is due and payable in the estate, he may so certify to the superior court. At any time thereafter, if no objection to the certificate has been filed, the court or a judge of the court may, without further notice, make an order declaring that no tax is due and payable in the estate, or may make such other order as to it may seem appropriate.

Conclusiveness of order

14515. An order fixing tax or declaring that no tax is due and payable is conclusive only as to such property as may have been returned in the inventory or inventory and appraisement in the probate proceeding, or as may have been included in transfers disclosed to the inheritance tax appraiser before making his report or issuing his certificate.

Procedure where decedent leaves no one to take

14516. Where a decedent leaves no one to take his estate under the laws of this State, no report or certificate shall be

filed by the inheritance tax appraiser, and no order fixing tax or declaring that no tax is due and payable shall be made by the court. If the estate is distributed to the State of California and thereafter, pursuant to law, a petition is filed in the Superior Court of the County of Sacramento showing the petitioner's claim or right to the estate or the proceeds thereof, the court shall appoint an inheritance tax appraiser for the County of Sacramento to ascertain and report to the court the amount of tax, if any, that is due and payable. The procedure subsequent to the appointment is the same as that prescribed by this article following the appointment of an appraiser by a superior court having jurisdiction in probate of the estate of any decedent.

Article 2. Proceeding Initiated by Controller

Petition

14531. If, upon the petition of the Controller, it appears to the superior court having jurisdiction (a) that a transfer subject to this part has been made as to which the taxability, tax liability, and amount of tax have not been determined, and (b) that no proceedings are pending in any court in this State in which these matters may be determined, the court shall issue a citation ordering and directing any person who appears liable for the tax, or is known to own all or any part of the property transferred, to appear at a hearing either before the court or before a designated inheritance tax appraiser at a specified time and place, not less than 10 days nor more than one year from the date of the citation, to be examined under oath by the court or by the appraiser, as the case may be, concerning the transfer and all facts connected with it, and concerning the property transferred and its character and value.

Citation

Court hearing

14532. If the person cited is ordered and directed to appear before the court, the latter may hear the matter upon the relation of the parties, the testimony of witnesses, and any other evidence that may be produced. If the court finds that the transfer involved is not subject to tax, it shall by order so determine. If, however, it appears to the court that the transfer is subject to tax, the property included in the transfer shall be appraised and the tax determined as in other cases.

Hearing before appraiser

14533. If the person cited is ordered and directed to appear before the appraiser, the latter shall, at the time and place specified in the citation, or at a time and place to which the appraiser may adjourn the hearing, examine the person cited and any witness whom the appraiser may subpena.

Powers of appraiser

14534. For the purpose of the hearing, and in ascertaining any facts concerning the taxability of the transfer or the amount of any tax due and payable thereon, the appraiser:

(a) May issue subpenas, may administer oaths, and may take the testimony under oath of witnesses concerning the transfer, the property transferred, and the value of the property.

(b) Has all the powers of a referee of the superior court.

Report

14535. Upon the completion of the hearing the appraiser shall file with the superior court a report containing his findings and conclusions relative to the transfer and any tax due and payable thereon. In addition to filing the report, the appraiser may file with the court any deposition, exhibit, other evidence, or other information taken before him or submitted to him.

Procedure subsequent to report

The procedure subsequent to the filing of the report is the same as the procedure applicable following the filing of an inheritance tax report with a superior court having jurisdiction in probate of the estate of any decedent by an appraiser appointed by that court.

General procedure

14536. Except as otherwise provided in this part, the time, manner, and proof of service of any citation issued pursuant to this article, the hearing on the citation, any hearing on the report filed by the appraiser, the determination of any hearing, and the enforcement of the resulting order, decree, or judgment shall conform to the provisions of Chapter 22 of Division 3 of the Probate Code.

Abstract of decree

14537. Upon the request of the Controller the clerk of the court shall furnish without charge one or more abstracts of the order, decree, or judgment. Any such abstract may be recorded without charge with the recorder of any county in accordance with Section 674 of the Code of Civil Procedure. The effect of the recording is the same as that which follows a recording pursuant to the latter section of an abstract of the order, decree, or judgment of any court of this State.

Article 3. Proceeding Initiated by Interested Party

Verified petition

14551. A verified petition may be filed by any interested party with the superior court having jurisdiction alleging and admitting the following:

(a) That a transfer subject to this part has been made as to which the taxability, tax liability, and amount of tax have not been determined.

(b) That no proceedings are pending in any court in this State in which these matters may be determined.

(c) That the petitioner desires such a determination, and desires to pay any tax that may be due and payable.

Reference to appraiser

14552. Upon the filing of the petition the superior court having jurisdiction, or a judge of that court, shall by order:

(a) Designate and appoint an inheritance tax appraiser to ascertain and report to the court the amount of tax, if any, due and payable on the transfer for which the petitioner is liable.

(b) Fix a time and place, not less than 10 days after the date of the order, for a hearing on the matter before the appraiser.

(c) Refer the petition and the matter to which it relates to the appraiser.

Copy to Controller

14553. A copy of the petition and of the order shall be forthwith mailed to the Controller.

Powers of appraiser

14554. Upon his designation and appointment the appraiser has the same powers as an inheritance tax appraiser who is designated and appointed in a probate proceeding to make an inheritance tax appraisement.

Procedure

14555. The procedure subsequent to the reference of the petition and the matter to which it relates to the appraiser is the same as the procedure applicable following the designation and appointment of an inheritance tax appraiser to make an inheritance tax appraisement by a superior court having jurisdiction in probate of the estate of any decedent.

Article 4. Action to Quiet Title

Suit against the State

14571. An action may be brought against the State by any interested person for either of the following purposes:

(a) To quiet title to any property against any lien or claim of lien for any tax imposed by this part.

(b) To secure a determination that any property is not subject to any lien for nor chargeable with any tax imposed by this part.

When not maintainable

The action can not be maintained if any proceedings are pending in any court in this State in which the taxability of the transfer of the property, the tax liability, and the amount of tax may be determined.

Parties

14572. All persons interested in the transfer and in its taxability shall be made parties to the action. Any interested person who refuses to join as a plaintiff may be made a defendant.

Summons

14573. Summons in the action directed to the State shall be served upon the Controller.

Appointment of appraiser

14574. At any time after issue is joined in the action the court, either upon its own motion or upon the motion of any interested party, may by order designate and appoint an inheritance tax appraiser to hear the matter and report to the court on the hearing. The court in the order shall:

(a) Fix a time and place for the hearing before the appraiser.

(b) Direct notice of the time and place for the hearing to be given in such manner as the court shall deem proper.

(c) Refer the matter to the appraiser.

Powers of appraiser

14575. Upon his designation and appointment the appraiser has the same powers as an inheritance tax appraiser who is designated and appointed in a probate proceeding to make an inheritance tax appraisement.

Procedure

14576. The procedure subsequent to the reference of the matter to the appraiser is the same as the procedure applicable following the designation and appointment of an inheritance tax appraiser to make an inheritance tax appraisement by a superior court having jurisdiction in probate of the estate of any decedent.

Judgment

14577. If the court determines that the property described in the complaint has been transferred by a transfer subject to this part and is subject to the lien of any tax imposed by this part, it shall award affirmative relief to the State in the action, and shall render a judgment in favor of the State ascertaining and determining the amount of the tax, the name of each person liable for the tax, and the property chargeable with or subject to the lien of the tax.

Article 5. Notice of Transfers Also Subject to Gift Tax

Notice of transfers subject to gift tax

14591. The inheritance tax appraiser acting in a proceeding for the determination of tax covered by Article 1 of this chapter shall, in addition to any other duty, notify the Controller of any property which he finds was transferred by the decedent in his lifetime by a transfer subject to the gift tax imposed by Part 9 of this division, where the gift return required by Part 9 has not been made and the property either is included in the probate estate or was transferred to any person sharing in that estate.

Same

14592. The inheritance tax appraiser acting in a proceeding for the determination of tax covered by Article 2, 3, or 4 of this chapter shall, in addition to any other duty, notify the Controller of any property which he finds was transferred by the decedent in his lifetime by a transfer subject to the gift tax imposed by Part 9 of this division, where the gift return required by Part 9 has not been made.

Chapter 12. Court Jurisdiction and Procedure Generally

Article 1. Court Jurisdiction

Probate court

14651. The superior court which has acquired jurisdiction in probate of the estate of any decedent shall hear and determine in the probate proceedings all questions relative to any tax imposed by this part on each transfer subject to this part from the decedent to any person sharing in the estate, whether the property transferred is in the estate or not.

Where resident decedent leaves no estate, etc

14652. The superior court of the county in which a decedent who was a resident of this State resided at the time of his death has jurisdiction to hear and determine all questions relative to any tax imposed by this part on any transfer made by the decedent where the decedent either (a) leaves no estate or (b) leaves an estate in which the property transferred is not included and the transferee does not share.

Where nonresident decedent leaves no estate, etc

14653. In the case of a decedent who was not a resident of this State at the time of his death, the superior court of the county in which any of the decedent's real property is situated, or, if he had no real property in this State, the superior court of the county in which any of his personal

property is situated, has jurisdiction to hear and determine all questions relative to any tax imposed by this part on any transfer made by the decedent where the decedent either (a) leaves no estate or (b) leaves an estate in which the property transferred is not included and the transferee does not share. If the decedent leaves property in more than one county, the superior court of any such county whose jurisdiction is first invoked has exclusive jurisdiction.

Action to quiet title

14654. Notwithstanding any other provision in this article:

(a) Any action brought pursuant to this part against the State by any interested person for the purpose of quieting title to any real property against any lien or claim of lien for any tax imposed by this part shall be commenced in the superior court of the county in which any part of the property is situated.

(b) Any action brought pursuant to this part against the State by any interested person for the purpose of quieting title to any personal property against any lien or claim of lien for any tax imposed by this part, or for the purpose of securing a determination that any property is not subject to any lien for nor chargeable with any such tax, shall be commenced in the superior court which has or had jurisdiction of the administration of the estate of the decedent who transferred the property.

Article 2. Court Procedure Generally

Application of C C P provisions

14671. Except as otherwise provided in this part, the provisions of the Code of Civil Procedure relative to judgments, new trials, appeals, attachments, and execution of judgments, so far as applicable, govern all proceedings under this part.

Effect of orders and decrees

14672. Every order, decree, or judgment fixing tax or declaring that no tax is due and payable, made or rendered pursuant to this part, has the force and effect of a judgment in a civil action.

Inconsistent C C P provisions

14673. Nothing in this article precludes the State from any relief provided for in this part which may be inconsistent with the provisions of the Code of Civil Procedure.

Time limitations inapplicable

14674. The provisions of the Code of Civil Procedure relative to the time of commencing civil actions do not apply to any action or proceeding under this part to levy, appraise, assess, determine, or enforce the collection of any tax, interest, or penalty imposed by this part.

Fees prohibited

14675. No fee shall be charged the Controller for filing, recording, or certifying any petition, lis pendens, decree, or order, or for taking any oath or acknowledgment, in any proceeding under this part; nor shall any undertaking be required from or costs awarded against the Controller or the State in any such proceeding.

CHAPTER 13. ADMINISTRATION

Article 1. Inheritance Tax Department

Department

14731. There is in the State Government the Inheritance Tax Department.

State Controller

14732. The State Controller shall maintain the department under his authority and direction for the purpose of supervising and assisting in the administration of this part and of Part 9 of this division.

Information and data

14733. The department shall gather, record, compile, publish, and distribute such information and data as the Controller may direct relative to this part, Part 9 of this division, or the inheritance or transfer tax laws of other States, including their administration, enforcement, or evasion.

Cooperation and advice

14734. The department shall cooperate with, advise, and assist inheritance tax appraisers, county treasurers, district attorneys, and other officers and persons in the administration and enforcement of this part and of Part 9 of this division.

Forms

14735. The department shall prepare, publish, and distribute such blank forms for use by inheritance tax appraisers or others as the Controller may direct.

Attorneys

14736. In connection with the department, the Controller may appoint, in addition to other employees:

(a) An inheritance tax attorney, whose office shall be in the City of Sacramento.

(b) Such subordinate inheritance tax attorneys as may be necessary, at least two of whom shall have their offices in the City of Los Angeles, at least two of whom shall have their offices in the City and County of San Francisco, and at least one of whom shall have his office in the City of Sacramento.

The inheritance tax attorney and the subordinate inheritance tax attorneys shall each be admitted and licensed to practice law in this State.

Civil executive officers

14737. The inheritance tax attorney and the subordinate inheritance tax attorneys are civil executive officers.

Powers of inheritance tax attorney

14738. The inheritance tax attorney has general supervision of the Inheritance Tax Department. He has particular charge of the legal work connected with the department, and shall perform such other duties as the Controller may direct.

Subordinate attorneys

14739. Each subordinate inheritance tax attorney shall perform such legal and other services relative to the administration and enforcement of this part and Part 9 of this division in the county in which his office is situated or in any neighboring county as the Controller may direct.

Rules and regulations

14740. The Controller may make and enforce rules and regulations relating to the administration and enforcement of this part, and may prescribe the extent, if any, to which any ruling or regulation shall be applied without retroactive effect.

Article 2. Special Employments

Special employments

14761. Whenever he is cited as a party to any proceeding or action to determine any tax imposed by this part, or

whenever he deems it necessary for the better enforcement of this part to secure evidence of the evasion of, or to commence or appear in any proceeding or action to determine, any such tax, the Controller may, with the consent and approval of the Attorney General:

(a) Specially employ any attorney or other person in or out of the State to act for or represent him on the State's behalf.

(b) Incur any reasonable and necessary expense for and incident to the employment.

Compensation

14762. No expense for a fee or other compensation incurred in connection with any special employment under this article shall exceed 10 per cent of the amount of any tax, interest, or penalty collected.

Expenses

14763. All reasonable and necessary expenses incurred in connection with any special employment under this article in any proceeding or action in any court of this State, on appeal or otherwise, including expenses of serving process or of preparing and printing necessary legal papers, but excluding any fee or compensation for services, may be allowed and paid without limitation in the manner provided in this article, even though no tax is recovered in the proceeding or action.

Payment of expenses

14764. On the presentation of a sworn itemized account and a certificate of the Controller and Attorney General, the county treasurer shall pay out of any inheritance tax money in his hands any expense incurred pursuant to and allowable by this article.

Article 3. Inheritance Tax Appraisers

Appointment by Controller

14771. The Controller shall appoint at least one person in each county to act as an inheritance tax appraiser for the county, and may remove any such person at his pleasure.

Compensation

14772. For the services performed by him pursuant to this part, the inheritance tax appraiser shall be paid out of the inheritance tax money in the hands of the treasurer of the county in which he acts:

(a) Such reasonable compensation as the superior court of the county, or a judge of that court, shall fix.

(b) Such actual and necessary traveling and other incidental expenses, including fees paid to witnesses subpenaed by him, as the court or judge shall allow.

No payment shall be made unless the claim for payment is first approved by the Controller.

Any payment under this section is in addition to any other payment to the appraiser pursuant to Section 609 of the Probate Code.

Fees and expenses

14773. For any appraisal of property included in any transfer subject to this part made by an inheritance tax appraiser appointed in any proceeding to determine the taxability of the transfer, as to which appraisal the appraiser does not receive any compensation or expenses under Section 609 of the Probate Code, the appraiser shall receive out of the

property transferred or from the transferee the fees and expenses, to be allowed by the court, specified in Section 609 of the Probate Code.

Any payment under this section is in addition to any other payment to the appraiser pursuant to this part and is in lieu of any payment to him pursuant to Section 1174 of the Probate Code.

Taking fees not allowed by law

14774. Any appraiser who takes any fee or reward not allowed him by law from any person liable for the payment of the whole or any portion of any tax imposed by this part is guilty of a misdemeanor, and upon conviction is punishable by a fine of not less than two hundred fifty dollars ($250) nor more than five hundred dollars ($500), or by imprisonment in the county jail for 90 days, or by both. In addition, the court shall dismiss him from service as an appraiser.

Article 4. County Treasurers

Receipt of taxes

14791. The treasurer of each county shall receive payment of all taxes and other money that may be due and payable under this part.

Payment of refunds

14792. The county treasurer shall pay out of any inheritance tax money in his hands or custody any refund that he is required to make pursuant to this part, and shall credit himself with the refund in the account that he is required to render to the Controller on his settlement.

Payment to State Treasurer

14793. With the exception of such money as he may pay out from time to time pursuant to this part, the county treasurer shall pay to the State Treasurer all money received by him under this part within 90 days after the receipt of the money. The county treasurer shall submit with the payment a statement in such form and containing such particulars, including the name of the estate, if any, from which the money was received, as the Controller shall prescribe.

Payment of interest

14794. On all money received by him under this part which he does not pay to the State Treasurer within 90 days after receipt, the county treasurer shall pay interest at the rate of 10 per cent per annum.

Commissions

14795. In addition to any other compensation to which he is entitled by law, for the services performed by him pursuant to this part the county treasurer may retain out of the inheritance taxes paid to and accounted for by him each year commissions equal to the following:

(a) 3 per cent of the first one hundred thousand dollars ($100,000).

(b) 1½ per cent of the next fifty thousand dollars ($50,000).

(c) 1 per cent of the amount exceeding one hundred fifty thousand dollars ($150,000).

Maximum commissions in one estate

14796. The maximum commissions that may be retained by the county treasurer out of the inheritance taxes paid in

respect to any transfer or transfers made by or resulting from the death of any one decedent are as follows:

(a) By the county treasurer of a county of the first class, second class, or third class, five hundred dollars ($500).

(b) By the county treasurer of a county of any other class, two hundred dollars ($200).

No portion of the tax or taxes paid on the transfer or transfers in excess of the sum entitling the county treasurer to maximum commissions shall be considered in computing his commissions.

Maximum yearly commissions

14797. The maximum commissions that may be retained by the county treasurer out of the total inheritance taxes paid to and accounted for by him in any one year are as follows:

(a) By the county treasurer of a county of the first class, eighteen thousand dollars ($18,000).

(b) By the county treasurer of a county of the second class, fourteen thousand dollars ($14,000).

(c) By the county treasurer of a county of the third class, ten thousand dollars ($10,000).

(d) By the county treasurer of a county of any other class, five thousand dollars ($5,000).

Deduction for commissions on refunds

14798. If, pursuant to this part, the county treasurer refunds any overpayment or erroneous payment of tax in respect to which he retained a commission, the Controller shall deduct the amount retained from the commissions allowable, treating the amount refunded as the last payment to the county treasurer in the year in which the overpayment or erroneous payment was made.

Article 5. Inspection of Records

Inspection, etc

14811. Whenever the Controller has reasonable cause to believe that a tax is due under this part upon any transfer, and that any person, firm, institution, company, association, or corporation has possession, custody, or control of any books, records, accounts, papers, or documents relating to or evidencing the transfer, the Controller, the inheritance tax attorney, or any subordinate inheritance tax attorney may, for the purpose of acquiring any information deemed necessary or desirable by the Controller, the inheritance tax attorney, or the subordinate inheritance tax attorney for the proper enforcement of this part or for the collection of the full amount of tax that may be due:

(a) Inspect or take a copy of the books, records, accounts, papers, or documents.

(b) Administer an oath to and examine any such person or any officer or agent of any such firm, institution, company, association, or corporation.

Penalties

14812. Any officer or agent of any firm, institution, company, association, or corporation having or keeping an office within this State, who has in his custody or under his control any book, record, account, paper, or document of the firm, institution, company, association, or corporation relating to

or evidencing any transfer as to which the Controller has reasonable cause to believe a tax is due under this part, or any other person having in his custody or under his control any similar book, record, account, paper, or document, who refuses to give the Controller, the inheritance tax attorney, or any subordinate inheritance tax attorney, after lawful demand, a reasonable opportunity during office hours to inspect or take a copy of the whole or any part of the book, record, account, paper, or document for any purpose permitted by this article, is liable to a penalty of not less than one thousand dollars ($1,000) nor more than twenty thousand dollars ($20,000), and, in addition, is liable for the amount of any tax, interest, or penalty due under this part on the transfer.

The liabilities imposed by this section may be enforced by the Controller in an action brought in any court of competent jurisdiction.

Information confidential

14813. All information and records acquired by the Controller, the inheritance tax attorney, or any subordinate inheritance tax attorney are confidential in nature, and, except in so far as may be necessary for the enforcement of this part or as may be permitted by this article, shall not be disclosed by any of them.

Penalty for disclosure

Except in so far as may be necessary for the enforcement of this part or as may be permitted by this article, any former or incumbent Controller, inheritance tax attorney, or subordinate inheritance tax attorney who discloses any information acquired by any inspection or examination made pursuant to this article is guilty of a felony, and upon conviction shall be imprisoned in the State prison for not more than five years.

Inspection by tax officials

14814. The Controller may allow any local, State, or Federal official charged with the administration of any tax law to examine his inheritance tax records under such rules and regulations as he may prescribe.

Article 6. Nonperformance of Official Duty

Forfeiture

14831. Any officer who fails or refuses to perform within a reasonable time any duty imposed upon him by this part, or who fails or refuses to make and deliver within a reasonable time any statement or record that he is required by this part to make and deliver, shall forfeit to the State of California the sum of one thousand dollars ($1,000), which shall be recovered in an action by the Attorney General brought in the name of the people of the State on the relation of the Controller.

Chapter 14. Disposition of Proceeds

Disposition of proceeds

14901. All taxes and other money paid or collected under this part and received by the State Treasurer shall be deposited in the State Treasury to the credit of the General Fund.

PART 9. GIFT TAX

CHAPTER 1. DEFINITIONS

Short title

15101. This part is known as the "Gift Tax Law."

Definitions

15102. Except where the context otherwise requires, the definitions given in this chapter govern the construction of this part.

"Property"

15103. "Property" means any real or personal property or interest therein of a resident or nonresident donor, and includes:

(a) All real property within this State.

(b) All intangible and other personal property the transfer of which this State may constitutionally tax.

"Transfer" or "gift"

15104. "Transfer" or "gift" includes the passage by gift of any property, or any interest therein or income therefrom, in possession or enjoyment, present or future, in trust or otherwise, directly or indirectly, or any transfer made with donative intent.

Same

15105. "Transfer" or "gift" does not include any transfer of property in trust where the power to revest in the donor title to the property is vested in the donor, either alone or in conjunction with any person not having a substantial adverse interest in the disposition of the property. However, "transfer" or "gift" does include the relinquishment or termination of any such power, other than by the donor's death, a transfer by the donor by gift of the property subject to the power, and any payment of the income from the property to a beneficiary other than the donor.

Transfer for inadequate consideration

15106. Where property is transferred for less than an adequate and full consideration in money or money's worth, the amount by which the value of the property exceeds the value of the consideration is a gift.

This section does not apply to any transfer made without donative intent.

Payment of tax by donee

15107. For the purpose of this part, neither a payment by the donee of the tax imposed by this part nor any agreement by the donee to pay such tax is consideration for the transfer of any property.

"Donor"

15108. "Donor" includes any individual who transfers property to another with donative intent.

"Donee" or "Transferee"

15109. "Donee" or "transferee" includes any person who receives property transferred to him from a donor.

"Class A donee"

15110. "Class A donee" means any of the following:

(a) A donee who is the husband, wife, lineal ancestor, or lineal issue of the donor.

(b) A donee whose relationship to the donor is that of a child adopted by the donor in conformity with the laws of this State.

(c) A donee to whom the donor for not less than 10 continuous years prior to the transfer stood in the mutually acknowledged relationship of a parent, if the relationship commenced on or before the donee's fifteenth birthday.

(d) Any donee who is the lineal issue of a child mentioned in subdivision (b) or (c).

"Class B donee"

15111. "Class B donee" means any of the following:

(a) A donee who is the brother, sister, or descendant of a brother or sister of the donor.

(b) A donee who is the wife or widow of a son, or the husband of a daughter, of the donor.

"Class C donee"

15112. "Class C donee" means any of the following:

(a) A donee who is the brother or sister of the father or mother of the donor.

(b) A donee who is the descendant of a brother or sister of the father or mother of the donor.

"Class D donee"

15113. "Class D donee" means any donee who is not a Class A, B, or C donee.

"Specific exemption"

15114. "Specific exemption" means the exemption allowed by Article 2 of Chapter 4 of this part.

"Annual exemption"

15115. "Annual exemption" means the exemption allowed by Article 1 of Chapter 4 of this part.

"Charitable exemption"

15116. "Charitable exemption" means the exemption allowed by Article 3 of Chapter 4 of this part.

"Intangibles exemption"

15117. "Intangibles exemption" means the exemption allowed by Article 4 of Chapter 4 of this part.

"Net gifts"

15118. "Net gifts" means the total amount or market value of gifts made during a calendar year after 10 p.m. of June 21, 1939, other than gifts within the intangibles exemption or the charitable exemption, less the annual exemption, if any, for the particular year.

"Territory"

15119. "Territory" includes the District of Columbia.

Chapter 2. Imposition and Computation of Tax

Tax imposed

15201. A tax is hereby imposed upon every transfer by gift of any property by an individual.

Transfer prior to June 21, 1939

15202. The tax does not apply to any transfer made and completed prior to 10 p.m. of June 21, 1939.

Computed on market value, etc

15203. The tax is computed on the market value of the property at the date of the gift, but only on that portion in excess of the exemptions allowable, and at the rates which are then in effect.

Computation generally

15204. The tax for any calendar year on gifts to a donee is computed as follows:

(a) Determine the aggregate sum of:

(1) The net gifts to the donee for the calendar year, and

(2) The net gifts to the same donee for each of the preceding calendar years.

(b) From this aggregate sum deduct:

(1) The net gifts to the donee for the preceding calendar years, and

(2) The specific exemption, less such portion as may have been used in computing the tax for preceding calendar years.

(c) Apply to the remainder the same rates that would have been applicable had the deductions not been made.

Rates Class A donee

15205. In the case of a transfer to a Class A donee, the rates of tax are as follows:

(a) 2 per cent of the market value of the property transferred up to $25,000.

(b) 3 per cent of the excess value over $25,000 and up to $50,000.

(c) 4 per cent of the excess value over $50,000 and up to $100,000.

(d) 7 per cent of the excess value over $100,000 and up to $200,000.

(e) 9 per cent of the excess value over $200,000 and up to $500,000.

(f) 10 per cent of the excess value over $500,000.

Class B donee

15206. In the case of a transfer to a Class B donee, the rates of tax are as follows:

(a) 5 per cent of the market value of the property transferred up to $25,000.

(b) 7 per cent of the excess value over $25,000 and up to $50,000.

(c) 10 per cent of the excess value over $50,000 and up to $100,000.

(d) 12 per cent of the excess value over $100,000 and up to $300,000.

(e) 14 per cent of the excess value over $300,000 and up to $500,000.

(f) 15 per cent of the excess value over $500,000.

Class C donee

15207. In the case of a transfer to a Class C donee, the rates of tax are as follows:

(a) 6 per cent of the market value of the property transferred up to $25,000.

(b) 9 per cent of the excess value over $25,000 and up to $50,000.

(c) 12 per cent of the excess value over $50,000 and up to $300,000.

(d) 15 per cent of the excess value over $300,000.

Class D donee

15208. In the case of a transfer to a Class D donee, the rates of tax are as follows:

(a) 7 per cent of the market value of the property transferred up to $25,000.

(b) 10 per cent of the excess value over $25,000 and up to $50,000.

(c) 12 per cent of the excess value over $50,000 and up to $300,000.

(d) 15 per cent of the excess value over $300,000 and up to $500,000.

(e) 16 per cent of the excess value over $500,000.

Possibility of divestment

15209. Notwithstanding that a donee by his act or omission can divest himself of the property transferred to him, the tax on the transfer is computed as if there were no possibility of divestment.

Transfer subject to contingency

15210. In the case of a transfer made subject to a contingency or condition upon the occurrence of which the right,

interest, or estate of the donee may, in whole or in part, be created, defeated, extended, or abridged, the tax is computed as though the contingency or condition has occurred, and at the highest rate possible.

Several gifts as one transaction

15211. When the Controller has reason to believe that several gifts are actually part of one transaction, he may elect to disregard intermediate parts of the transaction, even though they may appear to be separate gifts, and determine the tax as if the entire transaction were one gift, in accordance with the real effect of the transaction.

Computation on failure to file return, etc.

15212. In determining the tax on any gift in the case of a false or fraudulent return or in the case of a failure to file a return, the Controller shall determine the tax as if the gift under consideration had been made immediately after all gifts made by the donor in the preceding calendar year, except that the rates to be applied are those in effect at the date of the gift or those in effect at the date of the determination of the tax, whichever are higher.

Fraction of cent

15213. In computing any tax, penalty, or interest imposed by this part, a fraction of a cent is disregarded, unless it amounts to one-half cent or more, in which case it is treated as one full cent.

CHAPTER 3. COMMUNITY PROPERTY

Transfer to spouse

15301. In the case of a transfer of community property to either spouse, one-half of the property transferred is not subject to this part.

Transfer to other than spouse

15302. If any community property is transferred to a person other than one of the spouses, all of the property transferred is subject to this part, and each spouse is a donor of one-half.

Transfer of separate property into community

15303. If the separate property of either spouse is transferred by agreement into the community property of both spouses:

(a) One-half of the property transferred is subject to this part as a gift from the spouse whose property it was to the other spouse, and the other one-half is not subject to this part.

(b) The one-half which is subject to this part is the one-half of the community property which is not subject to Part 8 of this division on the death of the spouse whose separate property is transferred.

(c) If the wife is the spouse whose separate property is transferred, and upon her death and survival by her husband the entire community property passing to her husband is not subject to Part 8 of this division, the one-half of the separate property not subject to this part under subdivision (a) is subject to this part upon the death of the wife as a gift from the wife to her surviving husband at the time of her death.

Wife's interest in community property

15304. For the purpose of this part, the wife has the same interest in all community property, whenever acquired, if the property is community because of the manner of its acquisition

by the spouses, that she has in community property acquired since the effective date of Section 161a of the Civil Code.

Intangibles acquired elsewhere

15305. For the purpose of this part, community property includes any intangible personal property acquired while domiciled elsewhere, which would not have been the separate property of either spouse if acquired while domiciled in this State.

Presumption

15306. As against any claim made by the State for the tax imposed by this part, there is no presumption that property acquired by a spouse after marriage is community property. Any person who claims that any property acquired after marriage is community property has the burden of proving that it is such.

CHAPTER 4. EXEMPTIONS

Article 1. Annual Exemption

Annual exemption

15401. In addition to the specific exemption, property in the aggregate amount of four thousand dollars ($4,000) transferred from any donor to any donee in any calendar year is exempt from the tax imposed by this part.

Exclusions

15402. Neither of the following is within the exemption allowed by this article:

(a) A future interest in property.

(b) Where the separate property of a wife is transferred by agreement into the community property of herself and her husband, and upon her death and survival by her husband the entire community property which passes to her husband is not subject to Part 8 of this division, the one-half of the separate property transferred which is subject to this part as a gift from the wife to her surviving husband at the time of her death.

Article 2. Specific Exemption

Class A donee

15421. Property of the clear market value of twenty-four thousand dollars ($24,000) transferred to the wife of the donor, of twelve thousand dollars ($12,000) transferred to a minor child of the donor, and of five thousand dollars ($5,000) transferred to any other Class A donee is exempt from the tax imposed by this part.

Class B donee

15422. Property of the clear market value of two thousand dollars ($2,000) transferred to any Class B donee is exempt from the tax imposed by this part.

Class C donee

15423. Property of the clear market value of five hundred dollars ($500) transferred to any Class C donee is exempt from the tax imposed by this part.

Class D donee

15424. Property of the clear market value of fifty dollars ($50) transferred to any Class D donee is exempt from the tax imposed by this part.

Transfer by alien nonresident

15425. Property transferred by a donor who is an alien nonresident of the United States is not within the exemption allowed by this article.

15426. The exemption allowed by this article shall be applied to the amount of net gifts as the gifts are made. If the exemption, or any unused portion of the exemption, exceeds the net gifts in any calendar year, the excess may be applied to the net gifts in subsequent calendar years until the maximum allowable has been used. Application of exemption

Article 3. Charitable Exemption

15441. Property transferred to any of the following is exempt from the tax imposed by this part: Transfer to governmental agency, etc

(a) The United States.

(b) This State.

(c) A public corporation.

(d) A society, corporation, institution, or association exempt from taxation.

15442. Property transferred to any society, corporation, institution, or association exclusively engaged in or devoted to any charitable, educational, public, or other like work, pecuniary profit not being its object or purpose, or to any person, society, corporation, institution, or association in trust exclusively for or to be devoted exclusively to any charitable, educational, public, or other like work, is exempt from the tax imposed by this part, if any of the following conditions is present: Transfer to charitable exemption, etc.

(a) The society, corporation, institution, or association is organized solely for charitable, educational, public, or other like work under the laws of this State or of the United States

(b) The property transferred is limited for use within this State.

(c) In the event that the society, corporation, institution, or association is organized or existing under the laws of a Territory or another State of the United States or of a foreign state or country, at the date of the transfer of the property either of the following concurred:

(1) The Territory, other State, foreign state, or foreign country did not impose a gift tax of any character in respect to property transferred to a similar society, corporation, institution, or association organized or existing under the laws of this State.

(2) The laws of the Territory, other State, foreign state. or foreign country contained a reciprocal provision under which property transferred to a similar society, corporation, institution, or association organized or existing under the laws of another Territory or State of the United States or foreign state or country was exempt from gift taxes of every character, if the other Territory or State of the United States or foreign state or country allowed a similar exemption in respect to property transferred to a similar society, corporation, institution, or association organized or existing under the laws of another Territory or State of the United States or foreign state or country.

Article 4. Intangibles Exemption

Intangibles of nonresident

15451. Intangible personal property is exempt from the tax imposed by this part if the donor at the time of the transfer of the property was a resident of a Territory or another State of the United States or of a foreign state or country which then imposed a gift tax in respect to intangible personal property of its own residents, but either:

(a) Did not impose a gift tax of any character in respect to intangible personal property of residents of this State; or

(b) Had in its laws a reciprocal provision under which intangible personal property of a nonresident was exempt from gift taxes of every character if the Territory or other State of the United States or foreign state or country in which the nonresident resided allowed a similar exemption in respect to intangible personal property of residents of the Territory or State of the United States or foreign state or country of residence of the donor.

CHAPTER 5. VALUATION

Article 1. Generally

Valuation date

15551. For the purpose of this part, the value of property included in any transfer subject to this part is the market value of the property as of the date of the transfer.

Valuation of future, etc., interests

15552. The value of a future, contingent, or limited estate, income, or interest is determined in accordance with the rules, methods, and standards of mortality and value that are set forth in the actuaries' combined experience tables of mortality for ascertaining the values of life insurance policies and annuities and for determining the liabilities of life insurance companies, save that the rate of interest used in computing the present value of the estate, income, or interest is five (5) per cent per annum.

Same Yearly income, etc

15553. In determining the present value of a future, contingent, or limited estate, income, or interest, other than an annuity in a fixed amount, the yearly income, or the annual value of the use or income, of the estate, income, or interest is considered equivalent to 5 per cent of the appraised value of the property upon which the estate, income, or interest is based.

Death of annuitant or life tenant prior to fixing of tax

15554. If an annuity or a life estate is terminated by the death of the annuitant or life tenant, and the tax upon the transfer of the annuity or estate has not been determined, the value of the annuity or estate is the amount of the annuity or income actually paid or payable to the annuitant or life tenant during the period he was entitled to the annuity or was in possession of the estate.

No allowance for contingency

15556. In determing the value of any estate or interest in property to the beneficial enjoyment or possession of which there is a donee presently entitled, no allowance is made on account of any contingent incumbrance on the estate or

interest, nor on account of any contingency upon the happening of which the estate or interest, or some part of it, might be abridged, defeated, or diminished.

Contingent gift where tax not determined

15557. A contingent or defeasible estate in expectancy as to which there has not been any determination of tax or the tax has been held in abeyance, is valued at its full, undiminished value when the person entitled to it comes into the beneficial enjoyment or possession of it, without diminution for or on account of any valuation theretofore made of the particular estate upon which the estate in expectancy may have been limited.

Insurance or annuity contract

15558. Nothing in this article prevents the valuation of an insurance policy or annuity contract at its market value as of the date of gift.

Article 2. Valuation in Inheritance Tax Proceeding

Generally

15571. If a donor dies before filing a gift return for any gift, and it is conceded that the same transfer is also subject to inheritance tax, the value of the property transferred may be determined for submission in the gift return pursuant to this article at the option of the executor of the donor's will, the administrator of the donor's estate, or the donee.

"Election for Gift Tax Valuation"

15572. At any time before the filing of the gift return for the donor and before the filing of the inheritance tax appraiser's inheritance tax report including the gift, the executor or administrator in the probate proceeding involving the donor's estate, the donee, or the respondent in any other proceeding in which the amount of inheritance tax on the transfer will be determined, may file in the proceeding an "Election for Gift Tax Valuation."

Content of election

15573. The election shall show such information as may be required by the Controller, and shall state that the person filing it:

(a) Concedes that the gift is subject to inheritance tax.

(b) Elects that the appointed inheritance tax appraiser shall value the gift for gift tax as well as inheritance tax purposes.

Service of copy

15574. A copy of the election shall be served on the inheritance tax appraiser prior to or concurrently with the filing of the election, or, if the appraiser has not yet been appointed when the election is filed, shall be served on the appraiser immediately after his appointment.

Appraisal and report

15575. As soon as possible after the filing and serving of the election, the inheritance tax appraiser shall without charge appraise the property involved as of the date of the gift and send a report of the appraisal in a form prescribed by the Controller to the person filing the election, showing the value of the gift for gift tax purposes.

Filing of report

15576. The original of the appraiser's report shall be filed as part of the gift return and shall constitute prima facie evidence of the value of the gift for gift tax purposes.

Subsequent filing

15577. If the appraiser's report is not received in time so that it can be filed as part of the gift return within the time during which the gift return may be filed without penalty, the gift return shall contain a statement of the facts and may be filed without the report. The Controller shall for such cases prescribe by rule for the manner of filing the report later or for other means of determining the value of the property.

CHAPTER 6. RETURNS

Article 1. Donor's Return

Time for filing

15651. Every donor shall file a gift return under oath with the Controller on or before the fifteenth day of April following the close of the calendar year in which he makes a gift.

Extension of time

15652. The Controller for cause shown may extend for not more than six months the time for filing the return.

Deceased donor

15653. The Controller may by rule prescribe for the filing of a return for the donor by any other person when the donor is deceased or for any reason can not personally file the return within the time allowed.

Filing by Controller

15654. If no gift return is filed by or for any donor, the Controller may file a return for the donor on such information as he may possess or obtain.

When no return required

15655. In such cases as the Controller may by rule prescribe, no gift return need be filed.

Contents of return

15656. The gift return shall show:

(a) Each gift made during the calendar year for which the return is made.

(b) The exemptions claimed and allowable.

(c) The net gifts to the same donee for each of the preceding calendar years.

(d) Any other information required by the Controller.

Article 2. Donee's or Trustee's Return

Donee's return

15671. The Controller may by regulation require the filing by donees of returns or other information reasonably necessary for the enforcement of this part.

Trustee's return

15672. Any trustee of property transferred in trust who has actual knowledge that the transfer is a gift shall also execute and file a gift return as to the property included in the trust, or shall join in the execution and filing of the gift return of the donor.

Article 3. Penalties

Failure to file return

15681. If no gift return is filed pursuant to this part or the regulations of the Controller, or if a return does not show all transfers made in the year for which the return is filed, a penalty equal to 10 per cent of the tax on the transfers not returned is added to the tax.

Same: Fraudulent return

15682. If the failure to file a gift return or to show any transfers in a gift return is the result of a fraudulent intent to evade the tax imposed by this part, an additional penalty

equal to 25 per cent of the tax on the transfers not returned is added to the tax.

When penalties attach

15683. The penalties imposed by Sections 15681 and 15682 attach as of the date of the gift.

Part of tax

15684. The penalties imposed by Sections 15681 and 15682 are part of the tax for the purpose of determining the date when the tax is delinquent and for the purpose of determining interest on the amount delinquent.

Additional penalty

15685. Any person required by this part or the rules and regulations of the Controller to make any return who wilfully fails to make the return shall, in addition to any other penalty, be subject to a penalty of one thousand dollars ($1,000). The penalty may be collected by the Controller in a civil action brought in any court of competent jurisdiction.

CHAPTER 7. DETERMINATION OF TAX

Time for determination generally

15801. In a case not involving a false or fraudulent return or failure to file a return, the amount of tax imposed by this part shall be determined by the Controller at any time after the tax is due, but not later than six months after the return is filed. However, a determination is not invalid if made within three years after the return is filed.

False or fraudulent return

15802. In the case of a false or fraudulent return or failure to file a return, the Controller may determine the tax at any time.

Notice of determination

15803. The Controller shall give notice of the amount of tax determined, together with any penalty for failure to file a return or to show any transfer in the return filed, by personal service or by mail to the person filing the return at the address stated in the return, or, if no return is filed, to the person liable for the tax. Copies of the notice may be sent to such other persons as the Controller deems advisable.

Finality of determination Where action to recover tax

15804. If no action is brought within the time allowed by this part to recover any tax paid under protest, the determination by the Controller of the amount of tax due is final 60 days after notice of the determination is given.

Where no action to recover tax

15805. If payment of tax is made under protest and an action is brought pursuant to this part to recover all or any portion of the tax so paid, the determination by the Controller of the amount of tax due, including any modification ordered by the court, is final when the judgment of the court becomes final.

Effect of final determination

15806. When it becomes final, the determination of the Controller fixing the amount of tax due or any determination of the Controller that no tax is due, has the force and effect of a judgment in a civil action.

CHAPTER 8. PAYMENT OF TAX

Article 1. Generally

Personal liability

15901. Both the donor and the donee of a gift are personally liable for the tax imposed by this part. The donor, however, is primarily liable for the tax.

Payment by trustee

15902. Where property has been transferred in trust, the trustee may pay the entire tax on each gift involved out of the corpus of the property transferred.

Transfer subject to a contingency

15903. Where a transfer, in trust or otherwise, has been made subject to a contingency or condition upon the occurrence of which the right, interest, or estate of the donee may, in whole or in part, be created, defeated, extended, or abridged, the tax is payable out of the corpus of the property transferred. The tax shall not be charged against the right, interest, or estate of, nor shall it be collected from, the donee.

Due date

15904. The tax is due at the time the gift is made.

Delinquent date

15905. The tax is delinquent when the determination of the Controller fixing the amount of tax due becomes final.

Postponement

The Controller for good cause may postpone the date of delinquency for not more than six months.

Remittance

15906. The tax shall be paid to the State Controller by remittance payable to the State Treasurer.

Receipt

15907. Upon receiving payment of any tax, interest, or penalty imposed by this part, the Controller shall issue a receipt therefor. The receipt is conclusive evidence of the payment of the tax, interest, or penalty specified therein.

Protest

15908. Any person who is dissatisfied with the Controller's determination of any tax for which he is liable may pay the tax under protest. The protest shall be in writing and shall specify the grounds on which it is made, which may include, but are not limited to, an erroneous valuation or computation.

Article 2. Deferment of Payment

Election

15931. Where a transfer has been made subject to a contingency or condition upon the occurrence of which the right, interest, or estate of the donee may, in whole or in part, be created, defeated, extended, or abridged, the donee, or, if a trust is involved, the trustee may elect to defer the payment of the tax until the contingency or condition occurs.

Bond

15932. If the donee or trustee elects to defer the payment of the tax, he shall execute a bond to the people of the State of California in a penalty of the amount of the tax imposed, plus interest on the tax for five years at the rate of 7 per cent per annum, with such sureties as the Controller may approve, conditioned as follows:

Conditions

(a) For the payment of the tax imposed, or any lesser tax which may become payable on the happening of the contingency, plus interest on the tax at the rate of 7 per cent per annum commencing on the delinquent date of the tax imposed, at such time as the contingency or condition occurs.

(b) That if there is a noncompliance with the provisions of this article regarding the renewal of the bond and the making of returns, the amount of the tax imposed and the interest on the tax shall immediately become due and payable.

Filing

15933. The bond shall be filed in the office of the Controller before the tax becomes delinquent.

Verified return of property transferred

15934. Within one year from the date on which the tax becomes delinquent, and at such times thereafter as the Controller may require, the donee or trustee shall file in the office of the Controller a full and verified return of the property transferred.

Renewal bond

Penalty

15935. The donee or trustee shall renew the bond every five years from and after the date on which the bond was approved by filing in the office of the Controller a new bond with such sureties as the Controller may approve. The penalty of each renewal bond shall be increased by an additional five years' interest at the rate of 7 per cent per annum on the unpaid tax.

Action on bond

15936. If the bond is not renewed before the expiration of each five-year period, it becomes due and payable immediately, and if it is not paid forthwith, the Controller may file an action on it to recover the penalty specified. No demand for payment is necessary before the institution of the action.

Insufficient surety

15937. Whenever the Controller determines that any surety on any bond on file has for any reason become insufficient, the Controller may, after such notice to the donee or trustee as the Controller may deem proper, order the filing of a new bond with sufficient sureties in lieu of the bond on file. If the order is made and either a new bond is not filed within the time specified in the order or the sureties on the bond fail to justify when required, all rights obtained by the filing of the original bond or any subsequent bond shall cease, and the amount of the tax, plus the interest on the tax, shall become due and payable immediately.

Article 3. Tax Compromises

Gift upon contingency

15951. The Controller may compromise:

(a) With the donor or donee of the property involved, the taxability of any gift made subject to a contingency or condition upon the occurrence of which the right, interest, or estate of the donee may, in whole or in part, be created, defeated, extended, or abridged.

Gift by nonresident

(b) The tax payable on any gift by a donor who it is claimed was not a resident of this State at the date of the gift.

Approval

15952. No compromise pursuant to this article is legally effective until approved by the Controller personally, a deputy controller, the inheritance tax attorney, or a subordinate inheritance tax attorney. When so approved, the compromise is a final determination of the matters covered by it, and the payment of the tax as fixed by the compromise discharges the donor and donee from all liability with respect to the tax.

Article 4. Interest and Penalties

Interest Generally

15961. Except as otherwise provided in this article, if the tax is not paid before it becomes delinquent, it bears interest thereafter and until it is paid at the rate of 7 per cent per annum.

Where delinquent date postponed

15962. In the event that the date of delinquency is postponed, the tax bears interest during the period of postponement at the rate of 7 per cent per annum from the time when it would have begun to bear interest had no postponement been allowed and until it is paid.

Where return filed after April 15

15963. If a gift return is filed after the fifteenth day of April following the close of the calendar year in which the gift was made, regardless of whether an extension of time for filing the return is obtained, the tax bears interest at the rate of 7 per cent per annum commencing on the fifteenth day of June following the close of the calendar year in which the gift was made and until it is paid.

Where failure to file return, etc

15964. If the tax on any gift in the case of a false or fraudulent return or in the case of a failure to file a return is not paid before it becomes delinquent, it bears interest at the rate of 7 per cent per annum from and after the last day allowed by or pursuant to this part for filing a return for the gift and until it is paid.

Additional penalty

15965. Any person required by this part or the rules and regulations of the Controller to pay any tax imposed by this part who wilfully fails to make the payment shall, in addition to any other penalty, be subject to a penalty of one thousand dollars ($1,000). The penalty may be collected by the Controller in a civil action brought in any court of competent jurisdiction.

Article 5. Application of Payments

Application of payments

15971. Every payment on the tax imposed by this part is applied, first, to any interest due on the tax, secondly, to any penalty imposed by this part for failure to file a return or to show any transfer in the return filed, and then, if there is any balance, to the tax itself.

Chapter 8. Collection of Tax

Article 1. Suit for Tax

Civil action

16051. The State may enforce its claim for any tax imposed by this part and enforce the lien of the tax by a civil action in any court of competent jurisdiction against any person liable for the tax or against any property subject to the lien.

Article 2. Lien of Tax

Personal property lien

16061. In the case of a gift of personal property, the tax imposed by this part is a lien upon the property from the time the gift is made and until the expiration of 10 years from and after the time the tax becomes delinquent or until the tax is paid, whichever is earlier.

Sale to bona fide purchaser

16062. If any personal property embraced in a gift is sold by the donee or his successor in interest to a bona fide purchaser for an adequate and full consideration in money or money's worth, the lien ceases as to that property and attaches to all other property of the donee, including any after-

acquired property, except such part of such other property as is also sold to a bona fide purchaser for an adequate and full consideration in money or money's worth.

Controller's certificate Recording

16063. In any case in which any tax, interest, or penalty imposed by this part is not paid when due, the Controller may file for record in any county a certificate showing the names of the donor and donee, or the name of either one, and the amount of the tax, interest, or penalty due.

Real property lien

16064. From the time of the recording of the certificate the amount of the tax, interest, or penalty set forth constitutes a lien upon any real property then owned or thereafter acquired by the donor or donee named located in the county in which the certificate is recorded. This lien has the same force, effect, and priority as a lien created by the recording of an abstract of judgment pursuant to Section 674 of the Code of Civil Procedure, except that it continues for 10 years from and after the time the tax becomes delinquent or until the tax, interest, or penalty is paid, the property is sold for nonpayment, or the lien is released or otherwise extinguished, whichever is earlier.

Future interests, etc

16065. In the case of any gift of an estate, income, or interest (a) for a term of years or for life, or (b) determinable upon any future or contingent event, or (c) constituting a remainder, reversion, or other expectancy, the tax imposed on the gift is a lien upon the entire property by which the estate, income, or interest is supported.

Release or subordination of lien

16066. The Controller may at any time release all or any portion of any property from any lien imposed by this part to which the property is subject, or may subordinate such lien to any other lien or interest, if he determines that the tax, interest, or penalty involved is sufficiently secured by a lien on other property or that the release or subordination will not endanger or jeopardize the collection of the tax, interest, or penalty.

Certificate of release or subordination

16067. A certificate by the Controller to the effect that any property has been released from any lien imposed by this part, or that the lien has been subordinated to any other lien or interest, is conclusive evidence that the property has been released or that the lien has been subordinated as provided in the certificate.

Cessation on approval of tax deferment bond

16068. Upon the approval of a bond for the deferment of payment of the tax imposed on a transfer subject to a contingency or condition upon the occurrence of which the right, interest, or estate of the donee may, in whole or in part, be created, defeated, extended, or abridged, the lien upon the property included in the transfer ceases.

Article 3. Writ of Execution

Issuance

16081. At any time after a tax imposed by this part is delinquent, the Controller may have a writ of execution issued for the enforcement of any judgment rendered pursuant to this part in respect to the tax.

Property subject to

16082. The writ shall be executed against any property of the donor or donee, or against any property subject to the lien of the tax.

Fees prohibited

16083. No fee shall be exacted from the Controller for the issuance or execution of the writ.

Article 4. Withholding by Third Persons

Notice to third person

16101. If the payment of any gift tax is delinquent, the Controller may give notice by mail of the amount of the delinquency to any person having in his possession or under his control any credit or other personal property belonging to the person liable for the tax, or owing any debt to the latter.

Duty of person notified

16102. Upon receiving the notice the person notified shall neither transfer nor make any other disposition of the credit, other personal property, or debt until the Controller has consented to a transfer or disposition, or until 20 days have elapsed from and after the receipt of the notice.

Notice to Controller

16103. Within five days after receipt of the notice, the person notified shall advise the Controller of any and all credits or other personal property in his possession or under his control belonging to the person liable for the tax, and of any and all debts which he owes the latter.

Article 5. Miscellaneous

Limitation

16121. Proceedings for the collection of any tax imposed by this part may be commenced at any time after the tax is due and within 10 years from and after the time the tax becomes delinquent.

Controller's certificate

16122. In any proceeding for the enforcement of the gift tax a certificate by the Controller showing the amount due is prima facie evidence of the imposition of the tax, of the fact that it is due, and of compliance by the Controller with all the provisions of this part in relation to the computation and determination of the tax.

Injunction prohibited

16123. No injunction, writ of mandate, or other legal or equitable process shall ever issue in any suit, action, or proceeding in any court against this State or any officer of this State to prevent or enjoin the collection of any tax imposed by this part.

Remedies cumulative

16124. The remedies of the State for the enforcement of the gift tax are cumulative, and no action taken by the Controller or any other State official constitutes an election by the State or any of its officers to pursue any remedy to the exclusion of any other remedy for which provision is made in this part.

Chapter 9. Refunds

Article 1. When Allowable

Refund of erroneous payment

16221. Any person who has made an erroneous payment of any tax imposed by this part, or an heir, the executor of

the will, or the administrator of the estate of any such person, but not his assign, is entitled to a refund in the amount erroneously paid within one year after the payment.

Refund after court judgment

16222. Any person who has paid any tax imposed by this part which later is determined by judgment to have been in excess of the amount legally due, or an heir, the executor of the will, or the administrator of the estate of any such person, but not his assign, is entitled to a refund in the amount of the excess paid within one year after the judgment becomes final.

Refund where property valued without allowance for contingency

16223. If any tax has been paid on a gift subject to a contingent incumbrance or any contingency which might burden, abridge, defeat, or diminish the estate or interest of the donee, and the gift was valued without allowance for the incumbrance or contingency, upon the taking effect of the incumbrance or the happening of the contingency the person who paid the tax is entitled to a refund in an amount equal to the difference between the tax paid and any smaller tax that would have been paid on a valuation of the estate or interest actually enjoyed or of the estate or interest remaining after the taking effect of the incumbrance or the happening of the contingency.

Application

Application for the refund shall be filed within six months after the taking effect of the incumbrance or the happening of the contingency, and the refund shall be made in the manner provided for the making of a refund of a tax erroneously paid.

Refund where lower tax payable on happening of contingency

16224. If any tax has been paid at the highest rate possible on a gift subject to a contingency or condition upon the occurrence of which the right, interest, or estate of the donee may, in whole or in part, be created, defeated, extended, or abridged, and thereafter on the happening of the contingency or condition the property involved, or any part of it, goes to a person to whom a gift of the property is exempt or to a person to whom a gift of the property is taxable at a rate less than the rate on which the tax paid was computed, the person who paid the tax, his heir, the executor of his will, the administrator of his estate, or his assign is entitled to a refund either, as the case may be, in the amount of the tax paid or in an amount equal to the difference between the tax paid and the tax which would have been paid had the property originally gone directly to the person who receives it on the happening of the contingency or condition.

Application

Application for the refund shall be filed with the Controller within six months after the happening of the contingency or condition, and the refund shall be made in the manner provided for the making of a refund of a tax erroneously paid.

Article 2. Suit for Refund

When allowed

16251. Within 60 days after notice of the determination of the amount of tax has been given by the Controller, any person who has paid the tax under protest may file an action

against the State in the superior court having jurisdiction to recover the tax so paid.

Service of process

16252. Process in the action directed to the State shall be served on the Controller.

Hearing and judgment

16253. After a hearing in which the Controller shall represent the State, the court shall review the Controller's appraisement and determination of tax, and, as the case may require, shall by judgment modify or confirm the appraisement or determination in whole or in part.

Article 3. Interest on Refunds

Interest disallowed

16271. No interest is allowed on any refund permitted by this chapter.

Interest on judgment for refund

16272. A judgment for a refund permitted by this chapter bears interest after the judgment becomes final and the refund is refused upon demand after such final judgment, but then only from the date of refusal.

Article 4. Refund Credit

Credit

16281. On application of the person entitled to the refund, the amount of any refund shall be credited on any amount then due from, or which is a lien on any property owned by, such person either under this part or Part 8 of this division.

Refund

The balance shall be refunded to the person entitled to the refund, or to his heir, the executor of his will, or the administrator of his estate, but not his assign.

Chapter 10. Court Jurisdiction and Procedure Generally

Article 1. Court Jurisdiction

Resident donor

16401. The superior court of the county in which a donor resident of this State resided at the date of any gift made by him has jurisdiction to hear and determine all questions relative to any tax imposed by this part on the gift.

Nonresident donor

16402 In the case of a donor who was not a resident of this State at the date of any gift made by him, the superior court of the county in which any of the donor's real property is situated, or, if he has no real property in this State, the superior court of the county in which any of his personal property is situated, has jurisdiction to hear and determine all questions relative to any tax imposed by this part on the gift. If the donor has property in more than one county, the superior court of any such county whose jurisdiction is first invoked has exclusive jurisdiction.

Article 2. Court Procedure Generally

Application of C C P provisions

16421. Except as otherwise provided in this part, the provisions of the Code of Civil Procedure relative to judgments, new trials, appeals, attachments, and execution of judgments, so far as applicable, govern all proceedings under this part.

16422. Nothing in this article precludes the State from any relief provided for in this part which may be inconsistent with the provisions of the Code of Civil Procedure. Inconsistent C C P provisions

Chapter 11. Administration

Article 1. Generally

16501. This part is administered by the State Controller through the Inheritance Tax Department. State Controller

16502. The Controller may employ such assistants, including attorneys, as may from time to time be necessary for the proper administration of this part. Employees

16503. In such cases as he deems proper, the Controller may designate an inheritance tax appraiser to appraise and report to the Controller upon the fair market value of any transfer subject to the tax imposed by this part. Appraisers

16504. For his services in making the appraisal, the appraiser shall be paid by the person liable for the payment of the tax on the transfer involved the fees and expenses specified in Section 609 of the Probate Code. Appraiser's fees

16505. The report of the appraiser shall state the appraised value of the transfer and the amount of the appraiser's fee and reasonable expenses. The report is a public record. Appraiser's report

16506. The Controller may make and enforce rules and regulations relating to the administration and enforcement of this part, and may prescribe the extent, if any, to which any ruling or regulation shall be applied without retroactive effect. Rules and regulations

16507. Under rules and regulations upon which the Controller and Franchise Tax Commissioner may agree, the Franchise Tax Commissioner shall cooperate in the enforcement of this part by reporting to the Controller any changes in the gross or net income of any person, or any other information obtained in the enforcement of any act administered by the Franchise Tax Commissioner which may in any way indicate that a transfer has been made which is taxable under this part. Cooperation by Franchise Tax Commissioner

16508. Under rules and regulations upon which the Controller and State Board of Equalization may agree, the State Board of Equalization shall cooperate in the enforcement of this part by reporting to the Controller any information obtained in the enforcement of any act administered by the State Board of Equalization which may in any way indicate that a transfer has been made which is taxable under this part. Cooperation by Board of Equalization

16509. The Controller on his own motion may appear in behalf of the State in any and all gift tax matters before any court. Court appearances

Article 2. Hearings

16531. The Controller may conduct a hearing at any time or place for the purpose of determining whether a tax is due under this part on any gift. Authority to conduct

General powers

16532. For the purpose of the hearing the Controller has:

(a) Jurisdiction to require the attendance before him of any person who he may have reason to believe possesses knowledge of the gift, knowledge of any property transferred by the donor by a transfer subject to this part, knowledge of any facts that will aid the Controller in the determination of the tax, or any expert knowledge with regard to the value of the property transferred.

(b) All the powers of a referee of the superior court.

Subpenas

16533. The Controller may issue subpenas for any of the following purposes:

(a) Compelling the attendance of any person before him or the production of books and papers.

(b) Appraising any property the transfer of which is taxable under this part.

(c) Determining the amount of any tax due.

Court intervention

16534. On the filing by the Controller of a petition asking the court to do so, the superior court of the county in which a hearing is held may compel compliance with any subpena issued by the Controller.

Examination of witnesses

16535. The Controller may examine and take the testimony under oath of any person appearing before him concerning any transfer subject to this part made by the donor, the property included in the transfer, and the value of the property.

Witness fees

16536. Any person compelled to attend a hearing before the Controller is entitled to fees for attendance in an amount to be determined by the Controller, and to his expenses of attendance. The fees and expenses are a part of the cost of administering this part.

Powers of inheritance tax appraiser

16537. The powers given by this article to the Controller are also conferred upon any inheritance tax appraiser designated by the Controller to appraise the fair market value of any transfer subject to the tax imposed by this part.

Article 3. Inspection of Records

Inspection, etc

16561. Whenever the Controller has reasonable cause to believe that a tax is due under this part upon any transfer, and that any person, firm, institution, company, association, or corporation has possession, custody, or control of any books, records, accounts, papers, or documents relating to or evidencing the transfer, the Controller may, for the purpose of acquiring any information deemed necessary or desirable by the Controller for the proper enforcement of this part or for the collection of the full amount of tax that may be due:

(a) Inspect or take a copy of the books, records, accounts, papers, or documents.

(b) Administer an oath to and examine any such person or any officer or agent of any such firm, institution, company, association, or corporation.

Penalties

16562. Any officer or agent of any firm, institution, company, association, or corporation having or keeping an office

within this State, who has in his custody or under his control any book, record, account, paper, or document of the firm, institution, company, association, or corporation relating to or evidencing any transfer as to which the Controller has reasonable cause to believe a tax is due under this part, or any other person having in his custody or under his control any similar book, record, account, paper, or document, who refuses to give the Controller, after lawful demand, a reasonable opportunity during office hours to inspect or take a copy of the whole or any part of the book, record, account, paper, or document for any purpose permitted by this article, is liable to a penalty of not less than one thousand dollars ($1,000) nor more than twenty thousand dollars ($20,000), and, in addition, is liable for the amount of any tax, interest, or penalty due under this part on the transfer.

The liabilities imposed by this section may be enforced by the Controller in an action brought in any court of competent jurisdiction.

Information confidential

16563. All information and records acquired by the Controller or any of his employees are confidential in nature, and, except in so far as may be necessary for the enforcement of this part or as may be permitted by this article, shall not be disclosed by any of them.

Penalty for disclosure

Except in so far as may be necessary for the enforcement of this part or as may be permitted by this article, any former or incumbent Controller or employee of the Controller who discloses any information acquired by any inspection or examination made pursuant to this article is guilty of a felony, and upon conviction shall be imprisoned in the State prison for not more than five years.

Inspection by tax officials

16564. The Controller may allow any local, State, or Federal official charged with the administration of any tax law to examine his gift tax records under such rules and regulations as he may prescribe.

Chapter 12. Disposition of Proceeds

"Gift Tax Fund"

16651. All money due under this part shall be paid to the State Controller by remittance payable to the State Treasurer. The amounts received shall be deposited, after clearance of remittances, in the State Treasury to the credit of the "Gift Tax Fund."

Appropriation

16652. The money in the Gift Tax Fund is hereby appropriated as follows:

(a) To pay the refunds authorized by this part.

(b) To the Controller for the administration of this part, including the payment of deficiencies authorized by Section 661 of the Political Code.

(c) The balance of the money in the fund shall, on order of the Controller, be transferred to the State General Fund.

New section SEC. 2. Section 50014 is added to the Revenue and Taxation Code, to read:

Repeals 50014. The Inheritance Tax Act of 1935, the Gift Tax Act of 1939, Section 445 of the Political Code, and all acts amendatory thereof and supplementary thereto are hereby repealed.

Effective date SEC. 3. The provisions of this act shall take effect July 1, 1945.

CHAPTER 659

Stats 1939, p 1274, amended *An act to add Part 10, comprising Sections 17001 to 19452, inclusive, to Division 2 of, and to add Section 50015 to, the Revenue and Taxation Code, thereby consolidating and revising the law relating to taxation and the raising of revenue, including the provisions of the Personal Income Tax Act, and repealing acts and parts of acts specified herein.*

In effect July 1, 1945 [Approved by Governor May 20, 1943 Filed with Secretary of State May 20, 1943.]

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

New part SECTION 1. Part 10, comprising Sections 17001 to 19452, inclusive, is added to Division 2 of the Revenue and Taxation Code, to read:

PART 10. PERSONAL INCOME TAX

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

Short title 17001. This part is known and may be cited as the "Personal Income Tax Law."

Definitions 17002. Except where the context otherwise requires, the definitions given in this chapter govern the construction of this part.

"Commissioner" 17003. "Commissioner" means the Franchise Tax Commissioner.

"Taxpayer" 17004. "Taxpayer" includes any individual, fiduciary, estate, or trust subject to the tax imposed by this part.

"Individual" 17005. "Individual" means a natural person.

"Fiduciary" 17006. "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, estate or trust.

"Person" 17007. "Person" includes individuals, fiduciaries, partnerships, and corporations.

"Partnership" 17008. "Partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this part, a trust or estate or a corporation.

"Partner" "Partner" includes a member in such a syndicate, group, pool, joint venture, or organization.

17009. "Corporation" includes joint-stock companies or associations, insurance companies, business trusts or so-called "Massachusetts trusts." "Corporation"

17010. "Taxable year" means the calendar year or the fiscal year upon the basis of which the net income is computed under this part. If no fiscal year has been established, "taxable year" means the calendar year. "Taxable year"

"Taxable year" includes, in the case of a return made for a fractional part of a year under this part or under regulations prescribed by the commissioner, the period for which the return is made.

17011. "Fiscal year" means an accounting period of 12 months ending on the last day of any month other than December. "Fiscal year"

17012. "Paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed under this part. "Paid or incurred," etc

17013. "Resident" includes: "Resident"

(a) Every individual who is in this State for other than a temporary or transitory purpose.

(b) Every individual domiciled within this State who is in some other State, Territory, or country for a temporary or transitory purpose.

Any individual who is a resident of this State continues to be a resident even though temporarily absent from the State.

17014. "Nonresident" means every individual other than a resident. "Nonresident"

An individual who is domiciled outside of this State is not a resident despite the fact that he is in this State for other than a temporary or transitory purpose if he was incompetent at the time he came into this State, and this fact is evidenced by a legal adjudication of incompetency either before or after he came into this State, and has remained incompetent during his sojourn in this State.

17015. Every individual who spends in the aggregate more than nine months of the taxable year within this State or maintains a permanent place of abode within this State shall be presumed to be a resident. The presumption may be overcome by satisfactory evidence that the individual is in the State for a temporary or transitory purpose. Presumption of residence

17016. "United States," when used in a geographical sense, includes the States, the Territories of Alaska and Hawaii, the District of Columbia, and the possessions of the United States. "United States"

17017. "State" includes the Territories of Alaska and Hawaii, the District of Columbia, and the possessions of the United States. "State"

17018. "Foreign country" means any jurisdiction other than one embraced within the United States. "Foreign country"

17019. "Trade or business" includes the performance of the functions of a public office. "Trade or business"

Income affected

17020. This part applies to the net income of taxpayers received or accrued on or after January 1, 1935.

CHAPTER 2. IMPOSITION OF TAX

"Net income"

17051. "Net income" means the gross income computed under Chapter 3 of this part less the deductions allowed by Chapter 4 of this part.

Tax levy

17052. There shall be levied, collected, and paid for each taxable year upon the entire net income of every resident of this State and upon the net income of every nonresident which is derived from sources within this State, taxes in the following amounts and at the following rates upon the amount of net income in excess of credits against net income provided in Article 1 of Chapter 7 of this part:

Rates

Upon net incomes not in excess of $5,000, 1 per cent of such net incomes.

$50 upon net incomes of $5,000; and upon net incomes in excess of $5,000 and not in excess of $10,000, 2 per cent in addition of such excess.

$150 upon net incomes of $10,000; and upon net incomes in excess of $10,000 and not in excess of $15,000, 3 per cent in addition of such excess.

$300 upon net incomes of $15,000; and upon net incomes in excess of $15,000 and not in excess of $20,000, 4 per cent in addition of such excess.

$500 upon net incomes of $20,000; and upon net incomes in excess of $20,000 and not in excess of $25,000, 5 per cent in addition of such excess.

$750 upon net incomes of $25,000; and upon net incomes in excess of $25,000 and not in excess of $30,000, 6 per cent in addition of such excess.

$1,050 upon net incomes of $30,000; and upon net incomes in excess of $30,000 and not in excess of $40,000, 7 per cent in addition of such excess.

$1,750 upon net incomes of $40,000; and upon net incomes in excess of $40,000 and not in excess of $50,000, 8 per cent in addition of such excess.

$2,550 upon net incomes of $50,000; and upon net incomes in excess of $50,000 and not in excess of $60,000, 9 per cent in addition of such excess.

$3,450 upon net incomes of $60,000; and upon net incomes in excess of $60,000 and not in excess of $70,000, 10 per cent in addition of such excess.

$4,450 upon net incomes of $70,000; and upon net incomes in excess of $70,000 and not in excess of $80,000, 11 per cent in addition of such excess.

$5,550 upon net incomes of $80,000; and upon net incomes in excess of $80,000 and not in excess of $100,000, 12 per cent in addition of such excess.

$7,950 upon net incomes of $100,000; and upon net incomes in excess of $100,000 and not in excess of $150,000, 13 per cent in addition of such excess.

$14,450 upon net incomes of $150,000; and upon net incomes in excess of $150,000 and not in excess of $250,000, 14 per cent in addition of such excess.

$28,450 upon net incomes of $250,000; and upon net incomes in excess of $250,000, 15 per cent in addition of such excess.

Tax not a surtax

17053. The tax imposed by this part is not a surtax.

Compensation for personal services over 5 years

17054. In the case of compensation (a) received for personal services rendered by an individual in his individual capacity, or as a member of a partnership, and covering a period of five calendar years or more from the beginning to the completion of such services, (b) paid (or not less than 95 per cent of which is paid) only on completion of such services, and (c) required to be included in the gross income of such individual for any taxable year, beginning after December 31, 1939, the tax attributable to such compensation shall not be greater than the aggregate of the taxes attributable to such compensation had it been received in equal portions in each of the years included in such period.

CHAPTER 3. GROSS INCOME

Article 1. Items Includible

Generally

17101. Gross income includes gains, profits, and income derived from salaries, wages, or compensation for personal service, of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce, or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in such property; also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatever.

Public officers and employees

17102. Gross income also includes any salary, wages, or compensation of any officer or employee of this State, or of any political subdivision, district, or municipality of this State, and any compensation of officers and employees of the United States or agencies or instrumentalities of the United States to the extent the collection of State taxes thereon is not prohibited by the terms of the "Public Salary Tax Act of 1939," (it being hereby declared to be the policy of this State to comply with the provisions of that act) and all other gains, profits, and income which the State may now or hereafter constitutionally tax.

Purchase or exchange

17103. Where property is acquired in a transaction purporting to be a purchase or an exchange (including transactions described in Article 2 of Chapter 6 of this part, relating to the nonrecognition of gain, but excluding foreclosures or repossessions of properties held for security), and the value thereof is substantially in excess of the value of the money or property surrendered or agreed to be surrendered as a condition of such acquisition, the excess value shall be considered ordinary income taxable under this part unless it can be established (a) that the sole consideration for the acquisition of the property was the money or property surrendered or

agreed to be surrendered, or (b) that the excess value was a gift, or (c) that for some other reason the excess value does not constitute income or the gain represented thereby is not recognized.

Article 2. Items Not Includible

Generally

17121. Items excluded from gross income under this article are exempt from taxation under this part.

Life insurance Amounts payable at death

17122. Gross income does not include amounts received under a life insurance contract paid by reason of the death of the insured, whether in a single sum or otherwise, but if such amounts are held by the insurer under an agreement to pay interest thereon, the interest payments shall be included in gross income.

Life insurance Amounts received during life

17123. Gross income also does not include amounts received (other than amounts paid by reason of the death of the insured and interest payments on such amounts and other than amounts received as annuities) under a life insurance or endowment contract, but if such amounts (when added to amounts received before the taxable year under such contract) exceed the aggregate premiums or consideration paid (whether or not paid during the taxable year) then the excess shall be included in gross income.

Annuity contract payment

17124. Amounts received as an annuity under an annuity or endowment contract shall be included in gross income; except that there shall be excluded from gross income the excess of the amount received in the taxable year over an amount equal to 3 per cent of the aggregate premiums or consideration paid for the annuity (whether or not paid during the taxable year), until the aggregate amount excluded from gross income under this part in respect of the annuity, increased by the amount which would have been excluded from gross income in respect of the annuity had this part been in effect continuously from the date at which payments under the annuity were first received, equals the aggregate premiums or consideration paid for the annuity.

Transfer of insurance contract

17125. In the case of a transfer for a valuable consideration, by assignment or otherwise, of a life insurance, endowment, or annuity contract, or any interest therein, only the actual value of the consideration and the amount of the premiums and other sums subsequently paid by the transferee shall be exempt from taxation under Sections 17122, 17123, or 17124.

Gift or inheritance

17126. Gross income also does not include the value of property acquired by gift, bequest, devise, or inheritance, but the income from such property shall be included in gross income.

Accident or health insurance

17127. Gross income also does not include amounts received, through accident or health insurance or under workmen's compensation acts, as compensation for personal injuries or sickness, plus the amount of any damages received whether by suit or agreement on account of such injuries or sickness.

17128. Gross income also does not include the rental value of a dwelling house and appurtenances thereof furnished to a minister of the gospel as part of his compensation. Rental of house leased to minister

17129. Gross income also does not include wages, fees, or salary of an employee of a foreign country (including a consular or other officer, or a nondiplomatic representative) received as compensation for official services to that country: Compensation of foreign country employee

(a) If the employee is not a citizen of the United States; and

(b) If the services are of a character similar to those performed by employees of the United States in foreign countries; and

(c) If the foreign country and political subdivisions thereof do not tax the wages, fees, or salaries of employees of the United States performing similar services in that country.

17130. Gross income also does not include income which this State is prohibited from taxing under the Constitution or laws of the United States of America or under the Constitution of this State. Income State may not tax

Article 3. Dividends and Other Distributions

17151. "Dividend," as used in this part, means any distribution made by a corporation to its shareholders, whether in money or in other property "Dividend"

(a) Out of its earnings or profits accumulated after February 28, 1913, or

(b) Out of the earnings or profits of the taxable year (computed as of the close of the taxable year without diminution by reason of any distributions made during the taxable year) without regard to the amount of the earnings and profits at the time the distribution was made.

17152. If the whole or any part of a dividend is paid to a shareholder in any medium other than money, the property received other than money shall be included in gross income at its fair market value at the time as of which it becomes income to the shareholder. Nonpecuniary dividend

17153. For the purposes of this part every distribution is made out of earnings or profits to the extent thereof, and from the most recently accumulated earnings or profits. Any earnings or profits accumulated, or increase in value of property accrued, before March 1, 1913, may be distributed exempt from tax after the earnings and profits accumulated after February 28, 1913, have been distributed, but any such tax free distribution shall be applied against and reduce the adjusted basis of the stock provided in Article 5 of Chapter 6 of this part. Earnings before March 1, 1913

17154. Amounts distributed in complete liquidation of a corporation shall be treated as in full payment in exchange for the stock, and amounts distributed in partial liquidation of a corporation shall be treated as in part or full payment in exchange for the stock. The gain or loss to the distributee resulting from the exchange shall be determined under Article 1 of Chapter 6 of this part and shall be recognized only to the Corporate liquidation

extent provided in Article 2 of that chapter. Notwithstanding the provisions of Article 3 of Chapter 6, 100 per cent of the gain so recognized shall be taken into account in computing net income, except in the case of amounts distributed in complete liquidation of a corporation.

"Complete liquidation"

17155. As used in Section 17154, "complete liquidation" includes any one of a series of distributions made by a corporation in complete cancellation or redemption of all of its stock in accordance with a bona fide plan of liquidation and under which the transfer of the property under the liquidation is to be completed within a time specified in the plan, not exceeding from the close of the taxable year during which is made the first of the series of distributions under the plan (a) three years, if the first of the series of distributions is made in a taxable year beginning after December 31, 1940, or (b) two years if the first of the series of distributions was made in a taxable year beginning before January 1, 1941.

"Partial liquidation"

17156. As used in this article, "amounts distributed in partial liquidation" means a distribution by a corporation in complete cancellation or redemption of a part of its stock, or one of a series of distributions in complete cancellation or redemption of all or a portion of its stock.

Distribution chargeable to capital account

17157. In the case of amounts distributed (whether before, on, or after August 27, 1937) in partial liquidation (other than a distribution within Section 17162 of stock or securities in connection with a reorganization) the part of the distribution which is properly chargeable to capital account shall not be considered a distribution of earnings or profits.

Nondividend, etc. distributions

17158. If any distribution (not in partial or complete liquidation) made by a corporation to its shareholders is not out of increase in value of property accrued before March 1, 1913, and is not a dividend, the amount of the distribution shall be applied against and reduce the adjusted basis of the stock provided in Article 5 of Chapter 6 of this part, and if in excess of that basis, the excess shall be taxable in the same manner as a gain from the sale or exchange of property.

Stock dividend

17159. A distribution made by a corporation to its shareholders in its stock or in rights to acquire its stock shall not be treated as a dividend to the extent that it does not constitute income to the shareholder within the meaning of the Sixteenth Amendment to the Constitution of the United States.

Distribution at election of shareholder

17160. Whenever a distribution by a corporation is, at the election of any of the shareholders (whether exercised before or after the declaration thereof), payable either (a) in its stock, or in rights to acquire its stock, of a class which if distributed without election would be exempt from tax under Section 17159, or in money or any other property (including its stock, or rights to acquire its stock, of a class which if distributed without election would not be exempt from tax under Section 17159), the distribution shall constitute a taxable dividend in the hands of all shareholders regardless of the medium in which paid.

Canceled or redeemed stock

17161. If a corporation cancels or redeems its stock (whether or not the stock was issued as a stock dividend) at such time and in such manner as to make the distribution and cancellation or redemption in whole or in part essentially equivalent to the distribution of a taxable dividend, the amount so distributed in redemption or cancellation of the stock, to the extent that it represents a distribution of earnings or profits accumulated after February 28, 1913, shall be treated as a taxable dividend.

Distribution of stock and securities

17162 The distribution heretofore or hereafter made to a distributee by or on behalf of a corporation of its stock or securities or stock or securities in another corporation shall not be considered a distribution of earnings or profits of any corporation:

(a) If no gain to the distributee from the receipt of such stock or securities was recognized under the provisions of the Federal Revenue Act of 1936 or prior Federal revenue acts in effect at the time of the distribution, or

(b) If the distribution was not subject to tax in the hands of the distributee under the Federal Revenue Act of 1936 or prior Federal revenue acts in effect at the time of the distribution because it did not constitute income to him within the meaning of the Sixteenth Amendment to the Constitution of the United States or because exempted to him under Section 115 (f) of the Federal Revenue Act of 1934, or a corresponding provision of a prior Federal revenue act.

As used in this section, "stock or securities" includes rights to acquire stock or securities.

Determination of gain or loss

17163. The gain or loss realized from the sale or other disposition after February 28, 1913, of property by a corporation for the purpose of the computation of earnings and profits of the corporation for any period beginning after February 28, 1913, shall be determined by using as the adjusted basis the adjusted basis (under the law applicable to the year in which the sale or other disposition was made) for determining gain. Gain or loss so realized shall increase or decrease the earnings and profits to, but not beyond, the extent to which such a realized gain or loss was recognized in computing net income under the law applicable to the year in which such sale or disposition was made. Where in determining the adjusted basis used in computing such realized gain or loss the adjustment to the basis differs from the adjustment proper for the purpose of determining earnings or profits, the latter adjustment shall be used in determining the increase or decrease above provided.

Distribution from a second corporation

17164. Where a corporation receives after February 28, 1913, a distribution from a second corporation which (under the law applicable to the year in which the distribution was made) was not a taxable dividend to the shareholders of the second corporation, the amount of the distribution shall not

increase the earnings and profits of the first corporation in the following cases:

(a) No such increase shall be made in respect of the part of such distribution which under that law is directly applied in reduction of the basis of the stock in respect of which the distribution was made.

(b) No such increase shall be made if under that law the distribution causes the basis of the stock in respect of which the distribution was made to be allocated between that stock and the property received.

"Law applicable to the year"

17165. For the purposes of Sections 17163 and 17164, "law applicable to the year" means the State act or the United States Revenue Act in force for the year in which the sale or other disposition was made.

Increase or decrease in profits, etc

17166. If any increase or decrease in the earnings or profits for any period beginning after February 28, 1913, with respect to any matter would be different had the adjusted basis of the property involved been determined without regard to its March 1, 1913, value, then, except as provided in Section 17167, an increase properly reflecting such difference shall be made in that part of the earnings and profits consisting of increase in value of property accrued before March 1, 1913.

Reduction of loss

17167. If the application of Sections 17163 and 17164 to a sale or other disposition after February 28, 1913, results in a loss which is to be applied in decrease of earnings and profits for any period beginning after February 28, 1913, then, notwithstanding those sections and in lieu of the rule provided in Section 17166, the amount of the loss so to be applied shall be reduced by the amount, if any, by which the adjusted basis of the property used in determining the loss, exceeds the adjusted basis computed without regard to the value of the property on March 1, 1913, and if such amount so applied in reduction of the decrease exceeds such loss, the excess over such loss shall increase that part of the earnings and profits consisting of increase in value of property accrued before March 1, 1913.

Double taxation

17168. The repeal in 1937 of subdivision (o) of Section 2 and Section 34 of The Personal Income Tax Act of 1935 shall not be construed to sanction double taxation of income.

Article 4. Forgiveness of Indebtedness

Cancellation of indebtedness

17191. If the indebtedness of a taxpayer is canceled or forgiven in whole or in part without payment, the amount so canceled or forgiven constitutes income to the extent the value of the property of the taxpayer exceeds his liabilities immediately after the cancellation or forgiveness. The remainder of the amount of indebtedness so canceled or forgiven, if any, shall be applied in reduction of the basis of the assets to the extent the basis thereof exceeds the value thereof immediately after the cancellation or forgiveness. The reduction

shall be made in accordance with regulations prescribed by the commissioner.

Outlawed debt

17192. If an indebtedness is not paid by the time an action to enforce payment is barred by limitation, the indebtedness shall be considered canceled or forgiven within the meaning of this article unless it can be established that the period of limitation has been extended by a new promise in writing.

Article 5. Gross Income of Nonresidents

Sources within the State

17211. In the case of nonresident taxpayers the gross income includes only the gross income from sources within this State. Gross income from sources within this State includes rentals or royalties from property located in this State or from any interest in such property, including rentals or royalties for the use of, or for the privilege of using in this State, patents, copyrights, secret processes and formulas, good will, trade-marks, trade brands, franchises, and other like property.

Intangible personal property

17212. Income of nonresidents from stocks, bonds, notes, or other intangible personal property is not income from sources within this State unless the property has acquired a business situs in this State, except that if a nonresident buys or sells such property in this State or places orders with brokers in this State to buy or sell such property so regularly, systematically, and continuously as to constitute doing business in this State, the profit or gain derived from such activity is income from sources within this State irrespective of the situs of the property.

Estates or trusts

17213. Income of nonresident beneficiaries from estates or trusts is income from sources within this State only if distributed or distributable out of income of the estate or trust derived from sources within this State.

Allocation

17214. Gross income from sources within and without this State shall be allocated and apportioned under rules and regulations prescribed by the commissioner.

Chapter 4. Deductions from Gross Income

Article 1. Items Deductible

Business expenses

17301. In computing net income there shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered; traveling expenses (including the entire amount expended for meals and lodging) while away from home in the pursuit of a trade or business; and rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity.

Nontaxable income

17302. The deductions permitted by Section 17301 shall not be allowed to the extent that they are connected with the production of income not taxable under this part. Proper apportionment and allocation of such deductions with respect to taxable and nontaxable income shall be determined under rules and regulations prescribed by the commissioner.

Employer pension trusts

17303. In computing net income there shall be allowed as a deduction to an employer establishing or maintaining a pension trust to provide for the payment of reasonable pensions to his employees (if such trust is exempt from tax under Article 3 of Chapter 8 of this part, relating to trusts created for the exclusive benefit of employees) in addition to the contributions to such trust during the taxable year to cover the pension liability accruing during the year, allowed as a deduction under Section 17301, a reasonable amount transferred or paid into such trust during the taxable year in excess of such contributions, but only if such amount (a) has not theretofore been allowable as a deduction, and (b) is apportioned in equal parts over a period of 10 consecutive years beginning with the year in which the transfer or payment is made.

Interest

17304. In computing net income there shall be allowed as a deduction all interest paid or accrued within the taxable year on indebtedness of the taxpayer. However, no deduction shall be allowed (a) to the extent that it is connected with income not taxable under this part; or (b) for interest paid or accrued within the taxable year on indebtedness incurred or continued to purchase or carry obligations, the interest upon which is wholly exempt from the tax imposed by this part. The proper apportionment and allocation of the deduction with respect to taxable and nontaxable income shall be determined under rules and regulations prescribed by the commissioner.

Taxes or licenses

17305. In computing net income there shall be allowed as a deduction taxes or licenses paid or accrued during the taxable year, except:

(a) Taxes paid or accrued to the State under this part.

(b) Taxes on or according to or measured by income or profits paid or accrued within the taxable year imposed by the authority of

(1) The Government of the United States or any foreign country.

(2) Any State, Territory, county, city and county, school district, municipality, or other taxing subdivision of any State or Territory.

(c) Estate, inheritance, legacy, succession, and gift taxes.

(d) Taxes computed as an addition to, or as a percentage of, taxes which are not deductible under this section.

(e) Taxes assessed against local benefits of a kind tending to increase the value of the property assessed, but this does not exclude the allowance as a deduction of so much of the taxes assessed against local benefits as is properly allocable to maintenance or interest charges.

17306. In computing net income there shall be allowed as a deduction losses sustained during the taxable year and not compensated for by insurance or otherwise: Losses

(a) If incurred in trade or business; or

(b) If incurred in any transaction entered into for profit, though not connected with the trade or business; or

(c) Of property not connected with the trade or business, if the loss arises from fires, storms, shipwreck, or other casualty, or from theft.

The basis for determining the amount of deduction for losses sustained, to be allowed under this section, shall be the adjusted basis provided in Article 5 of Chapter 6 of this part for determining the loss from the sale or other disposition of property.

17307. Losses from sales or exchanges of capital assets shall be allowed only to the extent provided in Article 3 of Chapter 6 of this part. Worthless securities

If any securities become worthless during the taxable year and are capital assets, the loss resulting therefrom shall, for the purposes of this part, be considered as a loss from the sale or exchange, on the last day of the taxable year, of capital assets.

"Securities," as used in this section, means (a) shares of stock in a corporation, and (b) rights to subscribe for or to receive such shares.

17308. Losses from wagering transactions shall be allowed only to the extent of the gains from such transactions. Wagering losses

17309. In the case of any loss claimed to have been sustained from any sale or other disposition of shares of stock or securities where it appears that, within a period beginning 30 days before the date of the sale or disposition and ending 30 days after that date, the taxpayer has acquired (by purchase or by an exchange upon which the entire amount of gain or loss was recognized by law) or has entered into a contract or option so to acquire, substantially identical stock or securities, then no deduction for the loss shall be allowed. Wash sales

If the amount of stock or securities acquired (or covered by the contract or option to acquire) is less than the amount of stock or securities sold or otherwise disposed of, then the particular shares of stock or securities the loss from the sale or other disposition of which is not deductible shall be determined under rules and regulations prescribed by the commissioner

If the amount of stock or securities acquired (or covered by the contract or option to acquire) is not less than the amount of stock or securities sold or otherwise disposed of, then the particular shares of stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility of the loss shall be determined under the rules and regulations prescribed by the commissioner.

17310. In computing net income there shall be allowed as a deduction debts ascertained to be worthless within the taxable year and charged off or, in the discretion of the commissioner, a reasonable addition to a reserve for bad debts. When satisfied that a debt is recoverable only in part, the commissioner Worthless debts

may allow the debt as a deduction in an amount not in excess of the amount ascertained to be worthless in the taxable year and charged off. But if a portion of a debt is claimed and allowed as a deduction in any year, no deduction shall be allowed in any subsequent year for any portion of the debt ascertained in any prior year to be worthless, regardless of whether charged off or claimed as a deduction in such prior year. This section does not apply to a debt evidenced by a security as defined in Section 17312.

Worthless securities

17311. If any securities, as defined in Section 17312, are ascertained to be worthless within the taxable year and are charged off and are capital assets, the loss resulting shall be considered as a loss from the sale or exchange, on the last day of the taxable year, of capital assets.

"Securities"

17312. "Securities," as used in Sections 17310 and 17311, means bonds, debentures, notes, or certificates, or other evidences of indebtedness, issued by any corporation (including those issued by a government or political subdivision thereof) with interest coupons or in registered form.

Obsolescence, etc

17313. In computing net income there shall be allowed as a deduction a reasonable allowance for the exhaustion, wear and tear of property used in the trade or business, including a reasonable allowance for obsolescence. In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust the allowable deduction shall be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each.

Depletion, etc Oil and gas wells

17314. In computing net income there shall be allowed as a deduction, in the case of mines, oil and gas wells, other natural deposits, and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case; such reasonable allowance in all cases to be made under rules and regulation prescribed by the commissioner. In any case in which it is ascertained as a result of operations or of development work that the recoverable units are greater or less than the prior estimate thereof, the prior estimate (but not the basis for depletion) shall be revised and the allowance under this section for subsequent taxable years shall be based upon the revised estimate.

In the case of leases the deductions shall be equitably apportioned between the lessor and the lessee. In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust the allowable deduction shall be apportioned between the income beneficiaries and the trustee in accordance with the pertinent

provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each.

The percentage of depletion allowable under this section shall be computed in accordance with the provisions of Sections 17816 and 17817.

Charitable contributions

17315. In computing net income there shall be allowed as a deduction, in the case of an individual, contributions or gifts payment of which is made within the taxable year to or for the use of:

(a) The United States, any State, Territory, or any political subdivision thereof, or the District of Columbia, for exclusively public purposes.

(b) A corporation, or trust, or community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation.

(c) The special fund for vocational rehabilitation authorized by Section 12 of the World War Veterans' Act, 1924.

(d) Posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if the posts, organizations, units, or societies are organized in the United States and if no part of their net earnings inures to the benefit of any private shareholder or individual.

(e) A fraternal society, order, or association, operating under the lodge system, but only if the contributions or gifts are to be used exclusively for religious, charitable, scientific, literary, or educational purposes or for the prevention of cruelty to children or animals.

Limit on charitable contributions

17316. Deductions for contributions or gifts shall be allowed to an amount which in all the cases listed in Section 17315 combined does not exceed 15 per cent of the taxpayer's net income as computed without the benefit of that section. The contributions or gifts shall be allowed as deductions only if verified under rules and regulations prescribed by the commissioner.

When limit on charitable contributions inapplicable

17317. In the case of an individual if in the taxable year and in each of the 10 preceding taxable years the amount of the contributions or gifts described in Section 17315, plus the amount of income, war profits, or excess profits taxes paid during such year in respect of preceding taxable years, exceeds 90 per cent of the taxpayer's net income for each such year, as computed without the benefit of that section, then the 15 per cent limit does not apply.

Article 2. Items not Deductible

Personal expenses, etc

17351. In computing net income no deduction shall in any case be allowed in respect of:

(a) Personal, living, or family expenses.

(b) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate.

(c) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made.

(d) Premiums paid on any life insurance policy covering the life of any officer or employee, or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under the policy.

(e) Any amount otherwise allowable as a deduction which is allocable to one or more classes of income (whether or not any amount of income of that class or classes is received or accrued) wholly exempt from the taxes imposed by this part.

Losses from sales or exchanges between members of family, etc

17352. In computing net income no deduction shall in any case be allowed in respect of losses from sales or exchanges of property, directly or indirectly:

(a) Between members of a family, as defined in subdivision (d) of Section 17353.

(b) Except in the case of distributions in liquidation, between an individual and a corporation more than 50 per cent in value of the outstanding stock of which is owned, directly or indirectly, by or for the individual.

(c) Between a partnership and a member thereof, between partnerships where more than 50 per cent of the partnership interests in each are owned by the same persons, and between a partnership and a corporation 50 per cent of the stock of which is owned or controlled by the partnership or members thereof.

(d) Between a grantor and a fiduciary of any trust.

(e) Between the fiduciary of a trust and the fiduciary of another trust, if the same person is a grantor with respect to each trust.

(f) Between a fiduciary of a trust and a beneficiary of such trust.

Ownership of stock

17353. For the purposes of determining, in applying Section 17352, the ownership of stock:

(a) Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust, shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries.

(b) An individual shall be considered as owning the stock or the partnership interest owned, directly or indirectly, by or for his family.

(c) An individual owning (otherwise than by the application of subdivision (b)) any stock in a corporation shall be

considered as owning the stock owned, directly or indirectly, by or for his partner.

(d) The family of an individual shall include only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

(e) Stock constructively owned by a person by reason of the application of subdivision (a) shall, for the purpose of applying subdivision (a), (b), or (c), be treated as actually owned by such person, but stock constructively owned by an individual by reason of the application of subdivision (b) or (c) shall not be treated as owned by him for the purpose of again applying either of those subdivisions in order to make another the constructive owner of such stock.

Business expenses and interest accrued

17354. In computing net income no deduction shall be allowed under Section 17301, relating to expenses incurred, or under Section 17304, relating to interest accrued:

(a) If such expenses or interest are not paid within the taxable year or within two and one-half months after the close thereof; and

(b) If, by reason of the method of accounting of the person to whom the payment is to be made, the amount thereof is not, unless paid, includible in the gross income of that person for the taxable year in which or with which the taxable year of the taxpayer ends; and

(c) If, at the close of the taxable year of the taxpayer or at any time within two and one-half months thereafter, both the taxpayer and the person to whom the payment is to be made are persons between whom losses would be disallowed under Section 17352.

The amount of expenses incurred or interest accrued the deduction of which is disallowed under this section in the year incurred or accrued, may be deducted in the year paid.

Shrinkage in value of interest acquired by gift, etc

17355. Amounts paid under the laws of any State, Territory, District of Columbia, possession of the United States, or foreign country as income to the holder of a life or terminable interest acquired by gift, bequest, or inheritance shall not be reduced or diminished by any deduction for shrinkage (by whatever name called) in the value of such interest due to the lapse of time, or by any deduction allowed by this part (except the deductions provided for in Sections 17313 and 17314 for the purpose of computing the net income of an estate or trust but not allowed under the laws of such State, Territory, District of Columbia, possession of the United States, or foreign country for the purpose of computing the income to which such holder is entitled.

Tax-free covenant bond

17356. In computing net income no deduction shall be allowed to the obligor of a covenant bond for the payment of the tax imposed by this part, or any other tax paid pursuant to the tax-free covenant clause, nor shall such tax be included in the gross income of the obligee.

Article 3. Deductions of Nonresidents

Extent

17381. In the case of a nonresident taxpayer the deductions allowed by Article 1 of this chapter shall unless otherwise provided in this article be allowed only to the extent that they are connected with the income arising from sources within this State and taxable under this part to a nonresident taxpayer. The proper apportionment and allocation of the deductions with respect to sources of income within and without the State shall be determined under rules and regulations prescribed by the commissioner.

Taxes and licenses

17382. Taxes or licenses paid or accrued to this State or its political subdivisions which are deductible under Section 17305 are deductible by nonresidents even though not connected with income from sources within this State.

Charitable contributions

17383. In the case of a nonresident taxpayer the deductions for contributions and gifts shall be allowed only as to contributions or gifts to corporations or associations incorporated by or organized under the laws of this State or to the Vocational Rehabilitation Fund or to this State or any political subdivision thereof for exclusively public purposes.

Chapter 5. Accounting Factors

Article 1. Inventories

When to be taken

17501. Whenever in the opinion of the commissioner the use of inventories is necessary in order clearly to determine the income of any taxpayer, inventories shall be taken by the taxpayer upon such basis as the commissioner may prescribe as conforming as nearly as may be to the best accounting practice in the trade or business and as most clearly reflecting the income.

Permissible method

17502. A taxpayer may use the following method (whether or not the method has been prescribed under Section 17501) in inventorying goods specified in the application required under Section 17503:

(a) Inventory them at cost;

(b) Treat those remaining on hand at the close of the taxable year as being: First, those included in the opening inventory of the taxable year (in the order of acquisition) to the extent thereof, and second, those acquired in the taxable year; and

(c) Treat those included in the opening inventory of the taxable year in which the method is first used as having been acquired at the same time and determine their cost by the average cost method.

Restrictions on use

17503. The method described in Section 17502 may be used

(a) Only in inventorying goods (required under Section 17501 to be inventoried) specified in an application to use such method filed at such time and in such manner as the commissioner may prescribe; and

(b) Only if the taxpayer establishes to the satisfaction of the commissioner that the taxpayer has used no procedure other than that specified in subdivisions (b) and (c) of Section 17502 in inventorying (to ascertain income, profit, or loss for credit purposes or for the purpose of reports to shareholders, partners, or other proprietors, or to beneficiaries) such goods for any period beginning with or during the first taxable year for which the method described in Section 17502 is to be used.

Regulations

17504. The change to, and the use of, the described method shall be in accordance with such regulations as the commissioner may prescribe as necessary in order that the use of the method may clearly reflect income.

First use

17505. In determining income for the taxable year preceding the taxable year for which the described method is first used, the closing inventory of such preceding year of the goods specified in the application shall be at cost.

Change in method

17506. If a taxpayer, having complied with Section 17503, uses the method described for any taxable year, that method shall be used in all subsequent taxable years unless

(a) With the approval of the commissioner a change to a different method is authorized; or

(b) The commissioner determines that the taxpayer has used for any period beginning with or during any subsequent taxable year some procedure other than that specified in subdivision (b) of Section 17502 in inventorying (for ascertaining income, profit, or loss for credit purposes or for the purpose of reports to shareholders, partners, or other proprietors, or to beneficiaries) the goods specified in the application, and requires a change to a method different from that prescribed in Section 17502 beginning with such subsequent taxable year or any taxable year thereafter.

In either of the above cases, the change to, and the use of, the different method shall be in accordance with such regulations as the commissioner may prescribe as necessary in order that the use of such method may clearly reflect income.

Article 2. Allocation of Income and Deductions

Organizations owned by some interests

17521. In any case of two or more organizations, trades, or businesses (whether or not incorporated, whether or not organized in this State, and whether or not affiliated) owned or controlled directly or indirectly by the same interests, the commissioner may distribute, apportion, or allocate gross income or deductions between or among such organizations, trades, or businesses, if he determines that such distribution, apportionment, or allocation is necessary (a) in order to prevent evasion of taxes of any taxpayer or (b) clearly to reflect the income of any of such organizations, trades, or businesses where the income of any taxpayer is affected thereby in such manner as to permit evasion of taxes.

Article 3. Installment Payments

Return of payments

17531. Under regulations prescribed by the commissioner a person who regularly sells or otherwise disposes of personal property on the installment plan may return as income therefrom in any taxable year that proportion of the installment payments actually received in that year which the gross profit realized or to be realized when payment is completed, bears to the total contract price.

Initial payments under 30 per cent

17532. In the case (a) of a casual sale or other casual disposition of personal property (other than property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year) for a price exceeding one thousand dollars ($1,000), or (b) of a sale or other disposition of real property, if in either case the initial payments do not exceed 30 per cent of the selling price, the income may, under regulations prescribed by the commissioner, be returned on the basis and in the manner prescribed by this article.

As used in this section, "initial payments" means the payments received in cash or property other than evidences of indebtedness of the purchaser during the taxable period in which the sale or other disposition is made.

Receipts from sales in prior year

17533. If a taxpayer entitled to the benefits of Section 17531 elects for any taxable year to report his net income on the installment basis, then in computing his income for the year of change or any subsequent year, amounts actually received during any such year on account of sales or other dispositions of property made in any prior year shall not be excluded.

Gain or loss in sale of installment obligations

17534. If an installment obligation is satisfied at other than its face value or distributed, transmitted, sold, or otherwise disposed of, gain or loss shall result to the extent of the difference between the basis of the obligation and (a) in the case of satisfaction at other than face value or a sale or exchange—the amount realized, or (b) in case of a distribution, transmission, or disposition otherwise than by sale or exchange—the fair market value of the obligation at the time of the distribution, transmission, or disposition.

Basis of obligation

17535. Any gain or loss so resulting shall be considered as resulting from the sale or exchange of the property in respect of which the installment obligation was received. The basis of the obligation shall be the excess of the face value of the obligation over an amount equal to the income which would be returnable were the obligation satisfied in full.

Transmission at death

17536. Sections 17534 and 17535 do not apply to the transmission at death of installment obligations if there is filed with the commissioner at such time as he may by regulation prescribe, a bond in such amount and with such sureties as he may deem necessary, conditioned upon the return as income, by the person receiving any payment on such obligations,

of the same proportion of such payment as would be returnable as income by the decedent if he had lived and had received such payment.

Article 4. Accounting Periods

Accounting period

17556. The net income shall be computed upon the basis of the taxpayer's annual accounting period (fiscal year or calendar year, as the case may be) in accordance with the method of accounting regularly employed in keeping the books of the taxpayer. If no such method of accounting has been so employed, or if the method employed does not clearly reflect the income, the computation shall be made in accordance with such method as in the opinion of the commissioner does clearly reflect the income.

Calendar year basis

17557. If the taxpayer's annual accounting period is other than a fiscal year or if the taxpayer has no annual accounting period or does not keep books, the net income shall be computed on the basis of the calendar year.

Change from fiscal to calendar year, etc

17558. If a taxpayer, with the approval of the commissioner, changes the basis of computing net income from fiscal year to calendar year, a separate return shall be made for the period between the close of the last fiscal year for which a return was made and the following December 31st. If the change is from calendar year to the fiscal year, a separate return shall be made for the period between the close of the last calendar year for which a return was made and the date designated as the close of the fiscal year. If the change is from one fiscal year to another fiscal year, a separate return shall be made for the period between the close of the former fiscal year and the date designated as the close of the new fiscal year.

Separate return on change

17559. Where a separate return is made on account of a change in the accounting period, and in all other cases where a separate return is required or permitted by regulations prescribed by the commissioner to be made for a fractional part of a year, the income shall be computed on the basis of the period for which the separate return is made.

Net income of separate return on change

17560. If a separate return is made on account of a change in the accounting period, the net income, computed on the basis of the period for which the separate return is made, shall be placed on an annual basis by multiplying the amount thereof by 12 and dividing by the number of months included in the period for which the separate return is made. The tax shall be such part of the tax computed on such annual basis as the number of months in such period is of 12 months.

Fractional year return

17561. In the case of a return made for a fractional part of a year, except a return made on account of a change in the accounting period, the personal exemption and the credit for dependents shall be reduced respectively to amounts which bear the same ratio to the full credits provided as the number of months in the period for which return is made bears to 12 months.

Gross income includible

17562. The amount of all items of gross income shall be included in the gross income for the taxable year in which received by the taxpayer unless under the methods of accounting permitted under Section 17556 any such items are to be properly accounted for as of a different period. In the case of the death of the taxpayer there shall be included in computing net income for the taxable period in which falls the date of his death, amounts accrued up to the date of his death if not otherwise properly includible in respect of such period or a prior period.

Deductions and credits

17563. The deductions and credits provided for in this part shall be taken for the taxable year in which "paid or accrued" or "paid or incurred," dependent upon the method of accounting upon the basis of which the net income is computed, unless in order clearly to reflect the income the deductions or credits should be taken as of a different period. In the case of the death of a taxpayer there shall be allowed as deductions and credits for the taxable period in which falls the date of his death, amounts accrued up to the date of his death (except deductions for contributions and gifts) if not otherwise properly allowable in respect of such period or a prior period.

Change in law

17564. The tax for any period beginning in one calendar year ("first calendar year") and ending in the following calendar year ("second calendar year") where the law applicable to the computation of taxes for taxpayers reporting on a calendar year basis differs for the second calendar year from the law applicable to the first calendar year, shall be the sum of:

(a) The same proportion of a tax for the entire period, determined under the law applicable to the first calendar year and at the rates for such year, which the portion of such period falling within the first calendar year is of the entire period; and

(b) The same proportion of a tax for the entire period, determined under the law applicable to the second calendar year and at the rates for such year, which the portion of such period falling within the second calendar year is of the entire period.

Refund or credit on change in law

17565. If any tax that has been paid under the law applicable to the first calendar year exceeds the tax imposed by Section 17564, the excess shall be refunded or credited to the taxpayer. Any tax in addition to that paid under the law applicable to the first calendar year made necessary by that section is immediately due and payable upon notice and demand from the commissioner.

Change in resident status

17566. When the status of a taxpayer changes from resident to nonresident, or from nonresident to resident, there shall be included in determining income from sources within or without this State, as the case may be, income and deductions accrued prior to the change of status even though not otherwise includible in respect of the period prior to such

change, but the taxation or deduction of items accrued prior to the change of status shall not be affected by the change.

CHAPTER 6. GAIN OR LOSS

Article 1. Computation of Gain or Loss

Gain and loss defined

17651. The gain from the sale or other disposition of property shall be the excess of the amount realized therefrom over the adjusted basis provided in Article 5 of this chapter for determining gain, and the loss shall be the excess of the adjusted basis provided in that article for determining loss over the amount realized.

Sale of property

17652. The amount realized from the sale or other disposition of property shall be the sum of any money received plus the fair market value of any property other than money received.

Recognition of gain or loss

17653. In the case of a sale or exchange, the extent to which the gain or loss determined under this article shall be recognized for the purposes of this part shall be determined under the provisions of Article 2 of this chapter.

Installment payment

17654. Nothing in this article shall be construed to prevent (in the case of property sold under contract providing for payment in installments) the taxation of that portion of any installment payment representing gain or profit in the year in which such payment is received.

Article 2. Recognition of Gain or Loss

Generally

17671. Upon the sale or exchange of property the entire amount of the gain or loss, determined under Article 1 of this chapter, shall be recognized, except as otherwise provided in this article.

Involuntary conversion of property

17672. No gain or loss shall be recognized if property, as a result of its destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation, or the threat or imminence thereof, is compulsorily or involuntarily converted into property similar or related in service or use to the property so converted, or into money which is forthwith in good faith, under regulations prescribed by the commissioner, expended in the acquisition of other property similar or related in service or use to the property so converted, or in the acquisition of control of a corporation owning such other property, or in the establishment of a replacement fund.

If any part of the money is not so expended, the gain, if any, shall be recognized, but in an amount not in excess of the money which is not so expended.

Corporate liquidation

17673. No gain or loss shall be recognized to a shareholder from a distribution of stocks or securities in liquidation of a corporation made pursuant to an order of the Federal Securities and Exchange Commission under authority vested in it by the Public Utility Holding Company Act of 1935, as amended prior to January 1, 1939.

Exchange in like kind

17674. No gain or loss shall be recognized if property held for productive use in trade or business or for investment (not including stock in trade or other property held primarily for sale, or stocks, bonds, notes, choses in action, certificates of trust or beneficial interest, or other securities or evidences of indebtedness or interest) is exchanged solely for property of a like kind to be held either for productive use in trade or business or for investment.

Exchange of stock

17675. No gain or loss shall be recognized if common stock in a corporation is exchanged solely for common stock in the same corporation, or if preferred stock in a corporation is exchanged solely for preferred stock in the same corporation.

Exchange of property for stock

17676. No gain or loss shall be recognized if property is transferred to a corporation by one or more persons solely in exchange for stock or securities in such corporation, and immediately after the exchange such person or persons are in control of the corporation; but in the case of an exchange by two or more persons this section applies only if the amount of the stock and securities received by each is substantially in proportion to his interest in the property prior to the exchange.

Where the transferee assumes a liability of a transferor, or where the property of a transferor is transferred subject to a liability, then for the purpose only of determining whether the amount of stock or securities received by each of the transferors is in the proportion required by this section, the amount of such liability (if under Section 17677 it is not to be considered as "other property or money") shall be considered as stock or securities received by such transferor.

Assumption of liability on exchange

17677. Where upon an exchange the taxpayer receives as part of the consideration property which would be permitted by Section 17676 to be received without the recognition of gain if it were the sole consideration, and as part of the consideration another party to the exchange assumes a liability of the taxpayer or acquires from the taxpayer property subject to a liability, the assumption or acquisition shall not be considered as "other property or money" received by the taxpayer within the meaning of Sections 17682 and 17684 and shall not prevent the exchange from being within the provisions of Section 17676; except that if, taking into consideration the nature of the liability and the circumstances in the light of which the arrangement for the assumption or acquisition was made, it appears that the principal purpose of the taxpayer with respect to the assumption or acquisition was a purpose to avoid State tax on the exchange, or, if not such purpose, was not a bona fide business purpose, the assumption or acquisition (in the amount of the liability) shall, for the purposes of this article, be considered as money received by the taxpayer upon the exchange.

In any suit or proceeding where the burden is on the taxpayer to prove that the assumption or acquisition is not to be considered as money received by the taxpayer, the burden shall

not be considered sustained unless the taxpayer sustains the burden by the clear preponderance of the evidence.

Exchange on reorganization

17678. No gain or loss shall be recognized if stock or securities in a corporation a party to a reorganization are, in pursuance of the plan of reorganization, exchanged solely for stock or securities in such corporation or in another corporation a party to the reorganization.

"Reorganization"

17679. "Reorganization," as used in this article, means any of the following:

(a) A statutory merger or consolidation.

(b) The acquisition by one corporation in exchange solely for all or a part of its voting stock: Of at least 80 per cent of the voting stock and at least 80 per cent of the total number of shares of all other classes of stock of another corporation; or of substantially all the properties of another corporation. In determining whether the exchange is solely for voting stock the assumption by the acquiring corporation of a liability of the other, or the fact that property acquired is subject to a liability, shall be disregarded.

(c) A transfer by a corporation of all or a part of its assets to another corporation, if immediately after the transfer the transferor or its shareholders or both are in control of the corporation to which the assets are transferred.

(d) A recapitalization.

(e) A mere change in identity, form, or place of organization, however effected.

"Party to a reorganization"

17680. "A party to a reorganization," as used in this article, includes a corporation resulting from a reorganization and includes both corporations in the case of a reorganization resulting from the acquisition by one corporation of stock or properties of another.

"Control"

17681. "Control," as used in this article, means the ownership of stock possessing at least 80 per cent of the total combined voting power of all classes of stock entitled to vote and at least 80 per cent of the total number of shares of all other classes of stock of the corporation.

Gain re other property received on exchange

17682. If an exchange would be within Sections 17674, 17675, 17676, or 17678 if it were not for the fact that the property received in exchange consists not only of property permitted by those sections to be received without the recognition of gain, but also of other property or money, then the gain, if any, to the recipient shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property.

Distribution having effect of taxable dividend

17683. If a distribution made in pursuance of a plan of reorganization is within Section 17682 but has the effect of the distribution of a taxable dividend, there shall be taxed as a dividend to each distributee such an amount of the gain recognized under that section as is not in excess of his ratable share of the undistributed earnings and profits of the corporation accumulated after February 28, 1913. The remainder, if any,

of the gain recognized under Section 17682 shall be taxed as a gain from the exchange of property.

Loss re other property received on exchange

17684. If an exchange would be within Sections 17674, 17675, 17676, or 17678 if it were not for the fact that the property received in exchange consists not only of property permitted by those sections to be received without the recognition of gain or loss, but also of other property or money, no loss from the exchange shall be recognized.

Foreign corporation

17685. In determining the extent to which gain shall be recognized in the case of any of the exchanges (made after June 13, 1935) described in Sections 17676 or 17678, or described in so much of Section 17682 as refers to those sections, or described in Section 17684, a corporation created or organized in a foreign country shall not be considered as a corporation unless, prior to such exchange, it has been established to the satisfaction of the commissioner that the exchange is not in pursuance of a plan having as one of its principal purposes the avoidance of income or franchise taxes.

Article 3. Capital Gains or Losses

"Capital assets"

17711. "Capital assets" means property held by the taxpayer (whether or not connected with his trade or business), but does not include stock in trade of the taxpayer or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business, or property used in the trade or business of a character which is subject to the allowance for depreciation provided in Section 17313.

Percentages of gain or loss on sale

17712. In the case of any taxpayer, only the following percentages of the gain or loss recognized upon the sale or exchange of a capital asset shall be taken into account in computing net income:

100 per cent if the capital asset has been held for not more than 1 year;

80 per cent if the capital asset has been held for more than 1 year but not for more than 2 years;

60 per cent if the capital asset has been held for more than 2 years but not for more than 5 years;

40 per cent if the capital asset has been held for more than 5 years but not for more than 10 years;

30 per cent if the capital asset has been held for more than 10 years.

Period for which property is held

17713. In determining the period for which the taxpayer has held property received on an exchange, there shall be included the period for which he held the property exchanged, if under Articles 4 or 5 of this chapter, the property received has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in his hands as the property exchanged.

17714. In determining the period for which the taxpayer has held property however acquired, there shall be included the period for which the property was held by any other person, if under Articles 4 or 5 of this chapter the property has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in his hands as it would have in the hands of the other person. Same

17715. In determining the period for which the taxpayer has held stock or securities received upon a distribution where no gain was recognized to the distributee under the provisions of Section 112 (g) of the Federal Revenue Act of 1928 or the Federal Revenue Act of 1932, there shall be included the period for which he held the stock or securities in the distributing corporation prior to the receipt of the stock or securities upon the distribution. Same

17716. In determining the period for which the taxpayer has held stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility (under Section 17309, relating to wash sales) of the loss from the sale or other disposition of substantially identical stock or securities, there shall be included the period for which he held the stock or securities the loss from the sale or other disposition of which was not deductible. Same

17717. Losses from sales or exchanges of capital assets shall be allowed only to the extent of two thousand dollars ($2,000) plus the gains from such sales or exchanges. Maximum allowable losses

17718. Gains or losses from short sales of property shall be considered as gains or losses from sales or exchanges of capital assets. Short sales of property

17719. Gains or losses attributable to the failure to exercise privileges or options to buy or sell property shall be considered as gains or losses from sales or exchanges of capital assets held for one year or less. Failure to exercise option

17720. Amounts received by the holder upon the retirement of bonds, debentures, notes, or certificates or other evidences of indebtedness issued by any corporation (including those issued by a government or political subdivision thereof), with interest coupons or in registered form, shall be considered as amounts received in exchange therefor. Retirement of bonds, etc

Article 4. Unadjusted Basis for Determining Gain or Loss

17741. Except where otherwise provided in this article, the basis of property shall be the cost of the property. Cost of property

17742. If the property should have been included in the last inventory, the basis shall be the last inventory value thereof. Last inventory value

17743. If the property was acquired by gift after December 31, 1920, the basis shall be the same as it would be in the hands of the donor or the last preceding owner by whom it was not acquired by gift, except that for the purpose of determining loss the basis shall be the basis so determined or the Property acquired by gift

fair market value of the property at the time of the gift, whichever is lower.

If the facts necessary to determine the basis in the hands of the donor or the last preceding owner are unknown to the donee, the commissioner shall, if possible, obtain such facts from the donor or last preceding owner, or any other person cognizant thereof. If the commissioner finds it impossible to obtain such facts, the basis in the hands of the donor or last preceding owner shall be the fair market value of the property as found by the commissioner as of the date or approximate date at which, according to the best information that the commissioner is able to obtain, the property was acquired by the donor or last preceding owner.

Transfer in trust after Dec 31, 1920

17744. If the property was acquired after December 31, 1920, by a transfer in trust (other than by a transfer in trust by a bequest or devise) the basis shall be the same as it would be in the hands of the grantor, increased in the amount of gain or decreased in the amount of loss recognized to the grantor upon such transfer under the law applicable to the year in which the transfer was made.

Transfer in trust prior to Dec 31, 1920

17745. If the property was acquired by gift or transfer in trust on or before December 31, 1920, the basis shall be the fair market value of the property at the time of its acquisition.

Property acquired by inheritance

17746. If the property was acquired by bequest, devise, or inheritance, or by the decedent's estate from the decedent, the basis shall be the fair market value of the property at the time of its acquisition.

Revocable trust, etc

In the case of property transferred in trust to pay the income for life to or upon the order or direction of the grantor, with the right reserved to the grantor at all times prior to his death to revoke the trust, the basis of the property in the hands of the persons entitled under the terms of the trust instrument to the property after the grantor's death shall, after his death, be the same as if the trust instrument had been a will executed on the day of the grantor's death.

For the purpose of this section property passing without full and adequate consideration under a general power of appointment exercised by will shall be deemed to be property passing from the individual exercising the power by bequest or devise.

Exchange

17747. If the property was acquired, after February 28, 1913, upon an exchange described in Sections 17673 to 17684, inclusive, the basis shall be the same as in the case of the property exchanged, decreased in the amount of any money received by the taxpayer and increased in the amount of gain or decreased in the amount of loss to the taxpayer that was recognized upon the exchange under the law applicable to the year in which the exchange was made.

If the property so acquired consisted in part of the type of property permitted by Article 2 of this chapter to be received without the recognition of gain or loss, and in part of other

property, the basis provided in this section shall be allocated between the properties (other than money) received, and for the purpose of the allocation there shall be assigned to such other property an amount equivalent to its fair market value at the date of the exchange. Where, as part of the consideration to the taxpayer, another party to the exchange assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability, such assumption or acquisition (in the amount of the liability) shall, for the purposes of this section, be considered as money received by the taxpayer upon the exchange.

Involuntary conversion

17748. If the property was acquired, after February 28, 1913, as the result of a compulsory or involuntary conversion described in Section 17672, the basis shall be the same as in the case of the property so converted, decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law (applicable to the year in which the conversion was made) determining the taxable status of the gain or loss upon the conversion, and increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon the conversion under the law applicable to the year in which the conversion was made.

Stock acquired by wash sale

17749. If the property consists of stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility (under Section 17309, relating to wash sales) of the loss from the sale or other disposition of substantially identical stock or securities, the basis shall be the basis of the stock or securities so sold or disposed of, increased or decreased, as the case may be, by the difference, if any, between the price at which the property was acquired and the price at which the substantially identical stock or securities were sold or otherwise disposed of.

Property acquired between Feb. 28, 1913 and Jan 1, 1934

17750. If the property was acquired after February 28, 1913, in any taxable year beginning prior to January 1, 1934, and the basis thereof for the purposes of the Federal Revenue Act of 1932 was prescribed by Section 113 (a) (6), (7), or (9) of that act, for the purposes of this part the basis shall be the same as the basis therein prescribed in the Federal Revenue Act of 1932.

Property acquired by partnership

17751. If the property was acquired after February 28, 1913, by a partnership and the basis is not otherwise determined under any other section of this article, the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon the transfer under the law applicable to the year in which the transfer was made. If the property was distributed in kind by a partnership to any partner, the basis of the property in the hands of the partner shall be such part of the basis in his hands of his partnership interest as is properly allocable to the property.

Property acquired before Mar 1, 1913

17752. In the case of property acquired before March 1, 1913, if the basis otherwise determined under this article, adjusted (for the period prior to March 1, 1913) as provided in Article 5 of this chapter, is less than the fair market value of the property as of March 1, 1913, the basis for determining gain shall be such fair market value. In determining the fair market value of stock in a corporation as of March 1, 1913, due regard shall be given to the fair market value of the assets of the corporation as of that date.

Property acquired between Feb 28, 1913 and Jan 1, 1936

17753. If the property was acquired after February 28, 1913, in any taxable year beginning prior to January 1, 1936, and the basis thereof for the purposes of the Federal Revenue Act of 1934 was prescribed by Section 113 (a) (6), (7), or (8) of that act, for the purposes of this part the basis shall be the same as the basis therein prescribed in the Federal Revenue Act of 1934.

Securities received after Jan 1, 1939

17754. In the case of stocks or securities received by a taxpayer on or after January 1, 1939, under circumstances described in Section 17673 the basis of such stocks or securities shall be the same as that of the stocks or securities for the surrender of which they were acquired.

Right to acquire stock acquired after Feb 28, 1913, in corporate distribution

17755. If the property was acquired by a shareholder in a corporation and consists of a right to acquire stock in the corporation acquired by him after February 28, 1913, in a distribution by the corporation, and

(a) The right to acquire such stock was acquired in a taxable year beginning before January 1, 1937 (except as provided in Section 17756), or

(b) The right to acquire such stock was acquired in a taxable year beginning after December 31, 1936, and its distribution did not constitute income to the shareholder within the meaning of the Sixteenth Amendment to the Constitution of the United States, the basis of the stock in respect of which the right was declared and the right to acquire stock, respectively, shall, in the shareholder's hands be determined by allocating between the stock and the right to acquire stock the adjusted basis of the stock. The allocation shall be made under regulations prescribed by the commissioner.

Stock right constituting income acquired prior to Jan. 1, 1935

17756. If a stock right was acquired prior to January 1, 1935, and it constituted income within the purview of the Sixteenth Amendment to the Constitution of the United States, the basis of the stock in respect of which the rights were declared shall not be affected and the basis of the right shall be its fair market value as of the date of its acquisition.

Sale of stock right acquired before Jan 1, 1941

17757. Where the shareholder acquired the right to acquire stock in the corporation in a taxable year beginning before January 1, 1941, and sold the right, and there was included in the gross income for the year of sale the entire amount of the proceeds of the sale, then if before July 19, 1941, the taxpayer has not asserted (by claim for a refund or credit or otherwise) that any part of the proceeds of the sale of the right should be excluded from gross income for the year of its sale, the basis

of the stock shall be determined without regard to Sections 17755 and 17756, and no part of the proceeds of the sale of the right shall ever be excluded from the gross income for the year of the sale.

Article 5. Adjusted and Substituted Bases

Gain or loss from sale

17781. The adjusted basis for determining the gain or loss from the sale or other disposition of property, whenever acquired, shall be the basis determined under Article 4 of this chapter, adjusted as provided in this article.

Adjustment: Capital account items

17782. Proper adjustment in respect of the property shall in all cases be made for expenditures, receipts, losses, or other items, properly chargeable to capital account, including taxes and other carrying charges on unimproved and unproductive real property, but no such adjustment shall be made for taxes or other carrying charges for which deductions have been taken by the taxpayer in determining net income for the taxable year or prior taxable years.

Obsolescence, etc.

17783. Proper adjustment in respect of the property shall in all cases also be made for exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent sustained prior to January 1, 1935, and for periods thereafter to the extent allowed (but not less than the amount allowable) under this part.

Tax-free stock distributions

17784. Proper adjustment in respect of the property shall in all cases also be made, in the case of stock (to the extent not provided for in the foregoing sections), for the amount of distributions previously made which, under the law applicable to the year in which the distribution was made, either were tax-free or were applicable in reduction of basis (not including distributions made by a corporation, which was classified as a personal service corporation under the provisions of the Federal Revenue Act of 1918 or 1921, out of its earnings or profits which were taxable in accordance with the provisions of Section 218 of the Federal Revenue Act of 1918 or 1921).

"Substituted basis"

17785. "Substituted basis," as used in this article, means a basis determined under any provision of Article 4 of this chapter, providing that the basis shall be determined:

(a) By reference to the basis in the hands of a transferor, donor, or grantor, or

(b) By reference to other property held at any time by the person for whom the basis is to be determined.

Adjustment in substituted basis

17786. Whenever it appears that the basis of property in the hands of the taxpayer is a substituted basis, the adjustments provided in this article shall be made after first making in respect of such substituted basis proper adjustments of a similar nature in respect of the period during which the property was held by the transferor, donor, or grantor, or during which the other property was held by the person for whom the basis is to be determined. A similar rule shall be applied in the case of a series of substituted bases.

Article 6. Basis for Depreciation and Depletion

Obsolescence, etc.

17811. The basis upon which exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be the adjusted basis for the purpose of determining the gain upon the sale or other disposition of the property.

Depletion: Generally

17812. The basis upon which depletion is to be allowed in respect of any property shall be the adjusted basis for the purpose of determining the gain upon the sale or other disposition of such property, except as provided in the remainder of this article.

Mines discovered after Feb 28, 1913

17813. In the case of mines (other than metal, coal, or sulphur mines) discovered by the taxpayer after February 28, 1913, the basis for depletion shall be the fair market value of the property at the date of discovery or within 30 days thereafter, if the mines were not acquired as the result of purchase of a proven tract or lease, and if the fair market value of the property is materially disproportionate to the cost.

Limitation

17814. The depletion allowance under Section 17314 based on discovery value provided in Section 17813 shall not exceed 50 per cent of the net income of the taxpayer (computed without allowance for depletion) from the property upon which the discovery was made, except that in no case shall the depletion allowance be less than it would be if computed without reference to discovery value.

Discoveries defined

17815. Discoveries shall include minerals in commercial quantities contained within a vein or deposit discovered in an existing mine or mining tract by the taxpayer after February 28, 1913, if the vein or deposit thus discovered was not merely the uninterrupted extension of a continuing commercial vein or deposit already known to exist, and if the discovered minerals are of sufficient value and quantity that they could be separately mined and marketed at a profit.

Oil and gas well depletion

17816. In the case of oil and gas wells the allowance for depletion under Section 17314 shall be 27½ per cent of the gross income from the property during the taxable year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. The allowance shall not exceed 50 per cent of the net income of the taxpayer (computed without allowance for depletion) from the property, except that in no case shall the depletion allowance be less than it would be if computed without reference to this section.

Coal mines, etc

17817. The allowance for depletion under Section 17314 shall be, in the case of coal mines, 5 per cent, in the case of metal mines, 15 per cent, and, in the case of sulphur mines or deposits, 23 per cent, of the gross income from the property during the taxable year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. The allowance shall not exceed 50 per cent of the net income of the taxpayer (computed without allowance for depletion) from the property.

17818. A taxpayer making his first return under this part in respect of a coal mine, metal mine, or sulphur mine or deposit shall state whether he elects to have the depletion allowance for the property for the taxable year for which the return is made computed with or without regard to percentage depletion, and the depletion allowance in respect of the property for that year shall be computed according to the election thus made. If the taxpayer fails to make the statement in the return, the depletion allowance for the property for that year shall be computed without reference to percentage depletion. Election in first return

17819. The method, determined pursuant to Section 17818, of computing the depletion allowance shall be applied in the case of the property for all taxable years in which it is in the hands of the taxpayer, or of any other person if the basis of the property (for determining gain) in his hands is, under Articles 4 and 5 of this chapter, determined by reference to the basis in the hands of the taxpayer, either directly or through one or more substituted bases, as defined in Article 5. Application in subsequent years after election

17820. The right of election given the taxpayer is subject to the qualification that this section and Sections 17817, 17818, and 17819 shall, for the purpose of determining whether the method of computing the depletion allowance follows the property, be considered a continuation of Section 114 (b) (4) of the Federal Revenue Act of 1934 and the Federal Revenue Act of 1936, and as giving no new election in cases where either of those sections would, if applied, give no new election. Qualification on election

CHAPTER 7. CREDITS ALLOWED TAXPAYERS

Article 1. Credits Against Net Income

17951. There shall be allowed as a credit against net income, in the case of a single individual, a personal exemption of one thousand dollars ($1,000), or, in the case of a head of a family or a married individual living with husband or wife, a personal exemption of two thousand five hundred dollars ($2,500). A husband and wife living together shall receive but one personal exemption of two thousand five hundred dollars ($2,500). If the husband and wife living together make separate returns, the personal exemption may be taken by either or divided between them. Personal exemption

17952. There shall also be allowed as a credit four hundred dollars ($400) for each individual (other than husband or wife living with the taxpayer) dependent upon and receiving his chief support from the taxpayer if the dependent individual is under 18 years of age or is incapable of self-support because mentally or physically defective, and four hundred dollars ($400) for each former or present spouse to whose support the taxpayer is contributing by order of a court of competent jurisdiction. *Credit for dependents*

17953. There shall be allowed as a credit against net income, in the case of an estate, an exemption of one thousand dollars ($1,000) and, in the case of a trust, an exemption of one hundred dollars ($100). Estates and trusts

Change of status

17954. If the status of the taxpayer in so far as it affects the personal exemption or credit for dependents changes during the taxable year, the personal exemption and credit shall be apportioned, under such rules and regulations as are prescribed by the commissioner, in accordance with the number of months before and after the change. For the purpose of the apportionment a fractional part of a month shall be disregarded unless it amounts to more than half a month, in which case it shall be considered as a month.

Article 2. Credit for Taxes Paid

Income taxes paid other States: Residents

17976. Subject to the following conditions, residents shall be allowed a credit against the taxes imposed by this part for net income taxes imposed by and paid to another State or country on income taxable under this part:

(a) The credit shall be allowed only for taxes paid to the other State or country on income derived from sources within that State or country which is taxable under its laws irrespective of the residence or domicil of the recipient.

(b) The credit shall not be allowed if the other State or country allows residents of this State a credit against the taxes imposed by that State or country for taxes paid or payable under this part.

(c) The credit shall not exceed such proportion of the tax payable under this part as the income subject to tax in the other State or country and also taxable under this part bears to the taxpayer's entire income upon which the tax is imposed by this part.

Nonresidents

17977. Subject to the following conditions, nonresidents shall be allowed a credit against the taxes imposed by this part for net income taxes imposed by and paid to the State or country of residence on income taxable under this part:

(a) The credit shall be allowed only if the State or country of residence either does not tax income of residents of this State derived from sources within that State or country or allows residents of this State a credit against the taxes imposed by that State or country on such income for taxes paid or payable thereon under this part.

(b) The credit shall not be allowed for taxes paid to a State or country which allows its residents a credit against the taxes imposed by that State or country for income taxes paid or payable under this part irrespective of whether its residents are allowed a credit against the taxes imposed by this part for income taxes paid to that State or country.

(c) Credit shall be allowed only for such proportion of the taxes paid to the State or country of residence as the income taxable under this part and also subject to tax in the State or country of residence bears to the entire income upon which the taxes paid to the State or country of residence are imposed.

(d) The credit shall not exceed such proportion of the tax payable under this part as the income subject to tax in the

State or country of residence and also taxable under this part bears to the entire income taxable under this part.

Residence of estate or trust

17978. For the purposes of this article an estate or trust is considered a resident of the State or country which taxes the income of the estate or trust irrespective of whether the income is derived from sources within that State or country.

Estate or trust both resident and nonresident

17979. If an estate or trust is a resident of this State and also a resident of another State or country, it shall, notwithstanding the limitations contained in Sections 17976 and 17977, be allowed a credit against the taxes imposed by this part for net income taxes imposed by and paid to the other State or country, subject to the following conditions:

(a) Credit shall be allowed only for such proportion of the taxes paid to the other State or country as the income taxable under this part and also subject to tax in the other State or country bears to the entire income upon which the taxes paid to the other State or country are imposed.

(b) The credit shall not exceed such proportion of the tax payable under this part as the income subject to tax in the other State or country and also taxable under this part bears to the entire income taxable under this part.

Beneficiary of estate or trust taxed by another State

17980. A resident beneficiary of an estate or trust who is taxable on the income of the estate or trust under Article 1 of Chapter 8 of this part shall, subject to the following conditions, be allowed a credit against the taxes imposed by this part on such income for net income taxes paid by the estate or trust to another State or country on such income:

(a) Credit shall be allowed only for such proportion of the tax paid to the other State or country by the estate or trust as the income of the estate or trust which is taxable to the beneficiary under this part and also taxed to the estate or trust in the other State or country bears to the entire income of the estate or trust upon which the taxes paid to the other State or country were imposed.

(b) The credit shall not exceed such proportion of the tax payable under this part as the income of the estate or trust which is taxable to the beneficiary under this part and also taxed to the estate or trust in the other State or country bears to the beneficiary's entire income upon which the tax is imposed by this part.

Refund report

17981. If any taxes paid to another State or country for which a taxpayer has been allowed a credit under this article are at any time credited or refunded to the taxpayer, the taxpayer shall immediately report that fact to the commissioner.

Tax on refund

17982. A tax equal to the credit allowed for the taxes credited or refunded by the other State or country is due and payable from the taxpayer upon notice and demand from the commissioner.

Interest

17983. Interest shall be added to and collected as a part of the tax at the rate of 6 per cent per annum from the date the

credit was allowed under this part to the date of the notice and demand.

Same

17984. If the tax and interest are not paid within 10 days from the date of notice and demand, there shall be collected as a part of the tax interest upon the unpaid amount of tax and interest at the rate of 6 per cent per annum from the date of the notice and demand until the amount is paid.

Discrimination on credit allowance

17985. The credit against the taxes imposed by this part for net income taxes paid to another State or country shall not be allowed to any taxpayer or any class of taxpayers if the allowance of the credit will result in an invalid or illegal discrimination against another taxpayer or another class of taxpayers.

CHAPTER 8. TAXATION OF ESTATES AND TRUSTS

Article 1. Income Taxable

Tax imposed

18101. The taxes imposed by this part upon individuals apply to the income of estates or of any kind of property held in trust (other than so-called Massachusetts trusts), including:

(a) Income accumulated in trust for the benefit of unborn or unascertained persons or persons with contingent interests, and income accumulated or held for future distribution under the terms of the will or trust.

(b) Income which is to be distributed currently by the fiduciary to the beneficiaries, and income collected by a guardian of an infant which is to be held or distributed as the court may direct.

(c) Income received by estates of deceased persons during the period of administration or settlement of the estate.

(d) Income which, in the discretion of the fiduciary, may be either distributed to the beneficiaries or accumulated.

Income taxable to estate or trust

18102. Except as otherwise provided in Articles 2 and 4 of this chapter, the income of an estate or trust is taxable to the estate or trust. The tax applies to the entire net income of an estate, if the decedent was a resident, regardless of the residence of the fiduciary or beneficiary, and to the entire net income of a trust, if the fiduciary or beneficiary is a resident, regardless of the residence of the settlor.

Apportionment of trust income. Two or more fiduciaries

18103. Where the taxability of income of a trust depends on the residence of the fiduciary and there are two or more fiduciaries for the trust, the income taxable under Section 18102 shall be apportioned according to the number of fiduciaries resident in this State pursuant to rules and regulations prescribed by the commissioner.

Two or more beneficiaries

18104. Where the taxability of income of a trust depends on the residence of the beneficiary and there are two or more beneficiaries of the trust, the income taxable under Section 18102 shall be apportioned according to the number and interest of beneficiaries resident in this State pursuant to rules and regulations prescribed by the commissioner.

Tax payment by fiduciary

18105. Taxes on income of an estate or trust which is taxable to the estate or trust are a charge upon the estate or trust and shall be paid by the fiduciary.

Taxability to beneficiary

18106. If, for any reason, the taxes imposed on income of a trust which is taxable to the trust because the fiduciary or beneficiary is a resident of this State are not paid when due and remain unpaid when such income is distributable to the beneficiaries, or in case the income is distributable to the beneficiaries before the taxes are due, if the taxes are not paid when due, such income shall be taxable to the beneficiaries when distributable to them except that in the case of nonresident beneficiaries such income shall be taxable only to the extent it is derived from sources within this State.

Article 2. Deductions; Computation of Net Income

Computation of net income

18131. Except as otherwise provided in this article as to deductions, the net income of the estate or trust shall be computed in the same manner and on the same basis as in the case of an individual.

Income for charitable purposes

18132. There shall be allowed as a deduction (in lieu of the deduction for contributions authorized by Section 17315) in computing the net income of the estate or trust, any part of the gross income, without limitation, which pursuant to the terms of the will or deed creating the trust is during the taxable year paid or permanently set aside for the purposes and in the manner specified in that section or is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, or for the establishment, acquisition, maintenance, or operation of a public cemetery not operated for profit.

Amounts distributed to beneficiaries, etc

18133. There shall be allowed as an additional deduction in computing the net income of the estate or trust

(a) The amount of the income of the estate or trust for its taxable year which is to be distributed currently by the fiduciary to the beneficiaries, and

(b) The amount of the income collected by a guardian of an infant which is to be held or distributed as the court may direct, but the amount so allowed as a deduction shall be included in computing the net income of the beneficiaries whether distributed to them or not.

In the case of a nonresident beneficiary his income derived through such an estate or trust is taxable only to the extent it is derived from sources within this State.

Amounts currently distributable

18134. For the purposes of Section 18133, amounts currently distributable to beneficiaries are distributable out of income of the estate or trust for the taxable year if there is income of the estate or trust for the taxable year out of which such distributions may be made and if, under the terms of the will or trust instrument, the distributions may be made

out of such income, regardless of the fact that the will or trust instrument provides that the distributions may be made out of the corpus of the estate or trust.

Where taxable year of trust and beneficiary differ

18135. If the taxable year of a beneficiary is different from that of the estate or trust, the amount which he is required, under Section 18133, to include in computing his net income shall be based upon the income of the estate or trust for any taxable year of the estate or trust ending within or with his taxable year.

Prohibition

18136. Any amount allowed as a deduction under Section 18133 shall not be allowed as a deduction under Section 18137 in the same or any succeeding taxable year.

Additional deduction

18137. There shall be allowed as an additional deduction in computing the net income of the estate or trust

(a) In the case of income received by estates of deceased persons during the period of administration or settlement of the estate, and

(b) In the case of income which, in the discretion of the fiduciary, may be either distributed to the beneficiary or accumulated, the amount of the income of the estate or trust for its taxable year which is properly paid or credited during such year to any legatee, heir, or beneficiary, but the amount so allowed as a deduction shall be included in computing the net income of the legatee, heir, or beneficiary.

In such cases the income of the legatee, heir, or beneficiary, not a resident, shall be taxable only to the extent it is derived from sources within this State.

Article 3. Employees' Trusts

Employer's stock bonus, etc pension plan

18156. A trust forming part of a stock bonus, pension, or profit-sharing plan of an employer for the exclusive benefit of some or all of his employees, to which contributions are made by such employer, employees, or both, for the purpose of distributing to such employees the earnings and principal of the fund accumulated by the trust in accordance with the plan, shall not be taxable under this chapter, but the amount actually distributed or made available to any distributee shall be taxable to him in the taxable year in which so distributed or made available to the extent that it exceeds the amounts paid in by him. However, where the combined normal annual contributions of the employer and any employee to one or more trusts for the benefit of the employee exceed five thousand dollars ($5,000) in any taxable year of the employee, the income of the trust from contributions by the employee shall be taxable as provided in Section 18172, and the contributions of the employer and the income of the trust therefrom shall be taxable to the employee when the employee's right to receive such amounts (whether immediately or in the future) becomes certain and not subject to forfeiture.

Article 4. Trusts Taxable to Grantor

Where title in corpus may revest in grantor

18171. Where the title to any part of the corpus of the trust may at any time revest in the grantor without the consent of any person having a substantial adverse interest in any part of the corpus or the income therefrom, and the revesting is not contingent upon the death of all the beneficiaries, the income of such part of the trust shall be included in computing the net income of the grantor if the grantor is a resident. If the grantor is a nonresident, such income shall be included in computing his income only to the extent it is derived from sources within this State; the balance of the income shall be taxable either to the trust or to the beneficiaries as provided in Articles 1 and 2 of this chapter.

Where income may be distributed to grantor

18172. Where any part of the income of a trust:

(a) Is, or in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income may be, held or accumulated for future distribution to the grantor; or

(b) May, in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income, be distributed to the grantor; or

(c) Is, or in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income may be, applied to the payment of premiums upon policies of insurance on the life of the grantor (except policies of insurance irrevocably payable for the purposes and in the manner specified in Section 17315, relating to the so-called "charitable contribution" deduction); then such part of the income of the trust shall be included in computing the net income of the grantor if the grantor is a resident. If the grantor is a nonresident, such income shall be included in computing his income only to the extent it is derived from sources within this State; the balance of such income shall be taxable either to the trust or to the beneficiaries as provided in Articles 1 and 2 of this chapter.

"In the discretion of the grantor"

18173. "In the discretion of the grantor," as used in Section 18172, means "in the discretion of the grantor, either alone or in conjunction with any person not having a substantial adverse interest in the disposition of the part of the income in question."

Tax lien

18174. Upon recordation of an abstract of judgment or a copy thereof by the commissioner with the county recorder of any county for any taxes due from the grantor of a trust on income of the trust which is taxable to the grantor under this article, and upon his giving notice of the recording to the fiduciary of the trust, or in case there is more than one fiduciary to any one of the fiduciaries, the amount of the taxes constitutes a lien upon all property of the trust in the county owned by the trust or afterwards and before the lien expires acquired by the trust. The lien has the force, effect, and priority of a judgment lien.

Notice

18175. The notice required to be given may be served upon the fiduciary personally, or by mail; if by mail, service shall be made pursuant to Section 1013 of the Code of Civil Procedure and shall be addressed to the fiduciary at his address as it appears in the records of the commissioner.

Article 5. Liability of Fiduciary

Certificate of tax payment

18201. If the value of the assets of an estate at the death of the decedent exceeds twenty thousand dollars ($20,000), and if any beneficiary is a nonresident, the final account of the fiduciary shall not be allowed by the probate court unless the fiduciary obtains from the commissioner and files with the court a certificate to the effect that all taxes imposed by this part upon the estate or decedent which have become payable have been paid, and that all taxes which may become due are secured by bond, deposit, or otherwise.

Issuance of certificate, etc.

18202. Within 30 days after receiving a request for a certificate, the commissioner shall either issue the certificate or notify the person requesting the certificate of the amount of tax that shall be paid or the amount of bond, deposit, or other security that shall be furnished as a condition of issuance of the certificate.

Effect of certificate

18203. The certificate of the commissioner does not relieve the estate for which the fiduciary acts of liability for any taxes which are due and unpaid at the time the certificate is issued or which may become due from the decedent or estate under this part after the issuance of the certificate. It also does not relieve the fiduciary of the liability imposed by Section 18204.

Personal liability of fiduciary

18204. Every fiduciary who pays in whole or in part any claim, other than claims for taxes, expenses of administration, funeral expenses, expenses of last illness, and family allowance, against the person, estate, or trust for whom or for which he acts, or who makes any distribution of the assets of the person, estate, or trust, before he satisfies and pays taxes, interest, and penalties, except penalties due from a decedent, which are imposed by this part on the person, estate, or trust for whom or for which he acts, or which constitute a claim against such person, estate, or trust, or which are a lien or charge on or against the assets of such person, estate, or trust, is personally liable to the State for the taxes, interest, and penalties to the extent of such payments and distributions.

Assessments and court proceedings

18205. In the case of income received or accrued during the life-time of a decedent, or by his estate during the period of administration, or by a trust, the commissioner shall mail notices proposing to assess the tax, and shall commence any proceeding in court without assessment for the collection of the tax, within 18 months after written request therefor (filed after the return is made) by the fiduciary of the estate or trust or by any other person liable for the tax or any portion thereof.

Termination of fiduciary capacity

18206. Any person acting in a fiduciary capacity shall assume the duties and, upon giving notice to the commissioner, shall assume the rights and privileges of the taxpayers in respect of any tax imposed by this part (except as otherwise specifically provided), until he gives notice that his fiduciary capacity has terminated. He shall give notice under this section pursuant to rules and regulations prescribed by the commissioner.

Chapter 9. Taxation of Partnerships

Partner's tax liability

18301. An individual carrying on business in partnership is liable for income tax only in his individual capacity. He shall include in his gross income the distributive share of the net income of the partnership received by him or distributable to him during the taxable year.

Computing net income of partnership

18302. The net income of the partnership shall be computed in the same manner and on the same basis as in the case of an individual, except that the deduction for contributions and gifts shall not be allowed to the partnership. Each partner, however, shall be considered as having made payment within his taxable year of his distributive share of any contribution or gift, payment of which was made by the partnership within its taxable year, of the character which would be allowed as a deduction to the partnership but for this section.

Partnership return

18303. Every partnership shall make a return for each taxable year, stating specifically the items of gross income and the deductions allowed by this part. The return shall include the names and addresses of the individuals, whether residents or nonresidents, who would be entitled to share in the net income if distributed and the amount of the distributive share of each individual. The return shall be sworn to by any one of the partners.

Where taxable year of partner and partnership differ

18304. If the taxable year of a partner is different from that of the partnership, the distributive share of the net income of the partnership to be included in computing the net income of the partner for his taxable year shall be based upon the net income of the partnership for any taxable year of the partnership ending within or with the taxable year of the partner.

Chapter 10. Returns

Article 1. Persons Required to File Returns

Generally

18401. Every individual taxable under this part shall make a return to the commissioner, stating specifically the items of his gross income and the deductions and credits allowed by this part, if he has for the taxable year—

(a) A net income of one thousand dollars ($1,000) or over, if single, or if married and not living with husband or wife;

(b) A net income of two thousand five hundred dollars ($2,500) or over, if married and living with husband or wife; or

(c) A gross income of five thousand dollars ($5,000) or over, regardless of the amount of net income.

Spouses

18402. If a husband and wife living together have for the taxable year an aggregate net income of two thousand five hundred dollars ($2,500) or over, or an aggregate gross income of five thousand dollars ($5,000) or over—

(a) Each shall make such a return, or

(b) The income of each shall be included in a single joint return, in which case the tax shall be computed on the aggregate income.

Return by agent

18403. If the taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of the taxpayer.

Income of estate or trust

18404. Every resident or nonresident who is taxable upon income of an estate or trust shall include such income in his gross income.

Returns by fiduciaries

18405. Every fiduciary (except a receiver appointed by authority of law in possession of part only of the property of an individual) shall make a return for any of the following taxpayers for whom he acts, stating specifically the items of gross income of the taxpayer and the deductions and credits allowed under this part:

(a) Every individual having a net income for the taxable year of one thousand dollars ($1,000) or over, if single, or if married and not living with husband or wife.

(b) Every individual having a net income for the taxable year of two thousand five hundred dollars ($2,500) or over, if married and living with husband or wife.

(c) Every individual having a gross income for the taxable year of five thousand dollars ($5,000) or over, regardless of the amount of his net income.

(d) Every estate the net income of which for the taxable year is one thousand dollars ($1,000) or over.

(e) Every trust the net income of which for the taxable year is one hundred dollars ($100) or over.

(f) Every estate or trust the gross income of which for the taxable year is five thousand dollars ($5,000) or over, regardless of the amount of the net income.

(g) Every decedent, for the year in which death occurred, and for prior years, if returns for such years should have been filed but have not been filed by the decedent, under such rules and regulations as the commissioner may prescribe.

Joint fiduciaries

18406. Under such rules and regulations as the commissioner may prescribe, a return filed by one of two or more joint fiduciaries is sufficient. The fiduciary filing the return shall state under oath (a) that he has sufficient knowledge of the affairs of the taxpayer for whom the return is made to enable him to make the return, and (b) that the return is, to the best of his knowledge and belief, true and correct.

Provisions applicable

18407. Any fiduciary required to make a return is subject to all the provisions of this part which apply to individuals.

Partnership returns

18408. Returns by partnerships are provided for in Section 18303.

Article 2. Time and Place for Filing Returns

Place and form for filing

18431. Returns shall be under oath, in such form as the commissioner may from time to time prescribe, and shall be filed with the commissioner at his main office or at any branch office which he may establish. The commissioner shall prepare blank forms for the returns and shall distribute them throughout the State and furnish them upon application. Failure to receive or secure the form does not relieve any taxpayer from making any return required.

Time for filing

18432. Returns made on the basis of the calendar year shall be filed on or before the fifteenth day of April following the close of the calendar year. Returns made on the basis of a fiscal year shall be filed on or before the fifteenth day of the fourth month following the close of the fiscal year.

Extension of time

18433. The commissioner, whenever in his judgment good cause exists, and under such rules and regulations as he shall prescribe, may grant a reasonable extension of time for filing the return or for payment of the tax, or any installment thereof, disclosed by the return, due or to become due within the period of the extension. He shall keep a record of every extension No extension or extensions may aggregate more than six months from the due date provided for the filing of returns.

Article 3. Supplementary Returns

Lack of or inadequate return

18451. If the commissioner believes that any taxpayer has failed to file a return, or to include in a return filed, either intentionally or through error, items of taxable income, he may require from the taxpayer a return or a supplementary return, under oath, in such form as he shall prescribe, of all the items of income which the taxpayer received during the year for which the return is made, whether or not taxable under this part.

Federal supplementary return

18452. Every taxpayer required by the Federal Government to file a supplementary return shall file a supplementary return with the commissioner.

Omissions from original return

18453. If from a supplementary return or otherwise the commissioner finds that any items of taxable income have been omitted from the original return, he may require the items omitted to be disclosed to him, under oath of the taxpayer, and to be added to the original return.

Relief from penalty

18454. The supplementary return and the correction of the original return do not relieve the taxpayer from any penalty to which he may be liable under this part.

Chapter 11. Payments and Assessments

Article 1. Payment of Tax

When payable

18551. The tax imposed under this part shall be paid on the fifteenth day of April following the close of the calendar year, or, if the return is made on the basis of a fiscal year, on the fifteenth day of the fourth month following the close of the fiscal year.

Installment payments

18552. On or before the date prescribed for the payment of the tax the taxpayer may elect to pay the tax in three equal installments. The first installment shall be paid on the date prescribed for the payment of the tax, the second installment shall be paid on the fifteenth day of the fourth month, and the third installment on the fifteenth day of the eighth month, after that date. If any installment is not paid on or before the date fixed for its payment, the whole amount of tax unpaid shall be paid upon notice and demand from the commissioner.

Prepayment

18553. The taxpayer may elect to pay the tax or any installment prior to the date prescribed for its payment.

Remittances

18554. The tax, and any interest and penalties, shall be paid to the commissioner at Sacramento or to his authorized representatives at any branch office. Remittances may be in the form of uncertified check, payable to the State Treasurer, during such time and under such regulations as the commissioner may prescribe. If a check is not paid by the bank on which it is drawn, the taxpayer tendering the check remains liable for the payment of the tax, and all interest and penalties, as if he had not tendered the check.

Liability of spouse

18555. The spouse who controls the disposition of or who receives or spends community income as well as the spouse who is taxable on such income is liable for the payment of the taxes imposed by this part on such income. Where a joint return is filed by a husband and wife, the liability for the tax on the aggregate income is joint and several.

Article 2. Deficiency Assessments

Power of commissioner

18581. The commissioner may proceed under this article whether or not he requires a return or a supplementary return under Section 18451.

Correct tax determination

18582. As soon as practicable after the original return is filed, the commissioner shall examine it and shall determine the correct amount of the tax.

Deficiency notice

18583. If the commissioner determines that the tax disclosed by the original return is less than the tax disclosed by his examination, he shall mail notice or notices to the taxpayer of the deficiency proposed to be assessed.

Contents of notice

18584. Each notice shall set forth the details and computation of the deficiency.

Joint notice

18585. In the case of a joint return filed by husband and wife, the notice of deficiency may be a single joint notice, except that if the commissioner is notified by either spouse that separate residences have been established, he shall mail to each

spouse, in lieu of the single joint notice, duplicate originals of the joint notice.

Limitation

18586. Except in the case of a fraudulent return and except as otherwise provided in Sections 18587 and 18589, every notice of a proposed deficiency assessment shall be mailed to the taxpayer within four years after the return was filed. No deficiency shall be assessed or collected with respect to the year for which the return was filed unless the notice is mailed within the four-year period or the period otherwise fixed.

Federal extension or renewal

18587. If any taxpayer agrees with the United States Commissioner of Internal Revenue for an extension or renewals thereof of the period for proposing and assessing deficiencies in Federal income taxes for any year, the period for mailing a notice of a proposed deficiency shall be four years after the return was filed or six months after the date of the expiration of the agreed period for assessing deficiencies in the Federal income tax, whichever period expires the later.

When return filed

18588. For the purposes of Sections 18586 and 18587 a return filed before the last day prescribed by law for filing shall be considered as filed on that day.

Consent to assessment after 4 years

18589. Where before the expiration of the time prescribed for the mailing of a notice of a proposed deficiency assessment, the taxpayer consents in writing to an assessment after that time, the assessment may be made at any time prior to the expiration of the period agreed upon. The period agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

Protest

18590. Within 60 days after the mailing of the notice of a proposed deficiency assessment the taxpayer may file with the commissioner a written protest against the proposed assessment, specifying in the protest the grounds upon which it is based. The protest shall be under oath.

Finality of assessment

18591. If no protest is filed, the amount of the deficiency assessed becomes final upon the expiration of the 60-day period.

Reconsideration and hearing after protest

18592. If a protest is filed, the commissioner shall reconsider the assessment of the deficiency and, if the taxpayer has so requested in his protest, shall grant the taxpayer or his authorized representatives an oral hearing.

Appeal

18593. The commissioner's action upon the protest is final upon the expiration of 30 days from the date when he mails notice of his action to the taxpayer, unless within that 30-day period the taxpayer appeals in writing from the action of the commissioner to the board.

Same

18594. The appeal shall be addressed and mailed to the State Board of Equalization at Sacramento, California, and a copy of the appeal addressed and mailed at the same time to the Franchise Tax Commissioner at Sacramento, California.

Determination of appeal

18595. The board shall hear and determine the appeal and thereafter shall forthwith notify the taxpayer and the commissioner of its determination and the reasons therefor.

Finality of board's determination

18596. The board's determination becomes final upon the expiration of 60 days from the time of the determination unless within the 60-day period the determination is modified. In that event the determination becomes final upon the expiration of 60 days from the time it is modified.

Notice and demand for payment

18597. When a deficiency is determined and the assessment becomes final, the commissioner shall mail notice and demand to the taxpayer for the payment thereof. The deficiency assessed is due and payable at the expiration of 10 days from the date of the notice and demand, unless the taxpayer has elected to pay the tax in installments, in which case the deficiency shall be prorated to the three installments.

Deficiency prorated to installment not due

18598. Except where a jeopardy assessment is made, the part of the deficiency prorated to any installment the date for payment of which has not arrived shall be collected at the same time as, and as part of, the installment.

Deficiency prorated to due installment

18599. The part of the deficiency prorated to any installment the date for payment of which has arrived is due and payable at the expiration of 10 days from the date of the notice.

Commissioner's certificate

18600. A certificate by the commissioner or of the board, as the case may be, of the mailing of the notices specified in this article is prima facie evidence of the assessment of the deficiency and of the giving of the notices.

Mathematical error in return of tax

18601. Any amount of tax in excess of that disclosed by the return, due to a mathematical error, notice of which has been mailed to the taxpayer, is not a deficiency assessment. The taxpayer has no right of protest or appeal as in case of a deficiency assessment, based on such notice, and the assessment or collection of the amount of tax erroneously omitted in the return is not prohibited by any provision of this article.

Article 3. Assessments Against Persons Secondarily Liable

Assessment

18621. The taxes imposed by this part upon any taxpayer for which any person other than the taxpayer is liable may be assessed against such person in the manner provided for the assessment of deficiencies. The taxes may be assessed at any time within which deficiency assessments may be made against the taxpayer.

Collection

18622. The provisions of this part respecting the collection of taxes apply to the collection of the taxes from the person secondarily liable to the same extent and with the same force and effect as though he were the taxpayer.

Article 4. Jeopardy Assessments

Finding and notice

18641. If the commissioner finds that the assessment or the collection of a tax or a deficiency for any year, current or past, will be jeopardized in whole or in part by delay, he may mail or issue notice of his finding to the taxpayer, together with a demand for immediate payment of the tax or the deficiency declared to be in jeopardy, including interest and penalties.

Termination of taxable period

18642. In the case of a tax for a current period, the commissioner may declare the taxable period of the taxpayer immediately terminated. He shall mail or issue notice of his finding and declaration to the taxpayer, together with a demand for a return and immediate payment of the tax based on the period declared terminated, including therein income accrued and deductions incurred up to the date of termination if not otherwise properly includible or deductible in respect of the period.

Collection

Petition for reassessment

18643. A jeopardy assessment is immediately due and payable, and proceedings for collection may be commenced at once. The taxpayer, however, may stay collection and prevent the jeopardy assessment from becoming final by filing, within 10 days after the date of mailing or issuing the notice of jeopardy assessment, a petition for reassessment, accompanied by a bond or other security in such amount as the commissioner may deem necessary, not exceeding double the amount (including interest and penalties) as to which the stay is desired.

When assessment final

18644. If a petition for reassessment, accompanied by bond or other security, is not filed within the 10-day period, the assessment becomes final.

Oral hearing

18645. If the taxpayer has so requested in his petition, the commissioner shall grant him or his authorized representative an oral hearing.

Decision

18646. The commissioner shall consider the petition for reassessment and notify the taxpayer of his decision thereon. His decision is final.

Presumptive evidence

18647. In any proceeding brought to enforce payment of taxes made due and payable by this article, the finding of the commissioner under Section 18641, whether made after notice to the taxpayer or not, is for all purposes presumptive evidence that the assessment or collection of the tax or the deficiency was in jeopardy. A certificate of the commissioner of the mailing or issuing of the notices specified in this article is presumptive evidence that the notices were mailed or issued.

Lack of or false return

18648. If any taxpayer fails to file a return, or files a false or fraudulent return with intent to evade the tax, for any taxable year, the tax may be assessed, or a proceeding in court for the collection of the tax may be begun without assessment, at any time.

Adjudication of bankruptcy

18649. Upon the adjudication of bankruptcy of any taxpayer in any bankruptcy proceeding or the appointment of a receiver for any taxpayer in any receivership proceeding before any court of the United States or of any State or Territory or of the District of Columbia, any deficiency (together with all interest and penalties provided for by law) determined by the commissioner in respect of a tax imposed by this part upon the taxpayer may be immediately assessed.

Notice to commissioner

18650. The trustee in bankruptcy or receiver shall give notice in writing to the commissioner of the adjudication of bankruptcy or the appointment of the receiver. The running

of the statute of limitations on the making of assessments shall be suspended for the period from the date of adjudication in bankruptcy or the appointment of the receiver to a date 30 days after the date upon which the notice from the trustee or receiver is received by the commissioner; but in no case shall the suspension be for a period in excess of two years.

Claim before bankruptcy court

18651. Claims for the deficiency and interest and penalties may be presented, for adjudication in accordance with law, to the court before which the bankruptcy or receivership proceeding is pending, despite the pendency of proceedings for the redetermination of the deficiency pursuant to a petition to the board. No petition for a redetermination may be filed with the board after the adjudication of bankruptcy or the appointment of the receiver.

Collection of unpaid amount after bankruptcy proceedings

18652. Upon notice and demand from the commissioner after termination of the bankruptcy or receivership proceeding, the taxpayer shall pay any portion of the claim allowed in the proceeding which is unpaid. The unpaid amount may be collected in the manner provided in this part for the collection of delinquent taxes at any time within six years after termination of the proceeding.

Rules and regulations

18653. The commissioner may prescribe rules and regulations necessary properly to carry out the provisions of this article.

Article 5. Interest and Penalties

Failure to file return: Penalty

18681. If any taxpayer fails to make and file a return required by this part on or before the due date of the return or the due date as extended by the commissioner, then, unless it is shown that the failure is due to reasonable cause and not due to wilful neglect, 5 per cent of the tax shall be added to the tax for each 30 days or fraction thereof elapsing between the due date of the return and the date on which filed, but the total penalty shall not exceed 25 per cent of the tax. The penalty so added to the tax shall be due and payable upon notice and demand from the commissioner

Computation by commissioner

18682. If any taxpayer, upon notice and demand by the commissioner, fails or refuses to make and file a return required by this part, the commissioner may estimate the net income and compute and levy the amount of the tax due from any available information. In such case 25 per cent of the tax, in addition to the penalty added under Section 18681, shall be added to the tax and shall be due and payable upon notice and demand from the commissioner.

Additional penalty

Failure to furnish information

18683. If any taxpayer fails or refuses to furnish any information requested in writing by the commissioner, the commissioner may add a penalty of 25 per cent of the amount of any deficiency tax assessed by the commissioner concerning the assessment of which the information was required.

Deficiency due to negligence

18684. If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations but without

intent to defraud, 5 per cent of the total amount of the deficiency, in addition to the deficiency and other penalties provided in this article, shall be assessed, collected, and paid in the same manner as if it were a deficiency.

Deficiency due to fraud

18685. If any part of any deficiency is due to fraud with intent to evade tax, 50 per cent of the total amount of the deficiency, in addition to the deficiency and other penalties provided in this article, shall be assessed, collected, and paid in the same manner as if it were a deficiency.

Failure to pay tax

18686. If the tax imposed by this part, whether assessed by the commissioner or the taxpayer, or any installment or portion of the tax is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the tax, interest upon the unpaid amount at the rate of 6 per cent per year from the date prescribed for its payment until it is paid.

Extension of time

18687. If the time for the payment of the tax or any installment is extended or collection of a jeopardy assessment is stayed, there shall be collected, as part of the tax, interest thereon at the rate of 6 per cent a year from the date upon which the payment should have been made if no extension had been granted or collection had not been stayed until the date the tax is paid.

Interest on deficiency

18688. Interest upon the amount assessed as a deficiency shall be assessed and paid at the same time as the deficiency at the rate of 6 per cent per year from the date prescribed for the payment of the tax (or, if the tax is paid in installments, from the date prescribed for the payment of the first installment) to the date the deficiency is assessed. If any portion of the deficiency is paid prior to the date it is assessed, interest shall accrue on such portion only to the date paid.

Interest for failure to pay deficiency

18689. Where a deficiency, or any interest or penalty imposed in connection therewith under Sections 18681, 18684, 18685, and 18688, or any penalty in case of delinquency provided for in Sections 18681, 18682, and 18683, is not paid in full within 10 days from the date of notice and demand from the commissioner, there shall be collected as a part of the tax, interest upon the unpaid amount at the rate of 6 per cent a year from the date of the notice and demand until it is paid. If any part of the amount prorated to any unpaid installment is not paid in full on or before the date prescribed for the payment of the installment, there shall be collected as a part of the tax, interest upon the unpaid amount at the rate of 6 per cent a year from that date until it is paid.

Overpayment credited on deficiency

18690. Where an overpayment is made by any taxpayer for any year, and a deficiency is owing from the husband or wife of the taxpayer for the same year, and both husband and wife notify the commissioner in writing prior to the expiration of the time within which credit for the overpayment may be allowed that the overpayment may be credited against the deficiency, no interest shall be assessed on such portion of the deficiency as is extinguished by the credit for the period of time subsequent to the date the overpayment was made.

Same

18691. When the correction of an erroneous inclusion or deduction of an item in the computation of income of any year results in an overpayment for one year and a deficiency for another year, the overpayment, if the period within which credit for the overpayment may be allowed has not expired, shall be credited on the deficiency, if the period within which assessment of the deficiency may be proposed has not expired, and the balance, if any, shall be credited or refunded to the taxpayer. No interest shall be assessed on such portion of the deficiency as is extinguished by the credit for the period of time subsequent to the date the overpayment was made.

Same

18692. Notwithstanding Section 19062, no interest shall in any case be allowed on any overpayment to the extent credited on deficiencies pursuant to Sections 18690 and 18691.

CHAPTER 12. COLLECTION OF TAX

Article 1. Information at Source; Withholding Tax

Nontaxable interest obligations

18801. This article does not apply to the payment of interest obligations not taxable under this part.

Return where payments over $1,000

18802. Every individual, partnership, corporation, joint stock company or association, insurance company, business trust, or so-called Massachusetts trust, being a resident or having a place of business in this State, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of this State or any political subdivision of this State, having the control, receipt, custody, disposal, or payment of interest (other than interest coupons payable to bearer), dividends, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income amounting to one thousand dollars ($1,000) or over, paid or payable during any year to any taxpayer, shall make a complete return thereof under oath to the commissioner under such regulations and in such form and manner and to such extent as may be prescribed by him.

Return regardless of amount

18803. Such a return may be required, regardless of amounts, in the case of

(a) Payments of interest upon bonds, mortgages, deeds of trust, or other similar obligations of corporations.

(b) Dividends paid by corporations.

(c) Collections of items (not payable in the United States) of interest upon the bonds of foreign countries and interest upon the bonds of and dividends from corporations created or organized in a foreign country by persons undertaking as a matter of business or for profit the collection of foreign payments of such interest or dividends by means of coupons, checks, or bills of exchange.

Identity of recipient of income

18804. When necessary to make effective the provisions of this article, the name and address of the recipient of income shall be furnished upon demand of the person paying the income.

Withholding tax

18805. The commissioner may, by regulation, require any person, including any officer or department of the State or any political subdivision or agency of the State, to withhold from payments of interest (other than interest coupons payable to bearer), dividends, rent, prizes, winnings, and compensation for personal services, including bonuses, an amount equal to the tax that would be imposed by this part upon such payments if they, together with all similar payments since the beginning of the calendar year, represented net income and the only net income of the payee, and to transmit the amount withheld to the commissioner at such time as he may designate.

Failure to withhold

18806. Any person who fails to withhold from any payments and transmit to the commissioner any amount required by the commissioner pursuant to Section 18805 to be withheld and transmitted is liable for any taxes due from the taxpayer to whom the payments are made for the year in which made to an extent not in excess of the amount required to be withheld, unless it is shown that the failure is due to reasonable cause.

Notice to withhold

18807. The commissioner may by notice served personally or by registered mail require any person, including any officer or department of the State or any political subdivision or agency of the State, to withhold from any payments of any nature to any taxpayer the amount of any tax, interest, or penalties due from the taxpayer under this part and to transmit the amount withheld to the commissioner at such times as he may designate.

Failure to withhold

18808. Any person failing to withhold the amount due from any taxpayer and to transmit it to the commissioner as required by the commissioner pursuant to Section 18807 is liable for the amount due.

Liability to taxpayer, etc

18809 Any person required to withhold and transmit any amount pursuant to this article shall comply with the requirement without resort to any legal or equitable action in a court of law or equity. Any person paying to the commissioner any amount required by him to be withheld is not liable therefor to the person from whom withheld unless the amount withheld is refunded to the withholding agent.

Taxpayer's remedies

18810. Any taxpayer from whom a tax is collected by withholding under this article is entitled to the remedies set forth in Articles 1 and 2 of Chapter 13 of this part. But a refund of the tax under Article 1 of Chapter 13 shall be made to the withholding agent instead of directly to the taxpayer, if requested in writing by the withholding agent at the time the amounts refundable were transmitted to the commissioner.

Article 2. Suit for Tax

Action for tax

18831. The commissioner may at any time bring an action in a court of competent jurisdiction in the name of the people of the State of California to recover the amount of any taxes, penalties, and interest due and unpaid under this part.

Prosecution and trial

18832. The Attorney General or the franchise tax counsel for the commissioner shall prosecute the action. The action shall be tried in the County of Sacramento unless the court with the consent of the prosecutor orders a change of place of trial.

Attachment

18833. In the action a writ of attachment may be issued, and no bond or affidavit previous to the issuing of the attachment is required.

Delinquency certificate

18834. In the action a certificate by the commissioner showing the delinquency shall be prima facie evidence of the levy of the tax, of the delinquency, and of the compliance by the commissioner and the board with all the provisions of this part in relation to the computation and levy of the tax.

Action in foreign jurisdiction, etc

18835. The commissioner may bring an appropriate action, whether in the form of a common law action of debt or indebitatus assumpsit or a code or other action, in any court of competent jurisdiction in the United States or in a foreign country, in the name of the people of the State of California, to recover the amount of any taxes and interest due under this part. The Attorney General or the franchise tax counsel for the commissioner shall prosecute the action.

Article 3. Judgment for Tax

Tax certificate

18861. If any tax, interest, or penalty imposed under this part is not paid when due, the commissioner may file in the office of the county clerk of Sacramento County, or any other county, a certificate specifying the amount of the tax, penalty, and interest due, the name and last known address of the taxpayer liable for the amount due, and the fact that the commissioner has complied with all provisions of this part in the computation and levy of the tax, and a request that judgment be entered against the taxpayer in the amount of the tax, penalty, and interest set forth in the certificate.

Entry of judgment

18862. The county clerk immediately upon the filing of the certificate shall enter a judgment for the people of the State of California against the taxpayer in the amount of the tax, penalty, and interest set forth in the certificate. The county clerk may file the judgment in a loose-leaf book entitled "Personal Income Tax Judgments."

Lien

18863. An abstract or a copy of the judgment may be recorded with the county recorder of any county. From the time of the recording, the amount of the tax, penalty, and interest set forth constitutes a lien upon all property of the taxpayer in the county, owned by him or afterwards and before the lien expires acquired by him. The lien has the force, effect, and priority of a judgment lien and continues

for five years from the date of the entry of the judgment by the county clerk unless sooner released or otherwise discharged.

Extension of lien

18864. Within five years from the date of the entry of the judgment by the county clerk, or within five years from the date of the last extension of the lien in the manner provided in this section, the lien may be extended by recording in the office of the county recorder of any county an abstract or copy of the judgment. From the time of the recording the lien extends to the property in the county for five years unless sooner released or otherwise discharged.

Execution

18865. Execution shall issue upon the judgment upon request of the commissioner in the same manner as execution may issue upon other judgments, and sales shall be held under such execution as prescribed in the Code of Civil Procedure.

Article 4. Lien of Tax

Tax certificate

18881. If any tax, interest, or penalty imposed under this part is not paid when due, the commissioner may file in the office of any county recorder a certificate specifying the amount of the tax, interest, and penalty due, the name and last known address of the taxpayer liable for the amount, and the fact that the commissioner has complied with all provisions of this part in the computation and levy of the tax.

Lien

18882. From the time of the filing for recording the amount of the tax, interest, and penalty set forth constitutes a lien upon all property of the taxpayer in the county, owned by him or afterwards and before the lien expires acquired by him. The lien has the force, effect, and priority of a judgment lien and continues for five years from the date of the filing for recording of the certificate unless sooner released or otherwise discharged.

Extension of lien

18883. Within five years from the date of the recording of the certificate, or within five years from the date of the last extension of the lien in the manner provided in this section, the lien may be extended by recording in the office of the county recorder of any county a new certificate. From the time of the recording the lien extends to the property in the county for five years unless sooner released or otherwise discharged.

Release or subordination of lien

18884. The commissioner may, at any time, release all or any portion of the property subject to any lien provided for in this part from the lien or subordinate the lien to other liens if he determines that the taxes are sufficiently secured by a lien on other property of the taxpayer or that the release or subordination of the lien will not endanger or jeopardize the collection of the taxes.

Subordination certificate

18885. A certificate by the commissioner to the effect that any property has been released from a lien or that the lien has been subordinated to other liens shall be conclusive evidence that the property has been released or that the lien has been subordinated as provided in the certificate.

Article 5. Warrant for Collection of Tax

Issuance of warrant

18906. The commissioner or his authorized representative may issue a warrant for the collection of any tax, interest, or penalty and for the enforcement of any lien.

Effect of warrant

18907. The warrant shall be directed to any sheriff, constable, or marshal and shall have the same force and effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same force and effect as a levy of and sale pursuant to a writ of execution.

Fees and expenses

18908. The commissioner shall pay the sheriff, constable, or marshal upon the completion of his services pursuant to the warrant the same fees, commissions, and expenses as are provided by law for similar services pursuant to a writ of execution. The commissioner, and not the court, shall approve the fees for publication in a newspaper.

Taxpayer's obligations

18909. The fees, commissions, and expenses are an obligation of the taxpayer and may be collected from him by virtue of the warrant or in any other manner provided in this part for the collection of a tax.

Article 6. Miscellaneous Provisions

Remedies cumulative

18931. The remedies of the State provided for in this chapter are cumulative, and no action taken by the commissioner constitutes an election by the State to pursue any remedy to the exclusion of any other remedy for which provision is made in this part.

Action by commissioner

18932. In all proceedings under this chapter the commissioner may act on behalf of the people of the State of California.

Chapter 13. Overpayments and Refunds

Article 1. Claim for Refund

Credit and refund

19051. If the commissioner or the board, as the case may be, believes that there has been an overpayment of tax, penalty, or interest by a taxpayer for any year for any reason, the amount of the overpayment shall be credited against any taxes then due from the taxpayer under this part and the balance refunded to the taxpayer.

Approval

19052. No credit or refund shall be allowed or made until approved by the State Board of Control.

Limitation

19053. No credit or refund shall be allowed or made after four years from the last day prescribed for filing the return or after one year from the date of the overpayment, whichever period expires the later, unless before the expiration of the period a claim therefor is filed by the taxpayer, or unless before the expiration of the period the commissioner certifies the overpayment to the State Board of Control for approval of the refunding or the crediting thereof.

19054. A refund claim upon which action has become final shall not thereafter be considered a refund claim within the meaning of the Section 19053 except to the extent it has been allowed. When action on refund final

19055. Every claim for refund shall be in writing under oath and shall state the specific grounds upon which it is founded. Form and contents of claim

19056. If the commissioner disallows any claim for refund, he shall notify the taxpayer accordingly. Disallowed claim

19057. At the expiration of 90 days from the mailing of the notice, the commissioner's action upon the claim is final unless within the 90-day period the taxpayer appeals in writing from the action of the commissioner to the board. Final action on claim

19058. If the commissioner fails to mail notice of action on any refund claim within six months after the claim is filed, the taxpayer may prior to mailing of notice of action on the refund claim consider the claim disallowed and appeal to the board. Appeal

19059. Appeals shall be addressed and mailed to the State Board of Equalization at Sacramento, California, and a copy of the appeal addressed and mailed at the same time to the Franchise Tax Commissioner at Sacramento, California. Procedure

19060. The board shall hear and determine the appeal and thereafter shall forthwith notify the taxpayer and the commissioner of its determination. Hearing

19061. The determination is final upon the expiration of 60 days from the date of the determination unless within the 60-day period it is modified. In that event the determination becomes final upon the expiration of 60 days from the date it is modified. Determination

19062. Interest shall be allowed and paid upon any overpayment of any tax, if the overpayment was not made because of an error or mistake on the part of the taxpayer, at the rate of 6 per cent per annum as follows: Interest

(a) In the case of a credit, from the date of the overpayment to the date of the allowance of the credit. Any interest allowed on any credit shall first be credited on any taxes due from the taxpayer under this part.

(b) In the case of a refund, from the date of the overpayment to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the commissioner.

Article 2. Suit for Refund

19081. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this State or against any officer of this State to prevent or enjoin the assessment or collection of any tax under this part. Injunction prohibited

19082. Any taxpayer claiming that the tax assessed against him pursuant to Articles 2 and 4 of Chapter 11 of this part is Action on void assessment

void in whole or in part may bring an action against the commissioner for the recovery of the whole or any part of the amount paid.

Limitation

19083. The action shall be filed within four years from the last date prescribed for filing the return or within one year from the date the tax was paid, whichever period expires the later. No action may be filed for the recovery of a deficiency assessment unless the taxpayer has filed a protest with the commissioner against the assessment pursuant to Section 18590.

Refund action: After notice of determination

19084. Within 90 days after the mailing of the notice of the commissioner's action upon any refund claim or, in case of an appeal to the board from the disallowance of any refund claim, within 90 days after the mailing of the notice of the board's determination of the appeal, the taxpayer may bring an action against the commissioner on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

Where no notice of determination

19085. If the commissioner fails to mail notice of action on any refund claim within six months after the claim was filed, the taxpayer may, prior to mailing of notice of action on the refund claim, consider the claim disallowed and bring an action against the commissioner on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

Substitution of commissioner

19086. In all actions pending on July 25, 1939, against the State Treasurer under this part, the commissioner shall be substituted for the State Treasurer by the court in which the action is pending. This substitution shall not in any way affect the rights of the plaintiff in the action.

Service of complaint

19087. Whenever an action is commenced against the commissioner under this article, a copy of the complaint and the summons shall be served upon the commissioner or the assistant commissioner. A second copy of the complaint and the summons shall be furnished to the commissioner, but this requirement is not jurisdictional.

Venue

19088. At the time the commissioner demurs or answers, he may demand that the action be tried in the Superior Court of the County of Sacramento, which demand shall be granted.

Defense attorney

19089. The Attorney General or the franchise tax counsel for the commissioner of California shall defend the action.

Bar

19090. Failure to begin an action within the time specified in this article shall be a bar against the recovery of taxes.

Interest

19091. In any judgment of any court rendered for any overpayment, interest shall be allowed at the rate of 6 per cent per annum upon the amount of the overpayment, from the date of the payment or collection thereof to the date of allowance of credit on account of such judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the commissioner.

Credit and refund

19092. If judgment is rendered against the commissioner, the amount thereof shall first be credited against any taxes and

interest due from the taxpayer under this part and the remainder refunded to the taxpayer by the State Treasurer on warrants drawn by the Controller.

Article 3. Recovery of Erroneous Refunds

Suit for erroneous refund

19111. The commissioner may recover any refund or credit or any portion thereof which is erroneously made or allowed, together with interest at the rate of 6 per cent per annum from the date the refund was made or the credit allowed, in an action brought in a court of competent jurisdiction in the County of Sacramento in the name of the people of the State of California.

Venue

19112. The action shall be tried in the County of Sacramento unless the court with the consent of the prosecutor orders a change of place of trial.

Prosecution

19113. The Attorney General or the franchise tax counsel for the commissioner shall prosecute the action, and the provisions of the Code of Civil Procedure relating to service of summons, pleadings, proofs, trials, and appeals are applicable to the proceedings.

Article 4. Cancellations

Illegally levied tax

19131. If a tax has been illegally levied against a taxpayer, the commissioner shall set forth on his records the reasons therefor and thereafter shall authorize the cancellation of the tax.

Chapter 14. Administration of Tax

Article 1. Powers and Duties of Commissioner

District offices

19251. The commissioner shall administer and enforce this part. For this purpose he may divide the State into a reasonable number of districts, in each of which a branch office or offices may be maintained during all or such part of the time as may be necessary.

Economy of administration

19252. In the establishment of the districts and offices the commissioner shall give due consideration to the matter of economy of administration and service to the taxpayers.

Rules and regulations

19253. The commissioner shall prescribe all rules and regulations necessary for the enforcement of this part and may prescribe the extent, to which any ruling or regulation shall be applied without retroactive effect.

Examination of books and witnesses

19254. For the purpose of ascertaining the correctness of any return or making an estimate of the taxable income of any taxpayer, the commissioner may examine any books, papers, records, or memoranda, bearing upon the matters required to be included in the return. He may require the attendance of the taxpayer or of any other person having knowledge in the premises and may take testimony and require proof material for his information. He may also administer an oath to such persons.

Employees

19255. The commissioner may appoint and remove, in the manner provided by law, such officers, agents, branch office income tax deputies, and other employees as he deems necessary. They shall have such duties and powers as the commissioner from time to time prescribes.

Deputies, etc

19256. The commissioner may appoint one or more deputies or assistants to conduct hearings, prescribe regulations, or perform any other duty imposed by this part or other laws of the State upon the commissioner.

Temporary appointments

19257. Any temporary appointments of branch office income tax deputies and other branch office employees shall be made from eligible residents of the district in which the branch office is located.

Compensation

19258. The salaries of the personnel required by the commissioner shall be such as he may prescribe, in the manner provided by law, and the commissioner and his personnel shall be allowed reasonable and necessary traveling and other expenses incurred in the performance of their duties.

Bond

19259. The commissioner may require officers, agents, deputies, and other employees designated by him to give bond for the faithful performance of their duties in such sum and with such sureties as he may determine. He shall pay all premiums on the bonds out of moneys appropriated for the administration of this part.

Oaths

19260. The commissioner and officers and employees designated by him may administer an oath to any person or take the acknowledgment of any person in respect of any return or report required by this part or the rules and regulations of the commissioner.

Article 2. Disclosure of Information

Preservation of returns

19281. The commissioner shall preserve reports and returns for four years and thereafter until he orders them to be destroyed.

Disclosure of information

19282. Except as otherwise provided in this article, it is a misdemeanor for the commissioner, any deputy, agent, clerk, or other officer or employee, to disclose in any manner information as to the amount of income or any particulars set forth or disclosed in any report or return required under this part.

Judicial order

19283. Such information may be disclosed in accordance with proper judicial order in cases or actions instituted for the enforcement of this part or for the prosecution of violations of this part.

Information to Legislature

19284. Such information may upon request of a committee appointed by either the Assembly or the Senate, or both, be furnished to the committee, but it is a misdemeanor for the committee or any member, clerk, or other officer or employee thereof to disclose in any manner any particulars of the information so furnished except to law enforcement officers for the purpose of aiding the detection or prosecution of crimes committed in violation of this part.

Inspection by Attorney General

19285. The Attorney General or other legal representatives of the State may inspect the report or return of any taxpayer who brings an action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted to recover any tax or any penalty imposed by this part.

Information by other tax officials

19286. The commissioner may permit the Commissioner of Internal Revenue of the United States, or other tax officials of this State, or the proper officer of any State imposing an income tax or a tax measured by income, or the authorized representative of any such officer, to inspect the income tax returns of any individual, estate, trust, or partnership, or may furnish to the officer or his authorized representative an abstract of the return of income of any taxpayer or supply him with information concerning any item of income contained in any return or disclosed by the report of any investigation of the income or return of income of any taxpayer. Permission shall be granted or information furnished to the officer or his representative only if the statutes of the United States or of the other State, as the case may be, grant substantially similar privileges to the commissioner of this State.

Use of information furnished

19287 The information furnished or secured pursuant to Section 19286 shall be used solely for the purpose of administering the tax acts or laws administered by the person or agency obtaining it Any unwarranted disclosure or use of the information by the person or agency, or the employees and officers thereof, is a misdemeanor.

Charge

19288. Whenever under this part or any act heretofore or hereafter enacted. the commissioner is required or permitted to disclose information, to furnish abstracts, or to permit access to his records, to or by any official, department, bureau, or agency of this State (including its political subdivisions), or any other State, or the United States, he may charge the official, department, bureau, or agency for the reasonable cost of his services.

Publication of statistics

19289. This article does not prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns.

Chapter 15. Disposition of Proceeds

Proceeds to State Treasurer

19351. The commissioner shall transmit promptly to the State Treasurer all moneys and remittances received by him under this part. He shall at the same time furnish copies of the schedules covering the transmittals to the Controller.

Personal Income Tax Fund

19352. All moneys and remittances so received and so transmitted shall be deposited, after clearance of remittances, in the State Treasury and credited to the Personal Income Tax Fund.

Commissioner's expenditures

19353 For expenditure by the commissioner in carrying out the provisions of this part there is appropriated out of the Personal Income Tax Fund a sum of money equal to 3 per

cent, or so much thereof as may be necessary, of all moneys deposited in the fund.

Refunds and General Fund

19354. The balance of the moneys in the Personal Income Tax Fund shall, upon order of the Controller, be drawn therefrom for the purpose of making refunds under this part or be transferred to the General Fund.

CHAPTER 16. VIOLATIONS

Civil penalty

19401. Any person who, with or without intent to evade any requirement of this part or any lawful requirement of the commissioner under this part, fails to file any return or to supply any information required under this part, or who, with or without such intent, makes, renders, signs, or verifies any false or fraudulent return or statement, or supplies any false or fraudulent information, is liable to a penalty of not more than one thousand dollars ($1,000). The penalty shall be recovered by the Attorney General or the franchise tax counsel for the commissioner in the name of the people by action in any court of competent jurisdiction.

Criminal penalty

The person is also guilty of a misdemeanor and shall upon conviction be fined not to exceed one thousand dollars ($1,000) or be imprisoned not to exceed one year, or both, at the discretion of the court.

Penalty compromise

19402. The prosecutor may, with the consent of the commissioner, compromise any penalty for which he may bring action under this chapter. The penalties provided by this chapter are additional to all other penalties provided in this part.

Commissioner's certificate

19403. The certificate of the commissioner to the effect that a return has not been filed or that information has not been supplied as required by this part is prima facie evidence that the return has not been filed or that the information has not been supplied.

Limitation

19404. Any action or prosecution under this chapter shall be instituted within four years after the commission of the offense.

CHAPTER 17. RES JUDICATA

Determination of other State agency

19451. In the determination of any issue of law or fact under this part, neither the commissioner nor any other officer or department having any administrative duties under this part nor any court is bound by the determination of any other officer or department of the State.

Res judicata

19452. In the determination of any case arising under this part, the rule of res judicata is applicable only if the liability involved is for the same year as was involved in another case previously determined.

New section

SEC. 2. Section 50015 is added to said code, to read:

Repeal

50015. The Personal Income Tax Act is repealed.

Effective date

SEC. 3. This act shall take effect July 1, 1945.

CHAPTER 660

An act to amend Section 9912 of the Revenue and Taxation Code, relating to jeopardy determinations with respect to the motor vehicle transportation license tax, including the delinquency penalty and interest in connection therewith, to take effect immediately.

Stats 1939, p 1274, amended

[Approved by Governor May 20, 1943. Filed with Secretary of State May 20, 1943.]

In effect immediately

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

SECTION 1. Section 9912 of the Revenue and Taxation Code is amended to read:

Stats 1941, p 3101

9912. If the amount of the tax, interest, and penalty specified in the jeopardy determination is not paid within 10 days after service upon the operator of notice of the determination, the determination becomes final, unless a petition for redetermination is filed within the 10 days, and the delinquency penalty and interest provided in Article 5 of this chapter shall attach to the amount of tax specified.

When determination final

SEC. 2. This act, inasmuch as it provides a tax levy, shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately, and become operative July 1, 1943.

Tax levy

CHAPTER 661

An act to add Section 356.5 to the Streets and Highways Code, relating to the powers of the California Highway Commission and Department of Public Works in respect to the abandonment of State highways, and declaring the urgency hereof to take effect immediately.

Stats 1935, p 248, amended

[Approved by Governor May 20, 1943. Filed with Secretary of State May 20, 1943.]

In effect immediately

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

SECTION 1. Section 356.5 is added to the Streets and Highways Code, to read:

New section

356.5. The commission and the department are expressly authorized to abandon and to relocate any portion or portions of route 56 as now established and laid out between the intersection of route 56 and route 55 south of San Francisco and the town of Farallon City, in San Mateo County, and to take any and all action necessary for such abandonment and relocation. Such abandonment may be effected prior to relocation and pending relocation the commission and the department may adopt and maintain any traversable road around the portion or portions so abandoned.

Abandonment and relocation

Urgency

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

Since the establishment and construction of portions of route 56, as now laid out, the maintenance costs thereon have been greatly excessive, due to development of slides to an extent greatly exceeding anything reasonably to be anticipated at the time the highway was laid out. It now further appears that the final cost of acquisition of right of way on such portions of said route, as now laid out, will likewise be greatly excessive. It is necessary that express authorization be conferred on the responsible State officials to act immediately to abandon, and, if conditions prove necessary, to abandon prior to relocation of the highway around the said portions; otherwise, further expenditure of large sums of State highway funds on portions of the highway which must eventually be abandoned, in favor of less expensive locations, will be unavoidable. The continued use of the portions of the highway, subject to such extensive slides, and falling rocks, is hazardous to the safety of the traveling public, as well as economically disadvantageous to the State and, accordingly, it is necessary that authorization be granted by the Legislature for abandonment without delay.

CHAPTER 662

Stats. 1937, p. 792 amended

An act to add Article 5, comprising Sections 1970 to 1973, inclusive, to Chapter 4, Part 1, Division VI, of the Harbors and Navigation Code, relating to the power of the Board of State Harbor Commissioners for San Francisco Harbor to sell and lease to the United States of America or any of its departments, acting by and through any of its various agencies, property of the State of California under the control and jurisdiction of said board, to take effect immediately.

In effect immediately

[Approved by Governor May 20, 1943. Filed with Secretary of State May 20, 1943.]

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

New article

SECTION 1. Article 5, comprising Sections 1970 to 1973, inclusive, is added to Chapter 4, Part 1, Division VI of the Harbors and Navigation Code, to read:

Article 5. Leases and Sale of Property to the United States of America

Lease to United States

1970. The board may lease any part of the real property and improvements thereon, under its control and jurisdiction,

to the United States of America or any department thereof, acting by and through any of its various agencies. The term of such a lease or any renewal thereof shall not extend beyond the period of one year immediately succeeding the cessation of hostilities. Any such lease and any renewal thereof may include provisions that notwithstanding any provision of law to the contrary, the rental agreed to be paid for the use of the leased property shall be full compensation for the use thereof, and that all vessels, or vessels of particular classes, using or making fast to any wharf on such property shall be free from the payment to the board of any dockage or other port charges fixed by authority of this part, and that any goods discharged from or received by any or all such vessels shall be free from any tolls or other port charges fixed by authority of this part, and such other terms and conditions as may be agreed upon by the parties.

Option to purchase

1971. In and by the terms of any such lease, and any renewals thereof, to the United States of America or any department thereof, acting by and through any of its various agencies, for the whole or any part of the real property described in this section, for a term which, as specified in such lease or in any renewals thereof, may extend beyond the cessation of hostilities, the board may give an option to the lessee to purchase said real property at a reasonable price to be agreed upon by the parties, taking into consideration the value of any improvements made or agreed to be made and any structures erected or agreed to be erected thereon by the board after this article becomes effective, but not the value of any improvements made or structures erected thereon by the lessee after this article becomes effective. The lease and any renewal or renewals thereof shall provide that such option may be exercised by the lessee only during the period subsequent to the cessation of hostilities and prior to the expiration of the lease or any renewals thereof and that any conveyance of any such real property by the State, pursuant to the exercise by the lessee of such option, shall contain an express condition that the grantee shall not convey such real property to any party other than the State of California, and that any conveyance by such grantee to the State of California shall be at a reasonable price to be agreed upon by the parties.

Description of property

The property referred to in this section is all that certain real property situate in the City and County of San Francisco, State of California, bounded and described as follows, to wit:

Beginning at a point located eighty (80) feet easterly from the westerly line of Illinois Street and sixty-six (66) feet southerly from the northerly line of El Dorado Street; running thence easterly and parallel with the northerly line of El Dorado Street to an intersection with the pierhead line as approved by the Secretary of War on March 31, 1941; thence southerly along said pierhead line to the intersection of said pierhead line with the extension easterly of the southerly line of Eighteenth Street; thence westerly along said extension of

the southerly line of Eighteenth Street and along the southerly line of Eighteenth Street to a point located eighty (80) feet easterly from the westerly line of Illinois Street; thence northerly and parallel with the westerly line of Illinois Street to an intersection with the northerly line of Seventeenth Street extended easterly; thence easterly along the northerly line of Seventeenth Street extended easterly a distance of four hundred and eighty (480) feet; thence northerly parallel with the westerly line of Illinois Street to the southerly line of Sixteenth Street extended easterly; thence westerly along the easterly extension of the southerly line of Sixteenth Street to a point located eighty (80) feet easterly from the westerly line of Illinois Street; thence northerly parallel with the westerly line of Illinois Street to the place of beginning.

Provisions inapplicable

1972. The provisions of this part or of any other laws of this State (other than this article) restricting the power of the board to lease or sell property or requiring or prescribing publication of notice of intention to lease or sell, advertising for bids, the terms of contracts of lease or sale, or that would in any manner interfere with the purpose of this article which is to provide for cooperation by the State with the United States Government to the fullest extent possible for the successful prosecution of the wars in which this country is engaged, are not applicable to leases and sales made pursuant to this article.

"Cessation of hostilities"

1973. The phrase "cessation of hostilities," as used in this article, means the date of the proclamation of the President of the United States or of the concurrent resolution of both Houses of Congress of the United States determining the last date on which hostilities occur in the present wars between the United States of America and the governments of Germany, Italy, and Japan; or the effective date of the treaty which, by itself, or with other treaties, terminates hostilities in all such wars, whichever date is the earliest.

Urgency

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

A state of war exists between the United States and the governments of Germany, Italy, and Japan, and there is immediate need of use by various agencies of the United States, of real property of the State and facilities thereon under the control and jurisdiction of the Board of State Harbor Commissioners for San Francisco Harbor for the reception, conditioning, delivery and shipment of goods, equipment and implements for use in the prosecution of the war, and no adequate facilities other than those under the control of the board are available for such uses and the board is not now sufficiently authorized to make such leases or sales as will meet the required needs.

CHAPTER 663

An act to amend Sections 802.6, 803, 823, 828.15, 828.25, 828.4 and 829.2 of the Agricultural Code, relating to standard containers for deciduous fruits and grapes, declaring the urgency of this act, to take effect immediately.

Stats. 1933, p. 60, amended

[Approved by Governor May 20, 1943. Filed with Secretary of State May 20, 1943.]

In effect immediately

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

SECTION 1. Section 802.6 of the Agricultural Code is amended to read:

Stats. 1941, p. 1283

802.6. All grapes intended for shipment out of the State of California shall be placed in standard containers numbers 1, 1B, 1C, 2, 5, 6, 7, 8, 9, 9A, 28, 29, 30A, 37A, 37B, 37C, 37D, 37E, 37F, 37G, 38H, 38I, 38J, 49, and 50 subject to the restrictions and additions specified in this chapter. Except as otherwise designated, all such containers shall be considered as standard for grapes when packed with or without pads.

Grape containers

The depth dimension of containers, exclusive of cleats, designated for grapes in this chapter shall apply only to the depth of the head of each such container.

Containers designated as 37A, 37B, 37C, 37D, 37E, 37F and 37G shall be standard for grapes when used without cleats or with any one of the following defined cleats attached to the top of each end piece; however, no such container shall be less than $4\frac{7}{16}$ nor more than $6\frac{10}{16}$ inches in depth, including the depth of a cleat on each end.

1. Cleat $\frac{3}{8}$ inch depth and $\frac{11}{16}$ inch width.
2. Cleat $\frac{1}{2}$ inch depth and $\frac{11}{16}$ inch width.
3. Cleat $\frac{11}{16}$ inch depth and $\frac{11}{16}$ or $\frac{7}{8}$ or $1\frac{3}{8}$ inch width.
4. Cleat $\frac{3}{4}$ inch depth.
5. Cleat $\frac{7}{8}$ inch depth and $\frac{11}{16}$ inch width.

Only the depth measurement of these cleats shall be used to increase the depth measurements of the container.

Containers designated as 5, 6, 7, 8, 9, 9A, 30A, 38H, 38I and 38J shall be standard for grapes when used with or without any style of cleat providing the sides of the container are not placed above the container head.

Containers numbers 28, 29, 49 and 50 shall be standard for grapes only when (1) containing grapes packed in sawdust, cork or similar packing material in sufficient amount to completely surround and cover the grapes and (2) used without cleats.

Containers numbers 30A and 38H shall be standard for grapes only when containing bunches which are (1) individually wrapped in paper or other protective wrapping material and (2) packed in excelsior or other similar packing material.

Container number 37G shall also be considered standard for grapes when each head piece is beveled across each bottom corner at an angle of 45 degrees, starting two inches from each

such corner, and is notched at the center of the base by a triangle with a base of 4 inches and an altitude of 2 inches and bottom slats are attached to each bevel and to each side of the notch, so as to affect the contour of the box.

Containers designated as 37D, 37F and 37G shall also be considered standard for grapes when constructed as display lugs defined herein and subject to the following restrictions. No other container shall be considered standard for grapes when so constructed.

Standard Display Lug: Container 37G when constructed as a "display lug" shall have a $5\frac{3}{4}$ inch head (1) "slotted" $1\frac{1}{4}$ inches or less from the top or (2) consisting of a top piece $1\frac{1}{4}$ inches deep nailed or fastened to a bottom piece $4\frac{1}{2}$ inches in depth, and shall be used without a cleat or cleats; however, when a pad filler is placed in the bottom of the container a $\frac{3}{8}$ or $\frac{11}{16}$ inch cleat may be placed on each end of the container on top of the head in such a manner as to add $\frac{3}{8}$ or $\frac{11}{16}$ of an inch to the height of each end piece.

Special Display Lug: Container 37F when constructed as a "display lug" shall have a $5\frac{1}{2}$ inch head (1) "slotted" $1\frac{1}{4}$ inches or less from the top or (2) consisting of a top piece $1\frac{1}{4}$ inches deep nailed or fastened to a bottom piece $4\frac{1}{4}$ inches in depth, and shall be used without a cleat or cleats.

Special Display Lug: Container 37D when constructed as a "display lug" shall have a $5\frac{1}{8}$ inch head (1) "slotted" $1\frac{1}{4}$ inches or less from the top or (2) consisting of a top piece $1\frac{1}{4}$ inches deep nailed or fastened to a bottom piece $3\frac{7}{8}$ inches in depth, with or without a $\frac{5}{8}$ inch cleat making a total depth of $5\frac{1}{8}$ or $5\frac{3}{4}$ inches.

The term "display lug" shall mean a lug with a two-piece or slotted head (with or without cleats) and sides consisting of two pieces, constructed in such a manner that when packed with grapes and lidded, an entire upper section of the lug, together with the lid, can readily be removed, thereby displaying the grapes.

Stats 1941, p 1643

SEC. 2. Section 803 of the Agricultural Code is amended to read:

Peach standards

803. Fresh peaches shall be mature but not overripe; free from insect injury which has penetrated or damaged the flesh, split pits which are open at the stem end, and from mold, brown rot, and decay, and free from serious damage, due to cuts or skin breaks, growth cracks, bruises, scab, rust, blight, disease, hail, or other causes. Damage to any one peach is not serious unless it causes a waste of 10 per cent, by weight, of the individual peach.

Not more than 10 per cent, by count, of the peaches in any one container or bulk lot may be below these requirements, but not to exceed one-half of this tolerance shall be allowed for any one cause.

Packed peaches shall not vary in size between the fruits, in any one container, more than three-eighths of an inch in

diameter, when measured through the widest portion of the cross-section.

Peaches of the freestone variety shall not be considered mature unless at the time of picking, the flesh breaks free from the pit. In addition the flesh of peaches of the Elberta variety shall be a yellowish color.

Containers

All containers of fresh peaches shall bear upon them in plain sight and in plain letters on one outside end: The name of the person who first authorized the packing of the peaches or the name under which such packer is engaged in business, together with a sufficiently explicit address to permit ready location of such packer; the name of the variety, if known, and when not known the words "unknown variety"; the size description, when the peaches are packed in the four-basket crate or the count, when wrapped and packed throughout, in straight side containers in uniform layers and rows.

In the case of the four-basket crate the numerical description of the pack in the top layer of the baskets shall be used to designate size. When the count is used to designate the contents of the container a variation of four peaches more or less than the number stated shall be allowed.

Irregular containers

Peaches, when packed, shall be in standard containers numbers 1, 1A, 5, 6, 7, 8, 9, 9A, 9B, 12B, 15, 16, 17, 18, 18A, 25, 26, 27 or 27A. Other size containers may be used if conspicuously marked on the outside of the end which bears any marks intended to describe the contents of such container, in letters not less than one-half inch in height, "irregular container."

Stats 1941, p 1718

SEC. 3. Section 823 of the Agricultural Code is amended to read:

Apple standards

823. All wrapped apples shall be in one of the following containers: Standard wooden apple box, depth inside, $10\frac{1}{2}$ inches; width inside, $11\frac{1}{2}$ inches; length inside, 18 inches. Standard fibreboard apple box, depth inside, $11\frac{3}{8}$ inches; width inside, $11\frac{1}{2}$ inches; length inside, 18 inches, with a tolerance of one-fourth inch in all dimensions. Half wooden apple box, depth inside, $5\frac{1}{4}$ inches; width inside, $11\frac{1}{2}$ inches; length inside, 18 inches. Half fibreboard apple box, depth inside, $5\frac{1}{16}$ inches; width inside, $11\frac{1}{2}$ inches; length inside, 18 inches, with a tolerance of one-fourth inch in all dimensions. Apples which are not wrapped shall be in one of the standard containers defined in this section, or in one of the standard apple lugs of the following dimensions: (a) Depth inside, $7\frac{1}{2}$ inches; width inside, $13\frac{1}{2}$ inches; length inside, $21\frac{1}{4}$ inches. (b) Depth inside, $7\frac{3}{4}$ inches; width inside, 14 inches; length inside, $22\frac{5}{8}$ inches. (c) Depth inside, $6\frac{1}{2}$ inches; width inside, $13\frac{1}{2}$ inches; length inside, $20\frac{5}{8}$ inches. Containers designated as (a), (b) and (c) shall be considered as standard when used with or without cleats. Apples which are not wrapped may be in other size containers, and wrapped apples may be in containers smaller than the half apple box, if these are conspicuously marked, in letters not less than one-half inch in height, "irregular container." Such marking is not required

on open containers of apples which are not place packed or well packed.

Stats 1939, p 1481

SEC. 4. Section 828.15 of the Agricultural Code is amended to read:

Crates

828.15.

4	Standard 12-basket crate	$2\frac{7}{8}$	$13\frac{1}{8}$	18
5	Standard crate	4	16	$16\frac{1}{8}$
6	Standard crate	$4\frac{1}{4}$	16	$16\frac{1}{8}$
7	Standard crate	$4\frac{1}{2}$	16	$16\frac{1}{8}$
8	Standard crate	$4\frac{3}{4}$	16	$16\frac{1}{8}$
9	Standard crate ——5 or	$5\frac{1}{2}$	16	$16\frac{1}{8}$
9A	Standard crate	$5\frac{3}{4}$	16	$16\frac{1}{8}$
9B	Special crate	$4\frac{3}{4}$	$14\frac{1}{2}$	$14\frac{1}{2}$

Stats 1939, p 1481

SEC. 5. Section 828.25 of the Agricultural Code is amended to read:

Standard fruit boxes

828.25.

123	California peach box——— ———4, $4\frac{1}{4}$, $4\frac{1}{2}$, $4\frac{3}{4}$, 5 or	$5\frac{1}{2}$	$11\frac{1}{2}$	$16\frac{1}{8}$
13	Standard fruit box	3	$11\frac{1}{2}$	18
14	Standard fruit box	$3\frac{1}{2}$	$11\frac{1}{2}$	18
15	Standard fruit box	4	$11\frac{1}{2}$	18
16	Standard fruit box	$4\frac{1}{4}$	$11\frac{1}{2}$	18
17	Standard fruit box	$4\frac{1}{2}$	$11\frac{1}{2}$	18
18	Standard fruit box	$4\frac{3}{4}$	$11\frac{1}{2}$	18
18A	Standard fruit box	5	$11\frac{1}{2}$	18

Stats 1941, p 1699

SEC. 6. Section 828.4 of the Agricultural Code is amended to read:

Lug boxes

828.4.

22A	Special lug box	$3\frac{5}{8}$	11	$14\frac{5}{8}$
22B	Special lug box——$4\frac{1}{4}$ or	$4\frac{5}{8}$	$12\frac{1}{2}$	$16\frac{1}{8}$
22C	Standard lug box	$3\frac{3}{4}$	$13\frac{1}{2}$	$16\frac{1}{8}$
23	Standard lug box	4	$13\frac{1}{2}$	$16\frac{1}{8}$
24	Standard lug box	$4\frac{1}{4}$	$13\frac{1}{2}$	$16\frac{1}{8}$
25	Standard lug box	$4\frac{3}{4}$	$13\frac{1}{2}$	$16\frac{1}{8}$
26	Standard lug box	$5\frac{1}{16}$	$13\frac{1}{2}$	$16\frac{1}{8}$
27	Standard lug box	$5\frac{3}{4}$	$13\frac{1}{2}$	$16\frac{1}{8}$
27A	Bay City lug	$7\frac{3}{4}$	$13\frac{1}{2}$	$16\frac{1}{8}$

Stats 1941, p 1699

SEC. 7. Section 829.2 of the Agricultural Code is amended to read:

Standard packs and containers

829.2. 7. Fresh peaches, numbers 1, 1A, 5, 6, 7, 8, 9, 9A, 9B, 12B, 15, 16, 17, 18, 18A, 25, 26, 27 or 27A.

8. Fresh pears, numbers 1A, 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, 26, 27 or 29A. Container number 19 shall be standard only when used with three pads or cushions.

9. Oriental persimmons, numbers 6, 7, 8, 13, 14, 15, 16, 17, 18, 27 or 32.

10. Plums or fresh prunes, numbers 1, 1A, 5, 6, 7, 8, 9, 12A, 12B, 14, 15, 16, 17, 18A, 22B, 23, 24, 25, 26 or 27.

11. "Wonderful" pomegranates, numbers 33 or 34.

Urgency

SEC. 8. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1, of

Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

Due to shortages in the supplies of materials used in the manufacture of wooden containers for defense, for private account and for export, the War Production Board has issued an order limiting the manufacture of box shook throughout the Nation to certain specifications. This order very materially affects the deciduous fruit and grape interests in their ability to obtain containers defined as standard in the provisions of the Agricultural Code. In order that changes in the container provisions of the Agricultural Code contained in this act and which are necessary to permit the industry to comply with the War Production Board Order, be applicable to the growing season of the current year it is necessary that the act take effect immediately.

CHAPTER 664

An act to amend Section 3661 of, and to add Section 3661.1 to, the Education Code, relating to the formation of union or joint union high school districts.

Stats 1913, Ch 71, amended

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.]

In effect August 4, 1943

Note.—See Stats. 1913, Ch. 71.

CHAPTER 665

An act to add Section 4015 to the Public Resources Code, relating to money received by this State pursuant to the Clarke-McNary Act or under cooperative agreements or contracts.

Stats 1939, p 1067, amended

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 4015 is hereby added to the Public Resources Code, to read:

New section

4015. All money received by this State pursuant to the provisions of the Clarke-McNary Act (June 7, 1924, Ch. 348, 43 Stat. 653) or any other cooperative agreement with the Federal Government pursuant to the provisions of this code and all money received by this State as reimbursement of expenditures made for the account of counties, municipalities, fire districts, corporations, individuals, or others, in accordance with cooperative agreements or contracts, shall be credited directly to the fund and appropriation from which such expenditures were made.

Money received under cooperative agreements

CHAPTER 666

Stats 1939, p 1067, amended

An act to add Section 4014 to the Public Resources Code, relating to the acceptance by the State of the provisions of the Clarke-McNary Act.

In effect August 4, 1943

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.]

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

New section

SECTION 1. Section 4014 is hereby added to the Public Resources Code, to read as follows:

Clarke-McNary Act accepted

4014. The State of California hereby accepts the provisions of the Clarke-McNary Act, approved June 7, 1924, as amended, passed by the Congress of the United States, and entitled "An act to provide for the protection of forest lands, for the reforestation of denuded areas, for the extension of National forests, and for other purposes, in order to promote the continuous production of timber on lands chiefly suitable therefor," and will observe and comply with the requirements of said act of Congress, with particular regard to the provisions set forth in Sections 1 and 2 thereof.

State agent

The Division of Forestry, Department of Natural Resources, shall be the agent of this State for the purposes of said act. The department shall have full power to cooperate with all the authorities of the United States having powers and duties under said act of Congress to do and perform all things necessary to secure to this State the benefits of that act of Congress in the promotion and maintenance of a system of forest fire prevention and control.

Expenditures

The Division of Forestry, Department of Natural Resources, is authorized to expend out of any funds or appropriations made available to the Division of Forestry the sum required to meet expenses incurred in connection with said program, not exceeding the allotment granted by the Federal Government for such purpose. Such expenditures shall be in accordance with a budget compiled by the State Forester with the approval of the Department of Natural Resources and State Department of Finance.

CHAPTER 667

Stats 1935, p 496, amended

An act to amend Section 11871 of the Insurance Code, relating to representation of State agencies by State Compensation Insurance Fund.

In effect August 4, 1943

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.]

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

Stats 1939, p 2518

SECTION 1. Section 11871 of the Insurance Code is hereby amended to read as follows:

Adjustment of compensation claims Master agreement

11871. The State Compensation Insurance Fund may enter into a master agreement with the Department of Finance to render services in the adjustment and disposition of claims for

workmen's compensation to any State agencies, including any officer, department, division, bureau, commission, board or authority, not insured with the fund.

Such master agreement shall provide for rendition of such services at a uniform rate to all agencies, except that the rate for the California Highway Patrol may be fixed independently of such uniform rate.

The fund may, in accordance with the agreement, adjust and dispose of claims for workmen's compensation made by an officer or employee of any State agency not insured with the fund.

Expenditures

The fund may make all expenditures, including payments to claimants for medical care or for adjustment or settlement of claims, necessary to the adjustment and final disposition of claims. The agreement shall provide that the State agency whose officer or employee is a claimant shall reimburse the fund for the expenditures and for the actual cost of services rendered.

Reimbursement

Necessary acts

The fund may in its own name, or in the name of the State agency for which such services are performed, do any and all things necessary to recover on behalf of the State agency for which it renders service, any and all amounts which an employer might recover from third persons under Chapter 5 of Part 1 of Division 4 of the Labor Code, or which an insurer might recover pursuant to Section 11662 of this code, including the right to commence and prosecute actions, to file, pursuant to Chapter 5, Part 1, Division 4 of the Labor Code, liens for whatever sums would be recoverable by suit against such a third person, to intervene in other court proceedings, and to compromise claims and actions before or after commencement of suit.

CHAPTER 668

An act to amend Sections 11535, 11552, 11554, 11555, 11593 and 11612 of, the Business and Professions Code, relating to real estate subdivisions, procedure for surveying, subdividing and mapping of real estate; the sale and disposal of real estate by reference to maps; regulating the powers and duties of cities, counties and towns with reference to the procedure for surveying, subdividing and mapping of real estate, and the preparation of official maps; and prescribing penalties for violations thereof.

Stats. 1937, p. 1229, amended

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 11535 of the Business and Professions Code is hereby amended to read as follows:

Stats. 1943, Ch. 128

11535. (a) "Subdivision" refers to any land or portion thereof, shown on the last preceding tax roll as a unit or as

"Subdivision"

contiguous units, which is divided for the purpose of sale, whether immediate or future, by any subdivider into five or more parcels within any one-year period.

Exclusions

(b) "Subdivision" does not include either of the following:

(1) Any parcel or parcels of land in which all of the following conditions are present: (i) Which contain less than five acres, (ii) which abut upon dedicated streets or highways, (iii) in which street opening or widening is not required by the governing body in dividing the land into lots or parcels, and (iv) the lot design meets the approval of the governing body.

(2) Any parcel or parcels of land divided into lots or parcels, each of a net area of one acre or more, a tentative map of which has been submitted to the governing body and has been approved by it as to street alignment and widths, drainage provisions and lot design.

Filing of map

(c) In either case provided in subsection (b) of this section, there shall be filed a record of survey map pursuant only to the provisions of Chapter 15 of Division 3 of this code.

Cemetery land

(d) Nothing contained in this chapter shall apply to land dedicated for cemetery purposes under the Health and Safety Code of the State of California.

Stats. 1943, Ch. 128

SEC. 2. Section 11552 of said code is hereby amended to read as follows:

Submission to governing body

11552. If there is no advisory agency, the clerk of the governing body shall submit the tentative map to the governing body at its next regular meeting, which shall act thereon within 40 days thereafter.

Report by advisory agency

If there is an advisory agency, it shall report on the map or maps of any subdivision submitted to it within 30 days after the tentative map has been filed and the report shall approve, conditionally approve or disapprove the map or maps of the subdivision.

Action by governing body

The governing body may authorize the advisory agency to report its action direct to the subdivider. If the governing body does not so authorize the advisory agency, the advisory agency shall make its report to the governing body, which body shall act upon the report within 10 days or at its next succeeding regular meeting after receipt of the report.

Appeal

If the subdivider is dissatisfied with any action of the advisory agency with respect to the tentative map, or the kinds, nature and extent of the improvements recommended by the advisory agency to be required, he may, within 15 days after such action, appeal to the governing body for a public hearing thereon.

Hearing

The governing body shall hear the appeal, upon notice to the subdivider and the advisory agency, unless the subdivider consents to a continuance, within 10 days or at its next succeeding regular meeting. At the time fixed for the hearing the governing body shall proceed to hear the testimony of the subdivider or any witnesses in his behalf and the testimony of the representatives of the advisory agency or any witnesses in its behalf. It may also hear the testimony of other

competent persons respecting the character of the neighborhood in which the subdivision is to be located, the kinds, nature and extent of improvements, the quality or kinds of development to which the area is best adapted and any other phase of the matter with respect to which it may desire to inquire into.

Findings

Upon conclusion of the hearing the governing body shall within seven days declare its findings based upon the testimony produced before it. It may sustain, modify, reject or overrule any recommendations or rulings of the advisory agency and may make such findings as are not inconsistent with the provisions of this chapter or local ordinance adopted pursuant to this chapter.

Stats. 1943, Ch. 128

SEC. 3. Section 11554 of said code is hereby amended to read as follows:

Survey, etc

11554. Within one year after approval or conditional approval of the tentative map or maps, the subdivider may cause the subdivision, or any part thereof, to be surveyed and a final map to be prepared in accordance with the tentative map as approved, or he may proceed with the sale by metes and bounds or other similar definite description of the parcels or parts thereof as shown on an approved record of survey map. Upon application of the subdivider an extension of not exceeding one year may be granted by the governing body.

Stats. 1943, Ch. 128

SEC. 4. Section 11555 of said code is hereby amended to read as follows:

Failure to record or file map

11555. Any failure to record a final map or to file a record of survey map within one year from the approval or conditional approval of the tentative map or any extension thereof granted by the governing body, shall terminate all proceedings. Before a final map may thereafter be recorded, approved record of survey map filed or any sales made, a new tentative map shall be submitted.

Stats. 1943, Ch. 128

SEC. 5. Section 11593 of said code is hereby amended to read as follows:

Certificate of county surveyor or city engineer

11593. (a) If a subdivision lies within an unincorporated area, a certificate by the county surveyor and, if a subdivision lies within a city, a certificate by the city engineer is required. The appropriate official shall state that:

(1) He has examined the map.

(2) The subdivision as shown is substantially the same as it appeared on the tentative map, and any approved alterations thereof.

(3) All provisions of this chapter and of any local ordinance applicable at the time of approval of the tentative map have been complied with.

(4) He is satisfied that the map is technically correct.

(b) Upon mutual agreement between the county surveyor and any city engineer, with the approval of their respective governing bodies, the county surveyor may perform any or all of the duties assigned to the city engineer, including the required certification. Whenever such duties are divided

between the county surveyor and the city engineer, each officer shall certify to the duties performed by him. The county surveyor or the city engineer, or other public official or employee authorized to perform each function, shall complete and file with his governing body his certificate as required by this section within 20 days from the time said final map is submitted to him by the subdivider for approval.

Stats 1943, Ch 128

SEC. 6. Section 11612 of said code is hereby amended to read as follows:

Agreement to improve streets
Bond or cash deposit

11612. In the event an agreement for the improvement of the streets or easements is entered into, the governing body may require that the agreement shall be secured by a good and sufficient bond, or it may accept in lieu thereof a cash deposit, which bond or cash deposit shall be in an amount not in excess of the estimated cost of the improvement. However, the subdivider, at his option, in lieu of the agreement to construct improvements, and the bond or cash deposit to secure it, may enter into a contract with the governing body, secured by a faithful performance bond or cash deposit, if required by the governing body, in an amount not to exceed the estimated cost of the improvement, by which he agrees, within such time as may be provided in the contract, to initiate and to consummate proceedings under an appropriate special assessment act for the formation of a special assessment district covering the subdivision or part thereof, for the financing and construction of designated improvements upon the streets or easements dedicated by the map. Any such agreement or contract shall by its terms provide for the acceptance of the work as it progresses and for partial withdrawal of the deposit, in money or bonds, upon certificate of the county surveyor or the city engineer, or other public official or employee authorized to perform such function, in a manner similar to cash payments under cash contracts and under rules established by the governing body.

CHAPTER 669

Stats 1939, p 1274, amended

An act to add Sections 3695.4, 3695.5, 3774, and 3775, and to amend Sections 3705 and 3773 of the Revenue and Taxation Code, relating to taxation.

In effect August 4, 1943

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.]

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

New section

SECTION 1. Section 3695.4 is hereby added to the Revenue and Taxation Code, to read as follows:

Objections to sale

3695.4. In addition to the provisions in Section 3695 of this code relative to objections to sales, the State or city or any taxing agency or revenue district may file with the county tax collector and county board of supervisors written objec-

tion to the sale of such part of any property which is or may be needed for public use. Such written objection shall specify the description of the property needed, whether the fee or an easement is required, the public purpose to which such property is intended to be devoted, and, if an easement, whether for present or future acceptance. Such written objection shall be accompanied with the amount, if any, that the objector offers to pay for such interest. Thereupon the tax collector, upon order of the board of supervisors, shall either: Payment. Tax collector's duties.

(1) Withhold such property from said sale;

(2) Declare at the sale and insert in the deed a statement that any lien for taxes and assessments of such objector in such property shall not be affected by the sale;

(3) Declare at the sale that the successful bidder shall pay the full amount of his bid without deduction for the reconveyance. He shall then acknowledge his acceptance of the tax deed upon such deed and immediately deposit such tax deed and the sum of money necessary for recordation thereof with the tax collector for recording. If the reconveyance is for future acceptance, the tax collector shall immediately cause both documents to be recorded and thereupon shall pay the monetary consideration, if any, for the reconveyance to the successful bidder. The county recorder shall record the reconveyance without acceptance by the grantee and without fee. If the reconveyance is for present acceptance, the same procedure shall be followed except that before recording the documents, the reconveyance shall be transmitted to and accepted by the objector. Recording.

SEC. 2. That section 3695.5 is hereby added to the Revenue and Taxation Code, to read as follows: New section.

3695.5. If the easement is to be accepted in the future, the reconveyance shall contain a paragraph substantially as follows: Future acceptance of easement.

"I hereby dedicate for public use for _____(Here insert the nature of the easement) _____ purposes the following described property: _____(Here insert description) _____ reserving to myself and successive owners of the fee simple estate any and all ordinary uses of the land until such time as this dedication is accepted, except the erection or construction of buildings thereon. This dedication may be accepted or rejected at any future date but if once rejected may not thereafter be accepted."

SEC. 3. Section 3705 of the Revenue and Taxation Code is hereby amended to read as follows: Stats. 1941, p. 3098.

3705. Any city or the State or any taxing agency or revenue district may bid on property. Who may bid.

SEC. 4. Section 3773 of the Revenue and Taxation Code is hereby amended to read as follows: Stats. 1939, p. 1274.

3773. Whenever a deed to the State for taxes includes taxes levied by a city or any taxing agency or for a revenue district the taxes of which are collected by county officers, the city or taxing agency or revenue district has all the rights under Rights of city, etc.

this chapter of a taxing agency to which property has been deeded for taxes.

New section SEC. 5. Section 3774 is hereby added to the Revenue and Taxation Code, to read as follows:

Rights of State 3774. The State has all the rights under this chapter of a taxing agency to which property has been deeded for taxes.

New section SEC. 6. Section 3775 is hereby added to the Revenue and Taxation Code, to read as follows:

Price agreement 3775. Whenever the county or the State is the purchaser the price shall be agreed upon between the county board of supervisors and the State Controller and the governing body of any city in which such property may be located and such price shall be paid to the county tax collector for distribution.

CHAPTER 670

Stats 1937, p 2087, amended *An act to add Section 59.5 to the State Civil Service Act, providing for the creation of a clerical pool to make available clerical services to all State appointing powers.*

In effect August 4, 1943 [Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.]

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

New section SECTION 1. Section 59.5 is added to the State Civil Service Act, to read:

Clerical pool Sec. 59.5. The board may establish a clerical pool in any locality in the State where the demand for temporary clerical help warrants it. Such pool shall be established by the employment, in accordance with this act, by the board of sufficient clerical employees to fill the needs of various appointing

Employment powers for temporary help from time to time. The board may employ such persons on a permanent or permanent intermit-

Assignment tent basis. Upon a request from any appointing power for temporary help which can be filled from those employed by the board in the clerical pool, the board shall assign such persons as are needed. Upon such assignment such persons may be temporarily transferred for pay roll purposes only to the appointing power to which they are assigned or they may be retained as employees of the board and the appointing power charged pursuant to Section 356 or 356a of the Political Code with the cost of the services, including the salary and pro-

Cost visions for retirement, vacation and sick leave. In no event shall the cost in addition to the salary exceed fifteen per cent (15%).

Employees of board For all purposes of this act such persons shall be deemed employees of the board and not of the appointing power to which they are assigned. The board shall make all necessary

Alternative method rules to carry out the purposes of this section. Nothing in this section, nor in the rules promulgated hereunder, shall prevent an appointing power from following the regular procedure set

forth in this act or in the rules of the board for the certification of eligibles by any method authorized by this act, it being the intention of this section to set forth an alternative procedure.

CHAPTER 671

An act to add Article 7.5 consisting of Sections 20490 to 20493, inclusive, to Chapter 2 of Division 10 of the Education Code, relating to the granting of degrees to vocational teachers.

Stats 1943, Ch 71, amended

[Approved by Governor May 21, 1943 Filed with Secretary of State May 21, 1943.]

In effect August 4, 1943

Note.—See Stats. 1943, Ch. 71.

CHAPTER 672

An act to amend Section 10055 of the Business and Professions Code, relating to the Real Estate Commissioner.

Stats 1937, p 1229, amended

[Approved by Governor May 21, 1943 Filed with Secretary of State May 21, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 10055 of the Business and Professions Code is amended to read:

Stats 1943, Ch 127

10055. Each member of the board, except the commissioner, shall serve without compensation.

Member's compensation

The commissioner shall receive an annual salary of seven thousand five hundred dollars ($7,500), to be paid monthly out of the State treasury upon a warrant of the Controller.

Commissioner's salary

Each member shall be allowed his actual and necessary traveling expenses in the discharge of his duties.

Necessary expenses

CHAPTER 673

An act to amend Section 612 of the Fish and Game Code, relating to steelhead fishing.

Stats 1933, p 899, amended

[Approved by Governor May 21, 1943 Filed with Secretary of State May 21, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 612 of the Fish and Game Code is amended to read:

Stats 1941, p 2644

612. In the Russian, Napa and Navarro Rivers and in those portions of Eel River in Districts 2 and 2¾, and in tidewater in Districts 2, 3, 4 in the Santa Ynez River as far as

Steelhead trout

the Buellton Bridge, in the Ventura River in District 3½ from its mouth upstream to the Foster Memorial Bridge, and 15 and 16, steelhead trout may be taken from May 1st to February 28th. The bag limit is three fish per day, irrespective of size, between November 1st and February 28th. Not more than one daily bag limit may be possessed by one person during one day.

CHAPTER 674

Stats 1943, Ch 368, amended

An act to add Section 265 to the Water Code, and to add Section 363h to the Political Code, relating to membership of the Department of Public Works in National associations for the promotion of reclamation and irrigation and making an appropriation.

In effect August 4, 1943

[Approved by Governor May 21, 1943 Filed with Secretary of State May 21, 1943]

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

Note.—See Stats. 1943, Ch. 368.

New section

SEC. 2. Section 363h is added to the Political Code, to read:

Membership in reclamation promotion organizations

363h The Department of Public Works is authorized to join associations of representatives of other States which have been established for not less than 10 years and which have for their purpose the promotion of reclamation and irrigation and cooperation between the several States and the Federal Government in matters relating to reclamation and irrigation. The department may collaborate and cooperate with other members of the association selected in accordance with the constitution and by-laws of such association, relative to matters of public interest to the State within the scope of the activities

Expenditures

of such association. The department may, from any of its funds available for the purpose, make expenditures for the pro rata share of the expenses of such association attributable to California and for the services performed by such association for the State.

Appropriation

SEC. 3. Out of any money in the State treasury not otherwise appropriated there is hereby appropriated to the Department of Public Works the sum of seven thousand five hundred fifteen dollars ($7,515) to be expended in carrying out the provisions of this act during the Ninety-fifth and Ninety-sixth Fiscal Years.

Effect

SEC. 4. Section 1 of this act becomes operative only if

Stats 1943, Ch 368

the Water Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time said code takes effect, at which time Section 363h of the Political Code added

Repeal

by this act is hereby repealed.

CHAPTER 675

An act to add Section 1752.6 to the Welfare and Institutions Code, relating to the powers of the Youth Correction Authority.

Stats 1937, p 1005, amended

[Approved by Governor May 21, 1943 Filed with Secretary of State May 21, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 1752.6 is added to the Welfare and Institutions Code, to read:

New section

1752.6. The Authority may, with the approval of the Director of Finance, enter into contracts with colleges, universities, and other organizations for the purposes of research in the field of delinquency and crime prevention and of training special workers, including teachers, institution employees, probation and parole officers, social workers and others engaged, whether as volunteers or for compensation, and whether part-time or full time, in the fields of education, recreation, mental hygiene, and treatment and prevention of delinquency.

Contracts with colleges, etc

CHAPTER 676

An act to amend Sections 860 and 862 of the Welfare and Institutions Code, relating to expenditures by the counties for the support of wards.

Stats 1937, p 1005, amended

[Approved by Governor May 21, 1943 Filed with Secretary of State May 21, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 860 of the Welfare and Institutions Code is amended to read:

Stats 1939, p 3027

860. If it is necessary that provision be made for the expense of support and maintenance of a ward of the juvenile court or of a minor person concerning whom a petition has been filed in accordance with the provisions of Sections 721 and 722 of this code, the order providing for the care and custody of such ward or person shall direct that the whole expense of support and maintenance of such ward or person, up to the amount of twenty dollars ($20) per month be paid from the county treasury, and may direct that an amount up to any maximum amount per month established by the board of supervisors of the county be so paid. The board of supervisors of each county is hereby authorized to establish, either generally or for individual wards or according to classes or groups of wards, a maximum amount which the court may order the county to pay for such support and maintenance. All orders made pursuant to the provisions of this section shall state the amounts to be so paid from the county treasury, and such amounts shall constitute legal charges against the county.

Support and maintenance of wards

Stats 1937, p 1007

SEC. 2. Section 862 of the Welfare and Institutions Code is hereby amended to read as follows:

Additional support and maintenance

862. If it is found that the maximum amount established by the board of supervisors of the county is insufficient to pay the whole expense of support and maintenance of such ward or other minor person, the court may order and direct that such additional amount as is necessary shall be paid out of the earnings, property, or estate of such ward or such other minor person, or by the parents or guardian of such ward or such other minor person, or by any other person liable for his support and maintenance, to the probation officer, who shall in turn pay it to the person, association, or institution that under court order is caring for and maintaining such ward or other minor person.

CHAPTER 677

An act to amend Section 4041.11 of the Political Code, relating to powers and duties of boards of supervisors, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.]

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

Stats 1943, Ch 220

SECTION 1. Section 4041.11 of the Political Code is amended to read:

Powers and duties of boards of supervisors Pounds

4041.11. (1) Under such limitations and restrictions as are prescribed by law, and in addition to jurisdiction and powers otherwise conferred, the boards of supervisors, in their respective counties, shall have the jurisdiction and powers to maintain, regulate and govern public pounds, fix the limits within which animals shall not run at large, and appoint poundkeepers. All expenses of operation and maintenance, and the compensation of the poundkeepers shall be paid out of the fines imposed and collected from the owners of impounded animals, or from the general fund of the county, or both.

Sheep, dogs, predatory animals

(2) To provide for the prevention of injuries to sheep by dogs, and destruction and control of predatory animals, and to tax dogs and direct the application of the tax.

Destruction of pests

(3) To provide for the destruction of gophers, squirrels, other wild animals, noxious weeds, plant diseases, and insects injurious to fruit or fruit trees, or vines, or vegetable or plant life.

Fruit, nut and vegetable standards

(4) To provide for the enforcement of the provisions of the Agricultural Code relating to fruit, nut, and vegetable standards, and for this purpose may enter into cooperative agreements with the Director of Agriculture whereby county funds may be expended for the enforcement of said provisions within or outside of the county.

Urgency

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

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

Provisions for impounding animals have not heretofore been extant in many counties or such provisions have but recently been enacted, so that fines so far levied or collected are not sufficient to pay the cost of the establishment or construction of pounds, or the expense of their maintenance.

It is therefore necessary for the public peace, health and safety that this act take effect immediately.

CHAPTER 678

An act to amend Section 4701 of the Labor Code, relating to workmen's compensation, including burial expenses and death benefits.

Stats 1937, p. 185, amended

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 4701 of the Labor Code is amended to read:

Stats 1937, p 185

4701. Where an injury causes death, either with or without disability, the employer shall be liable, in addition to any other benefits provided by this division, for:

Burial expenses

(a) Reasonable expenses of the employee's burial, not exceeding three hundred dollars ($300).

(b) A death benefit, to be allowed to the dependents when the employee leaves any person dependent upon him for support.

Death benefit

CHAPTER 679

An act to add Section 403.5 to, and to amend Section 765 of, the Vehicle Code, relating to the effect of the war emergency and Federal and local regulations arising therefrom applicable to vehicles on the provisions of said code, declaring the urgency thereof and providing that this act shall take effect immediately.

Stats 1935, p 93, amended

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.]

In effect immediately

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

SECTION 1. Section 403.5 is added to the Vehicle Code, to read as follows:

New section

403.5. When Violations of Code do not Constitute Negligence as a Matter of Law. In either of the following circumstances a violation of any provision of this code shall not

Proof of negligence as fact

establish negligence as a matter of law but in any civil action under either of such circumstances, negligence must be proved as a fact without regard to such violation. The circumstances under which this section shall be applicable are either:

(a) Where violation of such provision was required by a law of the Federal Government or by any rule, regulation, directive or order of any agency of the Federal Government, violation of which is subject to penalty under an act of Congress or by any valid order of military authority.

Application

The provisions of this section shall apply to such acts or omissions whether occurring prior to or after the effective date of this section.

Stats 1937, p 452

SEC. 2. Section 765 of the Vehicle Code is amended to read as follows:

Prior conviction or acquittal

765. Defenses. Federal Laws and Regulations. (a) Whenever any person is charged with a violation of this code, it is a sufficient defense to such charge if it appears that in a criminal prosecution in another State or by the Federal Government, founded upon the act or omission in respect to which he is on trial, he has been convicted or acquitted.

Violation required by Federal law

(b) No person shall be prosecuted for a violation of any provision of this code if such violation was required by a law of the Federal Government, or a regulation promulgated pursuant to law, by the Interstate Commerce Commission.

(c) No person shall be prosecuted for a violation of any provision of this code when violation of such provision is required by a law of the Federal Government or by any rule, regulation, directive or order of any agency of the Federal Government, violation of which is subject to penalty under an act of Congress or by any valid order of military authority.

Urgency

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

The war has resulted in Federal legislation and rules, regulations and orders by authorized officials of the Federal Government with relation to the operation of vehicles, which are in conflict with the provisions of this code. The occurrence of air raid alarms has rendered it imperative that local authorities to meet local conditions be empowered by ordinance to regulate traffic as necessity requires even though such ordinances conflict with the provisions of this code. It is imperative that this act take effect immediately to resolve said conflicts.

CHAPTER 680

An act to amend Section 222 of the Welfare and Institutions Code of the State of California, relating to the cancellation of county warrants for the giving of aid if not presented for payment within six months after issuance.

Stats 1937, p. 1005, amended

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 222 of the Welfare and Institutions Code is hereby amended to read as follows:

Stats 1941, p. 2919

222. Any county warrant issued for the giving of aid to, and payable to, an indigent, a needy aged person, a needy child, or a needy blind person, or the guardian, trustee, disbursing agent, or any custodian of the funds or estate of any of them, shall be canceled if not presented to the county treasurer for payment within six months after the date of issuance.

Warrant not presented within 6 months

CHAPTER 681

An act to amend Section 4095 of the Political Code, relating to the cancellation of county warrants issued for aid where same are not presented for payment within six months after issuance.

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 4095 of the Political Code is hereby amended to read as follows:

Stats 1941, p. 1278

4095. All warrants issued by the auditor during each fiscal year, commencing with the first of each fiscal year, must be numbered consecutively and the number, date, amount of each, and the name of the person to whom payable and the purpose for which drawn, must be stated thereon, and they must, at the time they are issued, be registered by him. Separate series of numbers may be used for the different kinds of warrants, such as pay roll warrants and general warrants drawn for miscellaneous supplies and expenses, and special warrants drawn on court orders, etc.

Warrants to be numbered

Any warrant not presented to the county treasurer within two years after it was issued shall be canceled, except that any warrant issued for the giving of aid to, and payable to, an indigent, a needy aged person, a needy child or a needy blind person, or issued for the giving of such aid and payable to the guardian, trustee, disbursing agent, or any custodian of the

Cancellation if not presented within 6 months

funds or estate of any of them, shall be canceled if not presented to the county treasurer for payment within six months after the date of issuance.

CHAPTER 682

Stats 1937, p 1005, amended

An act to amend Section 3083.5 of the Welfare and Institutions Code, relating to aid to the blind.

In effect August 4, 1943

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.]

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

Stats 1941, p 2302

SECTION 1. Section 3083.5 of the Welfare and Institutions Code is amended to read:

Review of eligibility under Chapter 3

3083.5. The county shall review annually the case of every person receiving aid under this chapter to determine whether he will be eligible for aid under Chapter 3 of this part during the ensuing year period. The determination by the county as to the chapter under which it is to grant aid shall be subject to review by the State Social Welfare Board upon appeal by the applicant.

CHAPTER 683

Stats 1943, Ch 368, amended

An act to amend Section 20043 of the Water Code, relating to reports by the California Districts Securities Commission.

In effect August 4, 1943

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.]

Note.—See Stats. 1943, Ch. 368.

CHAPTER 684

Stats 1943, Ch. 368, amended

An act to amend Sections 25035 and 25335 of the Water Code, relating to refunding bonds of irrigation districts.

In effect August 4, 1943

[Approved by Governor May 21, 1943 Filed with Secretary of State May 21, 1943.]

Note.—See Stats. 1943, Ch. 368.

CHAPTER 685

Stats 1943, Ch 368, amended

An act to add Section 24628.5 to the Water Code, relating to warrants of an irrigation district.

In effect August 4, 1943

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.]

Note.—See Stats. 1943, Ch. 368.

CHAPTER 686

An act to amend the title and Sections 3 and 4 and to repeal Sections 4c and 4d of an act entitled "An act to provide for the government of irrigation districts having an area of more than 500,000 acres and for elections and the qualification of electors therein and to enable such irrigation districts to construct levees and to protect the lands within such districts from damage resulting from floods and the overflow of rivers and for that purpose to provide additional powers for boards of directors within such irrigation districts," approved January 21, 1915, and to add Article 6 to Chapter 5, Part 5 of Division 11 of the Water Code, relating to the government, operation, and functions of irrigation districts of an area of over 500,000 acres.

Stats 1915, p 1, amended

Stats 1943, Ch 368, amended

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.]

In effect August 4, 1943

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

SECTION 1. The title to an act entitled "An act to provide for the government of irrigation districts having an area of more than 500,000 acres and for elections and the qualification of electors therein and to enable such irrigation districts to construct levees and to protect the lands within such districts from damage resulting from floods and the overflow of rivers and for that purpose to provide additional powers for boards of directors within such irrigation districts," is amended to read: "An act to provide for the government of irrigation districts having an area of more than 500,000 acres and to provide additional powers for the government, operation, and conduct of such districts.

Stats 1933, p 2028

Title

SEC. 2. Section 3 of the act cited in Section 1 hereof is amended to read:

Stats. 1915, p 1

Sec. 3. In addition to the powers otherwise conferred the board of directors of any such district shall have power without the necessity of an election to borrow funds for any lawful purpose at a rate of interest not greater than 5 per cent per annum, and issue warrants therefor payable at future dates; provided, however, that no principal amount thereof unpaid at any one time shall exceed two hundred thousand dollars ($200,000).

Borrowing funds

SEC. 3. Section 4 of the act cited in Section 1 hereof is amended to read:

Stats. 1915, p 1

Sec. 4. The board of directors of any such irrigation district shall, to the extent provision is not otherwise made for providing funds for district purposes, within 15 days after the close of its session as a board of equalization, levy an assessment sufficient to raise the annual interest on any outstanding bonds of such district and for any year in which any bonds shall fall due, must increase such assessment to an amount sufficient to raise a sum sufficient to pay the principal

Assessments

of the outstanding bonds as they mature, also, sufficient to pay in full all sums due or that shall become due from the district before the time for levying the next annual assessment, also, sufficient to pay in full, the amount of any other contract or obligation of the district due or to become due within the succeeding 12 months and such further sum as, with the other revenue of the district, will meet the estimated current expenses of the district including cost of flood prevention for the succeeding 12 months.

Repeals

SEC. 4. Sections 4c and 4d of the act cited in Section 1 hereof are repealed.

Note.—See Stats. 1943, Ch. 368.

Effect

Stats 1943, Ch 368

Repeal

SEC. 6. Section 5 of this act becomes operative only if the Water Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said code takes effect, at which time Sections 3 and 4 of the act cited in Section 1 of this act, amended by this act are hereby repealed.

CHAPTER 687

Stats 1943, Ch 368, amended

Stats 1919, p 778, amended

An act to amend Sections 22116 and 22120 of the Water Code and Sections 1 and 3 of an act entitled "An act to provide for the acquisition, development, and disposal of electrical power by irrigation districts," approved May 21, 1919, relating to the application of the California Irrigation District Act and acts amendatory thereof and supplemental to the California Irrigation Disirict Act and to the borrowing of funds and issuance of warrants and securities by irrigation districts.

In effect August 4, 1943

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.]

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

Stats 1941, p 1600

SECTION 1. Section 1 of the act cited in the title hereof is amended to read:

Purchase or lease of electrical power, etc

Section 1. Any irrigation district heretofore organized or hereafter to be organized under the laws relating to such district may purchase or lease electrical power from any agency or entity, public or private, and may provide for the construction, acquisition, operation, leasing and control of plants for the generation, transmission, distribution, disposal and lease of electrical energy including disposal to municipalities, corporations, public utility districts, or individuals, of electrical power purchased, leased or generated; and said district, subject, however, to the conditions in this section contained, may make special appropriations of water for power purposes, as required by law; provided, however, that any use of water for generating such electrical power or

energy at any given time of the year, which use is in excess of the water appropriated and beneficially used for irrigation purposes by such district at said period of the year, shall be subject to all prior existing appropriations by any municipal corporation, who or which is proceeding in good faith in the expenditure of money and the construction of works designed to divert the water appropriated. The officers, agents and employees of such district shall have the same powers, duties and liabilities respecting such power and the construction, acquisition, repair, maintenance, management and control thereof as they now have or may hereafter have respecting such irrigation or such irrigation districts. The California Irrigation District Act and all acts amendatory thereof and supplemental thereto shall be so construed, applied and enforced as to apply to such power as well as such irrigation, except that nothing in said acts shall be so construed as to prevent the sale, distribution, or disposal of power by any district for use outside of the boundaries of such district or to require the distribution of such power in accordance with any assessments levied by such district.

SEC. 2. Section 3 of said act is amended to read: Stats 1921, p 829

Sec. 3. In case funds are not otherwise available an irrigation district may issue bonds, warrants, or other evidences of indebtedness, for such purpose and all of the provisions of the California Irrigation District Act and all acts amendatory thereof and supplemental thereto, relating to the issuance of bonds, warrants and other evidences of indebtedness for other purposes, and all other acts relative to bonds, warrants, and other evidences of indebtedness under the California Irrigation District Act in so far as the same are applicable thereto shall apply. Bonds

Note.—See Stats. 1943, Ch. 368.

SEC. 5. Sections 3 and 4 of this act become operative only if the Water Code is enacted by the Legislature at its Fifty-fifth Session, and in such case, at the same time as said code takes effect, at which time Sections 1 and 3 of the act cited in the title hereof amended by this act are hereby repealed. Effect Stats 1943, Ch 368 Repeal

CHAPTER 688

An act to amend Section 10301 of the Education Code, relating to the course of study for elementary schools. Stats 1943, Ch 71, amended

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.] In effect August 4, 1943

Note.—See Stats. 1943, Ch. 71.

CHAPTER 689

Stats 1939, p 1274, amended

An act to add Sections 134, 1651, 2902, 2909.1, and 2910.1 to, and to amend Sections 2901, 2903, 2904, 2905, 2906, 2908 and 2914 of the Revenue and Taxation Code, relating to the assessment and collection of taxes which are not a lien on real property sufficient to secure payment of such taxes.

In effect August 4, 1943

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.]

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

New section

SECTION 1. Section 134 is hereby added to the Revenue and Taxation Code, to read as follows:

"Unsecured property"

134. "Unsecured property" is property the taxes on which are not a lien on real property sufficient, in the opinion of the assessor, to secure payment of the taxes.

New section

SEC. 2. Section 1651 is hereby added to the Revenue and Taxation Code, to read as follows:

Transmission of unsecured roll

1651. Immediately upon completion of his duties under Section 1646, the auditor shall transmit the unsecured roll to the assessor, unless the duty of making unsecured property tax collections has been transferred to the tax collector, in which event, the unsecured roll shall be transmitted to him.

New section

SEC. 3. Section 2902 is hereby added to the Revenue and Taxation Code, to read as follows:

Completion of unsecured property assessment

2902. The assessment of unsecured property shall be deemed complete for the purpose of enforcing the collection thereof when the assessor has made a record in writing of the assessment in such form as the board may prescribe.

Stats 1939, p 1274

SEC. 4. Section 2901 of the Revenue and Taxation Code is hereby amended to read as follows:

Due date

2901. Taxes on unsecured property are due on the lien date.

Stats 1939, p 1274

SEC. 5. Section 2903 of the Revenue and Taxation Code is hereby amended to read as follows:

Collection by assessor

2903. The assessor may collect taxes on unsecured property.

Stats 1939, p 1274

SEC. 6. Section 2904 of the Revenue and Taxation Code is hereby amended to read as follows:

Collection by tax collector

2904. If so ordered by a four-fifths vote of the board of supervisors, the tax collector, in lieu of the assessor, shall collect taxes on unsecured property. The order of the board of supervisors shall specify the date on which the duty of collecting such taxes shall be transferred annually to the tax collector, who shall continue to collect such taxes in accordance with this order each year until ordered to discontinue the collection thereof by a four-fifths vote of the board of supervisors.

Stats 1941, p 3111

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

Unsecured property tax rate

2905. In collecting taxes on unsecured property the tax rate to be used is the rate for property of the same kind on the

secured roll last fixed before the lien date for the taxes to be collected. The taxes on unsecured property shall be computed in dollars and cents, rejecting the fractions of a cent.

SEC. 8. Section 2906 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1939, p 1274

2906. Annually, on or before the lien date, the auditor shall furnish the assessor with blank unsecured property receipts, in a form prescribed by the board, and charge the assessor with the number of receipts furnished. This section shall be inapplicable if all taxes on unsecured property are collected by the tax collector. Receipts

SEC. 9. Section 2908 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1939, p. 1274

2908. Unless taxes on the unsecured roll are to be collected thereafter by the tax collector, the auditor shall then furnish the assessor with blank unsecured property receipts, and charge the assessor with the number of receipts furnished. Further receipts

SEC. 10. Section 2909.1 is hereby added to the Revenue and Taxation Code, to read as follows: New section

2909.1. If the tax collector is to collect taxes on unsecured property on or after the due date, the assessor shall deliver to the tax collector, as soon as practicable after that date, a record in writing of the assessment of the unsecured property in such form as the board may prescribe. Duty of assessor

SEC. 11. Section 2910.1 is hereby added to the Revenue and Taxation Code, to read as follows: New section

2910.1. If taxes on unsecured property are collected by the tax collector on or after the due date, the auditor shall charge the tax collector with the taxes and penalties which it is his duty to collect in pursuance of the records of assessment delivered to him by the assessor. Collection by tax collector

SEC. 12. Section 2914 of the Revenue and Taxation Code is hereby amended to read as follows: Stats. 1939, p 2789

2914. Taxes due on unsecured property may be collected by seizure and sale of any of the following property belonging or assessed to the assessee: Seizure and sale

(a) Personal property.

(b) Improvements.

(c) Possessory interests.

SEC. 13. The substitution of the term "unsecured property" for the term "unsecured roll" in the sections of the Revenue and Taxation Code amended hereby shall not be construed as changing the intent and meaning of said sections but the use in this act of the term "unsecured property" is hereby declared to be a positive expression of a continuing legislative intent with respect to the matters set forth in said sections and of the sections of the Political Code from which the contents of said sections of the Revenue and Taxation Code were drawn in the process of codification. Legislative intent

CHAPTER 690

Stats 1937, p 1005, amended

An act to amend Sections 1701 and 1710 of, the heading of Chapter 1 of Division 2.5 of, and the headings of Articles 2, 3 and 4 of Chapter 1 of Division 2.5 of, and to repeal Section 1711.5 of, and to add Sections 1725 and 1742 to, the Welfare and Institutions Code, relating to the Youth Authority and the care, custody and rehabilitation of youths, providing for the costs of such care, custody and rehabilitation, and making an appropriation.

In effect August 4, 1943

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.]

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

SECTION 1. The heading of Chapter 1 of Division 2.5 of the Welfare and Institutions Code is amended to read:

CHAPTER 1. THE YOUTH AUTHORITY

Stats 1941, p 2522

SEC. 2. Section 1701 of said code is amended to read:

Short title

1701. This chapter may be cited as the Youth Authority Act.

Stats 1937, p 1005

SEC. 3. The heading of Article 2 of Chapter 1 of Division 2.5 of said code is amended to read:

Article heading

Article 2. Creation and Organization of a Youth Authority

Stats 1941, p. 2522

SEC. 4. Section 1710 of said code is amended to read:

Youth Authority created

1710. There is hereby created a Youth Authority for this State, hereinafter called "the Authority," whose function is to provide and administer preventive and corrective training and treatment for persons committed to it as hereinafter provided.

Stats. 1943, Ch. 605

SEC. 5. Section 1711.5 of said code is repealed.

New section

SEC. 6. Section 1725 is added to said code, to read:

Duration

1725. (a) This section shall remain in effect until the ninety-first day after the final adjournment of the Fifty-sixth Regular Session of the Legislature and, while in effect, shall prevail over Sections 1711 and 1722 to the extent that there is any conflict.

Full-time member

(b) The Authority shall select one of its members as the full-time member. He shall devote his entire time to the work of the Authority and shall receive a salary of ten thousand dollars ($10,000) per year and his actual and necessary traveling expenses. The member selected as the full-time member shall not be subject to removal by the other members of the Authority after he has been selected as the full-time member.

Other members

(c) The other members of the Authority need not devote full time to the work, may hold other public office or employment concurrently, and shall receive their actual necessary traveling expenses while engaged in their duties as members

of the Authority. Members of the Authority, except the full-time member and any member who holds any other public office or employment, shall receive a per diem of twenty-five dollars ($25) per day, for not to exceed 10 days in any month, for attendance upon meetings of the Authority.

Civil executive officer

(d) The full-time member shall be a civil executive officer and shall administer the provisions of this chapter. He shall be the head of a department within the meaning of Sections 353, 354 and 355 of the Political Code.

Delegation of authority

(e) Whenever a power is granted to the Authority or a duty imposed upon the Authority, the power may be exercised or the duty performed by the full-time member, except that the power of classification and segregation of persons committed to the Authority shall be and remain a power and duty of the Authority. Any officer or employee of the Authority may exercise any power granted to or perform any duty imposed upon the full-time member pursuant to authorization of the full-time member.

Stats 1937, p. 1005

SEC. 7. The heading of Article 3 of Chapter 1 of Division 2.5 of said code is amended to read:

Article heading

Article 3. Commitments to Youth Authority

New section

SEC. 8. Section 1742 is added to said code, to read:

Cost of care

1742. (a) The county from which each person is committed to the Authority shall pay to the State the cost of the care of such person, for the time the person committed remains under the control of the Authority, to the extent and in the manner provided in this section.

Monthly rate

(b) The Authority shall from time to time determine the monthly rate for the care of persons committed thereto, but in no case shall the rate exceed the rate of forty dollars ($40) per month.

Person liable for support

(c) The estate of the person committed, or the parents, guardian, or other person liable for the support of the person committed shall pay to the county the cost of the care of the person committed at the monthly rate therefor fixed by the Authority.

Court inquiry

At the time of commitment of any person to the Authority the committing court shall inquire into the earnings, property, and estate of the person committed, and into the ability of his parents, guardian, or other person liable for his support and maintenance, to pay for the expense of his support and maintenance, in the manner provided in Section 863 for inquiry in respect to the support of wards of the juvenile court. The committing court shall make orders for the payment of the cost of the support of the committed person to the county, with the same powers and in the same manner as is provided for orders for the support of wards of the juvenile court. All of the provisions of Sections 863 to 868.10, inclusive, of this code, relating to the support of wards of the juvenile court and the

Court orders

Applicable provisions

reimbursement of the county therefor, shall apply to the support of persons committed to the Authority and the reimbursement of the county therefor, to the same extent and in the same manner as if said sections were set forth in this section, and all references in said sections to "ward or other minor person" and to the "juvenile court" shall be deemed to refer to "person committed to the Authority" and to the "committing court," respectively.

Actions to collect support

Upon request of the board of supervisors, the district attorney or other civil legal officer of the county shall, on behalf of the county, maintain an action in the superior court against the estate of the person committed, or the parents, guardian, or other person liable for his support, to recover for the county such portion of the cost of care of the person committed as the estate, parents, guardian, or other person liable for support is able to pay, and to secure an order requiring the payment to the county of any sums which may become due in the future for which the defendant may be liable.

Collection by county

(d) If the county collects from the estate of the person committed, or from the parents, guardian, or other person liable for the support of the person committed, the full amount of the cost of care of the person at the monthly rate therefor fixed by the Authority, the county shall pay to the State the full amount of the cost of the care of the person committed at the monthly rate therefor fixed by the Authority. If, however, the county can not collect from the estate, parents, guardian, or other person liable for the support of the person committed the full amount of the cost of the care of the person at the rate therefor fixed by the Authority, the county shall pay to the State any sums collected from said estate, parents, guardian, or other person, plus one-half of the difference between the sum so collected and the full amount of the cost of the care of the person committed at the monthly rate therefor fixed by the Authority; but in no event shall the county pay to the State from the funds of the county and without receiving reimbursement therefor from the estate of the person committed, or from the parents, guardian, or other person liable for his support, any sum greater than twenty dollars ($20) per month.

State settlement report

(e) Each county auditor shall include in his State settlement report, rendered to the Controller in the months of June and January, the amount due to the State under the provisions of this section, and the county treasurer, at the time of the settlement with the State in such months, shall pay to the State Treasurer, upon the order of the Controller, the amounts so due.

Exception

(f) This section shall not apply to any person committed to the Authority and placed by it in a State prison while the person remains in the prison; but this section shall apply to all persons under 21 years of age committed to the Authority for placement in a correctional school under the jurisdiction of

the Authority, and to all persons under 21 years of age committed to or for placement in any such school.

SEC. 9. The heading of Article 4 of Chapter 1 of Division 2.5 of said code is amended to read: Stats 1937, p 1005

Article 4. Powers and Duties of Youth Authority Article heading

SEC. 10. The amendments made by this act to the title of the Authority and to the duties and compensation of its respective members shall not affect the general powers or functions of the Authority nor the continuity of control of its records, funds, personnel or property. Effect

SEC. 11. There is hereby appropriated to the Youth Authority in addition to any other appropriation thereto, out of any money in the State treasury not otherwise appropriated, the sum of eight hundred fifty thousand dollars ($850,000) for the support of such Authority during the Ninety-fifth and Ninety-sixth Fiscal Years, to be allocated on authorization of the Governor. Revolving funds may be withdrawn from the appropriation herein made in accordance with the provisions of Section 4 of the "Budget Act of 1943." Appropriation

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CHAPTER 691

An act to amend Sections 7 and 10 of the Municipal Court Act of 1925, relating to municipal courts. Stats 1925, p 648, amended

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.] In effect August 4, 1943

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

SECTION 1. Section 7 of the act cited in the title hereof is amended to read: Stats 1941, p 2324

Sec. 7. The municipal court in a city or city and county of the first and one-half class shall be constituted, and the judges, officers and attaches thereof shall be as herein enumerated and shall have the qualifications and shall receive the compensation herein affixed, as follows: Municipal courts Cities of first and one-half class (Los Angeles)

There shall be 30 judges, each of whom must be registered and qualified electors of the city wherein they are to serve and shall have been admitted to practice before the Supreme Court of the State for a period of at least five years immediately preceding his election or appointment to such office and each of whom shall receive eight thousand five hundred dollars ($8,500) payable in equal monthly installments; one clerk to be appointed by the judges of the court who shall receive five hundred seventy-five dollars ($575) per month; one marshal to be appointed by the judges of the court, who shall receive five hundred seventy-five dollars ($575) per month; one referee to be appointed by the judges of the court who shall receive three hundred fifty dollars ($350) per month.

Stats 1939, p 2049
Municipal courts
Cities of second and one-half class (Long Beach)

SEC. 2. Section 10 of the said act is amended to read:

Sec. 10. The municipal court in a city or city and county of the second and one-half class shall be constituted, and the judges, officers and attaches thereof shall receive compensation as follows:

(a) There shall be five judges, each of whom shall receive eight thousand five hundred dollars ($8,500) per annum, payable in equal monthly installments;

(b) There shall be one clerk who shall also be secretary to the court, to be appointed by the judges thereof, who shall receive four hundred twenty dollars ($420) per month;

(c) The clerk shall appoint the following:

One chief deputy, who shall receive three hundred twenty-five dollars ($325) per month; five deputy court clerks, who shall each receive two hundred fifty dollars ($250) per month; one cashier-bookkeeper, who shall receive two hundred seventy-five dollars ($275) per month; one chief clerk of the civil department, who shall receive two hundred seventy-five dollars ($275) per month; one chief clerk of the criminal department, who shall receive two hundred seventy-five dollars ($275) per month; eight deputy clerks, who shall each receive two hundred twenty-five dollars ($225) per month; one deputy judgment clerk, who shall receive two hundred twenty-five dollars ($225) per month; one stenographic secretary, male, who shall receive two hundred dollars ($200) per month; two stenographers, who shall each receive one hundred sixty dollars ($160) per month; one typist, who shall receive one hundred fifty dollars ($150) per month; two file index clerks, who shall each receive one hundred fifty dollars ($150) per month;

(d) There shall be one marshal to be appointed by the judges of the court who shall receive four hundred twenty dollars ($420) per month. The marshal shall appoint the following:

One assistant marshal, who shall receive three hundred twenty-five dollars ($325) per month; one deputy, who shall also act as secretary, who shall receive one hundred seventy-five dollars ($175) per month; one chief deputy of the civil department who shall receive two hundred seventy-five dollars ($275) per month; one deputy, who shall act as assistant chief of the civil department, who shall receive two hundred fifty dollars ($250) per month; four deputies of the civil department, who shall each receive two hundred twenty-five dollars ($225) per month; three deputies of the civil department, who shall each receive two hundred dollars ($200) per month; one deputy, who shall act as bookkeeper, who shall receive two hundred twenty-five dollars ($225) per month; one deputy, who shall act as counter clerk and return clerk, who shall receive two hundred dollars ($200) per month; one deputy who shall act as stenographer, who shall receive one hundred sixty dollars ($160) per month; one chief deputy of the criminal department, who shall receive two hundred seventy-five dollars ($275) per month; one deputy, who shall act as assist-

ant chief of the criminal department, who shall receive two hundred fifty dollars ($250) per month; two deputies of the criminal department, who shall each receive two hundred twenty-five dollars ($225) per month; two deputies of the criminal department, who shall each receive two hundred dollars ($200) per month; five deputies to act as bailiffs of the courts, who shall each receive two hundred dollars ($200) per month; one deputy, who shall act as record clerk, who shall receive one hundred seventy-five dollars ($175) per month; fifty deputies, who shall act as custodians, who shall each receive five dollars ($5) per day. The deputy marshals serving as custodians shall be paid only for their actual services as keepers of property taken under the legal process, and shall be paid out of the funds deposited by the parties to the action in which services are rendered. All marshals, assistants and deputies, excepting those designated herein as custodians, shall be allowed in addition to their salaries, their actual and necessary incidental expenses incurred in the actual performance of their duties, including traveling expenses to be allowed at the rate per mile fixed by the county board of supervisors for the operation of automobiles actually used in performance of their business on public duty or to pay for such other mode of transportation as they may adopt.

CHAPTER 692

An act to amend Sections 552 and 562 of the Agricultural Code, relating to skim milk and milk drinks.

Stats 1933, p 60, amended

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 552 of the Agricultural Code is amended to read:

Stats 1941, p 1446

552. Skim milk is milk from which a part of the milk fat has been removed and which contains less than 3 per cent of milk fat and not less than 8.8 per cent of milk solids not fat. All fluid skim milk sold for human consumption as such shall be derived from market milk. All containers in which skim milk is sold for human consumption in fluid form shall be labeled with the words skim milk together with the name and address of the distributor.

Skim milk

SEC. 2. Section 562 of the Agricultural Code is hereby amended to read:

Stats 1941, p 475

562. Market milk or skim milk derived from market milk combined with fruit or fruit juices, chocolate, chocolate sirups, or other harmless sirups, with or without the addition of harmless coloring material, shall be used in the manufacture and sale of soft drinks under a trade name or any mixed milk drink. Such product shall be so colored or contain ingredients that cause it to distinctly differ from milk in appearance and other characteristics.

Milk drinks

CHAPTER 693

Stats 1943, Ch 368, amended Stats 1927, p 508, amended

An act to amend Sections 10501 and 10503 of the Water Code and Section 1 of an act entitled "An act authorizing the Department of Finance to appropriate waters in connection with the utilization and conservation of the water resources of the State in the development of a general or coordinated plan; authorizing the State Department of Finance to release or assign such appropriations; authorizing the State Department of Finance to request other departments of the State or State officers to furnish service or assistance to make investigations in connection with the development of a general or coordinated plan for the utilization or conservation of the water resources of the State," approved April 29, 1927, relating to appropriation of waters by the State Department of Finance.

In effect August 4, 1943

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.]

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

Stats 1939, p 2199

SECTION 1. Section 1 of the act cited in the title hereof is amended to read:

Section 1. The State Department of Finance is directed and authorized, pursuant to the provisions of the Water Commission Act and the rules and regulations of the Division of Water Resources of the Department of Public Works, to make and file an application or applications for any water or the use thereof which in the judgment of the State Department of Finance is or may be required in the development and completion of the whole or any part of a general or coordinated plan looking towards the development, utilization or conservation of the water resources of the State. Any such application or applications shall be made and filed by the State Department of Finance with the Division of Water Resources, Department of Public Works, within nine months after the date upon which this act shall go into effect. The priority of any such application or applications shall be as of the date this act shall become effective, and such priority shall be retained over any application made by others subsequent to said date, and which may be in conflict therewith, regardless of any requirements or provisions of the Water Commission Act relating to diligence in the completion of applications for water or the use thereof, until October 1, 1947; provided, that any such priority or priorities may be maintained and extended by further legislative enactment; provided further, the State Department of Finance, under the requirements of the Water Commission Act and the rules and regulations of said Division of Water Resources relating to applications for the appropriation of water may publish a notice that it intends to file upon an amount of water necessary to

Department of Finance to file on unappropriated waters

Priority

Notice

the development of any part or unit of such general or coordinated plan and in that event the publication of such notice shall preserve, as of the date of such publication, the priority of any application made and filed subsequently by the State Department of Finance with said Division of Water Resources for the benefit of such part or unit prior to October 1, 1947; provided further, notwithstanding anything in this act contained, the State Department of Finance shall have power, in its discretion, to release from priority or to assign any portion of any of the appropriations that may be filed under the provisions of this act when such release or assignment is for the purpose of development not in conflict with such general or coordinated plan; and provided further, that no such priority shall be released, or assignment made of any such appropriation that will, in the judgment of the State Department of Finance, deprive the county in which such appropriated water originates, of any such water necessary for the development of such county.

Release and assignment

Note.—See Stats. 1943, Ch. 368.

SEC. 4. Sections 2 and 3 of this act become operative only if the Water Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time said code takes effect; at which time Section 1 of the act cited in the title hereof amended by this act is hereby repealed.

Effect
Stats 1943, Ch. 368

Repeal

CHAPTER 694

An act to add Section 4.350-1 to the School Code and to add Section 6114 to the Education Code, relating to the payment of school district employees, declaring the urgency thereof, to take effect immediately.

Stats 1913, Ch. 71, amended

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.]

In effect immediately

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

SECTION 1. Section 4.350-1 is added to the School Code, to read:

New section

4.350-1. In any county, except counties having a population in excess of 1,000,000, the county superintendent of schools, with the approval of the State Superintendent of Public Instruction, the county board of education and the county auditor, may prescribe a pay roll procedure, to be followed by all districts in the county, under which the school district governing boards, by use of pay roll orders, shall authorize and direct the county superintendent of schools and the county auditor to draw separate pay roll warrants in the names of the individual district employees for the respective amounts set forth therein to the end that each employee may be furnished

Separate pay roll warrants

with a statement of the amount earned and an itemization of the amounts withheld therefrom under requirements of the law or by direction of the employee.

Contents

Such pay roll warrants shall show the closing date of the pay period for which issued and the date of issue, the name of the district by which the payee was employed and a statement that it is drawn by order of the governing board of the district and shall bear the signatures of the county superintendent of schools and the county auditor.

Schools pay roll revolving fund

The pay roll order may direct the transfer from the districts' funds to a clearing fund in the county treasury, to be known as the schools pay roll revolving fund, of the total of the amount of the pay roll warrants to be issued under the order to the end that pay roll warrants for all districts may be drawn against a single revolving fund. The pay roll order may further direct the transfer from the districts' funds of the totals of the various deductions set forth therein to the trust funds in the county treasury entitled to receive credit for them and may further direct the proper disbursement of such trust amounts.

Note.—See Stats. 1943, Ch. 71.

Effect Stats 1943, Ch 71

SEC. 3. Section 2 of this act becomes operative only if the Education Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said Education Code takes effect, at which time Section 4.350-1 of the School Code added by this act is repealed.

Repeal

Urgency

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

The accounting for the Victory tax requires a centralized system of accounting for school district pay rolls. Also the shortage of personnel due to the needs of the armed services demands the employment of administrative short-cuts. To enable the application of the pay roll method for payments to be used for the fiscal year, it is necessary that this act take immediate effect.

CHAPTER 695

Stats 1943, Ch 71, amended

An act to add Section 16425 to the Education Code, relating to contracts for local health administration.

In effect August 4, 1943

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.]

Note.—See Stats. 1943, Ch. 71.

CHAPTER 696

An act to amend Sections 1071, 2422, 2423, 2481, 2502, 2561, 2584, 2802, 2833, 2893, 2922, 2962, 3431, 3462, 3591, 3691, 3722, 3742, 3743, 3761, 3825, 3841, 3851, 3962, 4281, 4341, 18461 and 18478, and to repeal Section 3403 of, and to amend the article heading of Article 14, of Chapter 11, Division 2 of the Education Code, relating to the public school system.

Stats 1943, Ch 71, amended

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.]

In effect August 4, 1943

Note.—See Stats. 1943, Ch. 71.

CHAPTER 697

An act to add Section 19532.1 to the Business and Professions Code, relating to horse racing and horse race meetings, declaring the urgency of this act, to take effect immediately.

Stats 1937, p 1229, amended

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.]

In effect immediately

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

SECTION 1. Section 19532.1 is added to the Business and Professions Code, to read:

New section

19532.1. During the time this section is in effect there may be allowed in the area to which Section 19532 applies an additional 20 racing days per year.

Additional racing days

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs.

Duration

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

Urgency

Wartime restrictions have hampered many sporting and entertainment activities which ordinarily provide healthful recreation for the people of the State. Insofar as it may be done without interference with the war effort, the State should relax as many of the restrictions imposed by the State as are compatible with sound policy. Due to conditions beyond their control certain licensees have been prevented from conducting horse racing meetings at the times and for the periods now provided for by law and regulation. This results in a decrease of the funds made available for the support of agricultural fairs and for aid to educational institutions of this State. In

order that the recreational opportunities of the people of the State shall not be further impaired and that such funds for agricultural fairs and educational institutions shall not be further diminished it is necessary that this act take immediate effect.

CHAPTER 698

Stats 1943, Ch 368, amended
Stats 1929, p 1505, amended

An act to amend Section 6004 of the Water Code, relating to dams and to amend Section 2 of an act entitled "An act providing for the supervision of dams by the Department of Public Works through the State Engineer for the purpose of safeguarding life and property, defining powers and duties concerning the supervision of dams, providing for the enforcement of said supervision and providing penalties for violations thereof and making an appropriation therefor," approved June 10, 1929, as amended, relating to dams.

In effect August 4, 1943

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.]

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

Note.—See Stats. 1943, Ch. 368.

Stats 1933, p 2145

SEC. 2. Section 2 of the act approved June 10, 1929, cited in the title hereof, is amended to read:

Definitions: "Dam"

Sec. 2. The word "dam" whenever used in this act shall mean any artificial barrier, whether heretofore or hereafter constructed, together with appurtenant works, if any, across a stream channel, watercourse or natural drainage area, which does or may impound or divert water, which is or will be either 25 feet or more in height from natural stream bed to crest of spillway, or which has or will have an impounding capacity of 50 acre-feet or more; provided, however, that any such barrier which is or will be not in excess of six feet in height, regardless of storage capacity, or which has or will have a storage capacity not in excess of 15 acre-feet, regardless of height, shall not be considered a dam within the meaning of this act; and provided further, that no obstruction in a canal used to raise or lower water therein or divert water therefrom, no levee, no railroad fill or structure, and no road or highway fill or structure, shall be considered a dam within the meaning of this act.

"Owner"

The word "owner" whenever used in this act means the State and all its departments, institutions and agencies and its political subdivisions, every municipal or quasi municipal corporation, every public utility, district, corporation, company, association or person and their duly authorized agents, lessees, trustees, and receivers or trustees appointed by any court whatsoever, owning, controlling, operating, maintaining or

managing or proposing to construct any dam as defined in this act, but does not mean the United States.

The words "alterations" and "repairs" or either of them, whenever used in this act shall mean only such alterations or repairs as may affect the safety of the dam. "Alterations" and "repairs"

SEC. 3. The provisions of Section 1 of this act shall take effect only if the Water Code is adopted at the Fifty-fifth Session of the Legislature and in that event at the same time said code takes effect, at which time Section 2 of the act cited in the title hereof as amended by this act is repealed. Effect Stats 1943, Ch 368 Repeal

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CHAPTER 699

An act to amend Sections 6011, 6012, 6015, 6353, 6358, 6381, 6486, 6487, 6702, 6711, 6776, 6811, and 6812 of the Revenue and Taxation Code, to amend and renumber Section 6245, to add Sections 6095, 6245, 6363, 6364, and 6385 to said code, to repeal Section 6456 of said code, and to amend Section 5.1 of the Retail Sales Tax Act of 1933, all relating to the taxation of the privilege of selling and of storing, using, or otherwise consuming tangible personal property and providing that this act shall take effect immediately. Stats 1939, p 1274, amended Stats 1933, p 2599, amended

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.] In effect immediately

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

SECTION 1. Section 6011 of the Revenue and Taxation Code is amended to read: Stats 1941, p. 532

6011. "Sales price" means the total amount for which tangible personal property is sold, without any deduction on account of any of the following: "Sales price"

(a) The cost of the property sold.

(b) The cost of materials used, labor or service cost, interest charged, losses, or any other expenses.

(c) The cost of transportation of the property prior to its purchase.

The total amount for which the property is sold includes all of the following:

(a) Any services that are a part of the sale, valued in money, whether paid in money or otherwise.

(b) Any amount for which credit is given to the purchaser by the seller.

"Sales price" does not include any of the following:

(a) Cash discounts allowed and taken on sales.

(b) The amount charged for property returned by customers upon rescission of the contract of sale when the entire amount charged therefor is refunded either in cash or credit.

(c) The amount charged for labor or services rendered in installing or applying the property sold.

(d) The amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or the consumer.

(e) Transportation charges separately stated, if the transportation occurs after the purchase of the property is made.

Stats 194, p 532

SEC. 2. Section 6012 of said code is amended to read:

"Gross receipts"

6012. "Gross receipts" mean the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers, without any deduction on account of any of the following:

(a) The cost of the property sold. However, in accordance with such rules and regulations as the board may prescribe, a deduction may be taken if the retailer has purchased property for some other purpose than resale, has reimbursed his vendor for tax which the vendor is required to pay to the State or has paid the use tax with respect to the property, and has resold the property prior to making any use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business.

(b) The cost of the materials used, labor or service cost, interest paid, losses, or any other expense.

(c) The cost of transportation of the property prior to its sale to the purchaser.

The total amount of the sale or lease or rental price includes all of the following:

(a) Any services that are a part of the sale, valued in money, whether received in money or otherwise.

(b) All receipts, cash, credits, and property of any kind.

(c) Any amount for which credit is allowed by the seller to the purchaser.

"Gross receipts" do not include any of the following:

(a) Cash discounts allowed and taken on sales.

(b) Sale price of property returned by customers upon rescission of the contract of sale when the full sale price is refunded either in cash or credit.

(c) The price received for labor or services used in installing or applying the property sold.

(d) The amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or the consumer.

(e) Transportation charges separately stated, if the transportation occurs after the sale of the property is made to the purchaser.

For purposes of the sales tax, if the retailers establish to the satisfaction of the board that the sales tax has been added to the total amount of the sale price and has not been absorbed by them, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed.

SEC. 3. Section 6015 of said code is amended to read: Stats 1941, p. 532

6015. "Retailer" includes: "Retailer"

(a) Every person engaged in the business of making sales at retail or in the business of making retail sales at auction of tangible personal property owned by the person or others.

(b) Every person engaged in the business of making sales for storage, use, or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use, or other consumption.

When the board determines that it is necessary for the efficient administration of this part to regard any salesmen, representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors, or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors, or employers the board may so regard them and may regard the dealers, distributors, supervisors, or employers as retailers for purposes of this part.

SEC. 3.3. Section 6095 is added to said code, to read: New section

6095. If a purchaser gives a certificate with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased but of such similarity that the identity of the constituent goods in the commingled mass can not be determined, sales from the mass of commingled goods shall be deemed to be sales of the goods so purchased until a quantity of commingled goods equal to the quantity of purchased goods so commingled has been sold. Sale of commingled, fungible goods

SEC. 3.5. Section 6245 of said code is renumbered and amended to read: Stats. 1941, p 532

6246. It shall be further presumed that tangible personal property shipped or brought to this State by the purchaser was purchased from a retailer on or after July 1, 1935, for storage, use, or other consumption in this State. Presumption

SEC. 3.7. Section 6245 is added to said code, to read: New section

6245. If a purchaser gives a certificate with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased but of such similarity that the identity of the constituent goods in the commingled mass can not be determined, sales from the mass of commingled goods shall be deemed to be sales of the goods so purchased until a quantity of commingled goods equal to the quantity of purchased goods so commingled has been sold. Sale of commingled, fungible goods

SEC. 4. Section 6353 of said code is amended to read: Stats 1941, p 532

6353. There are exempted from the taxes imposed by this part the gross receipts from the sales, furnishing, or service of and the storage, use, or other consumption in this State of gas, electricity, and water when delivered to consumers through mains, lines, or pipes. Gas, electricity and water

Stats. 19 1, p 532
Livestock and poultry

SEC. 4.5. Section 6358 of said code is amended to read:

6358. There are exempted from the taxes imposed by this part the gross receipts from sales of and the storage, use, or other consumption of:

(a) Livestock and poultry of a kind the products of which ordinarily constitute food for human consumption.

(b) Feed for livestock and poultry of a kind the products of which ordinarily constitute food for human consumption, or are to be sold in the regular course of business.

(c) Seeds and annual plants the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business.

(d) Fertilizer to be applied to land the products of which are to be used as food for human consumption or sold in the regular course of business.

New section

SEC. 5. A new section is added to said code, to be numbered 6363, and to read:

School meals

6363. There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this State of, meals served by public or private schools, school districts, student organizations, and parent-teacher associations to the students or teachers of a school, and meals served by employers or employee organizations to the employees engaged in work upon a particular project or undertaking.

New section

SEC. 5.5. A new section is added to said code to be numbered 6364, and to read:

Containers

6364. There are exempted from the taxes imposed by this part, the gross receipts from sales of and the storage, use, or other consumption in this State of:

(a) Nonreturnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container.

(b) Containers when sold with the contents if the sales price of the contents is not required to be included in the measure of the taxes imposed by this part.

(c) Returnable containers when sold with the contents in connection with a retail sale of the contents.

As used herein the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers."

Stats. 1941, p. 532
Sales to U. S., etc

SEC. 6. Section 6381 of said code is amended to read:

6381. There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of any tangible personal property to:

(a) The United States, its unincorporated agencies and instrumentalities;

(b) Any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States;

(c) The American National Red Cross, its chapters and branches.

SEC. 6.3. Section 6385 is added to the said code, to read: New section

6385. There are exempted from the computation of the amount of the sales tax the gross receipts from sales of tangible personal property to a common carrier, shipped by the seller via the purchasing carrier under a bill of lading whether the freight is paid in advance, or the shipment is made freight charges collect, to a point outside this State and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier. Sales to common carriers

SEC. 6.5. Section 6456 of said code is repealed. Stats 1941, p 532

SEC. 7. Section 6486 of said code is amended to read: Stats 1941, p 532

6486. The board shall give to the retailer or person storing, using, or consuming tangible personal property written notice of its determination. The notice may be served personally or by mail; if by mail, service shall be made pursuant to Section 1013 of the Code of Civil Procedure and shall be addressed to the retailer or person storing, using, or consuming tangible personal property at his address as it appears in the records of the board. In case of service by mail of any notice required by this part, the service is complete at the time of deposit in the United States post office. Notice

SEC. 8. Section 6487 of said code is amended to read: Stats 1941, p 1321

6487. Except in the case of fraud, intent to evade this part or authorized rules and regulations, failure to make a return, or claim for additional amount pursuant to Section 6563, every notice of a deficiency determination shall be mailed within three years after the fifteenth day of the calendar month following the quarterly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires the later. Time for mailing notice

The limitation specified in this section does not apply in case of a sales tax proposed to be determined with respect to sales of property for the storage, use, or other consumption of which notice of a deficiency determination has been or is given pursuant to Sections 6486, 6515, and 6537 and to the first paragraph of this section. The limitation specified in this section does not apply in case of an amount of use tax proposed to be determined with respect to storage, use, or other consumption of property for the sale of which notice of a deficiency determination has been or is given pursuant to Sections 6486, 6515, and 6537 and to the first paragraph of this section. Exceptions

SEC. 8.5. Section 6702 of said code is amended to read: Stats 1941, p. 1321

6702. If any person is delinquent in the payment of the amount required to be paid by him or in the event a determination has been made against him which remains unpaid, the board may, not later than three years after the payment became delinquent, or within three years after the last recording of an abstract under Section 6738 or of a certificate under Notice to withhold

Section 6757, give notice thereof by registered mail to all persons having in their possession or under their control any credits or other personal property belonging to the delinquent, or owing any debts to the delinquent. After receiving the notice the persons so notified shall neither transfer nor make any other disposition of the credits, other personal property, or debts in their possession or under their control at the time they receive the notice until the board consents to a transfer or disposition or until 20 days elapse after the receipt of the notice. All persons so notified shall within five days after receipt of the notice advise the board of all such credits, other personal property, or debts in their possession, under their control, or owing by them.

Stats 1941, p. 532

SEC. 9. Section 6711 of said code is amended to read:

Action to collect delinquent taxes

6711. At any time within three years after any tax or any amount of tax required to be collected becomes due and payable and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, or within three years after the last recording of an abstract under Section 6738 or of a certificate under Section 6757, the board may bring an action in the courts of this State, of any other State, or of the United States in the name of the people of the State of California to collect the amount delinquent together with penalties and interest.

Stats 1941, p 1321

SEC. 10. Section 6776 of said code is amended to read:

Warrant

6776. At any time within three years after any person is delinquent in the payment of any amount herein required to be paid, or within three years after the last recording of an abstract under Section 6738 or of a certificate under Section 6757, the board or its authorized representative may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the State under this part. The warrant shall be directed to any sheriff, marshal or constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution.

Stats 1941, p. 1321

SEC. 11. Section 6811 of said code is amended to read:

Withholding purchase money

6811. If any retailer liable for any amount under this part sells out his business or stock of goods or quits the business, his successors or assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the board showing that it has been paid or a certificate stating that no amount is due.

Stats 1941, p. 1321

SEC. 12. Section 6812 of said code is amended to read:

Liability of purchaser

6812. If the purchaser of a business or stock of goods fails to withhold purchase price as required, he becomes personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price, valued in money. Within 30 days after receiving a written request from the purchaser for a certificate, the board shall either issue the certificate or mail notice to the purchaser at his

Certificate

address as it appears on the records of the board of the amount that must be paid as a condition of issuing the certificate. Failure of the board to mail the notice will release the purchaser from any further obligation to withhold purchase price as above provided. The time within which the obligation of a successor may be enforced shall start to run at the time the retailer sells out his business or stock of goods or at the time that the determination against the retailer becomes final whichever event occurs the later.

SEC. 12.5. Section 5.1 of the Retail Sales Tax Act of 1933 is amended to read: Stats 1939, p 1890

Sec. 5.1. There are hereby specifically exempted from the provisions of this act and from the computation of the amount of taxes levied, assessed or payable hereunder the gross receipts from the sale of any tangible personal property to: Sales to U. S., etc

(a) The United States, its unincorporated agencies and instrumentalities;

(b) Any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States;

(c) The American National Red Cross, its chapters and branches.

SEC. 13. If any section, subsection, clause, sentence, or phrase of this act which is reasonably separable from the remaining portions of this act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed the remaining portion of this act irrespective of the fact that any such section, subsection, clause, sentence, or phrase of this act be declared unconstitutional Constitutionality

SEC. 14. This act, inasmuch as it provides for a tax levy for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution take effect immediately; provided, however, that the provisions hereof, amending, adding to, and repealing certain provisions of the Revenue and Taxation Code, shall become operative on July 1, 1943. Tax levy Effective date

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CHAPTER 700

An act to add Sections 19129 and 19130 to the Education Code, relating to school district libraries. Stats 1943, Ch. 71, amended

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.] In effect August 4, 1943

Note.—See Stats. 1943, Ch. 71.

CHAPTER 701

Stats 1937, p 1005, amended

An act to repeal Section 1600 of the Welfare and Institutions Code, relating to the publishing of names of children in orphan asylums.

In effect August 1, 1943

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.]

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

Stats 1937, p 1005

SECTION 1. Section 1600 of the Welfare and Institutions Code is repealed.

CHAPTER 702

Stats 1937, p 1005, amended

An act to add Sections 2143, 3092, and 3463 to the Welfare and Institutions Code, relating to disputes between counties as to responsibility under the public assistance laws.

In effect August 4, 1943

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.]

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

New section

SECTION 1. Section 2143 is added to the Welfare and Institutions Code, to read:

Dispute between counties

2143. If a dispute occurs between counties as to the responsibility for an applicant, either county may submit the dispute to the State Department of Social Welfare. The decision of the department shall be final.

New section

SEC. 2. Section 3092 is added to said code, to read:

Dispute between counties

3092. If a dispute occurs between counties as to the responsibility for an applicant, either county may submit the dispute to the State Department of Social Welfare. The decision of the department shall be final.

New section

SEC. 3. Section 3463 is added to said code, to read:

Dispute between counties

3463. If a dispute occurs between counties as to the responsibility for an applicant, either county may submit the dispute to the State Department of Social Welfare. The decision of the department shall be final.

CHAPTER 703

Stats 1939, p 1274, amended

An act to add Section 8653 to the Revenue and Taxation Code, relating to the use fuel tax.

In effect August 4, 1943

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.]

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

New section

SECTION 1. Section 8653 is added to the Revenue and Taxation Code, to read:

Vehicle used on private property

8653. No tax shall be imposed upon fuel used in any motor vehicle when the user establishes to the satisfaction of the board that the vehicle is operated exclusively on private property.

CHAPTER 704

An act to repeal Section 2.2012 of the School Code and to repeal Section 4643 of the Education Code, relating to the annexation of school districts to unified school districts.

Stats 1943, Ch 71, amended

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 2.2012 of the School Code is repealed.

Stats 1935, p 2153

Note.—See Stats. 1943, Ch. 71.

SEC. 3. Section 2 of this act becomes operative only if the Education Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said code takes effect.

Effect Stats 1943, Ch 71

CHAPTER 705

An act to amend Section 9176 of the Education Code, relating to the education of persons.

Stats 1943, Ch. 71, amended

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.]

In effect August 4, 1943

Note.—See Stats. 1943, Ch. 71.

CHAPTER 706

An act to add Section 1944.1 to the Labor Code, relating to the employment of certain aliens and declaring the urgency of this act, to take effect immediately.

Stats 1937, p 185, amended

[Approved by Governor May 21, 1943. Filed with Secretary of State May 21, 1943.]

In effect immediately

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

SECTION 1. Section 1944.1 is added to the Labor Code, to read:

New section

1944.1. The nationals of nations allied with the United States in the present war or the nationals of nations with which the United States is at peace, may be employed by the State of California or by any county, city and county, city, town, district or any other political subdivision thereof. No such employee shall acquire civil service or other permanent status because of such employment. No such employee may be employed on new construction.

Employment of certain aliens

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this act is in effect it shall supersede any existing provisions of law which are in conflict with this act;

Duration

Existing law

but such provisions are not repealed by this act and after this act is no longer effective shall have the same force as though this act had not been enacted, and such employees shall be discharged within six (6) months after the termination of this section.

Discharge

Urgency

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

Wartime conditions have created a serious shortage of manpower. As the war progresses this condition will become more and more acute while the needs of war production increase; therefore it becomes exceedingly necessary at this time in order to maintain essential public services that have been established that the manpower shortage therein be corrected. It is therefore imperative that this act take effect immediately.

CHAPTER 707

Stats 1935, p 1338, amended

An act to amend Section 890 of the Military and Veterans Code, relating to veterans and their dependents, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor May 22, 1943. Filed with Secretary of State May 22, 1943.]

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

Stats 1937, p 2295

SECTION 1. Section 890 of the Military and Veterans Code is amended to read:

890. As used in this article:

"Veteran"

(a) "Veteran" means any person who served in the Army, Navy, or Marine Corps of the United States and was killed in action or died as a result of war service in the World War since April 6, 1917, or any member of the Army, Navy, Coast Guard or Marine Corps of the United States, or any of their auxiliaries who was killed in action or died as a result of war service in World War II since December 7, 1941.

(b) "Dependent of a veteran" means the child of a veteran.

Urgency

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

Orphans of veterans of World War II, some of whom are in school, are in need of assistance now and some of them have already applied for such assistance, which can be furnished immediately upon the passage of this bill, and which if delayed will result in unmerited hardship to a meritorious class.

CHAPTER 708

An act to add Section 4460 to the Labor Code, relating to workmen's compensation.

Stats 1937, p. 185, amended

[Approved by Governor May 22, 1943. Filed with Secretary of State May 22, 1943.]

In effect August 4, 1943

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

SECTION 1. Section 4460 is added to the Labor Code, to read:

New section

4460. For the purpose of computing the temporary disability indemnity payable to any employee who sustains an original injury causing temporary disability during the time that this section is in force and effect, the maximum average weekly earnings shall be taken at forty-six dollars and sixteen cents ($46.16).

Temporary disability indemnity

Every computation made pursuant to this section shall be made only with reference to such temporary disability as is sustained and exists during the time that this section is in force and effect.

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section; but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

Duration

Existing law

CHAPTER 709

An act to amend the chapter heading of Chapter 5.7, Part 6, Division 1, and Sections 3620, 3625, 3627, 3631, 3635 and 3637 of, and to add Section 3638 to, the Revenue and Taxation Code, relating to a taxpayer's action to contest the validity of a tax sale or tax deed, to take effect immediately.

Stats 1939, p 1274, amended

[Approved by Governor May 22, 1943. Filed with Secretary of State May 22, 1943.]

In effect immediately

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

SECTION 1. The chapter heading of Chapter 5.7, Part 6, Division 1, of the Revenue and Taxation Code is hereby amended to read as follows:

Stats 1941, p. 1436

CHAPTER 5.7. TAXPAYER'S ACTION TO CONTEST THE VALIDITY OF TAX SALE OR TAX DEED

SEC. 2. Section 3620 of the Revenue and Taxation Code is hereby amended to read as follows:

Stats 1941, p 1436

3620. The owner of any real property deeded to the State for taxes, or sold to the State by operation of law, prior to

Action

July 1, 1935, or any other person who may redeem such property, may bring an action in the superior court of the county wherein the real property is located, to contest the validity of the tax sale or the tax deed to the State.

Stats 1941, p 1436

SEC. 3. Section 3625 of said code is hereby amended to read as follows:

Judgment Stipulation, etc.

3625. No decree shall be granted on default of any defendant but the court shall require proof of the facts alleged unless such facts be stipulated. The Attorney General, district attorney and legal advisers of all taxing agencies and revenue districts interested in the proceedings are expressly authorized to stipulate both as to facts and for entry of a judgment in accordance with the court's determination on such facts and as the court finds the law relevant thereto to be. The authority hereby granted includes authority on the part of the Attorney General, district attorney and legal adviser of any taxing agency or revenue district interested in such proceeding to waive entry therein of express findings of fact and conclusions of law.

Stats 1941, p 1436

SEC. 4. Section 3627 of said code is hereby amended to read as follows:

Interlocutory decree quieting title

3627. If the taxes and the tax deed, if any, are determined to be valid in all respects, the court shall enter its interlocutory decree, quieting the title of the State under the tax deed. If property tax sold but not tax-deeded, the court shall enter its interlocutory decree determining the validity of the taxes.

Redemption

Within 90 days thereafter, if the right or privilege of redemption has not been previously terminated, redemption may be made with the usual penalties and costs. If redemption is not made within such period all further right or privilege of redemption shall thereupon cease and terminate as to all tax-deeded property. The final decree shall recite whether or not the property has been redeemed within the 90-day period, and if not so redeemed, shall provide that all right or privilege of redemption has been terminated as to tax-deeded property.

Termination of redemption

Stats 1941, p 1136

SEC. 5. Section 3631 of said code is hereby amended to read as follows:

Interlocutory decree as to payment

3631. After all necessary steps ordered by the court have been taken, the court shall render its interlocutory decree requiring the payment, within six months after the interlocutory decree becomes a final judgment, of the amount of taxes, computed as of the date of payment, without interest, penalties or costs thereon. The interlocutory decree shall declare that if payment is not made within such six months period, a final decree shall be rendered, quieting the State's title under the tax deed as to tax-deeded property. As to tax sold property which has not been tax-deeded, the interlocutory decree shall declare that, if payment is not made within such six-month period, a final decree shall be rendered, determining the correct amount of taxes due and no redemption shall be made without interest, penalties or costs thereon.

Appeal and costs

This interlocutory decree is an appealable judgment. No

costs shall be awarded to either party in any action under this chapter.

SEC. 6. Section 3635 of said code is hereby amended as follows: Stats 1941, p 1436

3635. If the taxes are not paid within the time prescribed, the court shall, as to tax-deeded property, make its final decree quieting the title of the State. As to tax sold property which has not been tax-deeded, the court shall make its final decree determining the correct amount of taxes due and no redemption shall be made thereafter without the payment of interest, penalties or costs thereon. After the final decree has become a final judgment, the tax sale and deed are conclusively presumed to be valid. In the event the taxes are not paid within the time prescribed, all right or privilege of redemption shall thereupon cease and terminate as to tax-deeded property, and the final decree entered therein shall so expressly provide. Final decree. Presumption. Termination of redemption.

SEC. 7. Section 3637 of said code is hereby amended to read as follows: Stats 1941, p 1436

3637. Any proceedings brought in accordance with the provisions of this chapter can only be commenced within one year after the date of execution of the tax deed, or within one year after January 2, 1945, whichever is later. Limitation.

SEC. 8. Section 3638 is hereby added to said code, to read: New section.

3638. Any proceedings heretofore or hereafter commenced under this chapter shall be dismissed by the court in which the same shall have been commenced or to which it may be transferred on motion of the defendant after due notice to plaintiff, or by the court upon its own motion, unless such action is brought to trial within one year after the plaintiff has filed his action, except where the parties have stipulated, in writing, that the time may be extended. Section 583, Code of Civil Procedure shall not apply to actions commenced under this chapter. Dismissal.

SEC. 9. This act is hereby declared to be an urgency measure within the meaning of Section 1 of Article IV of the Constitution, necessary for the immediate preservation of the public peace, health and safety, and shall take effect immediately. The facts constituting such necessity are as follows: Urgency.

During the widespread depression, out of which we have now emerged, thousands of parcels of property, because of the inability of taxpayers to pay their taxes, were tax sold or tax-deeded. The appellate courts of this State have heretofore determined that many of said tax deeds or taxes were and are invalid. To permit an action by the taxpayer to contest the validity of tax sales and tax deeds would not only determine the validity of said tax sales and said tax deeds for the benefit of the State, but would also immediately restore properties to the tax rolls and thereby add badly needed revenue for the operation and maintenance of government.

CHAPTER 710

Stats 1919, p 782, amended

An act to amend Section 4 of an act entitled "An act to authorize the counties of the State of California to establish retirement systems for their employees," approved May 20, 1919, relating to funds of the system.

In effect August 4 1943

[Approved by Governor May 22, 1943. Filed with Secretary of State May 22, 1943.]

The people of the State of California do enact as follows:

Stats. 1921, p 1495

SECTION 1. Section 4 of the act cited in the title hereof is amended to read:

Board of retirement

Sec. 4. (1) The management of the retirement system is hereby vested in the board of retirement, consisting of three members, one of whom shall be the county treasurer. The second member shall be a member of the association elected by the latter within 30 days after the date when the retirement system becomes operative as provided under Section 2, in a manner to be determined by the county board of supervisors. The third member shall be an officer or employee of the county chosen by the board of supervisors. The first person so chosen or appointed as third member shall serve for two years; otherwise and thereafter the term of office of the two elected members shall be three years. On a vacancy occurring in the board for any cause or on the expiration of the term of office of any member, a successor of the person whose place has become vacant or whose term has expired shall be chosen in the same manner as was his predecessor. Separation from the service of the county of a member of the board of retirement shall automatically vacate his office.

Compensation

(2) The members of the board of retirement shall serve without compensation, but they shall be reimbursed out of the funds of the county, appropriated in Section 5 (1) to defray the cost of operating the retirement system, for any expense or loss of salary or wages which they may have incurred through service on the board.

Funds

(3) Subject to the approval of the board of retirement, the county treasurer shall have charge and control of and shall safely keep the funds of the system, and shall invest and reinvest the same, and may from time to time sell any securities held by him and invest and reinvest the proceeds therefrom, and any and all unappropriated income of said funds; provided, however, that all funds received by him not required for current disbursements shall be invested in first mortgages on improved real estate situated within the county not exceeding 60 per cent of the value thereof; or in bonds of the United States or of the State of California, or of any county, city and county, or municipal corporation, or other subdivision thereof; or in obligations issued pursuant to the provisions of the Federal Home Loan Bank Act, approved July 22, 1932, as now or hereafter amended, or obligations issued pursuant to Title IV of the National Housing Act, approved June 27, 1934, as now

or hereafter amended; or in the shares, share accounts, or investment certificates of any building and loan association or savings and loan association which has the protection provided by Title IV of the National Housing Act, approved June 27, 1934, as now or hereafter amended; or deposited at interest in any State or National bank doing business within the county; provided, that the credit of the county shall not be given or lent in aid of, or to, any person, association, or corporation, whether municipal or otherwise, nor shall it be pledged in any manner whatever for the payment of the liabilities of any individual, association, municipal or other corporation whatever. He may, whenever he sells such securities, deliver the securities so sold upon receiving the proceeds thereof, and may execute any and all documents, necessary to transfer the title thereto. The duties herein imposed upon the county treasurer shall be deemed a part of his official duties and for the faithful performance of which he shall be liable on his official bond.

Employees retirement fund

(4) A trust fund account to be known as employees retirement fund is hereby created to be opened upon the books of the auditor and treasurer of the counties adopting a retirement system under the provisions of this act.

All transfers or payments to the retirement system, and all withdrawals and other cash transactions, shall be accounted upon the books of the auditor and treasurer in and out of this fund account, in the manner they would be accounted if they were county transactions.

All warrants drawn on the employees retirement fund shall be signed by the treasurer and at least one other member of the board of retirement, who shall be designated by such board, but no warrant so drawn shall be valid until it has been countersigned and numbered by the county auditor and a record made of it by him.

By-laws and regulations

(5) The board of retirement shall have power to make by-laws and regulations not inconsistent with the provisions of this act and such by-laws and regulations shall become effective when approved by the board of supervisors. The by-laws shall provide among other things:

(a) For the election of officers, terms for which elected, times of meeting and all other matters relating to the administrative procedure of the board.

(b) In the discretion of the board, for exemption from membership of persons whose tenure is temporary, or intermittent, or part time; and for exemption from membership, or for reduced rate of deposit (which in no such case shall be less than two dollars ($2) per month) of, or by persons whose rate of compensation is less than eighty dollars ($80) per month, or by persons whose compensation is measured by a per diem wage.

(c) For the filing of a sworn statement by every person who is or who shall have become an employee of the county, showing date of birth, nature and duration of employment

with the county, compensation received, and giving any other information that may be required by the board that will enable it to determine eligibility for membership and retirement.

(d) For forms of membership and annuity certificates and for such other forms as may be required.

Annual statement

(6) The county treasurer in January of each year shall file with the clerk of the board of supervisors a sworn statement which shall exhibit the financial condition of the retirement system at the close of the preceding calendar year and its financial transactions for said year. Such statement shall be in the form approved by the board of supervisors and shall show the following matters:

Form of statement

A. Assets

(1) Cash on hand.
(2) Cash on deposit.
(3) Securities owned.
(4) All other assets, showing each kind separately.

B. Liabilities

(1) Members' deposit reserve—less than 10 years. The total of the deposits of members actually received by the treasurer or due from the county under Section 5 (2) (a), for the first nine and a fraction years, and held subject to withdrawal by such members, together with regular interest thereon separately reported.

(2) Members' deposit reserve—10 years and over. The total of the deposits of members who have made deposits for 10 or more years actually received by the treasurer or due from the county under Section 5 (2) (a), and held subject to withdrawal by such members, together with regular interest thereon separately reported.

(3) County advance reserve. The unused amount advanced by the county during the first 10 years under Section 5 (2) (d).

(4) County contribution reserve. An amount equal to the net amount of the deposits by members that have made deposits for 10 or more years plus regular interest, as reported under the provisions of Subdivision (6) B (2) of this section.

(5) Annuity reserve. The present worth of the combined annuities as a group entered upon under Section 6, on the basis of the mortality and annuity tables and regular interest rates provided for in this act. The unpaid annuities, resulting from the death of members before the full amount reserved for such annuities has been paid, shall not be deducted from this reserve but such amounts shall be used for the payment of annuities of persons exceeding their life expectancy.

(6) Prior service annuity reserve. The unexpended amount contributed by the county for the payment of annuities for prior service as provided by Section 6 (2) B (4), and Section 5 (4), which must not be less than the amount of the annuities due and unpaid.

(7) Gifts and bequests. The amount received as gifts or bequests and held under the terms of such gifts or bequests.
(8) All other liabilities.

C. Resulting Surplus or Deficit

(1) Surplus if assets exceed liabilities.
(2) Deficit if liabilities exceed assets.

CHAPTER 711

An act to add Section 281.5 to the Agricultural Code, relating to licensed wax-salvage plants, and declaring the urgency thereof, to take effect immediately.

Stats 1933, p 60, amended

[Approved by Governor May 22, 1943. Filed with Secretary of State May 22, 1943.]

In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Section 281.5 is added to the Agricultural Code, to read:

New section

281.5. Until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature, or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs, it shall be lawful, at the option and expense of the owner, notwithstanding any other provisions of this article, for the inspector or for any person when accompanied by the inspector, to transport hives in which disease has been found, together with their contents, to a wax-salvage plant within the county, licensed under the provisions of this section, after first having killed the bees in such hives and sealed the hives to prevent the entrance of live bees.

Duration transportation of diseased hives

It is unlawful to remove any honey or wax or to salvage or attempt to salvage any hives or appliances from any colony infected with American foulbrood, except in a wax-salvage plant within the county, licensed and operated under the provisions of this section.

Wax-salvage plants

The director shall prepare and furnish to interested parties upon request uniform specifications for the construction of wax-salvage plants, and rules and regulations for the operation of such plants in such manner as to prevent the spread of disease therefrom.

Specifications

Any person desiring to maintain and operate a plant for the salvaging of wax, hives and appliances from diseased apiaries shall apply for a license therefor to the commissioner of the county in which such wax-salvage plant is located. The commissioner shall make such investigation as he may deem necessary and shall issue the license without fee if he is satisfied that the plant is constructed in accordance with the provisions of this section and the specifications of the director,

License

and that the plant will be operated in accordance with the rules and regulations of the director.

Salvage operations Enclosure, etc

All salvage operations with respect to wax, hives and appliances from diseased colonies shall be performed under the direction and supervision of the inspector in an enclosure tightly double-screened to prevent the entrance of bees, with screens not less than three inches apart. Entrance to the enclosure shall be through a vestibule not less than six feet in length, double-screened in the same manner as the enclosure, with tight-fitting doors at each end. No such wax, hives or appliances shall be removed from such enclosure except under permit from the inspector after treatment in the manner herein provided. The frames, together with their contents, shall be held not less than 30 minutes in boiling water in a vat drained by direct connection into a sewage disposal system or into a cesspool constructed in accordance with specifications of the director. The frames, after removal from the vat, shall be boiled not less than 20 minutes in a solution of lye water. The hives, bodies, bottom boards, covers, and supers shall either be scorched or shall be boiled not less than 20 minutes in a solution of lye water. Honey shall not be salvaged, but shall be drained off with the refuse water. All solid matter, other than wax, remaining after draining the vat shall be burned in an incinerator constructed in accordance with specifications of the director.

Revocation or suspension of license

Any license issued under the provisions of this section may be revoked or suspended by the commissioner, after hearing, whenever he finds that a licensee has not complied with all of the provisions of this section and the rules, regulations and specifications issued hereunder.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of Section 1 of Article IV of the Constitution of the State of California, and as such shall take effect immediately. The following is a statement of the facts constituting such necessity:

There is a serious shortage of beeswax, a product essential for many military purposes. Present law requires, whenever American foulbrood is found in a colony, that the wax and frames, together with the bees and honey, be burned and the ashes buried. Current demand for wax tends to encourage beekeepers to conceal the presence of disease and attempt to salvage the wax without adequate facilities, thus further spreading the disease. Burning as required by law is difficult under wartime conditions because of scarcity of labor and because burning can not be done at night in certain military zones and can not be done in the daytime without attracting and destroying bees from neighboring colonies.

Under the precautions provided by this section, much wax can be salvaged, as well as frames, materials for which are scarce, without danger of spreading disease. In order that further waste of this essential war material be prevented, and

in order to discourage further spread of disease through unsupervised salvage operations, it is necessary that this act take effect immediately.

CHAPTER 712

An act to amend an act entitled "An act providing for the incorporation, government and management of metropolitan water districts, authorizing such districts to incur bonded debt and to acquire, construct, operate and manage works and property, providing for the taxation of property therein and the performance of certain functions relating thereto by officers of counties, providing for the addition of area thereto and the exclusion of area therefrom and authorizing municipal corporations to aid and participate in the incorporation of such districts," approved May 10, 1927, as amended, by adding thereto Section 7.1, relating to the incurring of indebtedness for the repair or replacement of district works damaged or demolished by reason of fire, flood, earthquake, sabotage, or act of God or the public enemy, the refunding of such indebtedness, the levy and collection of taxes to pay such indebtedness, and providing the manner of adoption of ordinances relating thereto.

Stats 1927, p 694, amended

[Approved by Governor May 22, 1943. Filed with Secretary of State May 22, 1943]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. The act cited in the title hereof is hereby amended by adding thereto a new section, to be numbered Section 7 1, and to read as follows:

New section

Sec. 7.1. (a) Whenever the board of directors, by ordinance adopted by a vote of three-fourths of the total vote of the board, shall find and determine that any part of the works of such district has been damaged or demolished by reason of fire, flood, earthquake, sabotage, or act of God or the public enemy, and that the cost of repairing or replacing such works so damaged or demolished will be too great to be paid out of the ordinary annual income and revenue of the district, and that public interest requires the incurring of indebtedness for the purpose of providing moneys for the repair or replacement thereof, such board of directors may authorize the incurring of such indebtedness and shall determine the manner in which such indebtedness shall be incurred and evidenced and may authorize the issuance and sale of notes or other evidence of indebtedness for such purpose; provided, however, that (1) indebtedness so incurred shall not exceed one-half of 1 per cent of the assessed valuation of property within the district taxable for district purposes, (2) that the interest payable on indebtedness shall not

Damaged works

Incurring debts for repair, etc

exceed six (6) per cent per annum payable semiannually, (3) that the term of such indebtedness shall not exceed twelve (12) years. In its discretion the board of directors may provide that any note or other evidence of indebtedness issued hereunder shall be callable at the option of the district on any interest date not earlier than one year from date of issue thereof, at not to exceed 101 per centum of par value thereof, and interest accrued thereon. The denomination or denominations of such notes or other evidence of indebtedness shall be determined by the board of directors. Such notes or other evidence of indebtedness shall be sold at not less than par and accrued interest at public or private sale as the board of directors shall determine and, in the event of public sale after such notice as may be prescribed by the board of directors. The proceeds of any borrowing hereunder (other than accrued interest) shall be applied solely to the purpose specified in the ordinance authorizing the incurring of such indebtedness or to the retirement of the principal of the obligation issued pursuant to such ordinance. Any accrued interest received shall be applied to payment of interest on such indebtedness.

Refunding of debts

(b) Whenever the board of directors by ordinance adopted by a vote of three-fourths of the total vote of the board shall find and determine that the best interests of the district will be served by refunding any indebtedness theretofore incurred and outstanding under this Section 7.1, such board shall be authorized to refund all or part of such indebtedness and, for that purpose, to issue and dispose of, by exchange or at public or private sale, notes or other evidence of indebtedness at not less than par and accrued interest; provided, that the interest rate on indebtedness incurred for the purpose of refunding any obligation shall not exceed the interest rate on the refunded indebtedness, and the maturity date or dates thereof shall not be later than the maturity date or dates of the respective refunded obligations. Otherwise any refunding notes or other evidence of indebtedness, issued hereunder, shall conform to the provisions of paragraph (a) of this Section 7.1, may be similarly callable and may in turn be refunded in accordance herewith. The proceeds of the disposition of any refunding notes or other evidence of indebtedness shall be applied solely to the retirement of the outstanding indebtedness for the refunding of which such notes or other evidence of indebtedness were issued. The aggregate indebtedness incurred under this Section 7.1 shall not be increased by any refunding transaction except as, during the interval between disposing of the refunding issue and retirement of the outstanding issue, outstanding obligations may be temporarily increased.

Tax levy

(c) If, from any cause, the revenues of the district shall be inadequate to pay the interest or principal of any indebtedness incurred under this Section 7.1, when due, the board of directors shall, at the time of fixing the tax levy and in the

manner for such tax levy provided, levy and collect annually until such indebtedness shall be paid or until there shall be a sum in the treasury of the district set apart for that purpose, sufficient to meet all sums coming due for principal and interest thereon, a tax sufficient to pay the interest on such indebtedness, or such part thereof as shall not be met from revenues of the district, as such interest becomes due, and also sufficient to pay such part of the principal thereof as shall become due before the time when money will be available from the next general tax levy, or such portion thereof as shall not be met from revenues of the district; provided, however, that if the maturity of such indebtedness be made to begin more than one year after the date upon which it was incurred, such tax shall be levied and collected at the time and in the manner aforesaid annually, sufficient when added to revenues of the district available for that purpose, to pay the interest on such indebtedness as it falls due, and also to constitute, together with revenues of the district available for such purpose, a sinking fund for the payment of the principal of such indebtedness on or before maturity. The taxes herein required to be levied and collected shall be in addition to all other taxes levied for district purposes, shall be unlimited by the provisions of Section 5, subdivision (8) hereof and shall be collected at the time and in the same manner as other district taxes are collected and shall be used for no purpose other than the payment of such indebtedness and interest accruing thereon.

Emergency ordinance

(d) Whenever the board of directors finds it to be of urgent necessity to preserve or protect the property, interests or welfare of the district, then, notwithstanding any other provisions of this act, any ordinance adopted by a vote of three-fourths of the total vote of the board for the purpose of exercising powers conferred upon it by this Section 7.1, may be adopted without introduction on any previous day and shall take effect immediately upon its adoption.

CHAPTER 713

An act to add Section 17.1 to the Welfare and Institutions Code, relating to the residence of minor persons.

Stats 1937, p 1005, amended

[Approved by Governor May 22, 1943. Filed with Secretary of State May 22, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 17.1 is added to the Welfare and Institutions Code, to read:

New section

17.1. Unless otherwise provided under the provisions of this code, the residence of a minor person shall be determined by the following rules:

Residence of minor

(a) The residence of the father determines that of the child during the lifetime of the father, unless the father has

abandoned the child, has been legally deprived of his custody, or is in fact living separate and apart from the mother of the child; in the latter case the residence of the child is determined by the residence of the parent who has his custody.

(b) If the child's residence is not determined under subdivision (a) hereof, then the residence of the mother determines that of the child during the lifetime of the mother, unless the mother has abandoned the child or has been legally deprived of his custody. The residence of the husband shall not be deemed the residence of the wife if they are living separate and apart and in such case each may have a separate residence dependent upon proof of the fact and not upon legal presumptions. The residence of the parent having custody of the child determines his residence.

(c) If the residence of the child is not determined under subdivisions (a) or (b) hereof, then the residence of any individual who has been appointed legal guardian or the individual who has been given the care or custody by a court of competent jurisdiction, determines the residence of the child.

(d) The residence of a foundling shall be deemed to be that of the county in which the child is found.

(e) If the residence of the child is not determined under (a), (b), (c) or (d) hereof, the county in which the child is living shall be deemed the county of residence, if and when the child has had a physical presence in the county for one year.

(f) If the child has been declared permanently free from the custody and control of his parents, his residence is the county in which the court issuing the order is situated.

CHAPTER 714

Stats 1943, Ch. 71, amended

An act to amend Section 5.1112 of the School Code and to add Section 14702 to the Education Code, relating to members of district retirement systems, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor May 22, 1943. Filed with Secretary of State May 22, 1943.]

The people of the State of California do enact as follows:

Stats 1941, p 1975

SECTION 1. Section 5.1112 of the School Code is amended to read:

Contributions by members in armed forces or Red Cross

5.1112. Any member of the retirement system of any school district or districts maintained under the provisions of Sections 5.1100 to 5.1131, inclusive, of this code, or of any thereof, serving in the military service of the United States of America or of the State of California, including service in any uniformed auxiliary of, or to, any branch of such military service created or authorized as such auxiliary by the Congress of the United States of America or by the Legislature of the State of California, or in the full time paid service of

the American Red Cross, during or after the termination of such service, and at his option, may make payments due to the district retirement fund of such district or districts with the same effect, in all respects, as though he had not been absent from the service thereof. The district or districts by which such employee was employed, at its or their option may make such contributions for and in lieu of such employee, and contributions so made shall be treated and administered as if made by the employee. If such employee shall not pay such contributions as provided in this section during such service in said military service, or said auxiliaries thereof or thereto, or Red Cross service, and if same be not made by the district, then such contributions shall be deducted from his salary payments during such period after his return to service as may be agreed upon by the employee and the governing board of the employing district or districts.

Note—See Stats. 1943, Ch. 71.

Effect Stats 1943, Ch. 71

SEC. 3. Section 2 of this act becomes operative only if the Education Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said code takes effect; at which time Section 5.1112 of the School Code amended by this act is hereby repealed.

Repeal

Urgency

SEC. 4. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

Many persons holding credentials and certificates authorizing service in the public schools of California are or soon will be in the military service of the United States or of the State of California. The protections properly afforded many such persons by this act were originally provided by legislation enacted in 1941 which will by the terms of such legislation expire July 2, 1943. Unless this act takes effect prior to that date such protections will expire and for that reason this act should take effect immediately.

CHAPTER 715

An act to amend Section 403 of the Business and Professions Code, relating to buildings of the Department of Professional and Vocational Standards.

Stats 1937, p 1229, amended

[Approved by Governor May 22, 1943 Filed with Secretary of State May 22, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

Stats 1939, p 2523

SECTION 1. Section 403 of the Business and Professions Code is amended to read:

Buildings constructed Supervision

403. Any building constructed by the Department of Professional and Vocational Standards under this chapter shall

be subject to the supervision of the Department of Professional and Vocational Standards, in accordance with rules and regulations established by the Department of Professional and Vocational Standards and the Department of Finance.

Renting

The Department of Professional and Vocational Standards may, with approval of the Department of Finance, rent the space therein to any other department and to any board or agency for such rentals and upon such terms and conditions as the Department of Professional and Vocational Standards deems fit.

Cost of operating, etc.

The costs of operation, maintenance, repairs, and other reasonable and necessary expenses shall be paid from rentals. Thereafter, from such net rentals there shall be returned to the General Fund of the State and to such other funds from which contributions were made to the cost of the facilities, amounts commensurate with the financial requirements of the various funds from which contributions were made; the returnable amounts to be determined by the Department of Professional and Vocational Standards, with the approval of the Department of Finance, and not to exceed the amount of the original contributions from the respective funds.

CHAPTER 716

Stats 1937, p 1229, amended

An act to amend Section 4013 of the Business and Professions Code, relating to the California State Board of Pharmacy.

In effect August 4, 1943

[Approved by Governor May 22, 1943. Filed with Secretary of State May 22, 1943.]

The people of the State of California do enact as follows:

Stats 1937, p. 1229

SECTION 1. Section 4013 of the Business and Professions Code is amended to read:

Compensation of members

4013. The members of the board shall each be paid the sum of ten dollars ($10) per diem for every meeting of the board which they attend, and for each day engaged in rating examination papers based upon one per diem for each 40 papers or fraction thereof, and shall be further entitled to their actual travel and other necessary expenses incurred in the performance of their duties.

CHAPTER 717

An act to amend Section 114 of the Business and Professions Code, relating to the renewal of licenses by boards or commissions of the Department of Professional and Vocational Standards.

Stats. 1937, p. 1229, amended

[Approved by Governor May 22, 1943. Filed with Secretary of State May 22, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 114 of the Business and Professions Code is amended to read:

Stats. 1941, p. 2462

114. Any board or commission in the department which licenses any professional or vocational occupation, shall upon the application for renewal of a license by a person who has, within the 60-day period immediately prior to his application, served in the armed forces of the United States and who at the time of entry into such service had a current, valid, and unrevoked license, renew the license of such person without examination and without the payment of fees for delinquency upon payment of the current renewal fee.

Licensee in armed forces· Renewal of license

This section shall not apply to any licensee of the department or any board, agency or commission in the department or subject to its jurisdiction, whenever any other provision of this code applies.

CHAPTER 718

An act to amend Section 4 of the "Municipal Water District Act of 1911," relating to elections therein.

Stats 1911, p 1290, amended

[Approved by Governor May 22, 1943. Filed with Secretary of State May 22, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 4 of the act cited in the title hereof is amended to read:

Stats 1941, p 453

Sec. 4. At an election to be held within such water district under the provisions of this act and the laws governing general elections not inconsistent herewith, the municipal water district thus organized shall proceed within 90 days after its formation to the election of a board of directors consisting of five members. The board of supervisors shall make an order dividing said district into five divisions, according to and based upon the population as estimated by the board of supervisors from the register of voters used at the last general election, in such manner as to equalize, as nearly as may be practicable, the population in the respective divisions, but no city shall be divided in the formation of a division unless there shall be not to exceed two cities in the district and in such case a division can be made. Such

Election of board of directors

divisions shall be numbered first, second, third, fourth and fifth, and one director, who shall be a resident thereof, shall be elected for each division by the electors thereof. Each director shall hold office for the term of four years from and after the date for his taking of office, as herein provided, and until the election and qualification of his successor, except that at the election first held in any district organized after the effective date of this amendment, five members of the board of directors shall be chosen who shall classify themselves by lot so that two of them shall hold office until the qualification of, and taking office by, their successors elected at the next succeeding election held in the even numbered years, and so that three shall hold office until the qualification of, and taking of office by, their successors elected at the second succeeding election held in the even numbered years.

Term of office

Time of election

In each district heretofore organized hereunder, the first election for directors, held in accordance herewith, shall be held in the year 1934. Thereafter in the case of all districts (except as to the first election) the general district elections shall be held every two years and on the same day that the August primary election is held. Each candidate for director who at any election receives votes on a majority of all the ballots cast for candidates for the office for which he seeks nomination shall be elected to such office. If at such primary election, as to any such office, none of the candidates receives such majority, the two candidates who receive the highest number of votes cast on all the ballots cast for candidates for such office, shall be the candidates for such office at the ensuing district election, which latter election, if other than the election for the first board of directors as mentioned in Section 6, shall be held at the same time as the next succeeding November election. Candidates shall be nominated, election returns shall be canvassed, and the election shall be held and conducted in the same manner as the nomination, election and canvassing of returns for county officers are made, held and conducted, so far as consistent with the provisions of this act and except as otherwise herein expressly provided. Directors elected hereunder shall take office at the same time provided for county officers. Said election held in August of each even numbered year shall be known as the General Water District Election and each other election which may be held in any such district by authority of this act or the Elections Code or other law applicable thereto shall be known as a Special Water District Election.

Conduct of elections

Board classification

Any board of directors not heretofore classified under this section may at any time classify the members of the board by lot so that two of them shall hold office until the election and qualification of their successors elected at the next succeeding election held in the even numbered years and so that three shall hold office until the election and qualification of their successors elected at the second succeeding election held in the even numbered years.

CHAPTER 719

An act to authorize the Director of Finance to make the Napa State Farm available for the purposes of the California Food and Fiber Production Act and the Emergency Farm Production Act, declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 22, 1943. Filed with Secretary of State May 22, 1943.] In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Any other provision of law to the contrary notwithstanding, the Director of Finance may make all or any portion of the Napa State Farm available, by lease or otherwise, for the housing of farm labor or for any of the purposes set forth in either of the acts cited in the title hereof. Farm labor housing

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows: Urgency

The war-time emergency has depleted the farm labor supply and increased the need for food and fiber to such an extent that it is necessary to utilize every available source of farm labor and to house such labor in the areas in which it is needed With the harvest season rapidly approaching, it is necessary that authority be conferred upon the Director of Finance to permit the use of the Napa State Farm at once.

CHAPTER 720

An act to add Section 1562 to the Welfare and Institutions Code, relating to the destruction of certain records in the county administration of aid to needy children. Stats 1937, p 1005, amended

[Approved by Governor May 22, 1943. Filed with Secretary of State May 22, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 1562 is hereby added to the Welfare and Institutions Code, to read as follows: New section

1562. The board of supervisors in each county may, in its discretion, authorize the destruction or disposition of the case history, or any part thereof, of any recipient of aid to needy children who has not received such aid from such county for in excess of five years prior thereto; provided, that such case history, or any such part thereof, has been photographed upon suitable negative material so that it may be either projected, or printed upon paper; and provided further, that such negative material has been suitably placed for preservation and Destruction of case histories

safekeeping under the jurisdiction of such board of supervisors. The foregoing provisions of this section shall not apply to accounting records, or forms relating to the application and certification of aid to needy children as required by the State Department of Social Welfare.

CHAPTER 721

Stats 1937, p 1229, amended

An act to add Section 6060.6 to the Business and Professions Code, relating to admission to the practice of law.

In effect August 4, 1943

[Approved by Governor May 22, 1943. Filed with Secretary of State May 22, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 6060.6 is added to the Business and Professions Code, to read:

Duration law course prerequisite

6060.6. Any student who has heretofore registered and commenced the study of law, or who may hereafter register and commence the study of law prior to termination of hostilities between the United States and the nations with which the United States is now at war as determined by Act of Congress or proclamation of the President, in a law school accredited by the examining committee which requires substantially the full time of its students for 24 months, or a part only of its students' time for 36 months, and who shall have graduated from such school, shall be deemed to have satisfied the requirements of subsection (1) or (2) of subdivision (g) of Section 6060; provided, however, that the course of study in such law school shall consist of a minimum of 1,080 hours of classroom instruction, and 90 weeks of full-time work or 144 weeks of part-time work, and provided further, that such course must have been completed at least 90 days prior to the date of the bar examination which the student applies to take.

CHAPTER 722

Stats 1937, p 1005, amended

An act to add Section 2507 to the Welfare and Institutions Code, relating to the destruction of certain records in the county administration of aid and relief to indigents.

In effect August 4, 1943

[Approved by Governor May 22, 1943. Filed with Secretary of State May 22, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 2507 is hereby added to the Welfare and Institutions Code, to read as follows:

Destruction of case histories

2507. The board of supervisors in each county may, in its discretion, authorize the destruction or disposition of the case history or any part thereof, of any recipient of indigent aid or relief who has not received such aid from such county for

in excess of five years prior thereto; provided, that such case history or any part thereof, has been photographed upon suitable negative material so that it may be either projected, or printed upon paper; and provided further, that such negative material has been suitably placed for preservation and safekeeping under the jurisdiction of such board of supervisors. The foregoing provisions of this section shall not apply to accounting records.

CHAPTER 723

An act to add Section 3091.5 to Article 4, Chapter 1, Part 1, Division 5 of the Welfare and Institutions Code, relating to the destruction of certain records in the county administration of aid to the needy blind.

Stats 1937, p 1005, amended

[Approved by Governor May 22, 1943. Filed with Secretary of State May 22, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 3091.5 is added to Article 4, Chapter 1, Part 1, Division 5 of the Welfare and Institutions Code, to read as follows:

New section

3091.5. The board of supervisors in each county may, in its discretion, authorize the destruction or disposition of the case history, or any part thereof, of any recipient of aid to the needy blind who has not received such aid from such county for in excess of five years prior thereto; provided, that such case history, or any such part thereof, has been photographed upon suitable negative material so that it may be either projected, or printed upon paper; and provided further, that such negative material has been suitably placed for preservation and safekeeping under the jurisdiction of such board of supervisors. The foregoing provisions of this section shall not apply to accounting records, or forms relating to the application and certification of aid to the needy blind as required by the State Department of Social Welfare.

Destruction of case histories

CHAPTER 724

An act to add Section 2190 to the Welfare and Institutions Code, relating to the destruction of certain records in the county administration of aid to the aged.

Stats 1937, p 1005, amended

[Approved by Governor May 22, 1943. Filed with Secretary of State May 22, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 2190 is hereby added to the Welfare and Institutions Code, to read as follows:

New section

2190. The board of supervisors in each county may, in its discretion, authorize the destruction or disposition of the case history, or any part thereof, of any recipient of aid to

Destruction of case histories

the aged who has not received such aid from such county for in excess of five years prior thereto; provided, that such case history, or any such part thereof, has been photographed upon suitable negative material so that it may be either projected, or printed upon paper; and provided further, that such negative material has been suitably placed for preservation and safekeeping under the jurisdiction of such board of supervisors. The foregoing provisions of this section shall not apply to accounting records, or forms relating to the application and certification of aid to the aged as required by the State Department of Social Welfare.

CHAPTER 725

Stats 1925, p. 648, amended

An act to amend Section 9 of the Municipal Court Act of 1925, relating to the constitution of the court and to compensation of officials.

In effect August 4, 1943

[Approved by Governor May 24, 1943. Filed with Secretary of State May 24, 1943.]

The people of the State of California do enact as follows:

Stats. 1941, p 2817

SECTION 1. Section 9 of the act cited in the title is amended to read:

Cities of second and one-fourth class Personnel and salaries

Sec. 9. The municipal court in a city or city and county of the second and one-fourth class shall be constituted, and the judges, officers and attaches thereof shall receive compensation as follows:

(a) There shall be five judges, each of whom must be a registered and qualified elector of the city or city and county wherein they are to serve and must have been admitted to practice before the Supreme Court of the State for a period of at least five years immediately preceding their election or appointment, and each of whom shall receive six thousand dollars ($6,000) per annum, payable in equal monthly installments;

(b) There shall be one clerk and secretary to be appointed by the judges of the court, who shall receive three hundred twenty-five dollars ($325) per month;

(c) The clerk may appoint the following:

One chief deputy, who shall receive a minimum of two hundred fifty dollars ($250) and a maximum of two hundred ninety dollars ($290) per month with ten dollar ($10) increments;

Eight deputy clerks, grade 1, formerly known as court clerks and deputy clerks, each of whom shall receive a minimum of two hundred dollars ($200) and a maximum of two hundred twenty dollars ($220) per month with five dollar ($5) increments;

One deputy clerk, grade 2, formerly known as bookkeeper, who shall receive a minimum of one hundred fifty-five dollars ($155) and a maximum of one hundred seventy-five dollars ($175) per month with five dollars ($5) increments;

Two deputy clerks, grade 2, each of whom shall receive a minimum of one hundred fifty dollars ($150) and a maximum of one hundred seventy-five dollars ($175) per month, with five dollar ($5) increments;

Five deputy clerks, grade 3, formerly known as file index clerks, each of whom shall receive a minimum of one hundred thirty dollars ($130) and a maximum of one hundred fifty dollars ($150) per month, with five dollar ($5) increments;

Four deputy clerks, grade 4, each of whom shall receive a minimum of one hundred twenty dollars ($120) and a maximum of one hundred forty dollars ($140) per month with five dollar ($5) increments;

(d) There shall be one marshal to be appointed by the judges of the court who shall receive three hundred twenty-five dollars ($325) per month;

(e) The marshal may appoint the following:

One assistant marshal, who shall receive a minimum of two hundred twenty-five dollars ($225) and a maximum of two hundred sixty-five dollars ($265) per month with ten dollar ($10) increments;

One chief deputy marshal, who shall receive a minimum of two hundred dollars ($200) and a maximum of two hundred forty dollars ($240) per month with ten dollar ($10) increments;

Three deputy marshals, grade 1, each of whom shall receive a minimum of one hundred ninety-five dollars ($195) and a maximum of two hundred fifteen dollars ($215) per month with five dollar ($5) increments;

Four deputy marshals, grade 2, each of whom shall receive a minimum of one hundred seventy dollars ($170) and a maximum of one hundred ninety dollars ($190) per month, with five dollar ($5) increments;

One deputy marshal (stenographer) who shall receive a minimum of one hundred forty dollars ($140) and a maximum of one hundred sixty dollars ($160) per month with five dollar ($5) increments;

(f) There shall be one court matron, court probation officer, and matron to be appointed by the judges of the court, who shall receive a minimum of one hundred sixty-five dollars ($165) and a maximum of one hundred eighty-five dollars ($185) per month, with five dollar ($5) increments.

Salary increases

Upon entrance into the service, the attaches shall start at the minimum salary, and the increases are made at semi-annual intervals by the amount set up as increments based upon efficient service as evidenced by a system of service rating reports made semiannually to the city civil service commission. Any person now in the same class for two and one-half years will receive the maximum salary for that class.

Appointing authority

The appointing authority, which appointing authority within the meaning of this section, is hereby defined to be the person having the power in the first instance to select the employee from an eligible list provided for that purpose, shall

have the power to lay off and suspend an employee or employees because of lack of work requiring the service of the existing personnel of such office or department.

Forfeiture of office

Any appointive officer or employee of the municipal court in cities or cities and counties of the second and one-fourth class who becomes a candidate for election by the people to any other public office or position shall automatically forfeit such office or employment.

Division of costs

Whenever a municipal court is established in a city of the second and one-fourth class, the salaries of the judges, clerk, marshal, and other attaches, and the cost of all supplies, books, furniture and suitable quarters, for carrying out their duties, including supplies and equipment for the preparation and maintenance of duplicate records of the court, or a division thereof, when sessions are held at more than one place within the city wherein the court is established shall be paid by the county in which the court is situated out of its municipal court fund, if there be one, or if there be no such fund, out of the general fund.

Reimbursement

The city shall reimburse the county in the amount of 20 per cent of all costs of maintaining and operating the municipal court from such municipal court fines and forfeitures as by law would otherwise become the property of the city. The amount to be paid may be deducted and retained for the account of the county by the county auditor, as often as may be practicable, and at least semiannually, from the amounts payable to the city pursuant to Section 1463 of the Penal Code.

Quarters

The city in which the court is established shall provide and maintain suitable quarters for one department of the municipal court, including heating, light and janitorial service, and the city and county shall enter into an agreement providing for the payment of the rental thereof, including heat, light and janitor service, by the county out of the municipal court fund, if there be one, or if there be no such fund, out of the general fund.

CHAPTER 726

Stats 1933, p 60, amended

An act to amend Sections 761, 762, 762.5 and 763 of, and to add Sections 761.1, 762.6, 762.7, 762.8, 762.9, 763.1, 763.2, and 763.3 to, the Agricultural Code, relating to tomato standards, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor May 24, 1943. Filed with Secretary of State May 24, 1943.]

The people of the State of California do enact as follows:

Stats 1935, p 2084

SECTION 1. Section 761 of the Agricultural Code is amended to read:

Definitions

761. (a) By "canning purposes" is meant the packing of commercially canned tomatoes, the manufacture of tomato

paste, tomato puree, tomato pulp, tomato catsup, tomato sauce, tomato juice, and similar manufactured tomato products wherein the contents of the product is all, or practically all, made up of tomatoes.

(b) By "fairly well-colored" is meant that the average color of the tomato flesh is two-thirds good red tomato color.

(c) By "well-colored" is meant that the average color of the tomato flesh is 90 per cent good red tomato color.

SEC. 1.5. A new section, to be numbered 761.1, is added to said code, to read: New section

761.1. The provisions of this article applying to tomatoes for canning purposes shall apply with like force and effect to tomatoes for dehydration, unless otherwise expressly distinguished. Tomatoes for dehydration

SEC. 2. Section 762 of said code is amended to read: Stats 1941, p 3094

762. Tomatoes for canning purposes, except hard green tomatoes for use in the manufacture of green tomato products, shall conform to the standards prescribed in this section. Canning standards

Tomatoes for canning purposes, except pear or plum types, shall be vine-ripened. No tomatoes shall be regarded as suitable for canning purposes if the delivery contains spray residue which can not be removed by washing in plain water in order to meet the tolerances permitted by Section 1011 of this code. No tomato shall be regarded as suitable for canning purposes if, as established by inspection of a representative sample:

(a) Any worm or worm damage is present which has penetrated the flesh of the tomato.

(b) In excess of 10 per cent of the weight of the tomato can not be used for canning purposes, due to the presence of mold.

(c) In excess of 20 per cent of the weight of the tomato can not be used for canning purposes, due to presence of rot.

(d) In excess of 25 per cent of the weight of the tomato can not be used for canning purposes, due to the presence of sunburn, sunscald, growth cracks, insect bites, pest infections, hail damage, green or yellow color at the stem end, or other imperfections not specified in this section.

(e) The tomato is sufficiently overripe to make it useless for canning purposes.

(f) The tomato is shriveled, frozen or frosted.

(g) The tomato is not well-colored or fairly well-colored.

SEC. 3. Section 762.5 of said code is amended to read: Stats 1941, p 3094

762.5. The director shall inspect all deliveries of tomatoes for canning purposes, except those accompanied by a certificate issued in accordance with Chapter 1 of this division. Such inspection shall be conducted at the cannery or at a receiving station established by the canner, to determine if the tomatoes delivered are suitable for canning purposes as required by Section 762; and the director shall issue a rejection order, if found unsuitable, in accordance with Section 763. If upon inspection the director finds the tomatoes being Inspection Certificate

delivered conform with the standards established in this chapter, he shall issue a certificate showing the percentage of tomatoes suitable for canning purposes for each delivery and, separately, the percentage of tomatoes in each delivery which are not suitable for canning under subsection (a), under subsection (b), and under subsection (c) to (f) inclusive, of Section 762; and showing the percentage of those suitable for canning which are well-colored and fairly well-colored.

New section

SEC. 4. Section 762.6 is added to said code, to read:

Inspection samples

762.6. The director may for the purpose of inspection enter any place where tomatoes for canning purposes may be found, take for inspection such representative samples as may be necessary to determine whether or not any uncertified lot or load of tomatoes complies with the standards established by this chapter, and the percentage of tomatoes not suitable for canning purposes, and may subject such samples of tomatoes to any method of inspection or testing.

New section

SEC. 5. Section 762.7 is added to said code, to read:

Violations

762.7. The director may cause the prosecution of any person violating any provision of this chapter, and may seize and hold such portion of any lot or load of tomatoes for canning purposes involved in such a violation, as may in his judgment be necessary as evidence.

New section

SEC. 6. Section 762.8 is added to said code, to read:

Official standards and charts

762.8. The director may prescribe methods of selecting samples of lots, loads or containers of tomatoes for canning purposes which shall be reasonably calculated to produce by such sampling fair representations of the entire lot, load or container sampled; establish and issue official color charts depicting the color standards and requirements established in this chapter, which shall be as near as possible in color to the standards and requirements shown on the "California Standard Color Chart for Canning Tomatoes" issued by the California State Department of Agriculture, Bureau of Fruit and Vegetable Standardization in 1942; and promulgate and enforce such rules and regulations as are necessary for enforcement of this chapter.

New section

SEC. 7. Section 762.9 is added to said code, to read:

Fees

762.9. The director shall adopt a schedule of uniform fees to defray the cost of the required inspection and of certification.

Collection

Each canner receiving deliveries of tomatoes for canning purposes is hereby designated as the authorized agent of the director to collect the inspection and certification fees chargeable to him and to each producer delivering such tomatoes.

Cost of collection

The cost of such inspection shall be borne equally by both the canner and the producer, but the total cost of such inspection shall in no event exceed 25 cents ($0.25) per ton.

Disposition of money

Moneys collected under the provisions of this section shall be remitted to the director weekly during the tomato canning season for deposit into the Department of Agriculture Fund to be used in carrying out the purposes of this chapter.

Refund

Except as otherwise provided in this section, any money so

collected and not used for the purposes of this chapter shall be returned to the canners from whom it was received for distribution to the canners and producers from whom the money was originally collected, in proportion to their several interests. In the event that the director determines as to any such money heretofore or hereafter collected as inspection and certification fees that the return thereof with respect to any canning season or seasons is impracticable because of the smallness of the amounts returnable, or for any other reason, the money so collected shall not be so returned but shall remain in the Department of Agriculture Fund and be available for expenditure for the purposes of this chapter in any subsequent year or years.

SEC. 8. Section 763 of said code is amended to read: Stats 1941, p 3094

763. Any load of tomatoes offered for delivery to a canner shall be rejected and turned back to the grower if in excess of 10 per cent of the delivery by weight fails to comply with subsections (a) and (b) of Section 762. Rejection

Any load of tomatoes offered for delivery to a cannery shall be rejected and turned back to the grower if in excess of 15 per cent of the delivery by weight fails to comply with subsections (a) to (g), inclusive, of Section 762.

Any load of tomatoes offered for delivery to a canner shall be rejected and turned back to the grower if less than 5 per cent of the delivery by weight is well-colored. The enforcing officer may affix a warning tag or notice to such rejected load.

SEC. 9. Section 763.1 is added to said code, to read: New section

763.1. It is unlawful for any person to make delivery or accept delivery of tomatoes for canning purposes or to can or to process any tomatoes, which have not first been inspected and certified as provided in Section 762.5, or which have been rejected as provided in Section 763. Tomatoes not inspected

SEC. 10. Section 763.2 is added to said code, to read: New section

763.2. It is unlawful to deliver to a canner or for any canner to accept delivery of any load of tomatoes which has been rejected for failing to comply with the standards established by this chapter until such load has been reconditioned to comply with the standards, reinspected and a certificate issued by the proper enforcing officer. Unlawful Delivery of rejected tomatoes

SEC. 11. Section 763.3 is added to said code, to read: New section

763.3. It is unlawful to remove, deface, or destroy, any warning tag or notice which has been placed by a proper enforcing officer upon a rejected lot or load of tomatoes for canning purposes. Destruction of warning tags

SEC. 12. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California, and as such shall go into immediate effect. Urgency

The following is a statement of facts constituting such necessity:

Tomatoes and tomato products are important foodstuffs essential to the war effort. Proper inspection and enforcement of adequate standards for tomatoes canned or processed in this State is necessary to insure that the product is satisfactory and wholesome. Provisions for enforcement of standards are inadequate under present law. The season for harvesting and canning tomatoes will commence before this law would take effect without such urgency clause, and a portion of the crop will be processed without adequate provision for enforcement of standards, unless this act be made effective immediately.

CHAPTER 727

Stats 1933, p. 60, amended

An act to amend Section 453 of, and to add Section 453.1 to, the Agricultural Code, relating to milk and cream.

In effect August 4, 1943

[Approved by Governor May 24, 1943. Filed with Secretary of State May 24, 1943.]

The people of the State of California do enact as follows:

Stats 1941, p 475

SECTION 1. Section 453 of the Agricultural Code is amended to read:

Impure milk Identification mark

453. The director may condemn any milk or cream which is found to be impure, unclean, adulterated or unwholesome or that is produced, handled or kept in an insanitary place and he may mark the same for identification. The director shall prescribe the method of marking said milk or cream for identification but shall not, in marking said milk or cream for identification, add any substance which will render said milk or cream unsuitable for a use or purpose other than human consumption. Milk or cream so marked shall thereafter be returned to the producer thereof or used for the manufacture of products other than products used for human consumption or destroyed. No such milk or cream marked for identification shall be destroyed until the producer thereof shall have been notified and for a period of at least 12 hours after such notification.

New section

SEC. 2. Section 453.1 is added to said code, to read:

Condemnation of impure milk

453.1. The director may condemn any product of milk or cream which is found to be impure, unclean, unwholesome or stale, or that is produced or manufactured, handled or kept in an insanitary place, or that is adulterated; and he may destroy or mark for identification with a nontoxic substance, any condemned product of milk or cream. No manufactured product of milk or cream may be destroyed without due notice to the owner thereof, and a hearing before the director or an officer designated by him.

Notice and hearing

CHAPTER 728

An act to add Sections 1521.5, 3047.5 and 3448 to the Welfare and Institutions Code, relating to the property of persons receiving public assistance.

Stats 1937, p 1005, amended

[Approved by Governor May 24, 1943. Filed with Secretary of State May 24, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 1521.5 is added to the Welfare and Institutions Code, to read:

New section

1521.5. A child's share of any estate, which share has not been distributed and of which he has no present economic use, does not constitute property for the purpose of this chapter.

Undistributed inheritance

SEC. 3. Section 3047.5 is added to said code, to read:

New section

3047.5. An applicant's share of any estate, which share has not been distributed and of which he has no present economic use does not constitute property for the purpose of this chapter.

Undistributed inheritance

SEC. 4. Section 3448 is added to said code, to read:

New section

3448. An applicant's share of any estate, which share has not been distributed and of which he has no present economic use does not constitute property for the purpose of this chapter.

Undistributed inheritance

CHAPTER 729

An act to add Section 786.6 to the Fish and Game Code, relating to lobsters and shellfish.

Stats 1933, p. 394, amended

[Approved by Governor May 24, 1943. Filed with Secretary of State May 24, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 786.6 is added to the Fish and Game Code, to read:

New section

786.6. It is unlawful to sell, expose for sale, offer to sell, barter, trade, or have in possession any spiny lobster which has been cooked or otherwise prepared for human consumption outside of the State of California. This section shall not apply to any cooked or canned lobster or other shellfish prepared under permit or license of any duly constituted authority of any State or Nation; provided, however, that such lobster or other shellfish brought into this State shall be subject to inspection by State or local health authorities.

Cooked spiny lobster

Exception

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first

Duration

Existing law

occurs. While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section; but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

CHAPTER 730

Stats 1935, p 1123, amended

An act to add Section 53.2 to the Alcoholic Beverage Control Act, relating to places where alcoholic beverages are received, kept, or brought for consumption.

In effect August 4, 1943

[Approved by Governor May 24, 1943. Filed with Secretary of State May 24, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 53.2 is added to the Alcoholic Beverage Control Act, to read:

Unlicensed club room

Sec. 53.2. It is a public nuisance for any person to maintain any club room in which any alcoholic beverage is received or kept, or to which any such beverage is brought, for consumption on the premises by members of the public or of any club, corporation or association, unless such person and premises are licensed under this act.

Abatement action

The Attorney General, or any district attorney, may bring an action in the name of the people to abate such nuisance, and the Attorney General shall, upon request of the board, bring such action.

CHAPTER 731

Stats 1933, p. 60, amended

An act to amend Section 469 of the Agricultural Code and to repeal Section 472, relating to milk and cream.

In effect August 4, 1943

[Approved by Governor May 24, 1943. Filed with Secretary of State May 24, 1943.]

The people of the State of California do enact as follows:

Stats 1941, p 475

SECTION 1. Section 469 of the Agricultural Code is hereby amended to read as follows:

Market milk or cream

469. It is unlawful to sell, purchase, use, or represent as market milk or market cream any milk or cream which does not meet the requirements and standards of market milk and market cream.

It is unlawful to sell, purchase, use, or represent as market milk or market cream any milk or cream combined with any other substance or compound.

It is unlawful to serve to any customer for consumption on the premises any milk or cream when combined with any other

substance or compound and represented as a substitute for or to take the place of market milk or market cream.

SEC. 2. Section 472 of the Agricultural Code is hereby repealed. Stats 1941, p 1385

CHAPTER 732

An act to amend Section 21224 of the Business and Professions Code, relating to licensing of sellers of prophylactics. Stats 1937, p 1229, amended

[Approved by Governor May 24, 1943. Filed with Secretary of State May 24, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 21224 of the Business and Professions Code is amended to read: Stats 1941, p 670

21224. Every license issued or renewed under this chapter after October 31, 1943, shall expire November 1, 1944, and annually thereafter on November 1st of each calendar year. Expiration date

The penalty for failure to pay the annual renewal fee may be fixed by the board at an amount not to exceed 100 per cent of such renewal fee. Nonpayment of renewal fee

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CHAPTER 733

An act to amend Section 1663 of the Probate Code, relating to incompetent veterans and other incompetent and minor beneficiaries of the Veterans Administration, and providing for commitments and transfers to the Veterans Administration or other agency of the United States of persons eligible for care or treatment thereby. Stats 1931, p 587, amended

[Approved by Governor May 24, 1943. Filed with Secretary of State May 24, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 1663 of the Probate Code is amended to read: Stats 1931, p 587

1663. (a) Whenever, in any proceeding under the laws of this State for the commitment of a person alleged to be of unsound mind or otherwise in need of confinement in a hospital or other institution for his proper care, it is determined after such adjudication of the status of such person as may be required by law that commitment to a hospital for mental disease or other institution is necessary for safekeeping or Commitment to Veterans Administration

treatment and it appears that such person is eligible for care or treatment by the Veterans Administration or other agency of the United States Government, the court, upon receipt of a certificate from the Veterans Administration or such other agency showing that facilities are available and that such person is eligible for care or treatment therein, may commit such person to said Veterans Administration or other agency.

Notice

The person whose commitment is sought shall be personally served with notice of the pending commitment proceeding in the manner as provided by the law of this State; and nothing in this chapter shall affect his right to appear and be heard in the proceedings. Upon commitment, such person, when admitted to any facility operated by any such agency within or without this State shall be subject to the rules and regulations of the Veterans Administration or other agency. The chief officer of any facility of the Veterans Administration or institution operated by any other agency of the United States to which the person is so committed shall with respect to such person be vested with the same powers as superintendents of State hospitals for mental diseases within this State with respect to retention of custody, transfer, parole or discharge. Jurisdiction is retained in the committing or other appropriate court of this State at any time to inquire into the mental condition of the person so committed, and to determine the necessity for continuance of his restraint, and all commitments pursuant to this chapter are so conditioned.

Retention of jurisdiction

Transfer

(b) Upon receipt of a certificate of the Veterans Administration or such other agency of the United States that facilities are available for the care or treatment of any person heretofore committed to any hospital for the insane or other institution for the care or treatment of persons similarly afflicted and that such person is eligible for care or treatment, the superintendent of the institution may cause the transfer of such person to the Veterans Administration or other agency of the United States for care or treatment. Upon effecting any such transfer, the committing court or proper officer thereof shall be notified thereof by the transferring agency.

Prohibition

No person shall be transferred to the Veterans Administration or other agency of the United States if he be confined pursuant to conviction of any felony or misdemeanor or if he has been acquitted of the charge solely on the ground of insanity, unless prior to transfer the court or other authority originally committing such person shall enter an order for such transfer after appropriate motion and hearing.

Any person transferred as provided in this section shall be deemed to be committed to the Veterans Administration or other agency of the United States pursuant to the original commitment.

CHAPTER 734

An act to add Section 672.5 to the Vehicle Code, relating to escorts, declaring the urgency hereof, to take effect immediately.

Stats 1935, p. 93, amended

[Approved by Governor May 24, 1943. Filed with Secretary of State May 24, 1943.]

In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Section 672.5 is added to the Vehicle Code, to read:

New section

672.5. Police, traffic officers and members of the California Highway Patrol may at the request of an officer of the armed forces of the United States of America who has charge of any vehicle transporting materials, equipment or persons employed or intended to be employed in connection with the conduct of war by the United States of America or in aid or in furtherance thereof, escort or convoy such vehicle and while engaged in such escort or convoy duties, direct traffic and use sirens and red lights in such manner as may be necessary to insure that the vehicle reaches its destination with the least possible delay consistent with and having due regard for the safety of persons and property upon the highway and the time within which the vehicle is scheduled to reach its destination, notwithstanding any provision of this code to the contrary.

Escort of military vehicles

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section; but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

Duration

Existing law

SEC. 2. This act is declared to be an urgency measure within the meaning of Section 1 of Article IV of the Constitution, necessary for the immediate preservation of the public peace, health, and safety. The statement of the facts constituting such necessity is as follows:

Urgency

Traffic conditions arising from the prosecution of the war, the movement of naval and military personnel and war materiel over highways, the increased use of highways by war workers in going to and coming from their work, and the increase in the number of drivers of motor vehicles from other States using our highways has brought about dangerous and unsafe traffic conditions. To assist in the war effort by promoting the flow of traffic with safety, it is necessary for the public peace, health and safety that this act take effect immediately.

CHAPTER 735

Stats 1935, p 93, amended

An act to add Section 782 to the Vehicle Code, relating to the expenditure of money for crossing guards by the Department of Motor Vehicles, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor May 24, 1943. Filed with Secretary of State May 24, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 782 is added to the Vehicle Code, to read:

Compensation of crossing guards

782. Crossing Guards. Upon request of the board of supervisors of any county, the department may expend money that otherwise would be apportioned to that county from the Motor Vehicle Fund, for salaries and wages of crossing guards in that county, and such expenditure shall be deducted from that county's share.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

Crossing guards are primarily used for the protection of children from vehicular traffic on main arteries. Unless this act takes effect immediately and makes money available for the salaries and wages of crossing guards, no money will be available for the purpose, and in the absence of such guards the lives of many children will be endangered.

CHAPTER 736

Stats 1937, p 2085, amended

An act to amend Sections 149 and 152.5 of and to add Sections 96.7 and 152.6 to the State Civil Service Act, relating to the State civil service, declaring the urgency thereof and to take effect immediately.

In effect immediately

[Approved by Governor May 24, 1943. Filed with Secretary of State May 24, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 96.7 is added to the State Civil Service Act, to read:

Persons in armed forces Retention on employment list

Sec. 96.7. Any person whose name appears on any employment list and who enters the armed forces of the United States before such list upon which his name appears is abolished shall retain his place on such list until the expiration of three years from the termination of his service with the

armed forces; provided, however, this section does not apply to any person who refuses to accept appointment to a position after certification thereto subsequent to his discharge from the armed forces, or who has not been certified during his service with the armed forces of the United States. No promotional lists upon which the names of such persons appear may be abolished, except that they may be replaced by more recently prepared lists if the names of such persons are placed in the order in which they appeared on the former list and at the same place as they appeared on said list.

Promotional lists

SEC. 2. Section 149 of the State Civil Service Act is amended to read:

Stats 1937, p 2085

Sec. 149. Subject to rules prescribed by the board an appointing authority may grant a leave of absence without pay, to any employee under his jurisdiction for a period not exceeding one year. A leave so granted shall assure to the employee the right to return to his position upon expiration of the leave.

Leave of absence

Whenever the United States is engaged in war or whenever the Governor finds and proclaims that an emergency exists in preparing for National defense, then subject to the rules prescribed by the board an appointing authority may grant a leave of absence without pay to any employee under his jurisdiction for the purpose of (1) engaging in civilian war work pursuant to mandatory order of the War Manpower Commission or its successor, (2) assuming active duty in the United States Merchant Marine, or (3) assuming active full time duty for the American Red Cross. Any leave so granted shall assure to the employee the right to return to his position upon expiration of the leave.

Leave for war work, etc

Any employee who has been granted a leave of absence pursuant to this section for the purpose of allowing him to participate in civilian war work and the leave of absence has expired, then the employee's leave shall conclusively be presumed to be extended until 90 days after the effective date of this act.

SEC. 3. Section 152.5 of the State Civil Service Act is amended to read:

Stats 1941, p 432

Sec. 152.5. Whenever the United States is engaged in war or whenever the Governor finds and proclaims that an emergency exists in preparing for the National defense, any permanent or probationary civil service employee of the State, in good standing who enters the military service of the United States, whether voluntarily or otherwise, shall have the absolute right to be restored to his former position with the same civil service status formerly had by him upon application by him to the board within 90 days after the termination of such military service, or any rehabilitation afforded by the United States Government following such military service. The provisions of this section shall apply to all such civil service

Restoration of position after military service

employees who enter the military service during any such war or until the Governor finds and proclaims that the emergency no longer exists.

Layoff after reinstatement

If, upon the reinstatement of employees after military service as provided in this section, it is found necessary because of lack of work or lack of funds or in the interests of economy to reduce the staff of the State agency, the appointing power shall lay off employees in accordance with the procedure set forth in Section 172 and the rules of the board; provided, however, that only those employees in the class will be considered in the layoff who have been appointed to their positions since September 1, 1940; and provided, further, that employees so reinstated after military service shall be excluded from the resulting layoff unless there is no position in the class in the agency or the number of positions in the class to be retained is less than the number of employees so reinstated.

New section

SEC. 4. Section 152.6 is added to the State Civil Service Act, to read:

"Duration appointments"

Sec. 152.6. Whenever the United States is engaged in war or whenever the Governor finds and proclaims that an emergency exists, in preparing for the National defense, the board shall have the authority to provide by rule for the making of appointments from employment lists for the duration of such war or emergency in those classes in which the best interests of the service would be served by such appointments, to be known as "duration appointments." Such appointments shall automatically terminate 90 days after the termination of the war or after the Governor finds and proclaims that the emergency no longer exists. Subject to the provisions of this section duration appointees shall be subject to such conditions affecting status and tenure during and after such employment as the board, in accordance with the best interests of the State service, may by rule determine.

Urgency

SEC. 5. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health, and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting said necessity is as follows:

During the present emergency the services of many State employees are more valuable to the war effort than to the State of California, and they have been granted leaves of absence to aid in that effort. This act makes provision for the situations created by the granting of such leaves both during the present emergency and at the end thereof. It is necessary that these provisions be made applicable immediately for the best interests of the war effort and the State service.

CHAPTER 737

An act making an appropriation for the support of the California State Guard.

[Approved by Governor May 25, 1943. Filed with Secretary of State May 25, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. In addition to any other moneys made available to The Adjutant General, the sum of four million, four hundred eighty-seven thousand, one hundred eighty-six dollars ($4,487,186), or so much thereof as may be necessary, is hereby appropriated out of moneys in the State treasury not otherwise appropriated, to be expended during the Ninety-fifth and Ninety-sixth Fiscal Years by The Adjutant General, for support of the California State Guard, including not to exceed ten thousand dollars ($10,000) for the administrative expenses of the State Controller. Appropriation: State Guard

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CHAPTER 738

An act to add Sections 500.1, 502.1, 512.1, 513.1, 515.1, 518.1 and 520.1 to the Military and Veterans Code, and to add Section 12011 to the Education Code, relating to high school cadets. Stats 1935, p 1338, amended; Stats 1943, Ch 71, amended

[Approved by Governor May 25, 1943. Filed with Secretary of State May 25, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 500.1 is added to the Military and Veterans Code, to read: New section

500.1. Except as hereinafter provided, each four-year high school in this State having 100 or more male students of 14 years of age or over and in which there is not maintained an R. O. T. C. unit shall establish a high school cadet company or companies under such rules and regulations as the governing body of the schools and The Adjutant General may prescribe, and any four-year high school in the State having less than 100 of such students may establish a high school cadet company or companies. Said companies shall be of such strength as shall be prescribed by The Adjutant General. A high school cadet company is not required to be established in a high school unless a number of qualified male students sufficient to constitute a company of the strength prescribed by The Adjutant General voluntarily enroll therein. High school cadet companies

SEC. 2. Section 502.1 is added to said code, to read: New section

502.1. Upon recommendation of the school board having jurisdiction over the school and with the approval of The Commissioning of commandants

Adjutant General the Governor may commission commandants, assistant commandants, and assistant commandants (junior grade) of cadets for duty in each school having one or more cadet companies. Commandant corresponds to the rank of major of the National Guard; assistant commandant corresponds to the rank of captain of the National Guard; and assistant commandant (junior grade) corresponds to the rank not higher than first lieutenant of the National Guard. Said officers shall be commissioned in the same manner that National Guard officers are commissioned. Each such officer shall hold office at the pleasure of the Governor, or until his successor has been appointed and qualified or his connection with the cadets is severed. Said officers shall be entitled to the same privileges and exemptions accorded National Guard officers, of corresponding rank, as above stated except that pay and expenses on special detail shall be taken from the moneys appropriated for the maintenance of the California High School Cadets.

New section

SEC. 3. Section 512.1 is added to said code, to read:

Target practice

512.1. Target practice shall constitute a part of the instruction to be given to cadets. The Adjutant General shall purchase and supply to each of the high schools a sufficient number of Springfield or other efficient rifles for field target work and gallery practice and the ammunition and equipment therefor, as in his judgment is necessary for efficient rifle practice. All target practice shall be under the supervision of the commandants of cadets or competent members of the National Guard, State Guard or Naval Militia detailed by The Adjutant General. The expenditures therefor may be paid out of the moneys appropriated for the maintenance of the high school cadets.

New section

SEC. 4. Section 513.1 is added to said code, to read:

Drill and rifle practice

513.1. The Adjutant General may detail from the organizations of the National Guard, State Guard or Naval Militia some competent member thereof who shall act as drill and rifle practice instructor for high school cadets. The Adjutant General may provide for compensating the persons detailed by him to instruct the cadets in drill and target practice.

New section

SEC. 5. Section 515.1 is added to said code, to read:

Inspection and reports

515.1. High school cadet companies shall be inspected once each year by officers of the National Guard, State Guard or Naval Militia detailed by The Adjutant General for that purpose. Such inspectors shall report to The Adjutant General the result of inspections relating to the drill, target practice, attendance, discipline, and condition of property of high school cadet organizations. Such report shall contain an inventory of the State property on hand in the cadet companies at the time of inspections. Such reports shall be made and forwarded, in duplicate, one copy to the State Superintendent of Public Instruction and one copy to The Adjutant General's Office, and shall bear the endorsement of the principal of the high school, containing remarks the principal deems pertinent.

SEC. 6. Section 518.1 is added to said code, to read: New section

518.1. Notwithstanding the provisions of any section of this code no high school cadet company is required to be maintained in any junior college for students thereof. Junior colleges

SEC. 6.5. Section 520.1 is added to said code, to read: New section

520.1. The principal and governing board of any private school of high school or junior college grade otherwise meeting the qualifications prescribed by this chapter may apply to The Adjutant General for permission to establish a high school cadet company pursuant to this chapter. If The Adjutant General approves the petition, the principal and governing board of the private school shall have the same authority as similar officials of public high schools, and the high school cadet company shall in all respects be governed by the provisions of this chapter to the same extent as though it were a public high school. Private schools

Note.—See Stats. 1943, Ch. 71.

SEC. 8. This act shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this act is in effect it shall supersede any existing provisions of law which are in conflict with this act; but such provisions are not repealed by this act and after this act is no longer effective shall have the same force as though this act had not been enacted. Duration Existing law

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CHAPTER 739

An act making an appropriation to The Adjutant General for the maintenance of the California High School Cadets.

[Approved by Governor May 25, 1943. Filed with Secretary of State May 25, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Out of any money in the State Treasury not otherwise appropriated, the sum of one hundred thousand dollars ($100,000) is hereby appropriated to The Adjutant General to be expended during the Ninety-fifth and Ninety-sixth Fiscal Years for the purposes of carrying out the provisions of Sections 500 to 519, inclusive, of the Military and Veterans Code. Appropriation High school cadets

CHAPTER 740

Stats 1943, p 60, amended

An act to add Article 1A to Chapter 1 of Division 1 of the Agricultural Code, to include Section 35, relating to the formulation of temporary provisions, conditions, standards, and prices.

In effect August 4, 1943

[Approved by Governor May 25, 1943. Filed with Secretary of State May 25, 1943.]

The people of the State of California do enact as follows:

New article

SECTION 1. Article 1A is added to Chapter 1 of Division 1 of the Agricultural Code, to read:

Article 1A. Temporary Provisions, Conditions, Standards or Prices

Declaration of necessity

35. The Legislature hereby declares that in order to protect the agricultural interests of the people of this State and to conserve the agricultural wealth of the State and protect the health and general welfare of our citizens during the continuance of the wars in which the United States is now engaged, and in order to maintain or enforce State laws, orders or regulations prescribing conditions, standards or prices it is necessary that provision be made for the formulation of conditions, standards, or prices to take the place of those conditions, standards or prices which are rendered ineffectual or unenforceable by reason of any conflict with a Federal law, order or regulation made under the Federal war powers.

Preparation of new standards, etc

Whenever the director shall be notified in writing by the Attorney General of this State that any provision, condition, standard or price established by or under authority of this code is in conflict with a Federal law, order or regulation made under the Federal war powers, and is thereby rendered ineffectual and unenforceable, he shall prepare proposed new provisions, conditions, standards or prices to take the place of such provisions, conditions, standards or prices declared by the Attorney General to be in conflict as aforesaid, and shall as soon as reasonably possible call a public hearing to consider the same at a place within the State that he deems suitable.

Notice of hearing

Notice of such hearing shall be given at least five days prior thereto by publication in a newspaper of general circulation printed and published in the County of Sacramento and in a similar newspaper printed and published in the county where such hearing is held.

Hearing

At such hearing the director shall receive and hear the evidence of all interested persons which shall be taken under oath, and all written evidence and exhibits introduced at such hearing shall be preserved and open to inspection by any interested person.

Findings

If from the evidence and data produced at such hearing and from such other knowledge and information as the director may have he shall find in writing:

1. That the conflict between the existing provision, condition, standard or price and the Federal law, order or regula-

tion and the consequent unenforceability of such provision, condition, standard or price seriously impairs or prevents the effectuation of the purpose and intent of such provision, condition, standard or price or of the statute of which it is a part;

2. That the effectuation of the purpose and intent of such provision, condition, standard or price or of the statute of which it is a part will be best served by the adoption of such new provision, condition, standard or price as will remove such conflict with the Federal law, order or regulation;

3. That the new provision, condition, standard or price is as similar to the existing provision, condition, standard or price as is reasonably possible without being in conflict with such Federal law, order or regulation;

4. That the new provision, condition, standard or price will protect the agricultural interests of the people of this State and conserve the agricultural wealth of the State and protect the health and general welfare of our citizens during the life of the Federal law, order or regulation in conflict with the existing provision, condition, standard or price;

Transmission to Governor

Then, and upon such findings, the director shall transmit his determination and recommendations thereon to the Governor. The Governor shall review the determination and recommendations so submitted and if he finds that the purposes and objectives of this section are to be attained thereby shall issue an order formulating and making effective such new provision, condition, standard or price.

Order

Time effective

Such new provisions, conditions, standards or prices so formulated and made effective shall continue in force and effect only during the life of such Federal law, order or regulation in conflict with the original existing provision, condition, standard or price, and while in force and effect shall supersede the original existing provision, condition, standard or price and be administered and enforced by the director in the same manner and to the same extent, and violations thereof shall be subject to the same penalties, as provided in the case of such original existing provisions, conditions, standards or prices.

Revival of superseded law

Upon the termination of this act all provisions, conditions, standards and prices formulated and made effective hereunder shall immediately terminate and cease and be of no further force or effect and any and all original existing provisions, conditions, standards or prices so temporarily superseded shall be and become in full force and effect as though no new provision, condition, standard or price had been formulated and made effective hereunder. The same shall be true at any sooner time upon the expiration of the life of any such conflicting Federal law, order or regulation as to the particular provisions, conditions, standards or prices affected thereby.

"Director"

As used in this section, "director" means Director of Agriculture, except with reference to Article 1 of Chapter 3 of Division 5 and Article 4 of Chapter 8 of Division 5 of this

code; and as to those articles only, "director" means Director of Public Health.

Duration

This article shall remain in force until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs.

CHAPTER 741

Stats. 1939, p 1274, amended

An act to amend Sections 3656 and 3659 of, and to add Sections 3659.3, 3659.5, 3659.6, 3659.7, 3659.9, 3791.5, and 4653.1 to the Revenue and Taxation Code, relating to the management of tax-deeded property, providing for the distribution of the proceeds therefrom to the taxing agencies and revenue districts having interests in such property, prescribing the powers and duties of the State Controller and of the taxing agencies, revenue districts, and the officers thereof in relation to such property, establishing a Redemption Tax Fund, and making an appropriation.

In effect August 4, 1943

[Approved by Governor May 25, 1943. Filed with Secretary of State May 25, 1943.]

The people of the State of California do enact as follows:

Stats 1911, p 3111

SECTION 1. Section 3656 of the Revenue and Taxation Code is amended to read:

Cancellation of leases

3656. Every lease made under this chapter shall provide that the Controller may cancel the lease as of the date of redemption from tax sale, as of the date of the first payment under a plan for the payment of delinquent taxes in installments, or as of the date of a sale termining the right of redemption, and that the lessee is not thereupon entitled to any damages or reimbursement except as provided in this

Refunds

section. On redemption, first installment payment, sale of the property, or cancellation of a lease, the Controller may refund from the Tax-Deeded Land Rental Trust Fund to the lessee the unearned portion of any rental paid in advance.

Stats 1941, p 137

SEC. 2. Section 3659 of said code is amended to read:

Tax-Deeded Land Rental Trust Fund

3659. All moneys received by the Controller under this chapter and Section 3441 after the effective date of this amendment shall be placed by the Controller in the "Tax-Deeded Land Rental Trust Fund" in the State treasury, which fund is hereby created and appropriated to carry out the provisions

Remittance

of this section, and shall be remitted to the treasurer of the county in which the moneys were received between the fifteenth and thirtieth days of January and June of each year, which said remittance shall include all moneys in said fund to the credit of said county on the first day of the month preceding such remittance less any sums refunded or held for refund as

Statemen.

provided by law. The Controller shall send concurrently with

each remittance a statement to the auditor showing in detail the source of the revenue remitted. The treasurer shall upon receipt of such money, report its receipt to the county auditor. The auditor shall mail a copy of the Controller's statement or applicable portion thereof to the secretary or the clerk of the governing board of each taxing agency, levying and collecting taxes or assessments, other than the State and county. Each taxing agency shall include in its share claim the claim of any revenue district for which it collects taxes or assessments. The auditor shall also include a notice for claim specifying that claim on the amount received from the Controller shall be made within 60 days after mailing of notice for claim.

Report

Mailing of statement

SEC. 3. Section 3659.3 is added to said code, to read:

New section

3659.3. On receipt of the notice for claim, the governing board of each taxing agency levying and collecting taxes or assessments on the property shall forward a share claim to the county auditor, which share claim shall show only the amount of tax or assessment on the property for the first year of delinquency not including penalties, interest or costs. If the taxing agency levies taxes or assessments in one year covering payment for more than one year, the amount attributable to the first year shall constitute the share claim to be filed by said taxing agency.

Share claim

SEC. 4. Section 3659.5 is added to said code, to read:

New section

3659.5. If the share claims are correct, the board of supervisors shall order the money received from the State Controller to be distributed pro rata among the county and the taxing agencies having filed share claims.

Pro rata distribution

By "pro rata" is meant the division of the amount to be distributed in the proportion that the total tax and assessment liens for the first year of delinquency, exclusive of penalties, interest and costs, of each agency including the interest of revenue districts bears to the total tax and assessment liens for the first year of delinquency of all such agencies. The county and taxing agencies shall prorate on the same basis the money they receive to themselves and to the revenue districts for which they collect taxes and assessments.

SEC. 5. Section 3659.6 is added to said code, to read:

New section

3659.6. In lieu of the provision set forth in Section 3659.5 all of the taxing agencies entitled to levy or collect taxes or assessments in any county may make an agreement for the division of the moneys so received in any manner approved by the agencies and the terms of such agreement shall govern the distribution of such money.

Alternate procedure-Agreement of distribution

SEC. 6. Section 3659.7 is added to said code, to read:

New section

3659.7. Except where provision to the contrary is made in an agreement executed under Section 3659.6, the county auditor shall deduct 3 per cent of the amount to be distributed to the various taxing agencies to cover clerical expense of the county making such distribution.

Deduction of clerical expenses

New section

SEC. 7. Section 3659.9 is added to said code, to read:

Amounts uncollectible

3659.9. The State Controller may, if he deems any amount due for rental of tax-deeded property to be uncollectible, certify the same to the State Board of Control, requesting to be relieved of the collection thereof, as provided by law.

New section

SEC. 8. Section 3791.5 is added to said code, to read:

Payment in lieu of taxes

3791.5. Any agreement under this chapter may include a provision for payment to the county treasurer while the property is in public ownership and rented, leased or sold on contract by the taxing agency of an amount agreed upon by the board of supervisors and the taxing agency in lieu of taxes on such property.

New section

SEC. 9. Section 4653.1 is added to said code, to read:

State Redemption Tax Fund

4653.1. There shall be distributed to the State of California to be placed in the "State Redemption Tax Fund," which fund is hereby created, the following sums:

(a) One dollar ($1) for all or any portion of the property described in one tax deed or one sale to the State redeemed.

(b) One dollar ($1) for all or any portion of the property described in one tax deed to the State, sold to private parties or to a taxing agency.

If property is deeded to a taxing agency under a pro rata division agreement it shall not be deemed "sold" until resold by the taxing agency to a private party.

The one dollar ($1) for property sold shall be paid from the total amount to be distributed. If the total amount is insufficient the one dollar ($1) shall be reduced accordingly. The one dollar ($1) for property redeemed shall be paid from redemption penalties and interest for the oldest year of delinquency and, if that is insufficient, then from redemption penalties and interest for each of the succeeding years in order. If the total amount of redemption penalties and interest is insufficient, the one dollar ($1) shall be reduced accordingly.

CHAPTER 742

Stats 1927, p 838 amended

An act to amend Section 2 of an act entitled "An act to provide for the creation of a Commission on Uniform State Laws, the appointment of commissioners thereto, and to appropriate money for traveling expenses," approved May 14, 1927, relating to the Commission on Uniform State Laws.

In effect August 4, 1943

[Approved by Governor May 25, 1943. Filed with Secretary of State May 25, 1943.]

The people of the State of California do enact as follows:

Stats 1929, p 950

SECTION 1. Section 2 of the act cited in the title hereof is amended to read:

Expenses

Sec. 2. The said commission may expend in accordance with law for traveling and other expenses and actual disbursements in effectuating the objects of this act all moneys now or

hereafter made available for its use. The commission may participate in the work of the National Conference of Commissioners on Uniform State Laws, and may pay, from the sums available for the support of the commission, not to exceed three hundred fifty dollars ($350) per annum as its proportionate share of the expenses of the National Conference of Commissioners on Uniform State Laws. National conference

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CHAPTER 743

An act to add Section 13¾ to the Los Angeles County Flood Control Act, relating to storm drain improvements and drainage system. Stats 1913, p. 1484, amended

[Approved by Governor May 25, 1943. Filed with Secretary of State May 25, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 13¾ is added to the act cited in the title hereof, to read: New section

Sec. 13¾. The board of supervisors of the Los Angeles County Flood Control District shall have power to accept on behalf of said district a transfer and conveyance of storm drain improvements and drainage systems lying within the territorial limits of said district and which have been constructed by any other public body or agency prior to July 1, 1943, whenever the governing body of any public agency owning or exercising jurisdiction over such storm drain and drainage improvements, by resolution describing them, requests the said Los Angeles County Flood Control District to accept the same. Upon such acceptance, the board of supervisors of said district shall thereupon assume sole control and jurisdiction over such storm drain and drainage systems and shall thereafter provide for the operation, maintenance, repair and improvement thereof, except that such flood control district shall not assume or be liable for any bonded indebtedness that may be against the said storm drain or drainage systems. Any city or county within whose limits any storm drain or drainage system has been constructed, and which storm drain or drainage system also lies within the territorial limits of said Los Angeles County Flood Control District, may, by a four-fifths vote of the legislative body of such city or county, transfer and convey to said flood control district any such storm drain or drainage systems for future operation, maintenance, repair and improvement, and upon acceptance thereof the board of supervisors of said flood control district shall have power, and it shall be its duty, to levy a special tax each year upon the taxable real property in said district sufficient to pay the cost and expense of operating, maintaining, repairing and improving such storm drain and Acceptance of storm drainage system. Jurisdiction. Future operation transfer. Tax levy.

drainage systems so transferred and accepted, excepting only the payment of interest and principal on any outstanding bonds for which the said district shall not be liable. Said tax shall be levied and collected at the same time and in the same manner as the general tax for county purposes, and the revenue derived from said tax shall be paid into the county treasury to the credit of said flood control district and said board of supervisors shall have the power to control and order the expenditure thereof for said purposes. Taxes levied under authority of this section shall be separate and distinct from, and shall be in addition to, the taxes authorized to be levied under Section 14 of this act.

CHAPTER 744

An act authorizing any city, county, or city and county to acquire property and to construct, operate and maintain parking facilities in connection with any stadium or coliseum maintained by such city, county, or city and county, and to make such parking facilities available to the use of the public and to make a charge therefor.

In effect August 4, 1943

[Approved by Governor May 25, 1943. Filed with Secretary of State May 25, 1943.]

The people of the State of California do enact as follows:

Parking facilities for stadium

SECTION 1. Any city, county, or city and county is hereby authorized and empowered to acquire necessary real or personal property, or both, to construct, equip, operate and maintain parking facilities in connection with any stadium or coliseum maintained by such city, county, or city and county, and to make such parking facilities available to the use of the public and to make and collect therefor such charge or compensation which shall be fixed by the legislative body of such city, county, or city and county. Nothing contained herein shall limit or restrict the existing powers of any city, county, or city and county to regulate, provide and control parking and parking facilities.

CHAPTER 745

Stats 1933, p 60, amended

An act to add Section 797 to the Agricultural Code, relating to citrus fruits.

In effect August 4, 1943

[Approved by Governor May 25, 1943. Filed with Secretary of State May 25, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 797 is added to the Agricultural Code, to read:

Coachella Valley and Imperial citrus districts

797. Owing to climatic and other conditions, grapefruit produced in this State south and east of San Gorgonio Pass varies in quality and other particulars from grapefruit produced elsewhere in the State.

The area south and east from San Gorgonio Pass to the north end of the Salton Sea and known as Coachella Valley is hereby designated as the Coachella Valley citrus district. The area comprising Imperial County is hereby designated as the Imperial citrus district. Grapefruit produced in any citrus district may be labeled with the name of the citrus district in which produced. It is unlawful to label any grapefruit with the name of any citrus district unless the grapefruit was produced in such citrus district. District labeling

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CHAPTER 746

An act to repeal Section 5007 of the Government Code, relating to the reconversion of registered bonds into coupon bonds. Stats 1943, Ch 134, amended

[Approved by Governor May 25, 1943. Filed with Secretary of State May 25, 1943.] In effect August 4, 1943

Note.—See Stats. 1943, Ch. 134.

CHAPTER 747

An act to amend Section 160 and to add Sections 55.5 and 154 to the County Employees Retirement Act of 1937, relating to retirement. Stats 1937, p 1898, amended

[Approved by Governor May 25, 1943. Filed with Secretary of State May 25, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 160 of the County Employees Retirement Act of 1937 is amended to read: Stats 1937, p 1898

Sec. 160. Upon the death before retirement of a member while in the service of the county or district, or while physically or mentally incapacitated for the performance of his duty, if such incapacity has been continuous from discontinuance of county or district service, the retirement system shall be liable for a death benefit which shall be paid to his estate, or to such person as he has nominated by written designation duly executed and filed with the retirement board. Death benefit

SEC. 2. Section 55.5 is added to said act, to read: New section

Sec. 55.5. The board of supervisors may provide that the fourth and fifth members shall receive compensation at a rate of not more than ten dollars ($10) per meeting for not more than one meeting per month. Compensation: Fourth and fifth members

SEC. 3. Section 154 is added to said act, to read: New section

Sec. 154. Option 4. Upon his death such other benefit or benefits as may be approved by the retirement board upon the Beneficiaries

advice of the actuary shall be continued throughout the life of and paid to such persons, having an insurable interest in his life, as he nominates by written designation duly executed and filed with the retirement board at the time of his retirement; provided, that in the opinion of the retirement board and the actuary such designation shall place no additional burden upon the retirement system.

CHAPTER 748

An act to add Section 367f to the Penal Code, relating to intoxication.

In effect August 4, 1943

[Approved by Governor May 25, 1943. Filed with Secretary of State May 25, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 367f is added to the Penal Code, to read:

Intoxication while operating street car

367f. Any person operating or driving a street car who becomes or is intoxicated while so engaged in operating or driving such street car shall be guilty of a misdemeanor.

CHAPTER 749

Stats. 1937, p. 1229, amended

An act to amend Section 10074 of, to add Sections 10009.5, 10023, 10024, 10025 and 11011.5 to, and to add Chapter 7, comprising Sections 10500 to 10601, to Part 1 of Division 4 of, the Business and Professions Code, relating to transactions in mineral, oil or gas property, regulating mineral, oil and gas brokers and salesmen and prescribing the powers and duties of the State Division of Real Estate with respect thereto.

In effect August 4, 1943

[Approved by Governor May 26, 1943. Filed with Secretary of State May 26, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 10009.5 is added to the Business and Professions Code, to read:

"Mineral, oil and gas brokerage"

10009.5. "Provisions of this part relating to mineral, oil and gas brokerage" refers to the provisions of Chapters 1, 2, 6 and 7, of Part 1.

New section

SEC. 2. Section 10023 is added to said code, to read:

"Mineral, oil and gas licensee"

10023. "Mineral, oil and gas licensee" refers to a person, whether broker or salesman licensed under Chapter 7 of this part.

New section

SEC. 3. Section 10024 is added to said code, to read:

"Mineral oil and gas broker"

10024. "Mineral, oil and gas broker" refers to a person licensed as a broker under Chapter 7 of this part.

SEC. 4. Section 10025 is added to said code, to read: New section

10025. "Mineral, oil and gas salesman" refers to a person licensed as a salesman under Chapter 7 of this part. "Mineral, oil and gas salesman"

SEC. 5. Chapter 7, comprising Sections 10500 to 10601, is added to Part 1 of Division 4 of said code, to read: New chapter

CHAPTER 7. MINERAL, OIL AND GAS BROKERAGE

Article 1. Scope of Regulation

10500. It is unlawful for any person to engage in the business, act in the capacity of, advertise or assume to act as a mineral, oil and gas broker or a mineral, oil and gas salesman within this State without first obtaining a mineral, oil and gas license from the division. Mineral, oil and gas license

The commissioner may prefer a complaint for violation of this section before any court of competent jurisdiction, and the commissioner and his counsel, deputies or assistants may assist in presenting the law or facts at the trial. Violation prosecution

It is the duty of the district attorney of each county in this State to prosecute all violations of this section in their respective counties in which the violations occur.

10501. A mineral, oil and gas broker within the meaning of this part is a person who, for a compensation, sells or offers for sale, buys, or offers to buy, lists, or solicits for prospective purchasers, or negotiates the purchase or sale or exchange of mineral, oil or gas property, or who, for compensation, negotiates loans on mineral, oil or gas property, leases, or offers to lease, or negotiates the sale, purchase, or exchange of leases, rents, or places for rent, or collects rent or royalties from mineral, oil or gas property, for another or others. Broker defined

10502. A mineral, oil and gas salesman within the meaning of this part is a natural person who for a compensation is employed by a licensed mineral, oil and gas broker to sell, or offer for sale, or to list, or to buy, or to offer to buy, or to negotiate the purchase or sale or exchange of mineral, oil or gas property, or to solicit for prospective purchasers of mineral, oil or gas property, or to negotiate a loan on mineral, oil or gas property, or to lease, or to negotiate the sale, purchase or exchange of leases, or offer to lease, rent or place for rent, any mineral, oil or gas property. Salesman defined

10503. Mineral, oil or gas property refers to land used for, intended to be used for, or concerning which representations are made with respect to, the mining of minerals or the extraction of oil or gas therefrom. Property defined

10504. Mineral, oil and gas broker within the meaning of this part includes any person who engages in the business of buying or leasing, or who takes an option on, mineral, oil or gas property, for the purpose of sale or resale, or lease or sublease, or assignment of a lease, or exchange, of such property or any part of such property. Inclusion as "broker"

Exemptions

10505. The provisions of this chapter do not apply to:

(a) Any person acting solely as a depositary under an oil or gas lease, or oil and gas lease, other than for purposes of sale.

(b) Any person who engages in any transaction pursuant to an order of a court of competent jurisdiction.

(c) Any person, and the officers and employees of such person, engaged in the business of drilling for or producing oil or gas, or of mining for or producing minerals.

Single transaction

10506. One act, for a compensation of buying or selling a mineral, oil or gas property of or for another, or offering for another to buy or sell or exchange a mineral, oil or gas property, or negotiating the purchase or sale or exchange of, or listing or soliciting prospective purchasers of mineral, oil or gas property, or negotiating a loan on or leasing or renting or placing for rent a mineral, oil or gas property, or collecting rent therefrom constitutes the person making such offer, sale or purchase, exchange or lease, or negotiating the loan, or so renting or placing for rent or collecting the rent or listing or soliciting, a mineral, oil and gas broker or salesman within the meaning of this part.

Real estate licensees

10507. (a) The provisions of this chapter, except Section 10512, do not apply to a real estate licensee while acting as such in connection with the sale, lease or exchange of real property (other than mineral, oil or gas property) or an interest therein, when the transfer of mineral, oil or gas property is purely incidental to the sale, lease or exchange of real property (other than mineral, oil or gas property).

(b) Any real estate licensee, who performs an act or engages in a transaction subject to this chapter, which act or transaction is incidental to his real estate business but not within subdivision (a), may secure a permit for such act or transaction from the commissioner without otherwise complying with the provisions of this chapter, except Section 10512. Not more than 10 permits per fiscal year may be issued under this section to any real estate licensee. The real estate permit fee shall be paid for each permit.

Restriction on bringing suit

10508. No person engaged in the business or acting in the capacity of a mineral, oil and gas broker or a mineral, oil and gas salesman within this State shall bring or maintain any action in the courts of this State for the collection of compensation for the performance of any of the acts mentioned in this article without alleging and proving that he was a duly licensed mineral, oil and gas broker or mineral, oil and gas salesman at the time the alleged cause of action arose.

Unlicensed employee

10509. It is unlawful for any licensed mineral, oil and gas broker to employ or compensate, directly or indirectly, any person for performing any of the acts within the scope of this chapter who is not a licensed mineral, oil and gas broker, or a mineral, oil and gas salesman licensed under the broker employing or compensating him.

No mineral, oil and gas salesman shall be employed by or accept compensation from any person other than the mineral, oil and gas broker under whom he is at the time licensed.

It is unlawful for any licensed mineral, oil and gas salesman to pay any compensation for performing any of the acts within the scope of this chapter to any mineral, oil and gas licensee except through the mineral, oil and gas broker under whom he is at the time licensed.

Violation

For a violation of any of the provisions of this section, the commissioner may temporarily suspend or permanently revoke the license of the mineral, oil and gas licensee in accordance with the provisions of this part relating to hearings.

Payment of compensation to non-licensee

10510. It is a misdemeanor, punishable by a fine of not exceeding fifty dollars ($50) for each offense, for any person, whether obligor, escrow holder or otherwise, to pay or deliver to anyone a compensation for performing any of the acts within the scope of this chapter, who is not known to be or who does not present evidence to such payor that he is a regularly licensed mineral, oil and gas broker at the time such compensation is earned.

Violation

For a violation of any of the provisions of this section, the commissioner may temporarily suspend or permanently revoke the license of the mineral, oil and gas licensee in accordance with the provisions of this part relating to hearings.

Action without license

10511. Any person acting as a mineral, oil and gas broker or mineral, oil and gas salesman without a license shall, upon conviction thereof, if a natural person, be punished by a fine of not to exceed five hundred dollars ($500), or by imprisonment in the county jail for a term not to exceed six months, or by both such fine and imprisonment in the discretion of the court; or if a corporation, be punished by a fine of not to exceed five thousand dollars ($5,000).

False advertising, etc

10512. Every officer, agent or employee of any company, and every other person who knowingly authorizes, directs or aids in the publication, advertisement, distribution or circularization of any false statement or representation concerning any mineral, oil or gas property, and every person who, with knowledge that any advertisement, pamphlet, prospectus or letter concerning any mineral, oil or gas property or any written statement that is false or fraudulent, issues, circulates, publishes or distributes the same, or causes the same to be issued, circulated, published or distributed, or who in any other respect wilfully violates or fails, omits, or neglects to obey, observe or comply with any order, permit, decision, demand or requirement of the commissioner under the provisions of this part relating to mineral, oil and gas brokerage, is guilty of a misdemeanor, and shall be punished by imprisonment in the county jail for a term not to exceed six months, or by a fine of not to exceed five hundred dollars ($500), and, if a mineral, oil and gas licensee, he shall be held to trial by the commissioner for a suspension or revocation of his mineral, oil and gas license, as provided in the provisions of this part

relating to hearings. It shall be the duty of the district attorney of each county in this State to prosecute all violations of the provisions of this section in respective counties in which the violations occur.

Reports

10513. All mineral, oil and gas licensees shall file reports with the commissioner of each act and transaction subject to this chapter undertaken by the mineral, oil and gas licensee. The report shall be filed at such times and in such manner and contain such information as may be prescribed by the commissioner by rule and regulation.

For a violation of the provisions of this section the commissioner may temporarily suspend or permanently revoke the license of a mineral, oil and gas licensee in accordance with the provisions of this part, relating to hearings.

Article 2. Licenses

Broker's application and fee

10515. Application for license as mineral, oil and gas broker shall be made in writing to the commissioner. The application shall be accompanied by the mineral, oil and gas broker's examination fee and the original mineral, oil and gas broker's license fee and by the recommendation of two real estate owners of the county in which the applicant resides or has his place of business, certifying that the applicant is honest, truthful and of good reputation, and recommending that a mineral, oil and gas broker's license be granted to him.

Recommendations

If the applicant has resided, or has engaged in business for less than one year in the county from which the application is made, the application shall also be accompanied by the recommendation of two real estate owners of each of the counties where he has formerly resided or engaged in business during this period of one year prior to the filing of the application, certifying that the applicant is honest, truthful and of good reputation and recommending that a license be granted to the applicant.

Agent's application and fee

10516. Application for license as mineral, oil and gas salesman shall be made in writing to the commissioner. The application shall be signed by the applicant and shall set forth the period of time during which he has been engaged in the business, stating the name of his last employer and the name and place of business of the person then employing him, or in whose employ he is to enter. The application shall be accompanied by the mineral, oil and gas salesman's examination fee and the original mineral, oil and gas salesman's license fee and by the recommendation of his employer, if employed, certifying that the applicant is honest, truthful and of good reputation, and recommending that a mineral, oil and gas license be granted to the applicant.

Proof of applicant's reputation

10517. The commissioner may require such other proof as he may deem advisable concerning the honesty, truthfulness and good reputation of any applicant for a mineral, oil and gas license, or of the officers of any corporation, or of the members of any copartnership making such application, before

authorizing the issuance of a mineral, oil and gas license. For this purpose the commissioner may call a hearing in accordance with the provisions of this part relating to hearings.

Examination

10518. In addition to the proof of honest, truthfulness and good reputation required of an applicant for a mineral, oil and gas license, the commissioner shall ascertain by written examination that the applicant, and in case of a copartnership or corporation applicant for a mineral, oil and gas broker's license that each officer, agent or member thereof through whom it proposes to act as a mineral, oil and gas licensee, has:

(a) Appropriate knowledge of the English language, including reading, writing and spelling, and of elementary arithmetic.

(b) A fair understanding of the general purposes and general legal effect of deeds, mortgages, chattel mortgages, contracts of sale, bills of sale, liens and leases, of the elementary principles of business economics, appraisals, and the purchase, sale, renting and leasing of personal property.

(c) A general and fair understanding of the obligations between principal and agent, of the rudiments of geology relating to minerals, oils and gas, and a familiarity with methods of mineral and oil exploration and production, as well as of the provisions of this part relating to mineral, oil and gas brokerage.

Waiver of examination

10519. The commissioner may, in his discretion, waive the examination of any applicant for a mineral, oil and gas broker's license who held an unrevoked or unsuspended mineral, oil and gas license on June 30th of the preceding fiscal year as an individual broker, an officer of a corporation, or member of a copartnership.

The commissioner may, in his discretion, waive the examination of any applicant for a mineral, oil and gas salesman's license who held an unrevoked or unsuspended mineral, oil and gas salesman's license on June 30th of the preceding fiscal year and who had previously qualified by passing the written examination.

License nontransferable

10520. No mineral, oil and gas license gives authority to do any act specified in this chapter to any person, other than the person to whom the license is issued.

Licensed corporation or partnership Additional license

10521. When a mineral, oil and gas license is issued to a corporation, if it desires any of its officers other than its president, to act under its license as a mineral, oil and gas broker, it shall procure an additional license to so employ each of such officers. When a mineral, oil and gas license is granted to a copartnership, if it desires any of its members other than the one or ones through whom it is already licensed to act as a mineral, oil and gas broker, it shall procure an additional license to so employ each of such additional members.

Licensed corporation officer or partnership member

10522. Each officer of a corporation through whom it is licensed to act as a mineral, oil and gas broker, and each member of a copartnership through whom it is licensed to act as a mineral, oil and gas broker, is, while so employed under such

license a licensed mineral, oil and gas broker, but licensed only to act as such for and on behalf of the corporation or the copartnership, as officer or member, respectively.

Display of license

10523. The mineral, oil and gas licenses of both broker and salesman shall be prominently displayed in the office of the mineral, oil and gas broker.

The mineral, oil and gas salesman's license shall remain in the possession of the licensed mineral, oil and gas broker employer until canceled or until the salesman leaves the employ of the broker.

Cancellation and reinstatement

10524. Immediately upon the salesman's withdrawal from the employ of the broker, the broker shall return the salesman's license to the commissioner for cancellation. A license canceled but not suspended or revoked may be reinstated within the fiscal year upon receipt of application therefor and the fee for the reinstatement of his license.

Place of business

10525. Every licensed mineral, oil and gas broker shall have and maintain a definite place of business in the State of California which shall serve as his office for the transaction of business.

No mineral, oil and gas license authorizes the licensee to do business except from the location stipulated in the mineral, oil and gas license.

Change of location

Notice in writing shall be given the commissioner of change of business location of a mineral, oil and gas broker, whereupon the commissioner shall issue a new mineral, oil and gas license for the unexpired period. The change or abandonment of business location without notification to the commissioner and the issuance by him of a new mineral, oil and gas license shall automatically cancel the mineral, oil and gas license theretofore issued.

Several places of business

10526. If the applicant for a mineral, oil and gas broker's license maintains more than one place of business within the State he shall apply for and procure an additional license for each branch office so maintained by him. Every such application shall state the name of the person and the location of the place or places of business for which such license is desired.

The commissioner may determine whether or not a broker is doing a mineral, oil and gas brokerage business at or from any particular location which requires him to have a branch office license.

Sign on premises

10527. Each mineral, oil and gas broker shall erect and maintain a sign in a conspicuous place on the premises to indicate that he is a licensed mineral, oil and gas broker and his name shall be clearly shown thereon. The size and place of the sign shall conform to regulations that may be adopted by the commissioner.

Penalty

10528. For a violation of any of the provisions of Sections 10523, 10524, 10525 and 10527, the commissioner may temporarily suspend or permanently revoke the license of the

mineral, oil and gas licensee in accordance with the provisions of this part relating to hearings.

Article 3. Bonds

Bond

10540. Every mineral, oil and gas licensee shall file and maintain with the commissioner a bond in the penal sum of five thousand dollars ($5,000), issued by an admitted, corporate surety insurer, and running to the people of the State of California. The bond shall be conditioned that the licensee will obey all the provisions of this part relating to mineral, oil and gas brokerage, and complete compliance with all obligations assumed by him under his mineral, oil and gas license. In addition to any other remedy he may have, every person sustaining any injury for a breach of obligation may sue the surety for the recovery of any damages sustained by him. The liability of the surety shall not exceed five thousand dollars ($5,000) in the aggregate.

Form of bond

10541. The bond shall be continuous in form and remain in full force and effect and shall run concurrently with the license period and for any renewals thereof, as provided in Section 2852 of the Civil Code, unless terminated or canceled by action of the surety as provided by law or unless terminated or canceled as provided in this chapter.

Withdrawal of surety

10542. Upon the filing of notice with the commissioner by any surety of its withdrawal as surety for any licensee pursuant to Section 2851 of the Civil Code, the commissioner shall forthwith give notice to the licensee of the withdrawal which notice shall be by registered mail with request for return receipt and shall be addressed to the licensee at his main office as shown by the records of the commissioner. The license of any licensee shall be suspended upon the termination of the bond of the surety as provided in Section 2851 unless, prior to the termination, a new bond has been filed with the commissioner.

New bond

10543. A new bond may be filed at any time by the mineral, oil and gas licensee.

Article 4. Disciplinary Action

Revocation or suspension of license

10560. Upon grounds provided in this article and the other articles of this chapter, the license of any mineral, oil and gas licensee may be revoked or suspended in accordance with the provisions of this part relating to hearings.

Investigation

10561. The commissioner may, upon his own motion, and shall, upon the verified complaint in writing of any person, investigate the actions of any person engaged in the business or acting in the capacity of a mineral, oil and gas licensee, within this State, and he may temporarily suspend or permanently revoke a mineral, oil and gas license at any time if the licensee, within the immediately preceding three years, while a mineral, oil and gas licensee, in performing or attempting

Causes for suspension or revocation

to perform any of the acts within the scope of this chapter, has been guilty of any of the following:

(a) Making any substantial misrepresentation.

(b) Making any false promises of a character likely to influence, persuade or induce.

(c) A continued and flagrant course of misrepresentation or making of false promises through mineral, oil and gas brokers or salesmen.

(d) Acting for more than one party in a transaction without the knowledge or consent of all parties thereto.

(e) Commingling the money or other property of his principal with his own.

(f) Any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing.

Additional causes for suspension or revocation

10562. The commissioner may suspend or revoke the license of any mineral, oil and gas licensee, who within three years immediately preceding has done any of the following:

(a) Procured a mineral, oil and gas license, for himself or any salesman, by fraud, misrepresentation or deceit.

(b) Been convicted of a felony, knowledge of which the commissioner did not have at the time of last issuing a mineral, oil and gas license to him.

(c) Knowingly authorized, directed, connived at or aided in the publication, advertisement, distribution, or circulation of any material false statement or representation concerning his business or any mineral, oil or gas property offered for sale.

(d) Wilfully disregarded or violated any of the provisions of this part relating to mineral, oil and gas brokerage.

(e) Acted or conducted himself in a manner which would have warranted the denial of his application for a mineral, oil and gas license, or for a renewal thereof.

Discharge of agent

10563. When any mineral, oil and gas salesman is discharged by his employer for a violation of any of the provisions of this article prescribing a ground for disciplinary action, a verified written statement of the facts with reference thereto shall be filed forthwith with the commissioner by the employer and, if the employer fails to notify the commissioner as required by this section, the commissioner may temporarily suspend or permanently revoke the mineral, oil and gas license of the employer in accordance with the provisions of this part relating to hearings.

Suspension or revocation of officer's or partner's license

10564. The commissioner may deny, suspend or revoke the mineral, oil and gas license of a corporation as to any officer or agent acting under its mineral, oil and gas license, and the mineral, oil and gas license of a copartnership as to any member acting under its mineral, oil and gas license, without revoking the mineral, oil and gas license of the corporation or of the copartnership.

Article 5. Fees

When payable

10580. The fee for all mineral, oil and gas licenses shall at all periods of the fiscal year be the same as provided in this article. All mineral, oil and gas license fees shall be payable in advance of issuing the licenses and all examination fees shall be payable before taking the examination.

Duration of license

10581. All mineral, oil and gas licenses shall be issued for the fiscal year of July 1st to June 30th, inclusive, and shall expire on June 30th of each fiscal year at midnight.

Definitions

10582. The definitions contained in this article are solely for the purposes of this article.

Original broker's license

10583. An original mineral, oil and gas broker's license is a mineral, oil and gas license issued to a person who did not have a mineral, oil and gas broker's license on June 30th of the fiscal year previous to the fiscal year for which the license is issued.

Renewal broker's license

10584. A renewal mineral, oil and gas broker's license is a mineral, oil and gas license issued to a person who had a mineral, oil and gas broker's license unrevoked and unsuspended on June 30th of the fiscal year previous to the fiscal year for which the renewal mineral, oil and gas license is issued.

Original salesman's license

10585. An original mineral, oil and gas salesman's license is a mineral, oil and gas license issued to a person who did not have a mineral, oil and gas salesman's or a broker's license either individually or as an officer of a corporation, or as a member of a copartnership, on June 30th of the fiscal year previous to the fiscal year for which the salesman's license is issued.

Renewal salesman's license

10586. A renewal mineral, oil and gas salesman's license is a mineral, oil and gas license issued to a person who had a mineral, oil and gas salesman's or a broker's license either individually or as an officer of a corporation, or as a member of a copartnership, on June 30th of the fiscal year previous to the fiscal year for which the salesman's license is issued.

Amount of fees:

10587. The amount of the mineral, oil and gas license fees prescribed for a license under this chapter is that fixed by the following provisions of this article.

Broker's original license

10588. The original mineral, oil and gas broker's license fee is five dollars ($5). The mineral, oil and gas broker's examination fee is fifteen dollars ($15) which examination fee covers all examinations prior to the issuance of such original broker's license.

Temporary broker's license

10589. The additional temporary broker's license fee is five dollars ($5).

Renewal broker's license

10590. For a renewal mineral, oil and gas broker's license, the annual fee is five dollars ($5).

Licensed corporation

10591. If the licensee is a corporation, the renewal license issued to it entitles the president thereof, on behalf of such corporation, to engage in the business of mineral, oil and gas broker without the payment of any further fee. For each

officer thereof other than the president of a licensed corporation, through whom it engages in the business of mineral, oil and gas broker, the annual fee is two dollars ($2) in addition to the fee paid by the corporation.

Licensed partnership

10592. If the licensee is a copartnership, the license issued to it entitles one member only of the copartnership to engage on behalf of the copartnership in the business of mineral, oil and gas broker, which member shall be designated in the application of the copartnership for a license. For each other member of the copartnership who on behalf of the copartnership engages in the business of mineral, oil and gas broker the annual fee shall be two dollars ($2) in addition to the fee paid by the copartnership.

Original salesman's license

10593. The original mineral, oil and gas salesman's license fee is two dollars ($2). The mineral, oil and gas salesman's examination fee is seven dollars and fifty cents ($7.50), which examination fee covers all examinations prior to the issuance of an original salesman's license.

Temporary salesman's license

10594. The additional temporary salesman's license fee is two dollars ($2).

Renewal salesman's license

10595. For a renewal mineral, oil and gas salesman's license, the annual fee is two dollars ($2).

Branch broker's license

10596. For a branch office broker's license the fee is one dollar ($1).

Change of name or address

10597. For change of name or of address of licensee on the records of the division the fee is one dollar ($1).

Transfer of license

10598 For transfer of a salesman's license on change of employer, the fee is one dollar ($1).

Duplicate license

10599. For a duplicate license the fee is one dollar ($1).

Reinstatement of license

10600. For reinstatement of a license within the fiscal year the fee is one dollar ($1).

Real estate permit

10601 For a real estate permit, the fee is one dollar ($1).

Stats 1943, Ch 127

SEC. 6. Section 10074 of said code is amended to read:

Dual interest

10074 After qualifying as such, neither the commissioner nor any of the deputies, clerks or employees of the division shall be interested in any business opportunity company, business opportunity brokerage firm, cemetery business, cemetery brokerage firm, mineral, oil or gas business, mineral, oil or gas brokerage firm, real estate company or any real estate brokerage firm, as director, stockholder, officer, member, agent or employee, or act as a broker or salesman, or act as a copartner or agent for any broker or brokers, salesman or salesmen.

New section

SEC. 7 Section 11011.5 is added to said code, to read:

Questionnaire filing fee

11011.5. The questionnaire concerning any subdivision proposed to be sold as potential mineral, oil or gas property shall be accompanied by a filing fee of one hundred fifty dollars ($150).

License without examination

SEC. 8. Any real estate licensee (as defined in Section 10014 of the Business and Professions Code) who has been licensed continuously for a period of five years preceding the effective date of this act may be granted a license as a mineral,

oil and gas licensee (as defined in Section 10023 of the Business and Professions Code) without examination if he otherwise complies with and pays the fees (including the examination fee) required by Chapter 7 of Part 1, Division 4, of the Business and Professions Code and makes application to the Division of Real Estate within 90 days after this act takes effect.

CHAPTER 750

An act to amend an act entitled "An act providing for the joint exercise of powers by counties, by municipalities, or by municipalities and counties approved May 20, 1921," by amending the title and Section 1 thereof to extend the provisions of the act to other public agencies including the Federal Government, the State, a county, city and county, city, public corporation, municipal corporation and public district, and defining public agencies.

Stats. 1921, p. 542, amended

[Approved by Governor May 26, 1943. Filed with Secretary of State May 26, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. The title of the act cited in the title hereof, is hereby amended to read as follows: "An act providing for the joint exercise of powers by public agencies."

Stats 1921, p 542 Title

SEC. 2. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1941, p 1765

Section 1. Two or more public agencies as herein defined, by agreement entered into respectively by them, and authorized by their legislative bodies, may jointly exercise any power or powers common to the several contracting parties.

Joint exercise of powers by public agencies

The term "public agency" shall include the Federal Government or any department or agency thereof, the State or any department or agency thereof, a county, city and county, city, public corporation, municipal corporation or public district.

CHAPTER 751

An act to amend Section 108.5 of the Agricultural Code, relative to host-free periods and host-free districts.

Stats 1933, p 60, amended

[Approved by Governor May 26, 1943. Filed with Secretary of State May 26, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 108.5 of the Agricultural Code is hereby amended to read:

Stats 1935, p 2122

108.5. Whenever the director determines that a particular pest can not be eradicated or effectively controlled by recognized ordinary means or that it is impractical to eradicate or

Host-free periods and districts

control such pests without the destruction in whole or in part of uninfected or uninfested host plants, the director may issue a proclamation declaring a host-free period or a host-free district or both, describing the host or hosts and the district wherein the planting, growing, cultivating or maintenance in any manner of any plants capable of continuing the particular pest is prohibited during a specified period of time and until the menace therefrom no longer exists.

Public nuisance

During the existence of a host-free period or host-free district established by the proclamation of the director, any of the therein described hosts which are planted, growing or being cultivated or maintained within such host-free period or district is a public nuisance and is subject to all the laws relating to the abatement of such nuisances. Any person who, after notice of the host-free period or host-free district established by proclamation of the director, plants, grows, cultivates or maintains any described host or hosts within such host-free period or district is guilty of a misdemeanor. The establishment of a host-free period or host-free area shall not be construed to require the destruction, or prohibit the cultivation and maintenance, of any fruit trees or nut trees or vines or berry bushes.

Penalty

CHAPTER 752

Stats 1939, p. 1274, amended

An act to add Chapter 9 to Part 6, Division 1, of the Revenue and Taxation Code, relating to the rental and sale of tax-deeded property, the disposal thereof, the assessments, the levy of taxes, the collection of taxes, the redemption of tax delinquent property and providing for an alternative procedure for accomplishing said purposes.

In effect August 4, 1943

[Approved by Governor May 26, 1943. Filed with Secretary of State May 26, 1943.]

The people of the State of California do enact as follows:

New chapter

SECTION 1. Chapter 9, consisting of Sections 3900 to 3912, inclusive, is added to Part 6 of Division 1 of the Revenue and Taxation Code, to read:

CHAPTER 9. CORRELATIVE RIGHTS OF TAXING AGENCIES

Policy

3900. It is hereby declared to be the policy of the State and the intent of the provisions in this code contained, that the final tax deed or deeds of all taxing agencies, including counties, cities and counties, cities, irrigation districts, reclamation districts, and other taxing agencies that annually levy, assess and collect taxes or assessments upon real property within the State, should be and they are hereby declared to be upon a parity with each other, and that regardless of when the levy of such taxes or assessments is or has been made, and regardless of when the final tax deed or assessment deed is or has been taken by such taxing agency, that the rights

of all taxing agencies and all such deeds shall be equal and upon a parity with each other.

Alternative procedure for sale or lease of realty

3901. In lieu of any other method or procedure that is now or that may hereafter be provided by law for the sale or lease of real property located within the boundaries of any taxing agency in the State, and as an alternative method or procedure to any other method or procedure that is now or that may hereafter be provided by law relating to the subject matter of this chapter, the provisions of this chapter may be followed by any taxing agency, excluding the State, for such sale or lease.

Apportionment

Any taxing agency which has not availed itself of any other provision of this code for the rental or sale of tax-deeded property shall, in the event that it rents or farms such property, apportion the rentals according to the method provided in this chapter, and for the purposes, only, of such apportionment the first delinquency of each taxing agency and revenue district shall be deemed to exist although the taxing agency renting or farming the property has acquired the interest of any or all of the other taxing agencies.

First delinquency

Procedure where tax deed has been executed

3902. In all cases where any land or real property within the State is located within one or more taxing agencies, including but not confined to a county, city and county, city, irrigation district, reclamation district, or other taxing agency, having power to assess, levy and collect taxes or assessments, and one or more of such taxing agencies has heretofore or may hereafter assess and levy taxes or assessments upon such real property within its boundaries, and such taxes or assessments have become delinquent, or may hereafter become delinquent and in accordance with the law relating to such taxing agency or agencies, tax or assessment deed to such property has been or may hereafter be made to the taxing agency, or to the State vesting title to said property in the taxing agency or the State, the following steps and proceedings may be taken by any one or more or all of such taxing agencies within the boundaries of which the affected land or real property is located:

Election to be exclusive sales and rental agencies

(a) The first taxing agency, excluding the State, acquiring title to such real property through tax or assessment proceedings vesting title to said real property in such taxing agency or in the State, but including any county or city and county within the boundaries of which real property has been deeded to the State by tax deed, may elect to be the exclusive rental and sales agency for said tax-deeded property by the passage of a resolution and by filing with the office of the State Controller and with the governing board of each taxing agency within the boundaries of which the real property is located of a certified copy thereof, accompanied by a list showing the descriptions of the properties on forms prescribed by the State Controller, by the governing body of such taxing agency or such county or city and county indicating such election, and when such resolution so passed is filed with the State Controller, the exclusive right to rent or sell said land shall

Vesting of right

thereby be vested in such taxing agency or such county or city and county in accordance with the provisions hereinafter contained and notwithstanding any other provisions of this code,

Suspension of right to sell

and the power of the tax collector of any county or city and county to sell or offer for sale at public auction or private sale any real property that has theretofore been deeded to the State for nonpayment of delinquent taxes shall be suspended during the time the provisions of this chapter are effective as to any parcel of tax-deeded property.

Election by agency subsequently acquiring tax title

(b) If the taxing agency first to acquire title to real property within its boundaries has not elected to become the exclusive renting or sales agency for the property, or if any renting or sales agency is terminated, any other taxing agency, excluding the State, subsequently acquiring tax title to said property or any county or city and county within the boundaries of which real property has been deeded to the State by tax deed shall likewise be entitled to elect by the same proceedings as set forth under subparagraph (a) hereof to become the exclusive rental and sales agency of said property.

Contract with other interested taxing agencies

(c) Any taxing agency, including a county or city and county authorized by this chapter to become the exclusive rental or sales agency of real property within its boundaries is also hereby authorized and empowered, by and through its governing body, to contract with any other taxing agency within the boundaries of which the affected land is located, to act as the exclusive rental or sales agency of said property, and any and all taxing agencies within the boundaries of which the affected property is located, whether they have or have not acquired final assessment or tax deed to said property, may contract with any other taxing agency which has acquired title to said property, to act for or with the taxing agency having title to said property in the matter of the renting or sale of said tax-deeded property.

Contract as to rental, sale and revenue apportionment

(d) Any taxing agency electing to be the exclusive rental or sales agency shall endeavor to contract with the governing bodies of the other interested taxing agencies, including a county or city and county within the boundaries of which real property has been deeded to the State by tax deed, as to the rental or sale of tax-deeded property located within the boundaries of the respective taxing agencies, and the contract may provide a minimum rental and a minimum sale price for the rental or sale of the affected property, and may provide for the method and amount and portion of the receipts from rentals and/or sales to be paid to each such

Lease or sale

taxing agency. If no agreement for proportioning of revenues from rental or sales is agreed upon, the affected property shall only be leased or sold by the taxing agency electing to become the sole rental or sales agency after offering said property

Notice

for lease or sale after public notice, stating the time and place when and where bids will be received for the sale or lease of the property, of not less than 10 days subsequent to the first publication of such notice in a newspaper of general circula-

tion published in the county or city and county within which said property is situated. Such notice may be published one or more times in the discretion of the taxing agency. No inferior bid shall be accepted if a better or more favorable offer of sale, lease, or method of operation is available. Unless all interested taxing agencies having delinquent taxes or assessments against the affected property do agree upon the proportions or rental or sales receipts to be received by each taxing agency, the proceeds realized from any rentals and from any sales of the affected property shall be apportioned and divided between all interested taxing agencies in the proportion that the total tax and assessment liens for the first year of delinquency, exclusive of penalties, interest, and costs, of each agency, including the interest of revenue districts, bears to the total tax and assessment liens for the first year of delinquency of all such agencies; provided, however, that where any such agency has bonds outstanding and assessment calls are being made therein to service such bonds, then the proportion for that agency shall be computed based upon the total tax and assessment liens for the first year of delinquency in the payment of assessments during which assessments were called for the payment of both principal and interest maturing on such bonds. If the taxing agency levies taxes or assessments in one year covering payment for more than one year, the amount attributable to the first year shall constitute the share of such taxing agency. The county and taxing agencies shall prorate on the same basis the money they receive to themselves and to the revenue districts for which they collect taxes or assessments. Whenever one taxing agency holds a tax deed and another taxing agency otherwise entitled to levy taxes or assessments on the property is unable by reason of such public ownership to levy taxes thereon, and has no delinquent taxes thereon, the last assessment of the taxing agency shall, for the purpose of the apportionment of sales and rentals, be deemed to be its first year of delinquency.

Bids

Apportionment of proceeds

(e) Where there has been deeded to the State by tax deed any real property within the boundaries of any said taxing agency, including any county or city and county, and title has heretofore been acquired or may hereafter be acquired by any of said taxing agencies or the State by tax title through delinquent tax proceedings, or purchase of tax title and/or in or by any of the methods provided for in this code, so that any one taxing agency acquires the interest of the State and of all other interested taxing agencies, the rental hereafter received relating to the affected property shall be apportioned between or among said taxing agencies in such proportions and amounts as the said respective taxing agencies through their respective governing bodies shall by agreement determine, and in the event that all of the interested governing bodies can not agree upon a method of apportioning, then the rentals received from such property shall be apportioned as in subparagraph (d) hereinbefore provided.

Apportionment of rental where title acquired by one tax agency

Quiet title action

3903. Any taxing agency becoming vested with title to such real property by any method shall have the right to and is hereby vested with the power to, by action to quiet title, or by other appropriate proceedings, including the procuring of quitclaim or other deed, release or relinquishment of any private owner or lien holder having or claiming a lien or interest in said property, perfect a merchantable title to said property. No other taxing agency shall be made a party defendant to any quiet title action brought under authority of this section unless the agency or the person bringing the action has acquired the interest of the agency named as a party defendant.

Failure to rent or sell. Termination of agency

3904. In the event that any taxing agency shall elect to become the exclusive leasing and sales agency of tax-deeded property and shall fail, neglect or refuse for a period of two years from the date it received a tax deed to the property from its tax collector or a corresponding officer or from the effective date of this chapter, whichever is the later to either rent the affected property or to sell the affected property the exclusive rental and sales rights then existing in any taxing agency may be terminated by any interested taxing agency passing a resolution by its governing body and serving a certified copy thereof upon the governing body of the taxing agency having obtained the exclusive sales and leasing rights and by filing a certified copy of said resolution with the office of the State Controller and with the governing board of each taxing agency within the boundaries of which the real property is located, and such exclusive rental and sales rights shall thereupon terminate 60 days after the service of said certified copies of said resolution on the interested governing boards and filing of a certified copy thereof with the office of the State Controller. Whenever an exclusive leasing and sales agency is terminated, as provided in this paragraph, the taxing agency whose rights are thus terminated shall not within three years thereafter become the exclusive leasing and sales agency of such property except with the consent of all taxing agencies.

Expenses

3905. In all cases where a taxing agency acts as the leasing or sales agent for any real property, as provided for under this chapter, said taxing agency may deduct 10 per cent from all rental received and 5 per cent from the receipts from a sale of any property sold by said taxing agency, in order to partially or fully reimburse said taxing agency for expenses incurred by it in handling any such property. All other amounts received as rental or sales price shall belong to and shall be paid to the taxing agencies in proportion to their tax or assessment liens as provided for under this chapter.

Period during which taxing agency may be sole leasing or sales agency

3906. When a taxing agency has elected to become the sole leasing or sales agency under the provisions of this chapter, it shall have the right to continue as such for a period of two years subsequent to the date of the filing with the office of the State Controller and with the governing board of each taxing agency within the boundaries of which the real property

is located of a certified copy of a resolution of the governing board of such taxing agency of its election to act in that behalf. Said taxing agency may continue to act as sole leasing or sales agency for a further period of not exceeding two years in the event an agreement to that effect shall be entered into between all interested taxing agencies, excluding the State, which shall never have any right to act as a sales or leasing agency either in its own name or through the State Controller or any other State office or department when the alternative method provided for under this chapter is in effect.

Assignments and leases

3907. Every lease or assignment thereof, of tax-deeded property made under any provisions of this code by the State through the office of the State Controller or of any other office or department of the State, shall be assigned to the governing body of the taxing agency electing to be the sole leasing and sales agency.

Procedure to terminate right of redemption

3908. Whenever any taxing agency other than the county or State shall have elected to be the sale or rental agency as in this chapter provided and the interest of the State and county is to be acquired, the following proceeding terminating the right of redemption shall be had:

(1) The county tax collector shall on request of the agency give notice of the intended sale, which notice shall describe the property, state the name of the assessee for each year there are delinquent county taxes against the property, and state that unless sooner redeemed, all right of redemption of said property shall cease 21 days after the first publication of said notice.

(2) The tax collector shall cause said notice to be published once a week for at least three successive weeks in a newspaper of general circulation published in the county, or, if none, then by posting copies of the notice in four conspicuous places in the county, one of which shall be in the United States post office nearest the property, and another of which shall be on the property itself.

(3) Within five days after the first publication of the notice, the tax collector shall mail a copy of it by registered mail to the last assessee of each portion of the property at his last known address, or, if no address is known for him, then at the county seat. It is not necessary to mail a copy of the notice to any party who files with the tax collector a written acknowledgment of receipt of a copy of the notice or a waiver of the notice.

(4) The cost of giving the notice shall be paid by the taxing agency by which the property is to be or may be purchased.

(5) Affidavits showing that the notice has been given as prescribed shall be filed in the office of the county tax collector.

(6) If any portion of the property is not redeemed within 21 days after the first publication and mailing of the notice, the tax collector shall, without charge, execute to the taxing agency a deed to the unredeemed property.

(7) On the execution of the deed, all right to redeem the property from sale to the State is terminated. The deed conveys to the taxing agency all the State's interest in the property.

(8) If the lands as to which the right of redemption has been thus terminated are not sold into private ownership within the period the taxing agency is exclusive sales and rental agency, the taxing agency shall execute a deed to the State reconveying to the State all the right, title and interest of the State in the property which such taxing agency obtained by the deed of the tax collector pursuant to this chapter. Thereafter, such property shall be held as tax-deeded property by the State. The Controller shall provide uniform blanks on which such reconveyances shall be made.

There shall be the same number of duplicates as is required for deeds to the State for taxes, and the same procedure shall be followed in recording such deeds as is provided by law for the recording of deeds to the State for taxes.

Notice of execution of deed

3909. On execution of the deed by the tax collector to the taxing agency, and by the taxing agency to the State or private purchaser, notice thereof shall be given to the State Controller and to the governing board of each taxing agency within the boundaries of which the real property is located.

Duration of leases

3910. No lease of tax-deeded property shall be made for a period exceeding two years without the consent of all interested taxing agencies.

Account

3911. The taxing agency acting as the rental or sales agency under this chapter shall on or before February 1st of each year render to all affected taxing agencies an account of all rentals and sales for the preceding calendar year, specifying the same as to each property involved, and pay to the affected taxing agencies the amounts due. A copy of the account shall be furnished to the State Controller.

"Rental"

3912. "Rental" as used in this chapter means rental for cash, crop share, or other consideration, and, in the event the property is farmed by the State or taxing agency, includes the profits derived from such farming.

CHAPTER 753

An act to validate contracts between public utility districts and individuals, firms or corporations for the joint payment for or joint construction or joint use of sewers or sewer facilities or for the purchase of rights or capacity in any sewer or sewer facilities constructed by such districts.

In effect August 4, 1943

[Approved by Governor May 26, 1943. Filed with Secretary of State May 26, 1943.]

The people of the State of California do enact as follows:

Validation of contracts

SECTION 1. Whenever any public utility district in the State of California has made or purported to make a contract

with any individual, firm or corporation for the joint payment for or the joint construction or joint use of any sewer constructed, maintained or operated by said district, or whenever any public utility district has made or purported to make any contract by or under which any person, firm or corporation has purchased rights in or a portion of the capacity of any sewer constructed, maintained or operated by the district, all of the terms and provisions of said contract or contracts are hereby ratified, confirmed and validated, and all acts and proceedings leading up to and including the execution of any such contract or contracts are hereby ratified, confirmed and validated, and any such contract is hereby declared to be a valid and binding contract.

CHAPTER 754

An act to repeal Chapter 4.3 of Part 6, Division 1, and to amend Sections 3660 and 3661, and Sections 3662 and 3663 of, and to add Chapter 4.3 to Part 6, Division 1 of the Revenue and Taxation Code, relating to real property taxes.

Stats 1939, p 1274, amended

[Approved by Governor May 26, 1943. Filed with Secretary of State May 26, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Chapter 4.3 of Part 6, Division 1, of the Revenue and Taxation Code is hereby repealed. Repeal

SEC. 2. Sections 3662 and 3663 of the Revenue and Taxation Code are hereby repealed. Repeals

SEC. 3. Chapter 4.3, consisting of Sections 3534 to 3556, inclusive, is hereby added to Part 6, Division 1, of the Revenue and Taxation Code, to read: New chapter

CHAPTER 4.3. CLASSIFICATION OF TAX-DEEDED PROPERTY

3534. The Advisory Committee on Tax-Deeded Property is continued in existence. The committee consists of nine members, appointed by the Governor on the recommendation of the Controller and holding office at the pleasure of the Governor. Three members of this committee shall represent the interests of counties of this State, three members shall represent the interests of the cities of this State and three members shall represent the interests of irrigation districts, reclamation districts and water conservation districts. The members of this committee serve without compensation, except that each shall receive his actual and necessary expenses incurred in the course of his duties. Advisory Committee on Tax-Deeded Property

Whenever the word "Committee" is used in this chapter it shall mean the Advisory Committee on Tax-Deeded Property.

3535. The committee shall meet on call of the Controller for the purpose of classifying tax-deeded property and for the Meetings

purpose of conference and making recommendations in regard to the restoration of tax-deeded property to the tax rolls and for all other purposes relating to administration of tax-sold property and tax-deeded property.

Chairman

3536. The chairman of the committee shall be elected by and serve at the pleasure of the committee and shall be a member of the committee.

Secretary

3537. The chief of the redemption tax department in the Controller's office, or any other civil service employee of the classifying agency designated by the classifying agency, shall act as secretary of the committee.

Employees

3538. The classifying agency shall, from its personnel, furnish any secretarial, clerical, technical, or other assistance as may be needed by the committee.

"Administering agency"

3539. "Administering agency" means the State or local agency which administers tax-deeded property which has been classified as suitable for a public use The administering agency may be any State department, commission, board or other State agency, or may be a county, city, district, or other local agency.

"Classifying agency"

3540. "Classifying agency" means the Controller, or such State agency as he may designate.

Classification

3541. The classification of tax-deeded property shall include, but is not limited to, the following:

(a) Which property is suitable for public use, and what the public use should be.

(b) Which property is suitable to go back to private ownership.

(c) Which property appears to be essentially waste land not fit for either public or private use with recommendations for its rehabilitation.

Property subject to sale and redemption

3542. Until classified as suitable for public use or as waste land all tax-deeded property is subject to sale, and, unless the right of redemption has been terminated, to redemption.

Reclassification

3543. The committee may at any time reclassify any or all tax-deeded property which has been previously classified. No property shall be finally classified for public use unless some State or local agency has indicated its willingness to become the administering agency for the property.

Application for classification

3544. As prescribed by the committee, any State or local agency may apply to the classifying agency:

(a) To have tax-deeded property classified for public use,

(b) To be the administering agency for property classified for public use.

Limitation

3545. Not more than 5 per cent of the assessed valuation of property in any county shall be finally classified as suitable for public use, except by consent of the board of supervisors. As used in this section, "assessed valuation" means the assessed valuation of all taxable property and the valuation which would be placed on tax-deeded property, and on former tax-deeded property which has been classified for public use, if such property were assessed. On information fur-

nished by the county assessor, the assessed valuation shall be determined by the committee as of each time final classification is made.

Waste land

3546. Tax-deeded property which has been classified as waste land is not subject to sale to private owners.

Purchase price agreement

3547. Before taking over the property for purposes of administration, the administering agency shall agree with the board of supervisors as to the purchase price to be paid for the property and any terms of sale. This purchase price shall not exceed the amount which would have been necessary to redeem the property at the time it was deeded to the State for taxes. This price shall be paid from any funds appropriated or given to the administering agency. The money received under this section shall be distributed in the same manner as money received on sale of tax-deeded property to a private purchaser, except that, if the administering agency is the county, the board of supervisors shall agree with the governing bodies of all revenue districts as to the amount to be paid to such revenue districts by the county.

Copies of agreement

3548. The administering agency shall submit four executed copies of the agreement to the Controller.

Final classification

3549. Upon the receipt of the agreement between the administering agency and the board of supervisors, the approval of the committee shall be final classification of the property as suitable for public use, and after such classification the property is not subject to sale to private parties.

Disposition of copies

3550. Upon final classification the committee shall deliver all copies of the agreement to the Controller who shall return one executed copy to each party and retain one executed copy on file in his office.

Notice

3551. By written authorization, the Controller shall then direct the county tax collector to cause notice of the agreement to be given.

Objection or consent to sale

3552. If the governing body of any taxing agency having a lien on the property for taxes or assessments does not, before the effective date of the agreement, file with the tax collector and the board of supervisors certified copies of a resolution adopted by the governing body objecting to the sale, the taxing agency has consented to the sale. If the taxing agency consents to the sale the lien of its taxes or assessments and any rights which it may have to the property as a result of such taxes or assessments are canceled by a sale under this chapter and it is entitled to its proper share of the proceeds deposited in the Delinquent Tax Sale Trust Fund. If the taxing agency does object to the sale, the lien of its taxes or assessments or any rights which the taxing agency may have to the property are not affected by a sale under this chapter.

If the taxing agency objects to the sale and before the date of sale the administering agency applies in writing to the board of supervisors to be released from the purchase of the property the agreement becomes null and void.

Publication of notice of agreement

3552.2. If the right of redemption has not been terminated a notice of agreement shall be published once a week for at least three successive weeks in a newspaper published in the county, or, if none, then by posting copies of the notice in four conspicuous places in the county, one of which shall be on the property itself.

Notice of agreement

3552.4. The notice of agreement shall state:

(a) A description of the property.

(b) For each year in which there may be delinquent taxes against all or any portion of the property, the name of the assessee of all or such portion of the property.

(c) That an agreement for the sale of the property has been made by the board of supervisors of the county with the administering agency named in the agreement.

(d) That a copy of the agreement is on file in the office of the board of supervisors and tax collector.

(e) There shall also be a statement that if the property is not redeemed before the effective date of the agreement the right of redemption will cease.

Copy to last assessee

3552.6. If the right of redemption has not been terminated, the tax collector shall mail a copy of the notice within five days after the first publication by registered mail to the last assessee of each portion of the property at his last known address, or, if no address is known for him then at the county seat.

It is not necessary to mail a copy of the notice to any party who files with the tax collector a written acknowledgment of receipt of copy of the notice or a waiver of the notice.

Cost of notice

3552.8. The cost of giving the notice of agreement shall be paid by the administering agency by which the property is to be or may be purchased.

Filing of notice

3552.10. A copy of the published notice of agreement shall be filed in the office of the county tax collector.

Effective date of agreement

3552.12. The agreement becomes effective 28 days after the first publication of the notice of agreement.

Redemption

3552.14. If all or any portion of the property subject to redemption is redeemed before the effective date of the agreement, the agreement is null as to the property redeemed.

Termination of redemption

3552.16. If any portion of the property subject to redemption is not so redeemed, the right of redemption is terminated when the terms of the agreement have been met by the administering agency, and the tax collector shall, without charge, execute to the administering agency a deed of the unredeemed property.

Acknowledgement

3552.18. The county clerk shall take acknowledgment of the deed without charge.

Provisions of deed

3552.20. In addition to the usual provisions of a deed conveying real property, the deed shall specify:

(a) That the real property was duly sold and conveyed to the State for nonpayment of taxes which had been legally levied and were a lien on the property.

Effect of deed

3552.22. Except as against actual fraud, the deed is conclusive evidence of compliance with this article and has the

same effect as evidence and as a conveyance as a deed to a private purchaser after sale of tax-deeded property.

Termination of redemption

3552.24. If not previously terminated, all right to redeem the property from sale to the State is terminated on the execution of the deed. The deed conveys to the administering agency all the State's interest in the property.

Payments

3552.26. Any payment required by an agreement under this chapter shall be made to the tax collector and shall be deposited in the delinquent tax sale trust fund.

Report of administering agency

3552.28. On the execution of the deed to the administering agency the tax collector shall report the following within 10 days to the Controller, assessor, redemption officer and recorder:

(a) The name of the administering agency.

(b) The date of the deed to the administering agency.

(c) The amount for which the property was sold.

(d) The description of the property conveyed.

(e) The numbers and dates of certificate of sale to the State and of the deed to the State.

Notations

3552.30. The recorder shall note the following on the margin of the certificate of sale to the State, if any, and on the margin of the deed to the State:

(a) The name of the administering agency.

(b) The date of the execution of the deed to the administering agency.

(c) The amount for which the property was sold.

Additional notations

3552.32. The redemption officer shall note the fact and date of the execution of a deed under this chapter on the margin of each delinquent and current roll on which the property appears, opposite the description of the property. Any charges against the officer having custody of the delinquent and current rolls shall be reduced accordingly.

Limitation

3552.34. A proceeding based on alleged invalidity or irregularity of any proceeding instituted under this chapter can only be commenced within one year after the date of execution of the tax collector's deed.

Defense

3552.36. A defense based on the alleged invalidity or irregularity of any proceeding instituted under this chapter can be maintained only in a proceeding commenced within one year after the date of execution of the tax collector's deed.

Quiet title action

3552.38. Whenever tax-deeded property has been purchased from the State, the purchaser or any other person claiming through him may bring suit against the State to quiet title to all or any portion of the property and prosecute it to final judgment.

Forfeiture

3552.40. Whenever it is determined by a court that any sale or deed for taxes under this chapter is void and that the purchaser from the State may not be finally awarded the property, the court shall not decree a forfeiture of the property until the former owner or other party in interest has repaid to the purchaser the purchase price of the property.

Refund

3552.42. The purchaser of tax-sold or tax-deeded property is entitled to a refund of the amount paid as purchase price whenever it is determined by the board of supervisors that the property belongs to the United States, this State, a city, or other political subdivision of this State and should not have been sold for taxes. The refund shall be made in the same manner as a refund of an overpayment of tax.

Purchase of rights

3553. The administering agency may also agree to purchase the rights of other taxing agencies.

Reclassification of waste land

3554. When in the judgment of the committee waste land is rehabilitated it may be reclassified for private or public use.

Information

3555. At any time, all State and local agencies shall supply all information requested by the classifying agency or the committee.

Necessary money

3556. Any money necessary for carrying out the provisions of this chapter shall be paid out of the money available for the support of the redemption tax department of the Controller's office.

Stats 1939, p 1274

SEC. 4. Section 3660 of said code is amended to read:

Redemption Tax Fund

3660. Any balance remaining in the Tax-Deeded Land Rental Fund on the effective date of this section shall be transferred to the Redemption Tax Fund, which fund is hereby created. Out of any money in the Redemption Tax Fund, there is hereby appropriated to the Controller to be expended by him such sums as may be necessary for the support of the redemption tax department of the Controller's office in carrying out the provisions of this code.

Stats 1941, p 1423

SEC. 5. Section 3661 of said code is amended to read:

Policy

3661. The Legislature hereby declares that it is the policy of this State to use the revenues placed in the Redemption Tax Fund for the primary purpose of restoring tax-deeded property to the rolls and for all other purposes incident to the administration and classification of tax-deeded property.

CHAPTER 755

Stats 1937, p 2085, amended

An act to amend Section 57 of an act entitled "An act relating to the State civil service, including the adaptation thereof to Article XXIV of the State Constitution," approved July 1, 1937, relating to employees of the Attorney General's office.

In effect August 4, 1943

[Approved by Governor May 26, 1943. Filed with Secretary of State May 26, 1943.]

The people of the State of California do enact as follows:

Stats 1941, p 1192

SECTION 1. Section 57 of the State Civil Service Act is hereby amended to read as follows:

"State civil service": Employees of Attorney General

Sec. 57. On and after January 1, 1944, the provisions of Article XXIV of the State Constitution and of this act shall apply to, and the term "State civil service" shall include, State officers and employees directly appointed or employed

by the Attorney General, including those who vacated their positions to enter the military service of the United States, and who did so enter such military service, except (and in addition to those excepted by subdivisions (5) and (6) of Section 4 (a) of said article) three deputies or assistants, two confidential secretaries to be designated by the Attorney General, and such special counsel as may be authorized by law to be appointed or employed by the Attorney General. Such person so vacating his position and entering such military service for the purposes of this section shall be conclusively presumed to be holding such position during the time he was or is in such military service and upon his return to such position, within 90 days after receiving an honorable discharge therefrom, or after having been released from active duty under other honorable conditions, to actually perform the duties thereof shall do so with probationary status for such period of not less than two months nor more than eight months in the class or grade assigned as the board may fix.

CHAPTER 756

An act to add Section 9034.1 to the Education Code, relating to continuation education classes.

Stats. 1943, Ch. 71, amended

[Approved by Governor May 26, 1943. Filed with Secretary of State May 26, 1943.]

In effect August 4, 1943

Note.—See Stats. 1943, Ch. 71.

CHAPTER 757

An act to amend Section 14427 of the Business and Professions Code, relating to the registration of container brands.

Stats 1937, p 1229, amended

[Approved by Governor May 26, 1943. Filed with Secretary of State May 26, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 14427 of the Business and Professions Code is hereby amended to read:

Stats 1941, p 709

14427. Any person, who is engaged in the manufacture, packing, canning, bottling or selling of any substance in containers with his name, or other mark or device impressed or produced thereon, or whose equipment or supplies, owned by and used in his business, bears a name or other mark or device impressed or produced thereon, may file in the office of the county clerk of the county in which his principal place of business, or the principal place of business of its members, is situate, or if his place of business is situate out of the State, then in the office of the county clerk of any county of the

County recording of brand

State, and also in the office of the Secretary of State, a description of the name, mark or device so used, as a brand.

Fee

For filing each brand described and issuing his certificate of filing the Secretary of State shall charge and collect a fee of five dollars ($5), and for each brand described and filed the county clerk shall charge and collect a fee of one dollar ($1).

CHAPTER 758

Stats 1937, p 1229, amended

An act to amend Section 14483 of the Business and Professions Code, relating to the registration of laundry supply designations.

In effect August 4, 1943

[Approved by Governor May 26, 1943. Filed with Secretary of State May 26, 1943.]

The people of the State of California do enact as follows:

Stats 1941, p 709

SECTION 1. Section 14483 of the Business and Professions Code is hereby amended to read:

Fee

14483. The registrant shall pay to the Secretary of State for filing each laundry supply designation described and for issuing a certificate of filing a fee of five dollars ($5), and to the county clerk a fee of one dollar ($1) for each such designation described and filed.

CHAPTER 759

Stats 1939, p 1067, amended

An act to amend Sections 7301, 7303, 7304, 7351, 7352, 7402, 7405, 7501, and 7604 of, and to amend and renumber Section 7306 to be Section 6210.3 of, and to add Sections 8103 and 10017 to, the Public Resources Code, relating to the sale and exchange of land, and granting and taking rights and interests therein, by the State and its political subdivisions, repealing acts and parts of acts therein specified.

In effect August 4, 1943

[Approved by Governor May 26, 1943. Filed with Secretary of State May 26, 1943.]

The people of the State of California do enact as follows:

Stats 1943, Ch 609

SECTION 1. Section 7301 of the Public Resources Code is amended to read:

Sale of land not suitable for cultivation

7301. The unsold portions of the sixteenth and thirty-sixth sections of school lands, the unsold portions of the 500,000 acres granted to the State for school purposes, and the unsold portions of the listed lands selected of the United States in lieu of the sixteenth and thirty-sixth sections and losses to the school grant, which are not suitable for cultivation may be sold to citizens of the United States, or to a

municipal corporation, public corporation, quasi public corporation, or to the State Highway Commission, State Park Commission, or other State bodies authorized to purchase and hold land, or to the United States or an agency thereof, by the commission under rules and regulations prescribed by it and at a price fixed by it. Payment shall be made in cash to the commission at Sacramento.

Stats 1943, Ch 609

SEC. 2. Section 7303 of said code is amended to read:

Exchange of lands in place reserved from sale

7303. Whenever the commission deems it to the advantage of the State so to do, it may pursuant to law exchange any public lands in place reserved from sale for lands of the United States of equal area or equal value, and the lands so acquired in exchange may be thereafter sold in the manner and for cash as provided by this article.

Stats 1943, Ch 609

SEC. 3. Section 7304 of said code is amended to read:

Bases for indemnity scrip

7304. Nothing in this article affects the right of the commission to use as bases for indemnity scrip any lands embraced within the exterior boundaries of a National reservation and not otherwise disposed of under this article.

Stats 1943, Ch 609

SEC. 4. Section 7306 of said code is renumbered to be Section 6210.3 of said code, and is amended to read:

Easements, etc.

6210.3. The commission may grant easements and rights of way to the Department of Public Works to or over any of the public lands of the State for the purposes of rights of way for highways and for use in protecting highways from damage or destruction by natural forces.

Stats 1943, Ch 609

SEC. 5. Section 7351 of said code is amended to read:

Sale to settlers

7351. The unsold portions of the sixteenth and thirty-sixth sections of school lands, the unsold portions of the 500,000 acres granted to the State for school purposes, and the unsold portions of the listed lands selected of the United States in lieu of the sixteenth and thirty-sixth sections and losses to the school grant, which are suitable for cultivation may be sold only to actual settlers, in quantities not exceeding 320 acres to any one person, as provided by this article.

Stats 1943, Ch. 609

SEC. 6. Section 7352 of said code is amended to read:

Purchase price

7352. The price of the lands shall be fixed by the commission. Payment shall be made in cash to the commission at Sacramento.

Stats 1943, Ch 609

SEC. 7. Section 7402 of said code is amended to read:

Sixteenth and thirty-sixth sections

7402. All sixteenth and thirty-sixth sections, both surveyed and unsurveyed, which are now or hereafter included within the exterior boundaries of a military, Indian, forest, or other National reservation, or of a reserve, or of a National forest, National park, or National monument, or within the exterior boundaries of lands withdrawn from public entry, may be used as bases for indemnity selections except as otherwise provided in this chapter.

Stats 1943, Ch 609

SEC. 8. Section 7405 of said code is amended to read:

Indemnity selection

7405. Whenever the State has the right to select lands from the United States, for any of the causes or reasons for which it may be entitled to make indemnity selections, the commission

shall ascertain from time to time the number of acres of land to which the State is entitled as indemnity and shall keep on file a statement showing of what such bases consist.

Stats 1943, Ch 609

SEC. 9. Section 7501 of said code is amended to read:

Proceeds to State Lands Act Fund

7501. Swamp and overflowed lands belonging to the State may be sold by the commission under rules and regulations prescribed by it and at a price fixed by it, payment to be made in cash to the commission. The proceeds from such sales of swamp and overflowed lands shall be paid into the State Treasury to the credit of the State Lands Act Fund. This section shall not affect the sale of swamp and overflowed lands under any application filed with the commisson prior to September 19, 1939.

Stats 1943, Ch. 609

SEC. 10. Section 7604 of said code is amended to read:

Purchase price

7604. The lands designated in this chapter shall be sold at the price fixed by the commission. All moneys received for such lands shall be paid into the State Lands Act Fund, and shall be treated and disposed of in the same manner as moneys arising from the sale of segregated swamp and overflowed lands sold prior to September 19, 1939.

New section

SEC. 11. Section 8103 is added to the Public Resources Code, to read:

Sale of land granted for seminaries

8103. All moneys, securities, or other properties arising from the sale of the 72 sections granted to the State for a seminary of learning, and from the sale of the 10 sections granted to the State for the erection of public buildings, shall be paid out of the State Treasury on the order of The Regents of the University.

New section

SEC. 12. Section 10017 is added to the Public Resources Code, to read:

1872 Code

10017. Section 3535 of the Political Code is hereby repealed.

CHAPTER 760

Stats 1939, p 482, amended

An act to amend Sections 9202 and 9203 of the Health and Safety Code, relating to cemeteries.

In effect August 4, 1943

[Approved by Governor May 26, 1943. Filed with Secretary of State May 26, 1943.]

The people of the State of California do enact as follows:

Stats. 1941, p 2227

SECTION 1. Section 9202 of the Health and Safety Code is amended to read:

Abandonment

9202. Any nonperpetual care cemetery in which there has not been interred any human dead for the period of twenty (20) years may be declared an abandoned cemetery.

Stats 1941, p 2227

SEC. 2. Section 9203 of the said code is amended to read:

Declaration of abandonment

9203. Any public cemetery district having acquired a cemetery within its district boundary lines, as hereinbefore provided, may, by resolution of its board of directors, if no human dead have been interred therein for a period of twenty (20)

years immediately preceding the date of the resolution, declare the abandonment in whole or in part of the cemetery as a burial place for the human dead and for the removal of human remains interred therein to another cemetery or cemeteries within the boundaries of the district as in this chapter provided.

CHAPTER 761

An act to amend Section 221 of the State Civil Service Act, relating to preferences to Veterans and their widows in examinations.

Stats 1937, p 2085

[Approved by Governor May 26, 1943. Filed with Secretary of State May 26, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 221 of the State Civil Service Act is amended to read:

Stats 1937, p. 2085

Sec. 221. In the case of all other entrance examinations, veterans with thirty days or more of service and widows of veterans who become eligible for certification from eligible lists by attaining the passing mark established for the examination, shall be allowed an additional credit of five points, provided that disabled veterans shall be allowed an additional credit of ten points, which shall be added to the percentages attained in such examinations by such veterans, and they shall be placed on eligible lists and be eligible for appointment in the order and on the basis of the percentages attained by them in examinations after such credit of five points, or ten points in the case of disabled veterans, shall have been added. All ties shall be decided in favor of veterans. In case of promotional examinations a credit of only three points shall be allowed to veterans whether disabled or not and widows of veterans.

Examination credits

CHAPTER 762

An act to regulate, and to prohibit fraud and deception in, the sale of olive oil, imitation olive oil, and other edible oils, to repeal an act entitled "An act to regulate the sale of imitation olive oil, and to repeal an act entitled 'An act to regulate the sale of olive oil,' approved March 10, 1891," approved March 23, 1893, declaring the urgency of this act, to take effect immediately.

Stats 1893, p. 210, repealed

[Approved by Governor May 26, 1943. Filed with Secretary of State May 26, 1943.]

In effect immediately

The people of the State of California do enact as follows:

SECTION 1. It is unlawful for any person, firm, company, organization, association, or corporation in this State to engage in the wholesale distribution as specified in Section 2

License to package or manufacture olive oil

hereof, packaging or manufacture of olive oil without first obtaining a license so to do from the State Board of Public Health.

Issuance of license

SEC. 2. The State Board of Public Health shall issue to any person, firm, company, organization, association, or corporation in the State of California an annual license to package, manufacture or distribute olive oil, on receipt of an official application and a showing that said person, firm, company, organization, association, or corporation is properly equipped to so package or manufacture, or is a wholesale distributor of olive oil whose name and address will be upon the container of olive oil as distributor and whose name will appear upon the container of such olive oil as the only California addressee thereon. Such licenses shall be issued free of charge.

Imitation olive oil

SEC. 3. It shall be unlawful to manufacture, sell, offer for sale, give away, or to possess imitation olive oil in the State of California; provided, however, that this section and this act shall not apply to olive oil in packaged form existing on the effective date of this act, nor shall the provisions of this section be construed to prohibit the blending of olive oil with other edible oils by any person for their own personal use in their own home.

Exception

"Imitation olive oil"

(a) The term "imitation olive oil" shall mean the mixture of any edible oil with olive oil; or any edible oil artificially colored or flavored to resemble olive oil.

"Olive oil"

(b) The term "olive oil" means the edible oil obtained from the fruit of the olive tree (olea europea L.).

Artificial color or flavor

(c) The use of any artificial color or flavor in the manufacture or blending of olive oil is prohibited.

Mixture

(d) It is unlawful to prepare, express, mix or blend olive pomace or meats with any bland fixed oil other than olive oil.

Olive oil for technical purposes

SEC. 4. All olive oil for technical purposes shall be denatured with an odoriferous substance so as to render it unfit for food purposes.

Containers

SEC. 5. All olive oil manufactured or sold in the State of California shall be packed in sealed containers not larger in size than five-gallon cans; or in drums, and shall bear the following information on the label:

(a) Net contents
(b) Brand name
(c) Designation as olive oil
(d) Name of packer or distributor
(e) Address of packer or distributor.

SEC. 6. It shall be unlawful to reuse any olive oil container, can or drum for repacking any fixed oil intended to be used for food purposes, except on the premises of the processor.

Fatty acid

SEC. 7. It is unlawful to sell or offer for sale olive oil containing more than 5 per cent free fatty acid without first denaturing the oil and making it unfit for human consumption.

SEC. 8. The State Board of Public Health is hereby empowered to administer and enforce the provisions of this act. Enforcement

SEC. 12. Any person, firm, company, organization, association or corporation violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) or shall be imprisoned in the county jail for a term not exceeding one year, or by both such fine and imprisonment. Penalties

SEC. 13. An act entitled "An act to regulate the sale of imitation olive oil and to repeal an act entitled 'An act to regulate the sale of olive oil,' approved March 10, 1891," approved March 23, 1893, is hereby repealed. Stats 1893, p 210

SEC. 14. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of Section 1, of Article IV of the Constitution of this State; and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows: Urgency

That at the present time the State Department of Public Health has uncovered extensive frauds perpetrated on the public by groups of persons who have made a racket of the olive oil business, because of war conditions existing at the present time. Lithographed cans of alleged olive oil containing no olive oil whatsoever have been distributed, to such an extent that the California olive oil manufacturers themselves have asked to have this legislation introduced. California produces millions of gallons of olive oil yearly and this market should be protected. The State Department of Public Health feels that this act is urgent, because the olive oil crushing season is now on, and by this legislation the California manufacturers will receive the protection which they so rightfully deserve.

CHAPTER 763

An act to add Section 258.1 to the Vehicle Code, relating to temporary chauffeurs' licenses for school bus drivers, declaring the urgency of this act, to take effect immediately. Stats 1935, p 93, amended

[Approved by Governor May 26, 1943. Filed with Secretary of State May 26, 1943.] In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Section 258.1 is added to the Vehicle Code, to read: New section

258.1. Until six months after the termination of all current hostilities as declared by the President or the Congress of the United States, chauffeurs' licenses may be issued to persons 17 years of age or over permitting such persons to drive school busses. Duration chauffeur's license

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

Under existing law no chauffeur's license may be issued to a person under 18 years of age thus preventing in many cases the employment, for compensation, of persons under such age for the operation of motor vehicles. Because of manpower shortage resulting from the war in which the United States of America is now engaged, it is impossible to secure persons 18 years of age for employment as chauffeurs. It is essential, during the emergency created by the war, that disruption of essential transportation services be avoided by permitting the issuance of chauffeurs' licenses to persons under the conditions, and for the purposes, set forth in this act. In order to avoid such disruption of essential transportation services, it is necessary that this act take immediate effect.

CHAPTER 764

Stats 1939, p 1274, amended

An act to amend Section 253 of the Revenue and Taxation Code, relating to exemptions from taxes on property, and to provide that this act shall take effect immediately.

In effect immediately

[Approved by Governor May 26, 1943. Filed with Secretary of State May 26, 1943.]

The people of the State of California do enact as follows:

Stats 1939, p. 1274

SECTION 1. Section 253 of the Revenue and Taxation Code is amended to read:

Affidavit for veteran's exemption

253. If, because of active military service of the United States in time of war, sickness or other cause found to be unavoidable in the judgment of the assessor, an applicant for the veterans' exemption is unable to attend in person before the assessor, and no deputy is available to go to the place where he is located, then the applicant may make and subscribe the affidavit before any person authorized to administer an oath. If, during time of war, the applicant is in active military service of the United States or of any nation with which the United States is allied, or is outside of the continental limits of the United States, or if the person entitled to the exemption is insane or mentally incompetent, a member of his immediate family, his guardian, or legal representative, having personal knowledge of the facts required to be set forth, may appear before the assessor and may make and subscribe the affidavit on his behalf.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the pub-

lic peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and, therefore, shall go into immediate effect. A statement of facts constituting such necessity is as follows:

Due to the fact that the United States is now engaged in a war of world-wide proportions in which a large number of citizens of this State entitled to veterans' exemption are engaged in active military duty making it impossible for them to attend in person before an assessor or his deputy to claim such exemption, and due to the fact many of these persons are beyond the continental limits of the United States where it is difficult, if not impossible for them to exchange correspondence with assessors through which verified exemption claims may be forwarded to the assessors in time to comply with the requirements of law pertaining to the exemption of the veterans' property as of the first Monday in March of 1943, it is essential that some means be found to alleviate the great hardship which would result from the denial of these exemptions under such circumstances.

CHAPTER 765

An act to amend Section 4951 of, and to add Sections 4659, 4865 and 4866 to, the Health and Safety Code, relating to the powers of sewer maintenance districts and districts formed under Chapter 2, Part 3, Division 5 of said code.

Stats 1939, p 482, amended

[Approved by Governor May 26, 1943. Filed with Secretary of State May 26, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 4865 is added to the Health and Safety Code, to read:

New section

4865 "Maintenance of sewers" as used in this chapter includes the extension and enlargement of sewers, within a district.

"Maintenance of sewers"

SEC. 2. Section 4866 is added to said code, to read:

New section

4866. "Sewers" as used in this chapter includes lateral and collecting sewers, septic tanks and all other means of handling, gathering and disposing of sewage in the district.

"Sewers"

SEC. 3. Section 4659 is added to Chapter 2 of Part 3 of Division 5 of said code, to read:

New section

4659. This chapter may be cited as the Sewer Districts in Unincorporated Territory Act.

Short title

SEC. 4. Section 4951 of said code is amended to read:

Stats 1939, p 482

4951. "District," as used in this chapter, includes city, county, sanitary district and sanitation district, and districts formed under the Sewer Maintenance District Act and the Sewer Districts in Unincorporated Territory Act.

"District"

CHAPTER 766

An act to add a new chapter to Title 14 of Part 4 of Division 3 of the Civil Code to be known as Chapter 3b, relating to the assignment of accounts receivable and providing for the giving of notice thereof.

In effect August 4, 1943

[Approved by Governor May 26, 1943. Filed with Secretary of State May 26, 1943.]

The people of the State of California do enact as follows:

New chapter

SECTION 1. A new chapter to Title 14 of Part 4 of Division 3 of the Civil Code to be known as Chapter 3b thereof, is hereby added to the Civil Code, to read as follows:

CHAPTER 3b. ASSIGNMENT OF ACCOUNTS RECEIVABLE

3017. In this chapter:

"Account"

(1) "Account" means an open book account, mutual account, or account stated, due or to become due, carried in the regular course of business and not represented by a judgment, note, draft acceptance, or other instrument for the payment of money; it includes rights under an unperformed contract for work, goods or services which in the regular course will result in an open book account.

"Assignment"

(2) "Assignment" shall include any transfer, pledge, mortgage or sale.

"Creditor"

(3) "Creditor" means a person having any claim, whether matured or unmatured, liquidated or unliquidated, absolute, fixed or contingent.

"Debt"

(4) "Debt" means the indebtedness owing on an account.

"Debtor"

(5) "Debtor" means any person by whom an account is owing to the assignor.

"Filing officer"

(6) "Filing officer" means the county recorder of the county in which the assignor resides or if the assignor is a corporation or a partnership the county in which such assignor has its principal place of business.

Priority of assignments

3018. Subject to the provisions of Section 3019, an assignment of an account for value shall take precedence, and shall be entitled to priority, over any subsequent assignment of the same account.

Debtor's authority

A debtor, irrespective of the provisions of Section 3019, until notified by his creditor or the assignee not to do so, may pay or otherwise deal in good faith with the assignor, his agent for collection or any person who has succeeded to the assignor's interest, and shall have as against the assignee any right of setoff, counterclaim or defense against such assignor or person existing in his favor at the time he is so notified.

Validity of assignment Notice

3019. No assignment of an account shall be valid as against present or future creditors of the assignor without notice of such assignment, or as against a subsequent purchaser or assignee of such account without notice of such assignment,

unless such assignment shall be in writing and shall be signed by the assignor, and unless there shall be on file in the office of the filing officer, at the time of the making of such assignment, a presently effective and uncanceled notice signed by the assignor and the assignee, containing: Contents of notice

A designation of the assignor and the assignee, and of the residence or chief place of business of each within this State, if any, and if either of them has no residence or place of business within the State, a designation of his residence or chief place of business outside the State; and, either:

(1) A statement that the assignor expects to assign an account or accounts then existing or thereafter arising, to the assignee, or

(2) A statement that the assignor expects to assign certain accounts in which event the statement may contain:

(a) A list of the accounts so to be assigned, setting forth the amount of each such account and the names and addresses of the persons owing the same; and

(b) If such accounts are to be assigned as collateral security for a specific obligation, a declaration to that effect, and a statement of the amount of such obligation.

3020. It shall be the duty of the filing officer to mark each notice filed with a file number, and with the date and hour of filing, and to note and index the filing in a suitable index according to the name of the assignor and containing a notation of his address or chief place of business as given in the statement. Upon the filing of any such notice, if requested so to do by the person filing such notice, it shall be the duty of the filing officer to deliver to or mail to such person a certificate under seal, certifying that such notice has been filed, giving the file number and date and hour of filing, and stating therein whether or not there is on file in his office on the date and hour of such filing any other presently effective uncanceled notice of assignment by the assignor named in the notice so filed and setting forth therein the names and addresses of the assignee or assignees named in any such presently effective uncanceled notice or notices then on file. The fee for such filing shall be one dollar ($1) and the fee for the issuance of any such certificate shall be one dollar ($1). For a fee of one dollar ($1) the filing officer may issue a certificate to any person showing whether or not there is on file any presently effective uncanceled notice of assignment by any named assignor and if so setting forth therein the names and addresses of the assignee or assignees named therein. Procedure upon filing notice; Filing fee; Certificate

3021. Presentation for filing of any such notice, and payment of the filing fee, shall constitute filing under this chapter. When filing completed

3022. Any such notice shall be ineffective except as to accounts theretofore assigned while such notice was in effect, after three years from the date of filing. At any time before expiration of the effectiveness of the original or any subsequent filing, a like statement, signed by the assignor and the Duration of notice; Additional notice

assignee, or an affidavit by the assignee alone, setting out the information required by Section 3019, may be filed in like manner as the original filing. Any filing of such further notice or affidavit shall be effective in like manner and for a like period as an original filing. It shall be the duty of the filing officer to mark, file and index the further statement or affidavit in like manner as the original.

Cancellation of notice

3023. Any notice filed hereunder may be canceled by a certificate executed and acknowledged by the assignee reciting (1) the date of the notice, (2) the date of the filing thereof, (3) the names of the parties thereto, (4) and a statement that the same is canceled.

Certificate of satisfaction

3024. (a) If a notice filed pursuant to the provisions of this chapter contains a declaration that an account or accounts listed therein are to be assigned as collateral security for a specific obligation, then upon payment or satisfaction of such obligation, and upon written demand, delivered personally or by registered mail by the assignor, the assignee shall execute and acknowledge and deliver to the assignor a certificate reciting (1) the date of the notice, (2) the date of the filing thereof, (3) the names of the parties thereto, and (4) a statement that the obligation described in the notice has been paid or otherwise satisfied and discharged.

Failure to deliver certificate

(b) If for 10 days after such demand, the assignee fails to mail or deliver such a statement of satisfaction, he shall be liable to the assignor for all actual direct damages suffered by him as a result of such failure and, if the failure is in bad faith, for a penalty of one hundred dollars ($100). Upon presentation of such statement of satisfaction or cancellation, it shall be the duty of the filing officer to file the same and note the cancellation of the notice, and the date thereof on the margin of the page where the notice has been indexed.

Assignor as trustee

3025. The assignor of an account shall be a trustee of an assignee of the proceeds of the account and of any of the property sold which is returned to or recovered by the assignor. The right or lien of the assignee upon any balance remaining owing on such account receivable shall not be invalidated, irrespective of whether the assignee shall have consented to or acquiesced in such acts of the assignor, if merchandise sold, or any part thereof, is returned to or recovered by the assignor from the person owing the account receivable and he thereafter deals with it as his own property, or if the assignor grants credits, allowances or adjustments to the person owing an account receivable. The rights of a person who purchases or takes a lien upon property so held in trust in good faith and for value without notice of the trust are superior to the rights of the assignee.

Furnishing information

3026. It shall be the duty of any assignee who has filed a presently effective and uncanceled assignment to furnish to any person such information relative to assignments of accounts as the assignor may in writing direct.

3027. The provisions of this chapter Exceptions
(a) Shall not affect the validity of an assignment as between the parties thereto;
(b) Shall not be applicable to an assignment made pursuant to the provisions of any statute of the United States; and
(c) Shall not be applicable to any assignment made for the benefit of all of the assignor's creditors generally.

3028. This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of the States which enact it. Interpretation

3029. Notwithstanding the provisions of any general or special law, the provisions of this chapter shall control except as to assignments made before this chapter takes effect. Controlling effect

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CHAPTER 767

An act to add Sections 531.2 and 587.5 to the Vehicle Code, relating to the operation and the parking of vehicles. Stats 1935, p 93, amended

[Approved by Governor May 26, 1943. Filed with Secretary of State May 26, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 531.2 is added to the Vehicle Code, to read: New section

531.2. Following Fire Department Vehicles. No motor vehicle, except an authorized emergency vehicle or a vehicle of a duly authorized member of a fire department, shall follow within 300 feet any vehicle of a fire department which is responding to an emergency or fire call. Following fire engines

SEC. 2. Section 587.5 is added to the Vehicle Code, to read: New section

587.5. Interference with Fire Department Vehicles. No motor vehicle, except an authorized emergency vehicle or a vehicle of a duly authorized member of a fire or police department, shall be operated within the block wherein an emergency situation responded to by any fire department vehicle exists, except that in the event the nearest intersection to such emergency is more than 300 feet therefrom, this section shall prohibit operation of vehicles only within 300 feet of the emergency, unless directed to do so by a member of the fire department or police department, deputy sheriff, or member of the California Highway Patrol. The emergency shall be deemed to have ceased to exist when the official of the fire department in charge at the scene of the emergency shall so indicate. Officials of the fire department or police department or the California Highway Patrol who are present shall make every effort to prevent the closing off entirely of congested highway traffic passing the scene of any such emergency. Traffic near fire emergency prohibited

CHAPTER 768

Stats 1937, p 1005, amended

An act to add Section 1529 to the Welfare and Institutions Code, relating to public assistance, providing for payment of aid while in a public hospital.

In effect August 4, 1943

[Approved by Governor May 26, 1943 Filed with Secretary of State May 26, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 1529 is added to the Welfare and Institutions Code, to read:

Child inmate of public hospital

1529. No child shall receive aid under this chapter while he is an inmate of a public hospital except with respect to temporary medical or surgical care not exceeding two calendar months, in which event the child shall be eligible to receive not to exceed two monthly warrants after becoming such inmate.

CHAPTER 769

An act to amend Section 696 of the Political Code, relating to the revolving fund for State purchases.

In effect August 4, 1943

[Approved by Governor May 26, 1943. Filed with Secretary of State May 26, 1943.]

The people of the State of California do enact as follows:

Stats 1911, p 2049

SECTION 1. Section 696 of the Political Code is amended to read:

Revolving fund for State purchases, etc.

696. A revolving fund in the sum of four hundred thousand dollars ($400,000) is hereby established under the control of the State Department of Finance to be used for the purchasing and selling of materials, supplies and equipment, and the rendering of services to other State agencies and, in connection therewith, for the employment and compensation of necessary personnel and expenses. The department may draw from the fund established by this section, without first submitting vouchers and itemized accounts, a sum not in excess of ten thousand dollars ($10,000) to be used for urgent cash advances, which sum must at any time upon demand be accounted for by the department to the State Controller.

CHAPTER 770

An act to amend Sections 1552.5, 2220 and 3078.5 of the Welfare and Institutions Code, relating to reports to the State Department of Social Welfare with respect to the suspension of grants of aid.

Stats 1937, p 1005, amended

[Approved by Governor May 26, 1943. Filed with Secretary of State May 26, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 1552.5 of the Welfare and Institutions Code is amended to read:

Stats 1939, p 2840

1552.5. The county may cancel, suspend or revoke aid under this chapter for cause. Upon instructions from the State Department of Social Welfare, the county shall cancel, suspend or revoke aid under this chapter.

Cancellation of aid

Upon request of the department, an immediate report of every suspension of aid shall be made to the State Department of Social Welfare stating the reason for the suspension and showing the action of the county in approving the suspension.

Report of suspension

SEC. 2. Section 2220 of said code is amended to read:

Stats 1939, p 2238

2220. The board of supervisors may for cause, and upon instructions so to do by the State Department of Social Welfare, shall cancel, suspend, or revoke aid. Upon request of the department, an immediate report of every suspension shall be made to the State Department of Social Welfare stating the reason for the suspension and showing the action of the board of supervisors in approving the suspension.

Cancellation of aid

Report of suspension

SEC. 3. Section 3078.5 of said code is amended to read:

Stats 1939, p 2567

3078.5. The board of supervisors may, for cause, and upon instructions so to do by the State Department of Social Welfare, shall cancel, suspend, or revoke aid. Upon request of the department, an immediate report of every suspension shall be made to the State Department of Social Welfare stating the reason for the suspension and showing the action of the board of supervisors in approving the suspension.

Cancellation of aid

Report of suspension

CHAPTER 771

An act to increase production by providing for exemptions from various requirements, relating to employment and working conditions of minor employees essential to the war effort, declaring the urgency thereof, to take effect immediately.

Minors Emergency War Employment Act

[Approved by Governor May 26, 1943. Filed with Secretary of State May 26, 1943.]

In effect immediately

The people of the State of California do enact as follows:

SECTION 1. This act shall be known as the Minors Emergency War Employment Act.

Short title

SEC. 2. The Legislature hereby declares that, in order to increase production and to win the wars in which the United

Necessity of act

States is engaged, certain restrictions on activities of minor employees should be temporarily revised, either wholly or partly, such revision of restrictions to be in effect only as provided in Section 10 hereof.

War production permit

SEC. 3. The Governor may issue a war production permit permitting the employment of minor employees at or for such hours, and at such type of work, and under such conditions, as may be helpful in increasing production and furthering the war effort without unreasonably increasing the risk of impairing the health, education or safety of said minor employees, in view of the emergency. Such permit when issued shall remain in effect until revoked, modified or suspended under Section 6 hereof.

Permits to employers and minors

SEC. 4. The Governor may issue a permit authorizing the issuance of permits to work to minors and permits to work to employers who come within the provisions of Chapters 1 and 2 of Part 2 of Division 1 of the School Code or of Chapters 4 and 5 of Division 8 of the Education Code or any of said chapters, by any one or more of the boards, officers or other agencies or other persons authorized to issue permits to work or permits to employ, acting within their respective jurisdictions as fixed by the School Code or the Education Code, under such conditions as may be helpful in increasing production and furthering the war effort without unreasonably increasing the risk of impairing the health, education or safety of said minor employees, in view of the emergency. Such permit when issued shall remain in effect until revoked, modified or suspended under Section 6 hereof.

Application

SEC. 5. An application for the issuance of a permit under Section 3 hereof shall be filed with the State Department of Industrial Relations. An application for the issuance of a permit under Section 4 hereof shall be filed with the State Department of Education. An application for a permit may be filed by a person, association or other private agency or by any public agency, but a permit granted hereunder on such application shall be given such scope as the Governor may determine. Such State department shall within 15 days after filing of the application with it, recommend the issuance or denial of such a permit. If it recommends the issuance of such a permit, it shall incorporate the terms and conditions upon which it is recommended that the permit be issued.

Recommendation

Issuance or denial

After receipt of the recommendation from the State department concerned, the Governor, within five days after he receives such recommendation from the State department, at his discretion shall either issue or deny the permit requested. If a permit is issued, the Governor shall specify therein the terms and conditions fixed by him upon which the permit is granted including, but not excluding others, limitations on the ages and hours for the employment of such minors.

Suspension, etc., of permit

SEC. 6. The Governor may at any time revoke, suspend or modify any permit. Upon proof being made that the terms and conditions of any such permit have been violated, the

department which recommended the issuance of said permit may recommend to the Governor that the permit be suspended, modified or revoked.

State departments

SEC. 7. All State departments shall continue to exercise their duties under the laws and rules to insure that the relaxation authorized by the permit does not adversely affect the health, education or safety of the minor employees involved.

Collective bargaining agreements

SEC. 8. No relaxation permit shall have the effect of abrogating any collective bargaining agreement prescribing overtime rates of pay or working conditions or any of the overtime rates prescribed pursuant to law by any State department or agencies of the Federal Government.

Exercise of authority

SEC. 9. Any authority herein given to a State department may be exercised by any official or employee in the department so authorized by the director or other head of the department.

Duration

SEC. 10. This act shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this act is in effect it shall supersede any existing provisions of law which are in conflict with this act; but such provisions are not repealed by this act and after this act is no longer effective shall have the same force as though this act had not been enacted.

Existing law

Urgency

SEC. 11. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

The war emergency requires that all facilities of production be utilized to the utmost and that restrictions upon the hours and conditions of work be relaxed to such an extent as may be compatible with the health and safety of the persons affected. This act provides a method whereby production can be increased under safeguards designed to afford full protection to all persons involved and its early effectiveness is necessary to the prosecution of the war effort.

CHAPTER 772

An act amending Section 4076 of the Political Code, relating to county government.

[Approved by Governor May 26, 1943. Filed with Secretary of State May 26, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

Stats 1935, p 2186

SECTION 1. Section 4076 of the Political Code is hereby amended to read as follows:

Filing of demands

4076. No account shall be passed upon by the board, unless made out as prescribed in this and the preceding section and

filed with the clerk, or with the auditor as prescribed in the preceding sections, not less than three days or if prescribed by ordinance five days prior to the time of the meeting of the board at which it is asked to be allowed. Such demand shall be made in form substantially as follows:

Form of demand

Clerk's memoranda, No. _____ _____fund.

Demand of _____, dated _____, in the sum of $_____ for _____.

Allowed by the board of supervisors, _____, 19___ in the sum of $_____.

Attest: _____

Clerk of the board.

Demand of _____.

No. _____. Fund_____.

Demand on the treasury of the County of _____, State of California, for the sum of _____ dollars, being for _____

Date	Items	Dollars	Cents
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
		$_____	_____

Expenditures authorized and approved by me.

_____

State of California, }
County of _____ } ss.

The undersigned, being duly sworn, says: That the above claim and the items as therein set out are true and correct; that no part thereof has been heretofore paid, and that the amount therein is justly due this claimant, and that the same is presented within one year after the last item thereof has accrued.

_____

Subscribed and sworn to before me this_____day of_____

_____

County clerk.

Allowed by the board of supervisors, _____, 19___, in the sum of $_____, payable out of _____ fund.

Attest:

_____

Clerk of board of supervisors.

Countersigned:

_____

Chairman board of supervisors.

Warrant No._____.

Approved, _____, 19___.

_____

County auditor.

No._____ Registered_____, 19___.

_____

County treasurer.

Said demand shall be approved before filing by the officer who directed such expenditure. If said demand be allowed by the board, the clerk of the board shall detach and file the memorandum, and shall indorse on such demand "allowed by the board of supervisors," together with the date of such allowance, the amount of such allowance, and from what fund; shall attest the same with his signature, and, when countersigned by the chairman, shall transmit the same to the auditor, who shall, in case he approves said demand, indorse upon it "approved," date, and number of the warrant, and shall, in attestation thereof, affix his signature thereto and deliver the same to the claimant; and said demand, when so approved and signed by the auditor, shall constitute the warrant on the treasury within the meaning of this chapter, except as hereinafter provided; provided, however, that whenever a county causes its accounts to be reorganized in a manner which will enable said county to determine by its accounts the correctness of claims presented for payment, the board of supervisors of said county may modify the form hereinabove prescribed for the submission of claims by eliminating therefrom the affidavit of claimant and may dispense with the necessity of such or any affidavit; provided, further, that the board of supervisors of any county may in their discretion adopt such other form or forms for the submission and payment of claims and may prescribe and adopt warrant forms separate from demand forms, to the end that the approved demands may be permanently retained in the auditor's office as vouchers supporting the warrants issued, and may prescribe such other procedure for the allowance and payment of claims as may better meet the needs of the particular county, but in such form of claim so adopted shall provide:

Approval

Modification of form

Other forms and procedure

Provisions to be included

First—For the approval of the officer directing the expenditure, provided that in counties having a system under which expenditures may be initiated by requisition the approval may be omitted from claims initiated by requisition.

Second—For the approval of the purchasing agent or other officer issuing the purchase order under which the charge was incurred, or having charge of contracts or schedules of salaries under which the claim arose.

Third—For the approval of at least one member of the board of supervisors: provided, that in lieu of the supervisor's approval on each claim there may be substituted duplicate lists of claims allowed, showing, as to each claim, the name of the claimant, the amount allowed, the date of allowance, and the fund on which allowed. Such lists shall have been certified to the board by the clerk of the board or other competent officer or employee designated by the said board for such purpose, as being a true list of claims properly and regularly coming before the board. Upon allowance of claims each of

said lists, after amendment if necessary, shall be certified to as correct by one member of the board of supervisors and by the clerk of the board and filed, one in the office of the clerk of the board of supervisors and one in the office of the auditor, and when so filed the lists shall constitute respectively the "allowance book" and the "warrant book" described by Section 4039 of this code.

Fourth—For the certificate of the clerk of the board of supervisors as to the date and amount of allowance of such claim by the board, provided that if the duplicate lists of claims allowed referred to in the foregoing subdivision are filed then the said certificate may be omitted, but in its stead there shall appear on each claim a reference by date or number or otherwise to the list on which said claim appears listed as allowed.

Fifth—For the certificate of the clerk of the board of supervisors or of the county auditor as to the correctness of the computations.

Sixth—For the county auditor's approval.

CHAPTER 773

Stats 1937, p 1005, amended

An act to amend Section 868.10 of, and to add Section 871 to, the Welfare and Institutions Code, relating to wards of the juvenile court.

In effect August 4, 1943

[Approved by Governor May 26, 1943. Filed with Secretary of State May 26, 1943.]

The people of the State of California do enact as follows:

Stats 1937, p. 1005

SECTION 1. Section 868.10 of the Welfare and Institutions Code is hereby amended to read as follows:

County claim against subsequently acquired property

868.10. In any case where a county has expended money for the support and maintenance of any ward or other minor person, or has furnished support and maintenance, and the court has not made an order of reimbursement to the county, in whole or in part, as provided in this article, or the court has made and subsequently revoked such an order, if the ward or other minor person or parent, guardian or other person liable for the support of the ward or other minor person acquires property, money or estate subsequent to the date the juvenile court assumed jurisdiction over the ward or minor person or subsequent to the date the order of reimbursement was revoked, the county shall have a claim against the ward or other minor person or parent, guardian or other person liable for the support of the ward or other minor person to the amount of a reasonable charge for money so expended, or other expense of support and maintenance. Such claim shall be enforced by action of the district attorney on request of the board of supervisors.

SEC. 2. Section 871 is hereby added to the Welfare and Institutions Code, to read as follows: New section

871. As used in this article "expense for support and maintenance" includes the reasonable value of any medical services furnished to the ward at the county hospital or at any other county institution, and the reasonable value of the ward's support at any place of detention established pursuant to the provisions of Article 5 of this chapter. "Expenses for support and maintenance"

CHAPTER 774

An act to authorize municipal and county governments to vacate certain easements and providing a procedure therefor. Public Service Easements Vacation Act

[Approved by Governor May 26, 1943. Filed with Secretary of State May 26, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

Article 1. General Provisions

SECTION 1. This act may be cited as the Public Service Easements Vacation Act. Short title

SEC. 2. This act shall be liberally construed in order to effectuate its purposes. Construction

The authority granted and the procedure provided by this act shall be an alternative to any other authority or procedure provided by law. Alternative procedure

SEC. 3. Definitions: Definitions

(a) "City" includes all corporations heretofore organized and now existing, or hereafter organized, for municipal purposes.

(b) "City" includes "City and County," and "County" includes "City and County."

(c) "City council" and "Council" include any body which by law is the legislative department of the government of the city.

(d) "Governing body" includes city councils and boards of supervisors.

(e) "Clerk" includes any person or officer who is clerk of a governing body.

(f) "Ordinance" includes resolution.

(g) "Vacation" includes the abandonment of easements and the closing of the same for public use.

(h) "Public service easement" and "easement" include all rights of way and easements acquired for public use by dedication or otherwise for purposes of sewers, pipelines, polelines, electrical transmission and communication lines, pathways, storm drains, drainage, canal, and light and air, and all easements, except for street and highway purposes, dedicated or purportedly dedicated for public use by a plat

or map filed or recorded in the office of the county recorder of any county.

Proof by affidavit

SEC. 4. Proof of publication of any notice required by this act shall be made by affidavit, as provided in the Code of Civil Procedure, and proof of the posting of any such notice shall be made by affidavit of the person posting the notice, setting forth the facts regarding such posting.

Any officer who is required by this act to have any notice published or posted shall obtain and file in his office the affidavits in proof thereof, but his failure so to do shall not affect the validity of any proceedings under this act. Any such affidavit so filed shall be prima facie evidence of the facts therein stated regarding such publication or posting.

Limit on authority

SEC. 5 The authority conferred upon city councils by this act shall be exercised only in relation to easements within their respective cities.

The authority conferred upon boards of supervisors by this act shall be exercised only in relation to easements outside the corporate limits of cities.

Private easements unimpaired

SEC. 6. No vacation of an easement pursuant to the provisions of this act shall in anywise affect or impair any private easement or other right of any private person or corporation or of the State or of any public corporation or political subdivision, other than a city or county, in or to or over the lands subject to the easement herein referred to regardless of the manner in which such private easement or other right shall have been acquired, whether by franchise, grant, contract, use or occupancy, or otherwise.

County having master plan

SEC. 7. In the event the legislative body of a city or of a county has adopted or shall hereafter adopt a master plan pursuant to the provisions of the Planning Act of 1929 as amended, no vacation of an easement within the area for which such plan is adopted shall be ordered until the proposed vacation shall have been submitted to and acted upon by the planning commission pursuant to the provisions of Section 7 of the Planning Act.

Stats 1937, p 1817

Article 2. Powers and Duties of City Councils

Vacation of easements

SEC. 15. The city council of any city may vacate any part of an easement therein in the manner provided by this act.

Election to proceed

SEC. 16. The election of the city council to proceed under the provisions of this act shall be expressed in its ordinance of intention to order any vacation.

Ordinance of intention

SEC. 17. Before the vacation of any easement or part thereof is ordered, the city council shall pass an ordinance declaring its intention to do so, describing the easement or part thereof to be vacated with common certainty, and referring to a map or plan on file in the office of the clerk for particulars as to the proposed vacation. The ordinance of intention shall fix a time and place for hearing all persons interested in or objecting to the proposed vacation, which

time shall not be less than 15 days from the date of the passage of the ordinance and shall be published or posted in the manner prescribed by law for the publishing or posting of ordinances of the city. Notices of easement vacation shall be posted conspicuously along the line of the easement proposed to be vacated. Such notices shall be posted not more than 300 feet apart, but at least three notices shall be posted. Such notices shall state the passage of the ordinance of intention and the time and place of hearing.

One or more easements, or parts thereof, whether contiguous or not, may be included and vacated in the same proceeding.

Hearing

SEC. 18. The city council shall on the day fixed for the hearing, or on the day to which the hearing is postponed or continued, hear the evidence offered by any persons interested.

Order

If the city council finds from all the evidence submitted, that any easement or part thereof, described in the ordinance of intention, is unnecessary for present or prospective public use, the city council may make its order vacating such easement or part thereof.

Reversion

SEC. 19. Upon the making of such order of vacation the easement or part thereof vacated ceases and title to the land previously subject thereto reverts to the respective owners thereof free from the rights of the public.

Recordation

The clerk shall cause a certified copy of such order, attested by the clerk under the seal of the city to be recorded in the office of the county recorder of the county within which the city is located.

Article 3. Powers and Duties of Boards of Supervisors

Vacation of easements

SEC. 30. The board of supervisors of any county may vacate any easement or part of an easement therein not within the corporate limits of a city.

Election to proceed

SEC. 31. The election of the board of supervisors to proceed under this act shall be expressed in its resolution of intention to order any vacation.

Petition

SEC. 32. Any five freeholders, one of whom must be a resident of the township in which the easement proposed to be abandoned is situated, may petition the board of supervisors to vacate all or part of any easement.

Notice

SEC. 33. Upon the making of such resolution of intention or filing of such petition the board of supervisors shall by order fix a day for hearing the resolution or petition and shall give notice to all persons of the time and place fixed for the hearing. Such notice shall be given by publication in a newspaper of general circulation published in the county and designated in the order by the board of supervisors for at least two successive weeks prior to the day of hearing. The board of supervisors shall also conspicuously post similar notices on the property along the line of the easement proposed to be vacated. Such notices shall be posted not more than 300 feet apart, but at least three notices shall be posted. The notices

shall refer to the filing of the petition or the resolution of intention to vacate, shall describe the easement proposed to be vacated with common certainty, and shall state the time and place of hearing.

One or more easements, or parts thereof, whether contiguous or not, may be included and vacated in the same proceedings.

Hearing

SEC. 34. The board of supervisors shall on the day fixed for hearing, or on the day to which the hearing is postponed or continued, hear the evidence offered by any persons interested.

Order

If the board of supervisors finds from all the evidence submitted that any easement or part thereof described in the petition or resolution is unnecessary for present or prospective public use, the board of supervisors may make its order vacating such easement or part thereof.

Reversion

SEC. 35. Upon the making of such order of vacation, the easement or part thereof ceases, and title to the land previously subject thereto reverts to the respective owners thereof free from the rights of the public.

Recordation

The clerk shall cause a certified copy of said order, attested by the clerk under the seal of the board of supervisors, to be recorded in the office of the county recorder of the county wherein the easement is situated.

Article 4. Vacation When Easement Not Used

Unnecessary easement

SEC. 45. Any easement which for a period of five consecutive years immediately preceding the proposed vacation, or if the date of dedication or acquisition thereof has been less than five years and more than one year, then continuously since such date, has not been used for the purpose for which it was dedicated or acquired, is hereby declared to be an unnecessary easement, subject to vacation as provided in this article.

Vacation

SEC. 46. If it appears to the governing body that any easement or part thereof has not been used for the period herein specified, it may either upon the petition of any interested person, or on its own motion vacate such easement or part thereof. The governing body shall in its resolution ordering any vacation under this article state that such easement or part thereof has not been used for the period herein specified, and that the easement or part thereof vacated is unnecessary for present or prospective public use. Such resolution shall be prima facie evidence of the facts therein stated as to non-use.

Reversion

SEC. 47. Upon the making of such order of vacation, the easement or part thereof ceases, and title to the land previously subject thereto reverts to the respective owners thereof free from the rights of the public.

Recordation of order

The clerk shall cause a certified copy of such order, attested by the clerk under the seal of the city or the board of supervisors as the case may be, to be recorded in the office of the county recorder of the county wherein the easement is situated.

CHAPTER 775

An act to add Section 19.1 to the Bank Act, relating to the suspension of the provisions of the Bank Act, relating to the ratio of capital and surplus of banks to their deposit liabilities.

Stats 1909, p 87, amended

[Approved by Governor May 26, 1943. Filed with Secretary of State May 26, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. A new section is hereby added to the Bank Act, to read as follows:

New section

Sec. 19.1. The provisions of Section 19 of this Bank Act are hereby suspended until one year following the cessation of hostilities between the United States and the foreign powers with which the United States is now at war except in such cases where the Superintendent of Banks shall deem it advisable that a bank comply with the provisions of Section 19 of this Bank Act and shall so notify said bank in writing. A failure on the part of a bank to comply with such notice within such time as the superintendent may prescribe shall constitute a violation of the provisions of this Bank Act. Nothing herein contained shall deprive any such bank of any injunctive or other relief it has or may have under Sections 134 or 136 or any other provision of this act or any other law.

Duration suspension of Section 19

CHAPTER 776

An act to amend Sections 6304 and 6320 of the Business and Professions Code, relating to boards of law library trustees and law libraries.

Stats 1937, p 1229, amended

[Approved by Governor May 26, 1943. Filed with Secretary of State May 26, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 6304 of the Business and Professions Code is amended to read:

Stats 1941, p 1742

6304. Boards of law library trustees shall meet the first Tuesday of each month, and any board may meet at such other times as it may appoint, at a place to be designated for that purpose. The president of the board may call a special meeting at any time for the transaction of necessary business. A majority of the members constitutes a quorum for business, and an affirmative vote of a majority of the members is required to exercise the powers of the board.

Meetings

SEC. 2. Section 6320 of said code is amended to read:

Stats 1911, p 1747

6320. All money collected for the law library in each county, must be paid into the hands of the treasurer of the county, who must keep the same separate and apart in a fund

"Law library fund"

designated the "law library fund," to be expended by the board of law library trustees. Money may be drawn from this fund only as in this chapter provided, and only for the purposes herein authorized.

Whenever a law library and a board of trustees to govern the same, is in existence under the provisions of any law, other than the law superseded by this chapter, in any county, or city and county, in this State, money so collected shall be paid into the hands of those, and in the manner, provided by such law.

CHAPTER 777

Stats 1941, p 1312 amended

An act to amend Sections 5, 6 and 12 of the "Automobile Parking District Act of 1941," relating to public parking districts.

In effect August 4, 1943

[Approved by Governor May 26, 1943. Filed with Secretary of State May 26, 1943.]

The people of the State of California do enact as follows:

Stats 1941, p 1312

SECTION 1. Section 5 of the "Automobile Parking District Act of 1941" is amended to read:

Issuance of bonds: Resolution of intention

Sec. 5. At any time after said legislative body shall have so acquired jurisdiction and approved the boundaries of the improvement district, it may adopt a resolution of intention to issue bonds of the said improvement district described in the resolution of intention to issue bonds, which description shall conform to the boundaries of the said district, as the same may have been approved as hereinabove provided, and may provide for the submission to the property owners thereof the proposition of incurring a debt by the issuing of bonds of such improvement district for the purposes set forth and enumerated in the original resolution of intention. The resolution of intention to issue said bonds shall also recite the objects and purposes for which said proposed indebtedness is to be incurred, the total estimated cost thereof, the estimated cost of all incidental expense in connection therewith; the amount of the principal of the indebtedness proposed to be incurred therefor, which principal of indebtedness shall not exceed twenty-five per cent (25%) of the assessed value of the taxable land in said district as shown by the county assessment roll of all the lands of such district as last equalized prior to the adoption of such resolution; the rate of interest to be paid on such indebtedness, which rate shall not be more than five per cent (5%) per annum, payable semiannually; the amount of any moneys or labor or equipment or material allocated to such district or for the use thereof by any city, county, State, or the Federal Government or any department thereof; provided, that the failure to secure any such allocation prior to the completion of proceedings hereunder shall

not prevent the use of any such allocation of funds, labor, equipment, or material afterward obtained. Such resolution of intention to issue bonds shall also fix a date, hour, and place for the hearing of protests, which date shall be at least thirty (30) days and not more than sixty (60) days after the adoption of the resolution of intention to issue said bonds. Within ten (10) days after adoption of the said resolution of intention to issue bonds the clerk of said legislative body shall mail prepaid post cards, each with an addressed reply post card attached thereto with the return postage thereon guaranteed, giving notice of the proposed formation of such district, of the incurring of any indebtedness proposed to be incurred, and of the time and place for hearing protests thereon. Said card shall be mailed to each person to whom land in the proposed district is assessed on the last equalized county assessment role at his address as shown upon such roll and to any person, whether owner in fee or having a lien upon, or legal, or equitable interest in any land within said proposed district, who has filed his name and address and a designation of the land in which he is interested with the said clerk.

Hearing

Notice

The return post card as sent out shall be addressed to the clerk sending out the notice and shall have thereon a guarantee of the payment of the postage for the return thereof, and on the reverse side shall contain substantially the following:

Opposition card

"The undersigned is opposed to the formation of the _____Improvement District, Number____, and to the incurring of indebtedness by the issuance of bonds of such district as proposed in the resolution of intention therefor, No._____.

(Signature)_____

"Write underneath a description or designation of property represented and interest therein_____

_____"

In the absence of fraud, no error or mistake in the sending of said notices, or any of them, and no failure on the part of anyone to receive the same shall affect the validity of any proceedings, but the clerk must sign an affidavit of mailing such notices and must include a list of the names and addresses of the persons to whom such notices were sent. If the owners of land equal in assessed value to one-half ($\frac{1}{2}$) of the total assessed value of all land in the proposed district return such cards to the clerk of the initiating legislative body indicating their objection to the formation of such district and the incurring of said indebtedness by the issuance of the bonds of said district, no further proceeding therefor shall be valid, except that a new resolution to form said district for such improvement may be adopted after the expiration of one (1) year, as in the first instance, and the same proceedings shall be repeated as hereinabove provided.

Opposition from one-half owners

At the expiration of the time within which protests may be filed, if an insufficient number of protests have been received to stop the proceedings, the said legislative body may adopt

Ordinance for bond issuance

an ordinance providing for the issuance of bonds of the district described in the resolution of intention to issue bonds and for the purposes set forth in said resolution of intention.

Stats 1941, p. 1312

SEC. 2. Section 6 of said act is amended to read:

Legislative body

Payment of bonds

Sec. 6. Said legislative body shall, subject to the provisions of this act, prescribe the form of said bonds, and of the interest coupons attached thereto. Said bonds shall be payable in the following manner:

A part, to be determined by said legislative body and which shall not be less than one-twenty-fifth (1/25) part of the whole amount of such indebtedness, shall be payable each and every year, on a day and date and at a place to be fixed by said legislative body and designated in such bonds, together with the interest on all sums unpaid on such date, until the whole of said indebtedness shall have been paid; provided, however, that the said legislative body may in its discretion determine and fix a date for the earliest maturity of the principal of such bonds, not more than two (2) years from the date of the issue of such bonds, but in this event the whole amount of such indebtedness must be made payable in equal annual parts in not to exceed twenty-five (25) years from the time of contracting the same.

Form and provisions of bonds

The bonds shall be issued in such denomination as said legislative body may determine, except that no bonds shall be of a less denomination than one hundred dollars ($100), nor of a greater denomination than one thousand dollars ($1,000), and shall be payable on the day and at the place fixed in such bonds, and with interest at the rate specified in such bonds, which rate shall not be in excess of five (5) per centum per annum, and shall be paid semiannually; and said bonds shall be signed by the chairman of the said legislative body or by such other officer as the said legislative body shall, by resolution adopted by a four-fifths (4/5) vote of all of its members, authorize and designate for that purpose, and also signed by the treasurer of said city, and shall be countersigned by the clerk thereof. All signatures on the bonds, except that of the clerk, may be lithographed. The interest coupons on said bonds shall be numbered consecutively and signed by the said treasurer by his engraved or lithographed signature. In case any such officers whose signatures or countersignatures appear on the bonds or coupons shall cease to be such officer before the delivery of such bonds to the purchaser, such signature or countersignature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until the delivery of the bonds.

Stats. 1941, p. 1312

SEC. 3. Section 12 of said act is amended to read:

Alternative method

Sec. 12. This act shall not affect any other act or acts relating to the same or a similar subject, but it is intended to provide an alternative method of procedure governing the subject to which it relates. When proceeding under the provisions of this act, its provisions, and none other, need be followed. The

said legislative body after the formation of such a district, instead of incurring an indebtedness of such district by issuing bonds of such district, may proceed in the manner hereinabove provided for a bond issue for the purpose of determining whether or not said legislative body shall levy an annual tax of not to exceed ten cents ($0.10) per one hundred dollars ($100) of assessed valuation on all of the land in such district for the objects and purposes hereinabove enumerated, in which case, all proceedings, notices, protests, and requirements shall be the same as hereinabove provided for and preliminary to the issuance of bonds of said district.

Election on contributing from general city funds

The city council may, in its discretion, contemporaneously with the procedure outlined in this act, submit to the electors of the city at a general city election or at a special election to be called for that purpose, the question of contributing from general city funds a specified amount of money or a specified percentage of the cost to the acquisition and construction of the parking district or districts proposed to be acquired and constructed, and shall specify in such proposition so submitted whether such moneys or percentage of cost is to be contributed from any existing surplus in the general fund or any existing special fund or from a fund to be created by the issuance of bonds to be issued in accordance with the provisions of "An act authorizing the incurring of indebtedness by cities, towns, and municipal corporations for municipal improvements, and regulating the acquisition, construction, or completion thereof," Statutes of 1901, page 27, as amended.

CHAPTER 778

An act to add Section 9606.7 to the Revenue and Taxation Code, relating to the motor vehicle transportation license tax.

Stats 1939, p 1274, amended

[Approved by Governor May 26, 1943. Filed with Secretary of State May 26, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 9606.7 is added to said code, to read:

New section

9606.7. In determining the "gross receipts" of any operator, there shall be deducted from his receipts of operation all amounts which he has paid or has obligated himself to pay for bridge and ferry fares or tolls in connection with the operation of motor vehicles in the transportation of persons or property for hire or compensation upon the public highways.

Deduction of bridge and ferry tolls

CHAPTER 779

Stats. 1939, p. 482, amended

An act to amend Sections 26200.5, 26209, 26212, 26251, 26253, 26254, 26271, 26280, 26281, 26282, 26296, 26302, 26303, 26327, 26328, 26336, 26337, 26338, 26342, 26343, 26361, 26364, 26366, 26367, 26368, and 26380 of, and add Sections 26216 and 26271 (a) to Division 21, Chapter 2 of the Health and Safety Code, relating to the adulteration, misbranding, advertising and sale of drugs and devices, and to the powers of the State Department of Public Health in relation thereto.

In effect August 4, 1943

[Approved by Governor May 26, 1943. Filed with Secretary of State May 26, 1943.]

The people of the State of California do enact as follows:

Stats 1941, p 3001

SECTION 1. Section 26200.5 of the Health and Safety Code is hereby amended to read as follows:

Labels of concentrated substances

26200.5. Any concentrated substance represented for use by man because of its vitamin content when medicinal claims are made on the label, shall, on its label and in its printed or written advertising, bear the common or usual name of each vitamin on which such use is based. If such use is based on the content of Vitamin A, Vitamin B1 or thiamin, Vitamin C or ascorbic acid, Vitamin D, riboflavin or niacin, the label or printed or written advertising shall bear or contain a statement of the proportion of such vitamin expressed as international units, pharmacopoeia, or other accepted standard units.

Stats 1941, p 3001

SEC. 2. Section 26209 of said code is hereby amended to read as follows:

"Advertisement"

26209. The term "advertisement" means all representations including, but not limited to, statements upon containers, packages, cartons, and any other container, disseminated in any manner or by any means, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of drugs or devices.

Stats 1939, p 482

SEC. 3. Section 26212 of said code is hereby amended to read as follows:

"Contaminated with filth"

26212. The term "contaminated with filth" applies to any drug or device not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.

New section

SEC. 4. Section 26216 is hereby added to said code, to read as follows:

Short title

26216. The sections contained in Chapter 2 of Division 21 of the Health and Safety Code may be known as the California Pure Drugs Act.

Stats 1941, p 3001

SEC. 5. Section 26251 of said code is hereby amended to read as follows:

Amidopyrine, cinchophen, sulfanilamide, thyroid, etc.

26251. A drug shall be deemed to be misbranded if it is a drug sold at retail and contains any quantity of amidopyrine, cinchophen, sulfanilamide, thyroid, or any of its preparations,

compounds or derivatives, unless it is sold on an order, or prescription signed by a member of the medical, dental or veterinary profession who is licensed by law to administer such drug, and its label bears the name and place of business of the seller, the serial number and date of such prescription, and the name of such member of the medical, dental or veterinary profession. Prescriptions containing amidopyrine, cinchophen or sulfanilamide, their compounds, preparations or derivatives issued under this section can not be refilled without the order of the physician, dentist or veterinarian who prescribes the same. Bandages of all types, and preparations and ointments for external use only, containing 5 per cent or less sulfanilamide, or any of its preparations, compounds or derivatives, are exempt from the provisions of this section.

Prescriptions

Exemptions

SEC. 6. Section 26253 of said code is hereby amended to read as follows:

Stats 1939, p 482

26253. A drug shall be deemed misbranded:

Imitation or substitute

(1) If it be an imitation of or offered for sale under the name of another article;

(2) If the contents of the package as originally put up have been removed, in whole or in part, and other contents have been placed in such package.

SEC. 7. Section 26254 of said code is hereby amended to read as follows:

Stats 1939, p 482

26254. A drug shall be deemed to be misbranded if the package as offered for sale at retail or wholesale fails to bear a statement on the label of

Morphine, etc

(1) The quantity of any morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, barbituric acid, bromal, carbromal, coca, marihuana, paraldehyde, peyote, or sulphonmethane, and

(2) The quantity of any chemical derivative of such substances or any derivative or preparation of any such substances, contained therein, which derivative has been by the board after investigation, found to be, and by regulations under this act, designated as, habit-forming, unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning—may be habit-forming."

SEC. 8. Section 26271 of said code is hereby amended to read as follows:

Stats 1941, p 3001

26271. The advertisement of a drug or device shall be false within the meaning of this division if the drug or device is represented to have any effect in albuminuria, appendicitis, arteriosclerosis, blood poison, bone disease, Bright's disease, cancer, carbuncles, cholecystitis, diabetes, cataracts, diphtheria, dropsy, erysipelas, gallstones, heart and vascular diseases, high blood pressure, mastoiditis, measles, meningitis, dental caries, mumps, nephritis, otitis media, paralysis, pneumonia, poliomyelitis (infantile paralysis), prostate gland disorders, pyelitis, alcoholism, erosion, periodontal diseases,

Representation as to effect on certain diseases

epilepsy, goiter, scarlet fever, sexual impotence, sinus infection, smallpox, encephalitis, tumors, typhoid, uremia, venereal disease, whooping cough, tuberculosis, ulcers of the stomach, and varicose ulcers.

New section

SEC. 9. Section 26271(a) is hereby added to said code, to read as follows:

Prescriptions for venereal disease drugs, etc

26271. (a) No person shall compound for, give or sell to any person any drugs, medicines, or other substances advertised, called for, labeled, or to be used for the cure or treatment of gonorrhea, syphilis, chancroid, lymphogranuloma inguinale or granuloma inguinale except upon written order of a duly licensed physician. Such order shall not be transferable to any person except the patient whose name appears thereon, and shall be kept on file by the person, or firm, providing the drug, medicine, or substance, for two years during which time it shall be open to inspection by any authorized agent of the State Department of Public Health. Prescriptions containing sulfanilamide, its compounds or derivatives, issued under this section, can not be refilled without the order of the physician who prescribed same.

Stats. 1939, p 482

SEC. 10. Section 26280 of said code is hereby amended to read as follows:

Adulterated or misbranded drugs

26280. The manufacture, production, preparation, compounding, packing, selling, offering for sale, advertising or keeping for sale within the State of California, or the introduction into this State from any other State, Territory, or the District of Columbia, or from any foreign country, of any drug or device which is adulterated or misbranded is prohibited.

Stats 1939, p 482

SEC. 11. Section 26281 of said code is hereby amended to read as follows:

Importation of adulterated, etc, drugs

26281. Any person who imports or receives from any other State or Territory or the District of Columbia or from any foreign country, or who having so received delivers for pay or otherwise or offers to deliver to any other person, any drug or device which is adulterated or misbranded, or any person who manufactures, produces, prepares, compounds, packs, sells, offers for sale, or keeps for sale, in the State of California any such adulterated or misbranded drug or device shall be guilty of a misdemeanor punishable as provided in Section 26295.

Stats 1939, p. 482

SEC. 12. Section 26282 of said code is hereby amended to read as follows:

Exports

26282. No article shall be deemed misbranded or adulterated within the provisions of this chapter when intended for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which the article is intended to be shipped.

If the article is in fact sold or offered for sale for domestic use or consumption, then this section shall not exempt the

article from the operation of any of the other provisions of this chapter.

SEC. 13. Section 26296 of said code is hereby amended to read as follows: Stats. 1939, p 482

26296. No dealer shall be prosecuted under the provisions of this chapter if after receipt of an article he has used reasonable care in the use and handling thereof and he can produce a guaranty signed by the wholesaler, jobber, manufacturer, or other party located or residing in the United States from whom he purchased such article, to the effect that the same is not adulterated, or misbranded within the meaning of this chapter; provided, however, that as to drug contained in an original unbroken package, no retailer, who after the receipt of such package has used reasonable care in the use and handling thereof, shall be prosecuted under this chapter for a violation of any provision thereof in connection with any article received by such retailer in the regular channels of trade and as usual first-class merchantable stock and not as seconds, or damaged articles or merchandise or job lots purchased under such conditions as to put the purchaser on notice that such merchandise was not regular first-class merchandise. The guaranty must be dated prior to the date of sale of the article. Guaranty. Unbroken package

SEC. 14. Section 26302 of said code is hereby amended to read as follows: Stats 1939, p 482

26302. If the guaranty is to the effect that such article is not adulterated or misbranded within the meaning of the Federal act, it shall be sufficient for all the purposes of this chapter and have the same force and effect as though it referred to this chapter whether given by a person residing in the United States or elsewhere, unless at any time the standard for the article concerned under this chapter is higher than the standard for a like article under the Federal act. Guaranty under Federal act

SEC. 15. Section 26303 of said code is hereby amended to read as follows: Stats 1939, p 482

26303. In case the wholesaler, jobber, manufacturer or other party making such guaranty to the person resides without this State and it appears from the certificate of the Chief of the Bureau of Laboratories that such article or articles were adulterated or misbranded, within the meaning of this chapter or the Federal act, the district attorney must forthwith notify the Attorney General of the United States of such violation. Nonresident guarantor

SEC. 16. Section 26327 of said code is hereby amended to read as follows: Stats 1939, p 482

26327. Any agent shall have free access, at all reasonable hours, for the purpose of examining any place where it is suspected that any article of adulterated or misbranded drugs and devices exist. Inspection

Stats 1939, p 482

SEC. 17. Section 26328 of said code is hereby amended to read as follows:

Samples

26328. If a sale is refused upon a tender of the market price of the articles, the agent may take from any person samples of any articles suspected of being adulterated or misbranded, and shall deliver or forward such samples to the State laboratory for examination and analysis.

Stats 1939, p 482

SEC. 18. Section 26336 of said code is hereby amended to read as follows:

Analyses

26336. The board or its secretary shall require the Chief of the Division of Laboratories to make examinations and analyses of drugs or devices which are on sale in California and which are suspected of being adulterated or misbranded.

Stats 1939, p 482

SEC. 19. Section 26337 of said code is hereby amended to read as follows:

Report on adulteration, etc.

26337. Whenever evidence indicates or examination or analysis show that adulterated or misbranded drugs and devices have been on sale in this State, the Chief of the Division of Laboratories of the State department shall forthwith report to the secretary of the board and shall promptly transmit a certificate of the facts so found.

Stats 1939, p 482

SEC. 20. Section 26338 of said code is hereby amended to read as follows:

Report of Bureau of Food and Drug Inspections

26338. Whenever evidence indicates that adulterated or misbranded drugs or devices have been on sale in this State, the Chief of the Bureau of Food and Drug Inspections shall forthwith report to the secretary of the board and shall promptly transmit a certificate of the facts so found.

Stats 1939, p 482

SEC. 21. Section 26342 of said code is hereby amended to read as follows:

District attorney

26342. If the examination or analysis is found to be correct, or if the party fails to appear at such hearing after notice duly given, the secretary of the board shall forthwith transmit a certificate of the facts so found to the district attorney of the county in which the adulterated or misbranded drugs or devices were found. No publication of the facts found shall be made until the conclusion of the hearing.

Stats 1939, p 482

SEC. 22. Section 26343 of said code is hereby amended to read as follows:

Reports of Division of Laboratories, etc

26343. On or before August 1st of each year, the Chief of the Division of Laboratories of the State department shall make an annual report to the board upon adulterated or misbranded drugs and devices. The report shall include the list of cases examined by him in which adulterants were found, the list of articles found to be misbranded, and the names of the manufacturers, producers, jobbers and sellers. The Chief of the Bureau of Food and Drug Inspections shall report at the same time on all activities of that bureau.

Stats 1939, p 482

SEC. 23. Section 26361 of said code is hereby amended to read as follows:

Quarantine

26361. Whenever the findings of the State laboratory or of the Chief of the Bureau of Food and Drug Inspections show

after investigation and examination that any drug or device found in the possession of any person is adulterated or misbranded the drug or device may be seized and quarantined.

SEC. 24. Section 26364 of said code is hereby amended to read as follows: Stats 1939, p. 482

26364. Drugs or devices found to be adulterated or misbranded may, by order of a court or judge, or in the absence of such an order, with the written consent of the owner thereof, be seized or destroyed. Destruction of articles

SEC. 25. Section 26366 of said code is hereby amended to read as follows: Stats 1939, p. 482

26366. When an article is found to be adulterated or misbranded, and is detained or quarantined under this article, the board shall petition the court in whose jurisdiction the article is detained or quarantined for a libel for condemnation of such article. When such agent has found that an article so detained or quarantined is not adulterated or misbranded, he shall remove the tag or other marking. Petition for condemnation Removal of tags

SEC. 26. Section 26367 of said code is hereby amended to read as follows: Stats 1939, p. 482

26367. If the court finds that a detained or quarantined article is adulterated or misbranded, after entry of the decree such article shall be destroyed at the expense of the claimant thereof, under the supervision of an agent of the board. All court costs and fees, and storage and other proper expenses, shall be taxed against the claimant of such article or his agent. Destruction Expenses

SEC. 27. Section 26368 of said code is hereby amended to read as follows: Stats 1939, p. 482

26368. If the adulteration or misbranding can be corrected by proper labeling or processing of the article, after entry of the decree and after costs, fees and expenses have been paid and a good and sufficient bond, conditioned that such article shall be so labeled or processed, has been executed, the court may by order direct that such article be delivered to the claimant thereof for such labeling or processing under the supervision of an agent of the board. The expense of such supervision shall be paid by the claimant. Correction of article

SEC. 28. Section 26380 of said code is hereby amended to read as follows: Stats 1939, p 482

26380. On presentation to him of a verified complaint of the violation of any provisions of this chapter, the sheriff of any county of this State shall at once obtain by purchase a sample of the adulterated or misbranded drug or device complained of, and divide the article into three parts. Each part shall be sealed by the sheriff with a seal provided for that purpose. If the package be less than four pounds in weight or in volume less than two quarts, three packages of approximately the same size shall be purchased and the marks and tags upon each package noted as above. Sheriff's duties

CHAPTER 780

Stats 1909, p 1066, amended

An act to amend the title of an act entitled "An act to provide for the acquisition by municipalities of land for public park or playground purposes by condemnation, and for the establishment of assessment districts and the assessment of property therein to pay the expenses of acquiring and improving such land," approved April 22, 1909, as amended; and to add two new sections thereto, to be numbered 1b and 1c, providing for the maintenance of improvements on such lands and for the establishment of assessment districts and the assessment of property therein to pay the expenses of maintaining said improvements.

In effect August 4, 1943

[Approved by Governor May 26, 1943. Filed with Secretary of State May 26, 1943.]

The people of the State of California do enact as follows:

Stats. 1921, p 349

SECTION 1. The title of the act cited in the title hereof is hereby amended to read as follows:

Title

An act to provide for the acquisition by municipalities of land for public park or playground purposes by condemnation, and for the establishment of assessment districts and the assessment of property therein to pay the expenses of acquiring and improving such land, and the maintenance of improvements thereon.

New section

SEC. 2. A new section to be numbered 1b is hereby added to the act cited in the title hereof, to read as follows:

Maintenance of improvements

Sec. 1b. When land has been acquired under the provisions of this act, or otherwise acquired for public park or playground purposes, and such land has been improved for public park or playground purposes, the city council may order said

Cost

improvements to be maintained. The cost of such maintenance may be assessed upon the district benefited by the maintenance of said improvements in the same manner as herein provided for the assessment of the damages and costs of the

Protests

acquisition of land. If at the time of hearing protests against such maintenance proceedings, written protests against the work or against the levying of assessments to pay the cost thereof have been filed with the clerk of the legislative body, by the owners of more than one-half of the area of the prop-

Abandonment

erty to be assessed for such maintenance, then the proposed proceedings shall be forthwith abandoned, and the legislative body shall not for one year thereafter commence any proceedings for such maintenance under this act.

New section

SEC. 3. A new section to be numbered 1c is hereby added to the act cited in the title hereof, to read as follows:

Alternative method

Sec. 1c. Alternative Method of Assessment. As an alternative method for the levy and collection of assessments for the maintenance of the improvements made upon said lands,

the city council may proceed in accordance with the provisions of the "Tree Planting Act of 1931," being Division 15, Part 1, of the Streets and Highways Code, said provisions being hereby made applicable to the maintenance of the improvements provided for in Section 1a hereof. If at the time of hearing protests against such maintenance proceedings, written protests against the work or against the levying of assessments to pay the cost thereof have been filed with the clerk of the legislative body, by the owners of a majority of the frontage of the property fronting on the improvement in those cases where the cost in whole or part of the maintenance is to be assessed upon property fronting on the improvement, or by the owners of more than one-half of the area of the property to be assessed for such maintenance in those cases where the cost in whole or part of the maintenance is to be assessed on the property within a district, then the proposed proceedings shall be forthwith abandoned, and the legislative body shall not for one year thereafter commence any proceedings for such maintenance under said act.

Protests

Abandonment

CHAPTER 781

An act to add Section 6009.1 to the Revenue and Taxation Code, relating to the definition of "storage" and "use" in the sales and use tax law, declaring the urgency hereof, to take effect immediately.

Stats 1939, p. 1274, amended

[Approved by Governor May 26, 1943. Filed with Secretary of State May 26, 1943.]

In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Section 6009.1 is added to the Revenue and Taxation Code, to read:

New section

6009.1. "Storage" and "use" do not include the keeping, retaining or exercising any right or power over tangible personal property shipped or brought into this State for the purpose of subsequently transporting it outside the State for use thereafter solely outside the State, or for the purpose of being processed, fabricated, or manufactured into, attached to or incorporated into, other tangible personal property to be transported outside the State and thereafter used solely outside the State.

Exports

SEC. 2. This act, inasmuch as it provides for a tax levy for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution take effect immediately; provided, however, that the provisions hereof shall become operative on July 1, 1943.

Tax levy

CHAPTER 782

Stats 1939, p 482, amended

An act to amend Sections 13026, 13108 and 13109 of the Health and Safety Code, relating to the authority of the State Fire Marshal.

In effect August 4, 1943

[Approved by Governor May 27, 1943. Filed with Secretary of State May 27, 1943.]

The people of the State of California do enact as follows:

Stats 1939, p. 482

SECTION 1. Section 13026 of the Health and Safety Code is amended to read:

Standardization of fire equipment

13026. The State Fire Marshal is authorized to make such changes as may be necessary to standardize all existing fire protective equipment throughout this State.

Stats 1939, p. 482

SEC. 2. Section 13108 of said code is amended to read:

Rules and regulations

13108. The State Fire Marshal shall make and enforce orders, rules, and regulations, not inconsistent with existing laws or ordinances relating to fire protection in the design and construction of, the means of egress and the adequacy of exits from, the installation and maintenance of fire alarm and fire extinguishment equipment or systems in, and the installation and maintenance of equipment and furnishings that present unusual fire hazards in, any State institution, factory, asylum, hospital, sanitarium, nursery, church, school, hall, theater, amphitheater, night club, or a similar occupancy or other place where a large number of persons work, live or congregate.

Stats 1939, p 482

SEC. 3. Section 13109 of said code is amended to read:

Inspection

13109. The State Fire Marshal, his deputies, or his salaried assistants may enter any factory, asylum, hospital, sanitarium, nursery, church, school, hall, theater, amphitheater, night club, or a similar occupancy or other place where a large number of persons work, live or congregate at any reasonable hour for the purpose of enforcing this chapter. The owner, lessee, manager or operator of any such building or premises shall permit the State Fire Marshal, his deputies, or his salaried assistants to enter and inspect them at the time and for the purpose stated in this section.

CHAPTER 783

Stats 1939, p 1067, amended

An act to amend Sections 3418 and 3423 of the Public Resources Code, relating to the record of assessments and charges for the Petroleum and Gas Fund and the imposition of a tax lien and the enforcement, release or subordination thereof.

In effect August 4, 1943

[Approved by Governor May 27, 1943. Filed with Secretary of State May 27, 1943.]

The people of the State of California do enact as follows:

Stats 1939, p 1067

SECTION 1. Section 3418 of the Public Resources Code is amended to read:

Record of Assessments and Charges, etc

3418. The department shall prepare each year a record called the "Record of Assessments and Charges for the Petro-

leum and Gas Fund" in which shall be entered each assessment and levy or charge made by it upon the property assessed and charged under this article, describing the property assessed. The assessments may be classified and entered in such separate parts of the record as the department may prescribe. If such charges and assessments become delinquent as provided in Section 3420 of this code, in addition to the information contained in the "Record of Assessments and Charges for the Petroleum and Gas Fund" as herein provided, the department shall furnish to the State Controller upon his request the name and address of any owner of property assessed as such name and address last appears in the office of the tax assessor for county in which such land or a major portion thereof is situate.

SEC. 2. Section 3423 of the Public Resources Code is hereby amended to read as follows: Stats 1939, p. 1067

3423. The assessment and charges levied under this article are a lien upon all the property of every kind and nature belonging to the persons assessed. The assessments and charges levied upon oil or gas removed from any land in this State are a lien upon the land from which the oil or gas has been extracted. The lien shall attach on the first Monday in March of each year. The lien may be enforced and the charges collected by an action by the State Controller as provided by this article. Lien

When an assessment shall have been levied, but shall not have been paid prior to the first Monday in February following such levy, if the certificate of delinquency is to be recorded as hereinafter provided, the Controller shall, within fifteen (15) days thereafter, mail a notice to the owner of the land at his last known address as it appears in the office of the county assessor for the county in which the land is situate, or if no address appears in the office of the county assessor, then to the last address of the owner of the land as last shown on the records of the said county assessor. The notice shall contain a statement of the amount of the assessment, the date upon which the assessment was levied, the fact that the records of the Controller show the assessment to be unpaid, and shall declare that unless the assessment is paid before the first Monday in March following, the lien provided for in this section will attach. Delinquent notice

When any person assessed shall be delinquent in the payment of the charges, interest or penalties as herein provided, the Controller may, on or before the thirtieth day of May next following the delinquency, file a certificate with the county recorder of the county in which the oil or gas was extracted, specifying the amount of the charges, interest and penalty due, the name and address of the assessee liable for the same, as it appears from his records, the name and address of the assessed owner of the land from which the oil or gas was extracted, together with its description, as it appears on the records of the county tax collector in which the property is located, that there has been compliance with all the provisions of law in Filing of certificate

relation to the computation and assessment of the charges.

Effect of filing

Upon filing said certificate the amount of the lien as above provided is determined and shall have the same force, effect and priority as a judgment lien upon the land from which the oil or gas is extracted.

Warrant and sale

A warrant may be issued by the State Controller or his duly authorized representative for the collection of any charges, interest and penalty and for the enforcement of any lien directed to the sheriff or constable, and shall have the same effect as a writ of execution. It may and shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy upon and sale of real property pursuant to a writ of execution.

Redemption

Notwithstanding any provisions of law to the contrary, the owner of said land may redeem from any execution sale within a period of three years upon payment of interest, penalties and charges as provided in the case of other sales of real property under execution.

Fees and expenses

The sheriff or constable shall receive, upon the completion of his services pursuant to a warrant, and the Controller is authorized to pay to him the same fees and commissions and expenses in connection with services pursuant to said warrant as are provided by law for similar services pursuant to a writ of execution; provided, that fees for publication in a newspaper shall be subject to approval by the Controller rather than by the court; said fees, commissions and expenses shall be an obligation of the person or persons liable for the payment of said charges and may be collected from such person or persons by virtue of the warrant or in any other manner provided in this article for the collection of such charges.

Release from lien

In the event that the lien of the charges, penalties or interest attaches to real property from which the oil or gas is extracted and more than one parcel of property is included within the lien, the Controller may release by certificate as hereinabove provided from the lien of said charges, interest, penalties and costs, upon payment by the owner of any parcel or parcels of property of his proportionate share of the assessment of the oil or gas extracted from all land included within said lien owned by him.

The Controller may at any time release all or any portion of the property subject to the lien from the lien or subordinate the lien to other liens if he determines that the charges are sufficiently secured by a lien on other property of the taxpayer or that the release or subordination of the lien will not endanger or jeopardize the collection of such charges. A certificate by the Controller to the effect that any property has been released from the lien herein provided for or that such lien has been subordinated to other liens shall be conclusive evidence that the property has been released or that the lien has been subordinated as provided in the certificate.

Remedies cumulative

It is expressly provided that the remedies provided herein of the State shall be cumulative and that no action by the Con-

troller shall be construed to be an election on the part of the State, or of any of its officers, to pursue any remedy hereunder to the exclusion of any other remedy for which provision is made in this article.

CHAPTER 784

An act to amend Sections 3284, 3285 and 3286 of, and to add Sections 3286.1 and 3286.2 to, the Streets and Highways Code, relating to proceedings for the sale and redemption of delinquent property.

Stats 1935, p 248, amended

[Approved by Governor May 27, 1943. Filed with Secretary of State May 27, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 3284 of the Streets and Highways Code is hereby amended to read as follows:

Stats. 1941, p. 751

3284. The street superintendent shall, within 10 days after the date of such delinquency, begin the publication of a list of the delinquent assessments, which list shall contain a description of each parcel of property delinquent, and opposite each description, the name of the owner as stated in the assessment roll, and the amount of the assessment, penalty, and costs due, including the cost of advertising which last shall not exceed the sum of fifty cents ($0.50) for each lot or parcel of land separately assessed.

Delinquent list

The street superintendent shall append to and publish with the delinquent list a notice that unless each delinquent assessment, together with the penalty and costs thereon, is paid, the property upon which the assessment is a lien will be sold at public auction at a time and place to be specified in the notice.

Notice

SEC. 2. Section 3285 of said code is hereby amended to read as follows:

Stats 1941, p 751

3285. The list of delinquent assessments shall be published daily for five days in one or more daily newspapers published and circulated in the city, or by at least one insertion in a weekly newspaper so published and circulated, before the day of sale for such delinquent assessment. If there is no daily or weekly newspaper printed and circulated in the city such list shall be posted and kept posted in three public places in the city for the length of time required for the publication of a notice in a weekly newspaper. The time of sale shall not be less than seven days from the date of the first publication of the delinquent assessment list, and the place shall be in or in front of the office of the street superintendent.

Publication of delinquent list

SEC. 3. Section 3286 of said code is hereby amended to read as follows:

Stats 1941, p 751

3286. All property shall be sold and shall be subject to redemption at the time and in the manner now or hereafter provided in Chapter 14 of Part 1 of Division 6 of this code.

Sale and redemption

New section

SEC. 4. Section 3286.1 of said code is hereby added, to read as follows:

Delinquency occurring between July 1, 1941, and August 4, 1943

3286.1. If the delinquency referred to in Section 3284 of this code occurred between July 1, 1941, and the effective date of this section, publication of a list of the delinquent assessments may be made in conformity with the provisions of this chapter of this code at any time prior to one (1) year after the effective date of this section.

New section

SEC. 5. Section 3286.2 of said code is hereby added, to read as follows:

Superseding effect

3286.2. The provisions of this chapter of this code shall prevail over the provisions of Chapter 177 of the Statutes of 1895, at page 204, relating to delinquent assessments except that any proceedings taken under this chapter of this code before the effective date of this section are hereby ratified.

CHAPTER 785

Stats 1943, Ch 71, amended

An act to add Section 11181.1 to the Education Code, relating to school textbooks.

In effect August 4, 1943

[Approved by Governor May 27, 1943. Filed with Secretary of State May 27, 1943.]

Note.—See Stats. 1943, Ch. 71.

CHAPTER 786

Stats. 1867-8, p 107, amended

An act to add Section 8 to an act entitled "An act to authorize the county judge of Tehama County to distribute town lots held by him in trust for the citizens of the Town of Red Bluff, and to issue certificates of title to the inhabitants of said town in accordance with their respective interests," approved March 6, 1868, as amended and supplemented, relating to the conveyance of certain streets and alleys.

In effect August 4, 1943

[Approved by Governor May 27, 1943. Filed with Secretary of State May 27, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 8 is added to the act cited in the title hereof, to read:

Conveyance by superior judge, etc

Sec. 8. The judge of the superior court in and for the County of Tehama, as successor to the county judge of said county, is hereby authorized to convey the title in fee to the streets or alleys between Blocks 1 and 17 of the City of Red Bluff, as shown on the official map thereof, to the City of Red Bluff. The city council of said city may vacate said streets or alleys and convey title thereto upon such terms and conditions as it deems appropriate in the public interest.

CHAPTER 787

An act to add Article 2.5 to Chapter 5 of Division 9 of the Education Code, relating to the leasing of real property by school districts, declaring the urgency of this act, to take effect immediately.

Stats 1943, Ch 71, amended

[Approved by Governor May 27, 1943. Filed with Secretary of State May 27, 1943.]

In effect immediately

The people of the State of California do enact as follows:

Note.—See Stats. 1943, Ch. 71.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

Urgency

This act provides a method for leasing of lands belonging to school districts and provides a method whereby money may be obtained by such districts for the extraction of gas from under the property of such districts. Unless this act is enacted the gas will be extracted without compensation to such districts and the districts will not obtain any return therefor. To the extent that this act will make money available for school purposes it will make public moneys available for other purposes, including matters affecting the health and safety of the people of the State.

CHAPTER 788

An act authorizing the State, any city, county, city and county, or district having jurisdiction of properties to make agreements with the United States Government for the leasing or use of such properties during the war and six months thereafter; declaring the urgency hereof; to take effect immediately.

[Approved by Governor May 27, 1943. Filed with Secretary of State May 27, 1943.]

In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Notwithstanding any restrictions otherwise imposed by law, the State, approved by the Director of Finance, any city, county, city and county, or district is hereby authorized and empowered to make agreements with the United States Government or any agency thereof for the leasing or use of properties under its jurisdiction. Such agreements may be made with respect to properties heretofore or hereafter taken for use by the United States Government or

Lease or sale of public property to U. S.

Duration any agency thereof. Such agreements shall not be made for a period longer than the duration of any war in which the United States is presently engaged and six months thereafter.

Urgency SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

The United States is now in a state of war with foreign nations and it is necessary to the immediate preservation of public peace, health and safety that the use of public properties be made available to the United States Government.

CHAPTER 789

Stats 1935, p 248, amended *An act to amend Section 5133 of the Streets and Highways Code, relating to publications.*

In effect August 4, 1943 [Approved by Governor May 27, 1943. Filed with Secretary of State May 27, 1943.]

The people of the State of California do enact as follows:

Stats. 1941, p. 751 SECTION 1. Section 5133 of the Streets and Highways Code of the State of California is hereby amended to read as follows:

Publication 5133. The clerk shall cause the resolution of intention to be published. The first publication shall be made not less than 10 days prior to the date of public hearing stated in said resolution.

CHAPTER 790

Stats 1883, p 93, amended *An act to add Sections 862.29 and 887 to an act entitled "An act to provide for the organization, incorporation, and government of municipal corporations," approved March 13, 1883, relating to powers of a city council in cities of the sixth class.*

In effect August 4, 1943 [Approved by Governor May 27, 1943. Filed with Secretary of State May 27, 1943.]

The people of the State of California do enact as follows:

New section SECTION 1. Section 862.29 is hereby added to the act cited in the title hereof, to read as follows:

Emergency chief executive Sec. 862.29. To provide by ordinance for a chief executive who during periods of great public calamity such as extraordinary fire, flood, storm, epidemic, earthquake, sabotage or enemy attack, shall have complete authority over such city and the right to exercise all police power vested in the city by the Constitution and the laws of the State of California.

SEC. 2. Section 887 is hereby added to the act cited in the title hereof, to read as follows: New section

Sec. 887. In any city of the sixth class the city council shall have power to acquire, construct, maintain and operate a municipally owned and operated trailer camp if an acute housing shortage exists. An acute housing shortage shall be deemed to exist in any area wherein rent ceilings have been established by Federal order pursuant to an act of Congress. This section shall have no further force or effect one year after the "cessation of hostilities." The terms "cessation of hostilities" means the date on which hostilities in the present war between the United States and the governments of Germany, Japan and Italy and each of them shall cease, as fixed by proclamation of the President or by the concurrent resolution of the two houses of the Congress of the United States, or of the Legislature of the State of California, whichever date is earlier. Trailer camp operation

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CHAPTER 791

An act authorizing a conveyance to the United States of America of the reversionary and possessory interest of the State of California in and to certain portions of tide and submerged lands heretofore conveyed in trust to the City of Long Beach by the State of California.

[Approved by Governor May 27, 1943 Filed with Secretary of State May 27, 1943] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. The State Lands Commission is hereby authorized and empowered to convey to the United States of America the reversionary and possessory right, title and interest of the State of California in and to certain portions of the filled and reclaimed tide and submerged lands lying on the southerly shore of Terminal Island within the city limits of the City of Long Beach, which property is a part of the tide and submerged lands heretofore conveyed in trust to the City of Long Beach by the State of California and constitutes the property described as Parcel No. 2 in the Second Amended Complaint on file in the United States District Court of the United States of America, in and for the Southern District of California, Central Division, in that certain suit in eminent domain entitled "United States of America vs. 333.6 Acres of Land, more or less, situate on Terminal Island in the Los Angeles Harbor, County of Los Angeles, State of California, et al" being numbered No. 1102-BH-Civil. The said property is that certain land situate, Conveyance to United States of Long Beach lands

lying and being in the County of Los Angeles, State of California, and lying within the following described boundary:

Description

Beginning at a point being the intersection of the mean high water line of San Pedro Bay and the line designated as the City of Los Angeles and the City of Long Beach and proceeding N. 19° 16′ 28″ W. to a point on the south right of way line of Seaside Boulevard, thence northeasterly and paralleling Seaside Boulevard approximately 2,860 feet to a point, thence S. 19° 16′ 28″ E. approximately 230 feet to a point, thence northeasterly for a distance of approximately 4,185 feet paralleling the south right of way line of Seaside Boulevard and 230 feet therefrom to a point, thence S. 19° 16′ 25″ E. to the intersection of the mean high water line of San Pedro Bay, thence meandering along this mean high water line in a general southwesterly direction to the point of beginning, comprising 105 acres, more or less.

Conditions of conveyance

Such conveyance hereby authorized shall provide that the lands so transferred shall be free and clear of all easements or rights to use the surface of the same for the purposes of exploring, mining and/or removing oil and other minerals therefrom, but shall be made upon and subject to the condition that all oil, gas and other mineral deposits and oil, gas and other mineral rights of and appertaining to the lands conveyed shall be reserved to the State of California and its grantee, the City of Long Beach, without prejudice to the right of the United States of America to hereafter assert ownership to or rights in the petroleum and mineral deposits lying within or appertaining to said property, by any lawful means.

Termination of litigation

SEC. 2. The conveyance hereby authorized shall be made only upon the dismissal by the United States of America as against the State of California of its condemnation action referred to in Section 1 hereof, or after some other appropriate disposition is made of said action satisfactory to the State Lands Commission and to the Attorney General of California. To effectuate the purposes of this act, the Attorney General is authorized to make and enter into such stipulations, agreements, or other assurances on behalf of the State of California with the proper officer, bureau, department or agency of the United States Government as he may deem necessary to accomplish the final termination of this litigation.

Deed

SEC. 3. The deed or other instrument necessary to pass the said title to the United States of America shall be in the name and by the authority of the people of the State of California and, upon receipt of a resolution of the State Lands Commission and a report from the Attorney General each approving such conveyance, shall be executed by the Governor, countersigned by the Secretary of State and sealed with the Great Seal of the State.

CHAPTER 792

An act to amend Sections 7500, 7501, 7505 and 7506 of the Welfare and Institutions Code, relating to the general powers and duties of the State Department of Institutions.

Stats 1937, p 1005, amended

[Approved by Governor May 27, 1943. Filed with Secretary of State May 27, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 7500 of the Welfare and Institutions Code is hereby amended to read as follows:

Stats 1937, p 1005

7500. The Department of Institutions has jurisdiction over the execution of the laws relating to the care, custody, and treatment of the insane, alleged insane or mentally ill persons, feeble-minded persons, epileptics, idiots, and other incompetent persons, as provided in this code.

Execution of laws

As used in this part, "establishment" and "institution" include every hospital, sanitarium, boarding home, or other place receiving or caring for any of the persons enumerated in this section.

SEC. 2. Section 7501 of the Welfare and Institutions Code is hereby amended to read as follows:

Stats 1937, p 1005

7501. The department shall examine all public and private hospitals, boarding homes or other establishments whether or not licensed by the department, receiving or caring for the insane, alleged insane, mentally ill or other incompetent persons, and shall inquire into their methods of government, and the treatment of all inmates thereof.

Examination of institutions

It shall examine the condition of all buildings, grounds, or other property connected with such institutions, and shall inquire into all matters relating to their management. For the purposes specified in this paragraph the department shall have free access to the grounds, buildings, and books and papers of any such institution, and every person connected therewith shall give such information and afford such facilities for examination or inquiry, as the department requires.

SEC. 3. Section 7505 of the Welfare and Institutions Code is hereby amended to read as follows:

Stats 1937, p 1005

7505. The department may inquire into the manner in which any insane, alleged insane or mentally ill person, not confined in a State hospital, is cared for and maintained. If, in its judgment, any such person is not properly and suitably cared for, it may apply to a judge of the superior court for an order to commit him to a State hospital under the provisions of this code. Such order shall not be made unless the judge finds, and certifies in the order, that such person is not properly or suitably cared for by his relatives or guardian, or that it is dangerous to the public to allow him to be cared for and maintained by such relatives or guardian.

Inquiry as to insane persons not committed

Stats. 1937, p. 1005

SEC. 4. Section 7506 of the Welfare and Institutions Code is hereby amended to read as follows:

Ascertainment of facts relative to custody, treatment, etc.

7506. When the department has reason to believe that any person held in custody as insane, allegedly insane, mentally ill or incompetent is wrongfully deprived of his liberty, or is cruelly or negligently treated, or that inadequate provision is made for the skillful medical care, proper supervision, and safe-keeping of any such person, it may ascertain the facts. It may issue compulsory process for the attendance of witnesses and the production of papers, and may exercise the powers conferred upon a referee in a superior court. It may make such orders for the care and treatment of such person as it deems proper.

Process, orders, etc.

Notice to Attorney General

Whenever the department undertakes an investigation into the general management and administration of any establishment or place of detention for the insane, alleged insane, mentally ill or incompetents, it may give notice of such investigation to the Attorney General, who shall appear personally or by deputy, to examine witnesses in attendance and to assist the department in the exercise of the powers conferred upon it in this code.

Examination of county and city almshouses

The department may at any time cause the inmates of any county or city almshouse to be visited and examined, in order to ascertain if insane, allegedly insane, mentally ill or incompetent persons are kept therein.

CHAPTER 793

An act to add Section 499c to the Penal Code, relating to theft of automobile tires, and fixing the time when the section shall no longer be effective.

In effect August 4, 1943

[Approved by Governor May 27, 1943. Filed with Secretary of State May 27, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 499c is added to the Penal Code, to read:

Punishment for theft of tires

499c. Every person who is guilty of the theft of an automobile tire or tires is guilty of a public offense that shall be punished by imprisonment in the State prison for not exceeding five years, or by imprisonment in the county jail for not exceeding one year, or by a fine not to exceed five hundred dollars ($500), or both.

Duration

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect it shall supersede any

Existing law

existing provisions of law which are in conflict with this section; but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

CHAPTER 794

An act to amend Section 12 of an act entitled "An act prescribing terms and conditions upon which corporations may transact business in this State and providing penalties and forfeitures for noncompliance," approved May 10, 1915, as amended, relating to the reinstatement of corporations.

Stats 1915, p 422, amended

[Approved by Governor May 27, 1943. Filed with Secretary of State May 27, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 12 of the act entitled "An act prescribing terms and conditions upon which corporations may transact business in this State and providing penalties and forfeitures for noncompliance," is hereby amended to read:

Stats. 1921, p 606

Sec. 12. All corporate powers, rights and privileges, suspended or forfeited under the provisions of this act may be revived and restored to full force and effect upon application therefor by any stockholder or creditor thereof and upon payment of all accrued taxes and penalties due to the State under this act and subdivision (d) of Section 14, Article XIII of the Constitution for the year in which the suspension occurred. Upon payment of all such taxes and penalties and upon payment of all other taxes due the State under subdivision (d) of Section 14, Article XIII of the Constitution, the State Controller shall issue a certificate under his seal evidencing such payment and restoration, which certificate, when recorded in the office of any county recorder shall constitute a release of all existing liens for such taxes upon the property of such corporation. Each county recorder shall keep an index of all such Controller's certificates recorded by him. Upon presentation of such Controller's certificate of revivor to any county clerk said officer shall make a record thereof in his office in a book kept for such purpose. The record so made by said county clerk shall be prima facie evidence of the restoration to such corporation of all previously suspended or forfeited rights, powers and privileges unless it appears from the records in the office of such county clerk or of the Controller or Secretary of State that subsequent to the date of such certificate of revivor the powers of said corporation have been again suspended or its right to do intrastate business again forfeited.

Revivor of corporate powers on payment of taxes

Controller's certificate

Recording certificate of revivor

CHAPTER 795

Stats 1937, p 1005, amended

An act to add Section 885 to Article 2 of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, relating to appeals.

In effect August 4, 1943

[Approved by Governor May 27, 1943. Filed with Secretary of State May 27, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 885 of the Welfare and Institutions Code is hereby added, to read:

Counties of residence as parties

885. In any action under the provisions of this article in which the residence of a minor person is determined, both the county in which the court is situated and any other county which, as a result of the determination of residence, might be determined to be the county of residence of the minor person, shall be considered to be parties in the action, and shall have the right to appeal any order by which residence of the minor person is determined.

CHAPTER 796

Stats 1937, p 2085, amended

An act to amend Sections 40, 47, 85, 112, and 173 of and to add Section 116.5 to the State Civil Service Act, relating to the State civil service.

In effect August 4, 1943

[Approved by Governor May 27, 1943. Filed with Secretary of State May 27, 1943.]

The people of the State of California do enact as follows:

Stats 1941, p 1789

SECTION 1. Section 40 of the State Civil Service Act is amended to read:

Conduct of investigations Attendance of witnesses

Sec. 40. Such hearings and investigations may be conducted by the board, any member, or any authorized representative of the board. Any authorized person conducting such hearing or investigation may administer oaths and shall have power to subpena and require the attendance of witnesses and the production of books or papers, and may cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law, for like depositions in civil cases in the superior court of this State. A witness, other than a State officer, can not be compelled, however, to attend an investigation or hearing unless he resides in the county, or within 100 miles of the place where the investigation is held. No subpena shall be issued to compel any State officer to attend outside of the county in which he resides and more than 100 miles from his residence unless it is shown to the satisfaction of a member of the board, or the secretary thereof, by affidavit stating the facts, that such officer is a material witness. In that event the subpena shall be marked

"State-wide" or otherwise have indicated thereon that attendance is required regardless of distance, and must be served at least five days prior to the date of the hearing. If a witness does not reside within the county or within 100 miles of the place where the hearing or investigation is held or is too infirm to attend the hearing or investigation, then any party thereto at his own expense, may cause the deposition of a person within or without the State to be taken in the manner above prescribed, and the same may be used in evidence by either party or the board; provided, that the deposition shall not be used if the presence of such witness can be procured at the time of the hearing or investigation and in no event shall the deposition of a State officer or employee be used as evidence, but such officer or employee must be personally present at any hearing or investigation at which he is a witness. Deposition

SEC. 2. Section 47 of the State Civil Service Act is amended to read: Stats 1937, p. 2085

Sec. 47. Witnesses before the board or the person authorized to conduct the hearing or investigation shall be entitled to the same fees as are allowed witnesses in civil cases in courts of record. An officer serving a subpena to secure the attendance of such a witness shall receive the same mileage therefor as for the service by him of a writ or paper for the State. Such fees and mileage, save in dismissal or other punitive proceedings where the service is requested by the accused, need not be prepaid. The Controller shall draw his warrant for the payment of the amount thereof when the same shall have been certified by the board or the person authorized to conduct the hearing or investigation and duly proved by affidavit or otherwise to the satisfaction of the Controller, and the Controller may charge the same against any proper fund of any State agency, if said witnesses were subpenaed by such State agency or its representative, and if witnesses are subpenaed by the accused or any other person other than a State agency, then said fees and mileage shall be paid by said person and are not proper charges against any State fund. Fees and mileage

SEC. 3. Section 85 of the State Civil Service Act is amended to read: Stats 1937, p 2085

Sec. 85. All applicants for examinations shall file in the office of the board within a reasonable length of time before the date of examination a formal application signed by such applicant. Blank application forms shall be furnished without charge to all persons requesting the same. Such applications when filed and all other examination materials, including examination questions and booklets, shall be and remain the property of the board and shall be regarded as confidential records open to inspection only if the board by rule provide. Applications

SEC. 4. Section 112 of the State Civil Service Act is amended to read: Stats 1937, p 2085

Sec. 112. There shall be certified to the appointing power the names and addresses of the three persons standing highest on the employment list for the class in which the position Certification

belongs except as hereinafter provided and who have indicated their willingness to accept appointment under the conditions of employment specified. In case there are fewer than three names on such list there shall be certified the number thereon. In such case, however, the appointing power may demand certification of three names whereupon examinations as provided in this act shall be conducted until three names may be certified. The appointing power shall fill the position by the appointment of one of the persons certified. If appointment is from a departmental reemployment list or subdivisional reemployment list the one person standing highest shall be certified and appointed.

New section

SEC. 5. Section 116.5 is added to the State Civil Service Act, to read:

Intermittent employees

Sec. 116.5. Whenever the appointing power shall require the appointment of a person to a position requiring the performance of work on an intermittent or irregular time basis, he shall submit a request as provided in Section 111, stating the probable amount of working time to be required in the position. Eligibles shall be certified in accordance with their position on the appropriate employment list and their willingness to accept appointment to such position as "intermittent employees." Intermittent employees shall be subject to such conditions affecting status and tenure during and after such employment as the board may by rule determine.

Stats 1939, p 2506
See also Stats. 1943, Ch. 797

SEC. 6. Section 173 of the State Civil Service Act is amended to read:

Causes for removal, demotion, etc.

Sec. 173. (a) The tenure of every permanent employee holding a position shall be during good behavior, but any such person may be removed, demoted, suspended, reprimanded, or otherwise disciplined, under a procedure in conformity with the provisions of this act which shall be set up by the board in its rules for any of the following causes: Fraud in securing appointment, incompetency, inefficiency, inexcusable neglect of duty, physical or mental disability, insubordination, dishonesty, drunkenness on duty, intemperance, addiction to the use of narcotics or habit-forming drugs, inexcusable absence without leave, conviction of a felony or misdemeanor involving moral turpitude, immorality, discourteous treatment of the public or other employees, improper political activity, wilful disobedience, violation of the provisions of this act or the rules of the board, or for any other failure of good behavior or any other act or acts which are incompatible with or inimical to the public service.

Charges: Filing and service

(b) The appointing power, or the board, or any person with the consent of the board, the appointing power or the Attorney General, may file charges against any employee or any person on any employment list for dismissal or other punitive action for any or all of the causes hereinbefore provided. Such charges must be made in writing and clearly state the facts constituting such cause, in such detail as is reasonably necessary to enable the employee to prepare his defense

thereto and shall be filed with the board and a copy served upon the employee either by personal service or by mail. The appointing power or any officer or employee authorized by the appointing power so to do may immediately suspend any employee from service without pay pending the filing of charges or the hearing thereon by notifying such employee thereof. Such a suspension shall be valid only in the event charges are filed with the board and served on the employee, within 15 days of the date of the suspension. Such suspension shall be effective until a hearing has been held on the charges and a decision thereon rendered by the board. The charges filed against an employee must also inform him of the time and manner in which, under the rules of the board, he must answer to such charges and ask for a hearing. The employee may within 10 days after service file with the board a written answer to or explanation of the charges, and request a hearing, and a copy of such answer, or explanation, and request shall at once be mailed by the board to the appointing power or other person who has made the charges. Amended or supplemental charges may be filed, and served, with like opportunity to the employee to file an answer or explanation and a request for hearing.

Suspension

Answer

Within a reasonable time after the filing of such answer, and upon written notice to both parties of the time and place of the hearing, the board or its duly authorized representative shall hold a hearing, at which time both parties shall have the right and opportunity to submit all proper and competent evidence against or in support of the charges. Failure on the part of the employee to request a hearing, and to give such written answer or explanation to the board within 10 days of the service upon him of the charges, or to appear at the hearing, shall be deemed an admission of the truth of such charges without further hearing upon the part of the board unless further time should be granted by the board. Either by deposition taken in the manner provided in Section 40, or at the hearing, the employee may be examined under Section 2055 of the Code of Civil Procedure, and the employee may likewise examine, or cause to be examined any person. It shall be the duty of the board to subpena witnesses for the accused upon his written request and at his cost, which costs the board may require to be prepaid, to consider carefully the evidence submitted in the hearing and to render a decision which in its judgment is just and proper.

Hearing

Witnesses

The board, in arriving at its decision may consider any prior suspension of the employee under Section 171, or any prior proceeding under this section. The decision must be rendered within a reasonable time after the completion of the hearing. If adverse to the employee, the decision may provide that the punitive action taken therein shall date from the date of the service of charges upon the employee. The decision shall be entered upon the minutes of the board and upon the official roster of employees. Copies of the decision

Decision

shall be furnished to the appointing power, the person preferring charges and to the employee. Hearings may be held by the board, any member or any authorized representative or referee but the decision shall be rendered by the board after careful consideration of the evidence submitted in the hearing.

Rehearing

(c) Within 30 days from and after receipt by him of a copy of the decision rendered by the board in a proceeding under this section, the employee or the appointing power may apply for a rehearing by filing with the board a petition in writing therefor. Within 30 days after such filing, the board shall cause notice thereof to be served upon the other parties to the proceedings by mailing to each a copy of the petition for rehearing, in the same manner as in this act prescribed for the giving of notice of a hearing. Within 60 days after the service of such notice of the filing of the petition for rehearing, the board shall either grant, in whole or in part, or deny the petition, and if the petition for rehearing is not acted upon within said period, it shall be deemed denied. If the petition for a rehearing is granted, the matter shall be set down for hearing by the board, either before the board or before its authorized representative, and such hearing shall be conducted as to the matters on which the rehearing is granted in substantially the same manner and under like rules of procedure as an original hearing upon charges filed under and pursuant to the provisions of this section.

Salary during suspension

(d) The board shall in rendering its decision, authorize payment of salary for the period of the suspension if it finds that the charges made were untrue or that the employee was justified in the course of conduct upon which the charges were based.

CHAPTER 797

Stats. 1937 p 2085, amended

An act to amend Sections 202, 173 and 153.5 of the State Civil Service Act, relating to the State civil service, and declaring the urgency hereof, to take effect immediately.

In effect immediately

[Approved by Governor May 27, 1943. Filed with Secretary of State May 27, 1943.]

The people of the State of California do enact as follows:

Stats 1937, p 2085

SECTION 1. Section 202 of the State Civil Service Act is amended to read:

Duties of employees

Sec. 202. Every State employee shall fulfill to the best of his ability the duties of the office or position conferred upon him and shall prove himself in his behavior inside and outside the office worthy of the esteem which his position requires. In his official activities the State employee shall pursue the common good, and, not only be impartial, but so act as neither to endanger his impartiality nor to give occasion for distrust of his impartiality.

Any employee who is or claims to be a citizen of any foreign country or is or claims to be a dual citizen of the United States and of any foreign country with which the United States is at war or who has renounced his citizenship or allegiance to the United States or has taken an oath of allegiance or otherwise pledged allegiance to any foreign country with which the United States is at war or who has committed or commits any act of disloyalty to or disrespect towards the United States or its flag or who does any act or thing when the United States is engaged in war to obstruct the war effort or the defense preparations of the United States shall be deemed a violator of this section and such acts, in addition to any other penalties provided by law therefor, shall be punishable under Section 173 of this act. Dual citizenship, etc

SEC. 2. Section 173 of said act is amended to read: Stats 1943, Ch 796

Sec. 173. (a) The tenure of every permanent employee holding a position shall be during good behavior, but any such person may be removed, demoted, suspended, reprimanded, or otherwise disciplined, under a procedure in conformity with the provisions of this act which shall be set up by the board in its rules for any of the following causes: Fraud in securing appointment, incompetency, inefficiency, inexcusable neglect of duty, physical or mental disability, insubordination, dishonesty, drunkenness on duty, intemperance, addiction to the use of narcotics or habit-forming drugs, inexcusable absence without leave, conviction of a felony or misdemeanor involving moral turpitude, immorality, discourteous treatment of the public or other employees, improper political activity, wilful disobedience, violation of the provisions of this act or the rules of the board, or for any other failure of good behavior or any other act or acts which are incompatible with or inimical to the public service. Causes for removal, demotion, etc.

(b) The appointing power, or the board, or any person with the consent of the board, the appointing power or the Attorney General, may file charges against any employee or any person on any employment list for dismissal or other punitive action for any or all of the causes hereinbefore provided. Such charges must be made in writing and clearly state the facts constituting such cause, in such detail as is reasonably necessary to enable the employee to prepare his defense thereto and shall be filed with the board and a copy served upon the employee either by personal service or by mail. Charges Filing and service

The appointing power or any officer or employee authorized by the appointing power so to do may immediately suspend any employee from service without pay pending the filing of charges or the hearing thereon by notifying such employee thereof. Such a suspension shall be valid only in the event charges are filed with the board and served on the employee, within 15 days of the date of the suspension. Such suspension shall be effective until a hearing has been held on the charges and a decision thereon rendered by the board. The charges filed against an employee must also inform him Suspension

of the time and manner in which, under the rules of the board,
Answer he must answer to such charges and ask for a hearing. The employee may within 10 days after service file with the board a written answer to or explanation of the charges, and request a hearing, and a copy of such answer, or explanation, and request shall at once be mailed by the board to the appointing power or other person who has made the charges. Amended or supplemental charges may be filed, and served, with like opportunity to the employee to file an answer or explanation and a request for hearing.

Hearing Within a reasonable time after the filing of such answer, and upon written notice to both parties of the time and place of the hearing, the board or its duly authorized representative shall hold a hearing, at which time both parties shall have the right and opportunity to submit all proper and competent evidence against or in support of the charges. Failure on the part of the employee to request a hearing, and to give such written answer or explanation to the board within 10 days of the service upon him of the charges, or to appear at the hearing, shall be deemed an admission of the truth of such charges without further hearing upon the part of the board unless further time should be granted by the board. Either by deposition or at the hearing the employee may be examined under Section 2055 of the Code of Civil Procedure, and the employee may likewise examine, or cause to be exam-
Witnesses ined any person. It shall be the duty of the board to subpena witnesses for the accused upon his written request and at his cost, which costs the board may require to be prepaid, to consider carefully the evidence submitted in the hearing and to render a decision which in its judgment is just and proper.

Decision The board, in arriving at its decision, may consider any prior suspension of the employee under Section 171, or any prior proceeding under this section. The decision must be rendered within a reasonable time after the completion of the hearing. If adverse to the employee, the decision may provide that the punitive action taken therein shall date from the date of the service of charges upon the employee. The decision shall be entered upon the minutes of the board and upon the official roster of employees. Copies of the decision shall be furnished to the appointing power, the person preferring charges and to the employee. Hearings may be held by the board, any member or any authorized representative or referee but the decision shall be rendered by the board after careful consideration of the evidence submitted in the hearing.

Rehearing (c) Within 30 days from and after receipt by him of a copy of the decision rendered by the board in a proceeding under this section, the employee or the appointing power may apply for a rehearing by filing with the board a petition in writing therefor. Within 30 days after such filing, the board shall cause notice thereof to be served upon the other parties to the proceedings by mailing to each a copy of the petition for rehearing, in the same manner as in this act prescribed for the giving

of notice of a hearing. Within 60 days after the service of such notice of the filing of the petition for rehearing, the board shall either grant, in whole or in part, or deny the petition, and if the petition for rehearing is not acted upon within said period, it shall be deemed denied. If the petition for a rehearing is granted, the matter shall be set down for hearing by the board, either before the board or before its authorized representative, and such hearing shall be conducted as to the matters on which the rehearing is granted in substantially the same manner and under like rules of procedure as an original hearing upon charges filed under and pursuant to the provisions of this section.

Salary during suspension

(d) The board shall in rendering its decision, authorize payment of salary for the period of suspension if it finds that the charges made were untrue or that the employee was justified in the course of conduct upon which the charges were based, provided, however, no salary shall be authorized or paid for the period of suspension or any portion thereof that the employee was not ready, able and willing to perform the duties of his position, whether such suspension be valid or not or whether the charges on which it is based state facts sufficient to constitute causes for disciplinary action. In authorizing or paying any accrued salary herein provided for there shall be deducted from the total amount accrued any compensation such employee earned or might reasonably have earned in private or public employment during the period of suspension. There also shall be deducted any money and the reasonable value of any maintenance that may have been furnished or granted to such employee during such suspension as a part of or in connection with any program of the United States formulated in the interests of National security for the removal of persons or classes of persons from designated areas and their relocation, maintenance and supervision.

Deductions

Stats. 1939, p. 2506

SEC. 3. Section 153.5 of said act is amended to read:

Absence deemed resignation

Sec. 153.5. Absence without leave, whether voluntary or involuntary, for 10 consecutive working days shall constitute and be deemed a resignation from State service, and the separation shall be entered in the official roster. Any employee so separated from the service may within 30 days of the date of his separation, apply to the board for reinstatement. Such reinstatement shall be granted only in the event the employee makes a satisfactory explanation to the board as to the cause of his absence and his failure to obtain leave therefor, and the board makes a finding that the employee is ready, able and willing to resume the discharge of the duties of his position, or if not, that he has obtained the consent of his appointing authority to a leave of absence to commence upon his reinstatement. In no event shall an employee be paid salary for the period of his absence or separation or for any portion thereof.

Urgency

SEC. 4. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of

Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

There exists serious uncertainty as to the rights and privileges and the liabilities of the State with respect to many civil service employees who have voluntarily or involuntarily left the State service and are unable to perform the duties of their previous employments. This bill is intended to clarify the situation and make definite such rights and liabilities and to make possible an orderly, fair administration of the State Civil Service laws, and is necessary to the efficient discharge by the various State departments and agencies of the duties imposed upon them by law.

CHAPTER 798

An act to aid the prosecution of the war by authorizing housing authorities to develop or administer projects to provide housing for persons engaged in war industries or activities and to cooperate with the Federal Government in making housing available for such persons; to grant certain powers to public bodies.

In effect August 4, 1943

[Approved by Governor May 27, 1943. Filed with Secretary of State May 27, 1943.]

The people of the State of California do enact as follows:

"War Housing Project"

SECTION 1. Wherever used in this act, the term "War Housing Project" shall mean the provision of housing for persons engaged in war activities in those areas or localities in the State in which an acute shortage of housing exists or impends which would impede war activities and in which such housing would not be provided by private capital when needed. "Persons engaged in war activities" shall include the following persons, together with their families: (1) enlisted men and officers in the naval or military services of the United States; (2) employees assigned to duty in naval or military reservations, posts and bases; and (3) workers engaged or to be engaged in industries connected with and essential to the war.

"Persons engaged in war activities"

Cooperation with Federal Government

SEC. 2. For the purpose of developing or administering War Housing Projects to aid in the prosecution of the war, any housing authority established and authorized to transact business on or before March 1, 1943, pursuant to Chapter 4 of the Statutes of 1938, Extra Session, as amended (herein called the "Housing Authorities Law") may cooperate with, act as agent for, or lease such War Housing Project from, the Federal Government; provided, that a War Housing Project owned, leased, or administered under this act by a housing authority shall not be subject to the limitations provided in Section 10 or in the second sentence of Section 9 of the Housing Authorities Law.

SEC. 3. The provisions of Chapter 2 of the Statutes of California, 1938, Extra Session (herein called the "Housing Cooperation Law"), shall apply to any War Housing Project undertaken by a housing authority or the Federal Government. In addition to the powers otherwise conferred upon it, any State public body, as defined in the Housing Cooperation Law, may furnish or contract to furnish, upon such terms as it deems advisable, public services or facilities for War Housing Projects which may be located outside its territorial boundaries when the governing body of the city or county, as the case may be, in which such project is located, shall, by resolution, consent thereto. Application of "Housing Cooperation Law"

SEC. 4. This act shall expire at the end of one year following the termination of the war. Duration

SEC. 5. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this act, or the application thereof to any persons or circumstances, is held invalid, the remainder of the act and the application of such provisions to persons or circumstances, other than those as to which it is held invalid, shall not be affected thereby. Constitutionality

SEC. 6. Nothing in this act permits a housing authority to acquire title or ownership in any war housing project of the Federal Government. Acquisition of title

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CHAPTER 799

An act to add Section 1272 to the Fish and Game Code, relating to deer. Stats. 1933, p. 394, amended

[Approved by Governor May 27, 1943. Filed with Secretary of State May 27, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 1272 is added to the Fish and Game Code, to read: New section

1272. In all districts deer may be taken during a period or periods not to exceed a total of 45 days as may be fixed by the commission between August 1st and November 15th; provided, the commission shall make no change in the period of the open season in any district for taking deer as now fixed by this code, unless such open season is closed under the authority of Federal emergency regulations or proclamations. In Districts 1¾ and 4½ one deer only may be taken during the open season. Any person who is a resident of District 1¾ or 4½ may possess, during the open season, one deer taken in either of said districts and one deer legally taken in any other district. Deer limits

In districts other than 1¾ and 4½ not more than two deer may be taken during the open season.

Duration

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section; but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

Existing law

CHAPTER 800

Stats 1939, p 482, amended

An act to add Chapter 4, consisting of Sections 28000 to 28003, inclusive, to Division 21 of the Health and Safety Code, relating to horse meat.

In effect August 4, 1943

[Approved by Governor May 27, 1943. Filed with Secretary of State May 27, 1943.]

The people of the State of California do enact as follows:

New chapter

SECTION 1. Chapter 4, consisting of Sections 28000 to 28003, inclusive, is added to Division 21 of the Health and Safety Code, to read:

CHAPTER 4. HORSE MEAT

Sale prohibition

28000. Horse meat shall not be sold in public markets where other meat or meat food products are sold.

Uncooked horse meat

28001. Any establishment offering uncooked horse meat for sale shall prominently display a sign in letters not less than one foot in height and two inches in width as follows: "Horse meat for human consumption."

Sale for human consumption

28002. Horse meat sold for human food shall comply with and meet all the provisions of the Agricultural Code relating to meat inspection.

Horse meat in restaurants

28003. Every restaurant, cafe, or other public eating place offering or serving horse meat for human consumption must have stamped on all menus, in green ink letters not less than one-half inch in height and one-quarter inch in width, the words "Horse meat served here"; likewise a placard must be prominently displayed bearing the words "Horse meat served here" in letters not less than four inches in height and one-half inch in width.

CHAPTER 801

An act to provide for the control of certain property of the State in Napa County by the Fish and Game Commission.

[Approved by Governor May 27, 1943. Filed with Secretary of State May 27, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. The Fish and Game Commission shall have control over and the management of, but not the right to transfer or alienate, the lands and properties situated in Napa County, State of California, which lands and properties are now possessed, used, and occupied by the commission in the Yountville Game Farm, located on the State Farm (formerly Napa State Farm) being known and described as Tract No. 1, 25.78 acres; Tract No. 2, 4.81 acres, a total of 30 59 acres, more or less, and an additional tract of 41.39 acres, adjoining the said first mentioned lands and premises. Control over Yountville Game Farm

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CHAPTER 802

An act to add Sections 102 and 611.7 to the Fish and Game Code, creating a new fish and game district and regulating the taking of trout therein. Stats 1933, p 394, amended

[Approved by Governor May 27, 1943. Filed with Secretary of State May 27, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 102 is added to the Fish and Game Code, to read: New section

102. District 102. The following shall constitute Fish and Game District 102: District 102

(a) The waters of the Feather River and its branches and forks named herein from the confluence of the Feather River with the Sacramento River upstream to:

(1) The mouth of Concow Creek on the West Branch of the Feather River;

(2) The intake diversion dam for Las Plumas powerhouse on the North Fork of the Feather River;

(3) The county road bridge at Enterprise on the South Fork of the Feather River;

(4) The United States Forest Service road bridge about one mile upstream from the mouth of Bean Creek on the Middle Fork of the Feather River.

(b) The waters of the Yuba River from its confluence with the Feather River upstream to the Tahoe-Ukiah highway bridge.

(c) The waters of Butte Creek from its confluence with the Sacramento River (including the waters of the Sutter By-pass) to the Butte County railway bridge about two miles east of U. S. Highway 99E south of Chico.

(d) The waters of Chico Creek from its confluence with the Sacramento River to the north boundary line of Bidwell Park, including the waters of Lindo Channel.

Excepting the provisions relating to district boundaries and size, bag, and possession limits of trout, all other provisions of this code relating to District 1 shall apply to District 102.

New section
Trout District 102

SEC. 2. Section 611.7 is added to said code, to read:

611.7. In District 102, from November 1st to the last day of February, trout 15 inches or over in length and of any species may be taken, but not more than three such trout in the aggregate of all species may be taken by any one person in any one day and not more than one daily bag limit of such trout may be possessed by any one person during one day.

CHAPTER 803

Stats. 1933, p. 394, amended

An act to amend Section 1203.6 of, and to add Sections 1203.7, 1203.8, 1203.9, 1203.10, 1203.11, 1203.12, 1203.13, 1203.14, 1203.15 and 1203.16 to, the Fish and Game Code, relating to pheasants.

In effect August 4, 1943

[Approved by Governor May 27, 1943. Filed with Secretary of State May 27, 1943.]

The people of the State of California do enact as follows:

Stats. 1941, p. 2063

SECTION 1. Section 1203.6 of the Fish and Game Code is amended to read:

Male pheasants

1203.6. Male pheasants may be taken during the 15-day period commencing with the fourth Sunday in November. The bag limit shall not exceed four male pheasants for the opening day of the shooting season, nor more than two such pheasants on any of the remaining days of said open season; nor more than a total of 10 male pheasants for the entire open season.

New section
Pheasant license tags

SEC. 2. Section 1203.7 is added to the said code, to read:

1203.7. It is unlawful to take any pheasants, except as otherwise provided, without first procuring pheasant license tags authorizing the taking of pheasants in accordance with the provisions of this code.

New section
Application for tags

SEC. 3. Section 1203.8 is added to the said code, to read:

1203.8. The commission shall determine the form of, and prepare, pheasant license tags and applications therefor.

New section
Fees

SEC. 4. Section 1203.9 is added to the said code, to read:

1203.9. Any person who possesses a valid hunting license may, upon the payment of one dollar ($1), procure the number of pheasant license tags corresponding to the number of pheasants that may be legally taken by one person during the then current license year.

New section
When tags valid

SEC. 5. Section 1203.10 is added to the said code, to read:

1203.10. Pheasant license tags are valid only during that portion of the current hunting license year in which pheasants may be taken or possessed in any district.

SEC. 6. Section 1203.11 is added to the said code, to read: New section

1203.11. Pheasant license tags shall be issued, sold and accounted for in the same manner as hunting licenses, and the same compensation is payable for the sale thereof. Issuance and sale of tags

SEC. 7. Section 1203.12 is added to the said code, to read: New section

1203.12. It is unlawful for any person to have in his possession at any time, while hunting, any pheasant license tags other than those legally issued to him. Tags not legally issued

SEC. 8. Section 1203.13 is added to the said code, to read: New section

1203.13. The holder of pheasant license tags must carry said tags while hunting pheasants, and upon the taking of any pheasant must immediately attach a tag around the neck of such pheasant; such tag must remain attached to said pheasant until prepared for consumption. Carriage and attachment of tags

SEC. 9. Section 1203.14 is added to the said code, to read: New section

1203.14. It is unlawful to alter, mutilate, or deface any pheasant license tag to evade provisions of this code. Alteration, etc., of tags

SEC. 10. Section 1203.15 is added to the said code, to read: New section

1203.15. It is unlawful for any person to transfer a pheasant license tag or to use a pheasant license tag not issued to him. Transfer of tag

SEC. 11. Section 1203.16 is added to the said code, to read: New section

1203.16. Except as otherwise provided, possession of any wild pheasant without proper pheasant license tag attached shall be deemed a violation of this code Any person who violates any provision of this code shall forfeit his pheasant license tags, and no new pheasant license tags may be issued to said person during the then current license year for hunting licenses. Violations and penalties

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CHAPTER 804

An act to add Section 1340.7 to the Fish and Game Code, relating to the taking of bear. Stats 1933, p 394, amended

[Approved by Governor May 27, 1943. Filed with Secretary of State May 27, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 1340.7 is added to the Fish and Game Code, to read: New section

1340.7. In any district or part of a district within San Bernardino and Riverside Counties bear may be taken at any time with any type of trap within a good and substantial fence, as such fence is described in Section 412 of the Agricultural Code, surrounding beehives if no part of such fence is at a distance greater than 50 yards from a beehive and if a conspicuous sign is posted and maintained at each entrance to the enclosed premises to give warning of the presence of the bear traps. Bear traps

CHAPTER 805

An act to provide aid to counties, cities and counties, cities and districts for civilian defense purposes; to provide for the administration thereof; to make an appropriation for such purposes; and to declare the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor May 27, 1943. Filed with Secretary of State May 27, 1943.]

The people of the State of California do enact as follows:

SECTION 1. As used in this act:

"Local agency"

(a) "Local agency" means any county, city and county, city or district.

"Civilian defense"

(b) "Civilian defense" means any activity of a local agency in which there is a State interest, to assist in the successful prosecution of the war, to limit the effects of enemy action, and includes but is not limited to all activities to protect life and property from damage or injury arising out of the war.

State policy

SEC. 2. It is hereby declared to be a State policy that aid be given to local agencies carrying on civilian defense activities on the basis of need and that civilian defense within this State, regardless of the locality in which such activity is conducted, is a matter of vital concern and interest to the State and to the whole thereof.

Director of Finance Duties

SEC. 3. It shall be the duty of the State Director of Finance, and he is hereby empowered to:

(a) Prescribe the form of application to be filed by a local agency for aid for civilian defense purposes. No aid may be given by the State to a local agency until such application has been filed by such agency with the State Director of Finance.

(b) Administer the appropriation hereinafter made and to prescribe the terms and conditions upon which aid shall be allocated therefrom by the State to local agencies for civilian defense purposes; provided, that none of the moneys hereby appropriated shall be expended, allotted, encumbered, or become available for expenditure until moneys equal to or in excess of the amount to be expended from this appropriation shall have been made available by a person, firm, association, corporation, political subdivision, public district, municipality, county or public agency, including agencies of local and Federal Government, but excluding agencies which are a part of the executive department of the State Government, for expenditure for like purposes for which allocations have been made from this appropriation, to the end that any sums expended from this appropriation shall be matched by like or greater amounts from sources other than the State treasury or fund of any agency which is a part of the executive department of the State Government.

(c) Prescribe, amend, modify or rescind such rules and regulations as he may determine to be necessary or convenient to carry out the provisions of this act, and to secure the application of the money allocated to the purpose for which it was made.

Allocation approval

SEC. 4. No moneys may be allocated or facilities provided to any local agency from the appropriation hereinafter made by the State Director of Finance without the written approval of the State Director of Civilian Defense, obtained in advance.

Appropriation

SEC. 5. There is hereby appropriated out of any money in the State treasury not otherwise appropriated the sum of two and a half million dollars ($2,500,000) or so much thereof as may be necessary to carry out the provisions of this act. Such funds may be expended without regard to fiscal years and only for civilian defense purposes. There shall first be appropriated from this appropriation for the use of the Department of Finance such amount as the Director of Finance shall determine is necessary for administration of the provisions of this act, the total of which amount shall in no event exceed 1 per cent of the total appropriation herein made.

Urgency

SEC. 6. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect.

A statement of the facts constituting such necessity is as follows:

At the present time throughout the State persons and property are subject to incalculable injury and damage from war, military, naval or air attack, or from sabotage. Civilian defense is not a purely local problem. It is a joint responsibility of Federal, State and local government, and each must play its part and shoulder its responsibility. Where local agencies have performed or are performing more than municipal functions for civilian defense purposes the State should provide financial assistance to these local agencies. It is necessary that this act go into effect immediately in order that, to the extent of its interest, the State may assist local agencies for civilian defense purposes.

CHAPTER 806

An act to amend Sections 50, 51, 54, and 55 of the Fish and Game Code, relating to game management areas.

Stats. 1933, p. 394, amended

[Approved by Governor May 27, 1943. Filed with Secretary of State May 27, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

Stats. 1939, p. 2425

SECTION 1. Section 50 of the Fish and Game Code is amended to read:

Application for game management license

50. In order to foster and increase the upland game bird population in the State of California, any person who owns

or controls the shooting rights on a tract of land of not less than 200 acres, nor more than 10,000 acres, and who so handles such land as to feed, cover, and water, to make it a more suitable habitat for quail or pheasants, may apply to the commission for a game management license authorizing the killing, by shooting only, of quail or pheasants, or either, upon such land in accordance with the provisions of this chapter, and the rules and regulations thereon as may be prescribed by the commission, from time to time, for the administration of this act. Such area must be open to any licensed hunter for shooting during the entire game management season upon payment of the fee as set forth in the application filed by the licensee with the Division of Fish and Game; provided, that the maximum legal number of birds have not been killed on said area.

Contents

(a) The application shall show the name and address of the applicant; the legal description of the tract of land, and description by exterior boundaries of the tract with reference insofar as possible to roads, rivers, railroads or natural boundaries; the species of birds the taking of which the license is applied for; whether the applicant proposes to propagate and rear the birds to be released and if so the location or proposed location where the birds are to be propagated and reared; whether the applicant proposes to purchase birds for release; whether the applicant proposes to charge a fee for the right to shoot birds on his lands and the amount of such fee; and such other information as the commission may require.

Stats 1941, p 2637

SEC. 2. Section 51 of said code is amended to read:

Issuance of license

51. (a) If the commission is satisfied, after investigation, that the tract is suitable for the purpose of a game management area and that the establishment of such an area will not conflict with the public interest, the commission may issue a game management area license upon the payment of a license

Fee

fee of ten dollars ($10).

Duration

Such license shall be issued for a term of one year from January 1st, to December 31st, or, if issued after the beginning of such term, for the remainder thereof.

Authority conferred

(b) The license shall authorize the licensee to shoot, or permit to be shot, legally propagated birds of the species mentioned in the application, upon the premises for which the license is issued. The licensee shall fix a daily bag limit, not to exceed six birds of the species released on such area.

Propagation of birds

(c) The licensee shall propagate and rear, or otherwise acquire, and release upon the premises birds of the species referred to in the license in such numbers as the commission shall determine. Such birds at the time of release shall be full-winged and otherwise in condition to go wild.

Release of mature breeding stock

(d) The licensee may release mature breeding stock of game birds after the close of the designated game management area shooting season and not later than April 1st, and shall have the right to take, or permit to be taken, during the next succeeding game management area shooting season

three pheasants for each hen pheasant released, and two quail for each quail released; provided,

(1) The licensee releases mature pheasants in the ratio of three hen pheasants for each cock pheasant released; and

(2) The licensee releases mature quail in the ratio of one hen quail for each cock quail released.

SEC. 3. Section 54 of said code is amended to read: Stats 1939, p 2425

54. The commission shall fix the season during which shooting is to be permitted upon the premises, which season shall be within the period from October 1st to January 31st. The commission shall fix the total number of birds of the species referred to in the license which may be shot upon the premises during the season, which number shall not exceed 80 per cent of a total number, which total shall be computed by adding the number of birds released pursuant to subdivision (c) of Section 51 to the number of birds that may be taken pursuant to subdivision (d) of said Section 51. Season, etc

SEC. 4. Section 55 of said code is amended to read: Stats 1939, p 2425

55. The licensee may charge a fee for the right to shoot birds on the premises of the species referred to in the license. If a fee is charged it shall be upon the basis of the individual bird, and shall not exceed the sum of three dollars and fifty cents ($3.50) per bird. The amount of such fee shall be stated in the application for license and upon the license that may be issued, and also upon the permit issued by the licensee to each hunter. The hunter must carry on his person this permit at all times while on the area. Fee charged by licensee

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CHAPTER 807

An act to add Section 995.3 to the Fish and Game Code, relating to fish traps. Stats 1933, p. 394, amended

[Approved by Governor May 27, 1943. Filed with Secretary of State May 27, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 995.3 is added to the Fish and Game Code, to read: New section

995.3. The commission may issue a revocable permit to the holder of a commercial fishing license to use fish traps to take sheepshead and eel, in districts in which commercial fishing is permitted, subject to such rules and regulations as the commission may prescribe. Fish traps for sheepshead and eel

CHAPTER 808

Stats. 1933, p. 394, amended

An act to add Section 22.5 to the Fish and Game Code, to empower the State Fish and Game Commission to insure boats and personnel, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor May 27, 1943. Filed with Secretary of State May 27, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 22.5 is added to the Fish and Game Code, to read:

22.5. The commission may:

Insurance for employees and vessels

(a) Procure insurance for its employees against special hazards in connection with their duties occasioned by the existence of a state of war, in addition to workmen's compensation insurance.

(b) Procure insurance for its employees against injury or death in the course of performance of their duties arising from airplane accidents.

(c) Procure insurance on vessels owned or operated by the commission against special hazards occasioned by the existence of a state of war, in addition to usual hazards.

Cost of such insurance shall be a proper charge against and be paid out of the Fish and Game Preservation Fund.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

War conditions have increased the dangers and hazards attendant upon off-shore patrolling by employees of the Fish and Game Commission, in the performance of their duties, and the risk of loss of vessels owned or operated by the Fish and Game Commission. It is necessary to assure to the employees of the commission engaged in such work that they and their families will be protected as far as possible against these increased risks in order to retain and secure employees for such work. In addition, with the present shortage of shipping the value of vessels used by the commission and of replacement vessels, if obtainable, has increased so greatly as to make it expedient to insure against such possible increased loss.

CHAPTER 809

An act to add Section 8821.1 to the Education Code, relating to admission of students to junior colleges, declaring the urgency hereof, to take effect immediately.

Stats 1943, Ch 71, amended

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

In effect immediately

The people of the State of California do enact as follows:

Note.—See Stats. 1943, Ch. 71.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

Urgency

The demands of the war in which the United States of America is now engaged require the services and facilities of the public junior colleges to be fully utilized to prepare qualified persons for their part in the successful prosecution of the war. The existing restrictions on the admission of persons to public junior colleges prevent a direct and effective contribution from being made to the war effort. In order that the public junior colleges may be permitted to immediately make a greater contribution to the winning of the war, than they are now allowed to make, it is necessary that this act take effect immediately.

CHAPTER 810

An act to amend Section 3.324 of the School Code and to amend Section 8730 of the Education Code, relating to taxation in elementary school districts.

Stats. 1943, Ch. 71, amended

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 3.324 of the School Code is amended to read:

Stats 1941, p. 1728

3.324. If the elementary school district is located entirely within one county, the board of supervisors thereof shall at the time and in the manner prescribed by Article 8 of Chapter 1 of Part 3 of Division 4 of this code levy a tax on all taxable property in the elementary school district sufficient to raise the amount set forth in the certificate. If the elementary school district is located in more than one county, the tax shall be determined, levied, and collected at the time and in the manner prescribed by Articles 8 and 10 of Chapter 1 of Part 3 of Division 4 of this code. The maximum rate of school

Tax levy

Maximum rate

district tax which may be levied pursuant to this section for any high school district or unified school district in any school year on each one hundred dollars ($100) of assessed valuation within the elementary school district shall be seventy-five cents ($0.75) if the average daily attendance of high school pupils living within the elementary school district and attending a high school in such high school district or unified school district during the preceding school year did not exceed 15.

Note.—See Stats. 1943, Ch. 71.

Effect
Stats 1943, Ch 71
Repeal

SEC. 3. Section 2 of this act becomes operative only if the Education Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said Education Code takes effect, at which time Section 3.324 of the School Code amended by this act is hereby repealed.

CHAPTER 811

Stats 1909, p 87, amended
Stats 1931, p 587, amended

An act to amend Section 2261 of the Civil Code, Section 105 of the Bank Act, and Section 584 of the Probate Code, relating to the investment of funds.

In effect August 4, 1943

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

The people of the State of California do enact as follows:

1872 Code

SECTION 1. Section 2261 of the Civil Code is amended to read as follows:

Standard of care by trustees

2261. (1) In investing, reinvesting, purchasing, acquiring, exchanging, selling and managing property for the benefit of another, a trustee shall exercise the judgment and care, under the circumstances then prevailing, which men of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their funds, considering the probable income, as well as the probable safety of their capital. Within the limitations of the foregoing standard, and subject to any express provisions or limitations contained in any particular trust instrument, a trustee is authorized to acquire every kind of property, real, personal or mixed, and every kind of investment, specifically including, but not by way of limitation, corporate obligations of every kind, and stocks, preferred or common, which men of prudence, discretion and intelligence acquire for their own account.

Retention of property

(2) In the absence of express provisions to the contrary in the trust instrument, a trustee may continue to hold property received into a trust at its inception or subsequently added to it or acquired pursuant to proper authority if and as long as the trustee, in the exercise of good faith and of reasonable prudence, discretion and intelligence, may consider that retention is in the best interests of the trust.

(3) In the absence of express provisions to the contrary in the trust instrument, a deposit of trust funds at interest in any savings bank or the savings department of any bank (including the savings department of the trustee, if a bank) shall be a qualified investment to the extent that such deposit is insured under any present or future law of the United States, or to such greater extent as a court of competent jurisdiction may authorize. Nothing in this section shall be construed as limiting the right of trustees in proper cases to make deposits of trust moneys in banks, subject, in the case of interest-bearing deposits, to such notice or other conditions respecting withdrawal as may be prescribed by law or governmental regulation affecting such deposits. Deposit in bank

(4) Nothing in this section shall abrogate or restrict the power of the appropriate court in proper cases to direct or permit the trustee to deviate from the terms of the trust regarding the making or retention of investments. Deviation from terms of trust

(5) The provisions of this section shall apply to all trusts now existing or hereafter created. Where, in trusts now existing or hereafter created, the term "investments permissible by law for investment of trust funds," or "authorized by law for investment of trust funds," "legal investments," or "authorized investments," or other words of similar import are used in defining the powers of the trustee relative to investments, such language, in the absence of other controlling or modifying provisions of the trust instrument, shall be construed as authorizing any investment permitted by the terms of subdivision (1) of this section. Application of section

SEC. 2. Section 105 of the Bank Act is hereby amended to read as follows: Stats. 1941, p. 2332

Sec. 105. Except as otherwise provided by law, every trust company shall invest its capital and surplus, in accordance with the provisions of this act relative to the investment or loan of funds deposited with savings banks. Trust funds received by any trust company in connection with its trust business shall be invested as provided in the Civil Code. Trust companies' investments

Any trust company holding funds awaiting investment or distribution may deposit such funds with the savings department or the commercial department of any State or National bank which has been designated as a depositary by the Superintendent of Banks, or in which such deposit will be fully insured under the provisions of any law of the United States, and any trust department of any bank doing a departmental business may deposit such funds so held by it with the savings department or the commercial department of the same corporation or association; provided, however, that no such funds so held awaiting investment or distribution shall be deposited by any trust department of a departmental bank with the savings department or the commercial department of the same Deposit in banks

corporation or association or of any corporation or association holding or owning a majority of the capital stock of the trust company making such deposit unless such corporation or association shall first set aside, as security for such deposit, bonds or securities of the kind in which savings banks are permitted to invest and which bonds or securities so set aside shall have a value of not less than the funds so deposited; provided, that no security shall be required in case of any such part of any such deposits as is insured under the provisions of any law of the United States.

Registration of stocks

Any trust company when acting as executor, administrator, guardian, or testamentary trustee, or trustee under a private trust, unless the instrument creating such trust contains a provision to the contrary, may cause any stock or other securities held in any such capacity to be registered in the name of a nominee or nominees of such trust company. Any such trust company shall be liable for any loss occasioned by the acts of any nominee of such trust company with respect to such stock or other securities so registered. The records of such trust company shall at all times show the ownership of any such stock or other securities. Such stock or other securities shall at all times be kept separate and apart from the assets of such trust company.

Stats 1931, p 587

SEC. 3. Section 584 of the Probate Code is amended to read:

Investment of estate funds

584. Pending the settlement of an estate, or at the time of settlement of an estate, on the petition of the executor or administrator, or of any person interested in the estate, and upon good cause shown therefor, the court may order any money in the hands of the executor or administrator, to be invested for the benefit of the estate in securities of the United States or of this State or in the purchase from an insurer admitted to do business in this State and for any legatee named in the will of an annuity expressly granted to him by said will. The clerk shall set the petition for hearing by the court and give notice thereof for the period and in the manner required by Section 1200 of this code.

CHAPTER 812

Stats. 1943, Ch 71, amended

An act to amend Section 4861 of the Education Code, relating to the membership of schools in societies, associations, or organizations.

In effect August 4, 1943

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

Note.—See Stats. 1943, Ch. 71.

CHAPTER 813

An act to amend Sections 5.822, 5.850, 5.851, 5.852 and 5.852-1 of the School Code and to amend Sections 14340, 14432, 14439 and 14450 of, and to add Section 14456.1 to, the Education Code, relating to the State Teachers Retirement System, declaring the urgency thereof, to take effect immediately.

Stats 1943, Ch 71, amended

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Section 5.822 of the School Code is amended to read:

Stats 1941, p. 2666

5.822. The following time shall be included, subject to subsection (j) of this section, in the computation of the service to be credited to a member for the purpose of determining whether such member qualifies for retirement under Sections 5.870 and 5.872 hereof, and of determining the amount of Permanent Fund contributions to be required of such member under Section 5.850 hereof:

Computation of service

(a) Time served, as a member or prior to becoming a member, in a status fixed in Section 5.840 hereof or in Part 4 repealed hereby, as requisite for membership in the Retirement System or its predecessor;

(b) Time served in a status prior to the date said status is made requisite to membership herein, whether under the California Public School Teachers' Retirement Salary Fund now existing, or this Retirement System;

(c) Time during which a member is prevented from rendering service in a status requisite for membership herein, by act of God, or by reason of the closing of a school by any duly authorized officer or body because of epidemic or any other reason;

(d) Time spent by a member on leave of absence for which he receives compensation from a school district or other employing agency, or from any insurance carrier of any such school district or other employing agency, but time after termination of membership as provided in Section 5.844 hereof, shall not be credited, regardless of whether compensation from an insurance carrier continued thereafter;

(e) Time during which a member served or shall serve in the active military service of the United States of America or of the State of California, including active service in any uniformed auxiliary of, or to, any branch of such military service created or authorized as such auxiliary by the Congress of the United States of America or by the Legislature of the State of California, or in the full time paid service of the American Red Cross, during war with any foreign power or during other National emergency; provided, said member was employed in a status requisite for membership herein, or a status, time

served in which is included in this section, within one year prior to entering such service, but time during which a member, for other cause, is absent without compensation, on leave or otherwise, shall not be included except as provided in subsection (e) immediately preceding; and provided further, that time included under this paragraph shall be considered as served in the State in which the member was last so employed before entering such service;

(f) Time served in a night school in exactly the same manner as time served in a day school;

(g) Time during which a member is a member of the State Employees' Retirement System, established by Chapter 700 of the Statute of 1931, and during which he was serving in a status requisite for membership in the California State Teachers' Retirement System or its predecessors; provided, said member subsequently ceases to be a member of the State Employees' Retirement System and becomes a member hereof;

(h) Time served in a status which in this State is requisite for membership herein, in other States of the United States of America, and its Territories and its possessions and in Canada, and time served as an exchange teacher in any location;

(i) Time served in publicly supported residential schools for the deaf and blind outside of California, by members who are employed in the California School for the Deaf or the California School for the Blind, or in special classes maintained by the public schools of this State, for the instruction of the deaf, the hard of hearing, the blind or the semisighted;

(j) Service shall be computed by school years and not by calendar years, portions of years served in completed months being accumulated and counted as service, but all of the service rendered in any one school year shall not count for more than one year, and the total service credited shall be taken to the next lower completed quarter year of total time served as computed hereunder. No time shall be included under this section, for which, or on the basis of which, a member is entitled to receive a pension for other than naval or military service from any source other than this system or a local fund;

(k) Time served in teaching positions in publicly supported universities or colleges in the United States and its Territories and possessions and in Canada; provided, that retirement salaries hereafter payable to persons retired after July 1, 1937, and prior to the effective date hereof, shall be adjusted upon the request of said persons, to the provisions of this paragraph, effective on the first day of the month in which said requests are received at the office of the Retirement System in Sacramento, California;

(*l*) Time served in teaching positions in schools supported by the United States Government;

(m) Time served in a position in which, without a change in duties attached thereto, the occupant thereof subsequently qualifies as being in a status requisite to membership herein.

SEC. 2. Section 5.850 of the School Code is amended to read: Stats 1939, p 2853

5.850. Each member of the Retirement System shall contribute twenty-four dollars ($24) for each year of service or fraction thereof, credited to such person under the system, but contributions shall not be required for more than 30 years of such service rendered prior to July 1, 1935, contributions already made being adjusted by the Retirement Board. The Retirement Board by rule may provide that members employed on a part time or substitute basis shall not be required to contribute under said paragraph for months during which they serve less time than that required for credit for service of one month, as fixed by the Retirement Board. Contributions

Contributions required by the paragraph immediately preceding, shall be made as service is rendered, being deducted, in the manner prescribed in Section 5.852 hereof, from each salary payment in an amount determined by dividing twenty-four dollars ($24) by the number of salary payments normally to be made throughout the entire school year to members who are in service, without interruption. The Retirement Board by rule may modify the method, described in the sentence next preceding, of determining the amount of contributions to be deducted from each salary payment, if a member be employed on a substitute or part time basis, or if the service of a member be interrupted by absence without compensation. Salary deductions

Any person to whom service rendered outside of the State after January 1, 1914, shall be credited and any person who has claimed exemption from the provisions of the Retirement System or its predecessor or who was a member of the State Employees' Retirement System while serving in a status requisite for membership in this Retirement System or its predecessor, and who later becomes subject to its provisions, shall be required to pay, in addition to the twenty-four dollars ($24) for each year of credited service rendered outside the State or while so exempt or while a member of said other system, interest at the rate of 5 per cent per annum on the amount which would have been contributed had such person been a member of the Retirement System when such service was rendered, said interest to begin on the first day of July next following the end of the school year in which said service was rendered, and to end upon the date of retirement; provided, that contributions for years prior to July 1, 1935, shall carry interest on only twelve dollars ($12) per year. Interest payments

Every person heretofore or hereafter retired who at the time of retirement was not or shall not be credited with twenty-four dollars ($24) as a contribution to the Permanent Fund for each year of service credited to such person, not to include over 30 years of service rendered prior to July 1, 1935, shall pay to the Retirement System such additional amount as is necessary to bring the contributions credited to such person up to twenty-four dollars ($24) for each year of such credited Additional payments

service, but not to include over 30 years of service rendered prior to July 1, 1935. Said additional amount or the balance of it remaining unpaid at any time, may be paid in one sum by said person or in installments as a deduction, at the rate of five dollars ($5) per month, from the retirement allowance payable, if said person was retired with 30 or more years of service, or at the rate of four dollars ($4) per month if said person was retired with less than 30 years of service; provided, that until that part of the contributions in arrears, including interest, which is due from persons hereafter retired, because of exemption from the provisions of the Retirement System or its predecessor or to service outside the State, is paid, such monthly installments shall be fifteen dollars ($15) and twelve dollars ($12), respectively.

Stats 1939, p 2853

SEC. 3. Section 5.851 of the School Code is amended to read:

Contributions to Annuity Deposit Fund

5.851. Each person who has or shall become a member of the Retirement System on or after July 1, 1935, and who shall not be required as a condition of employment, to contribute to a local fund, shall be required to contribute to the Annuity Deposit Fund, 4 per cent of each salary payment received by him, less the contribution required as a deduction from said salary payment for the Permanent Fund.

Optional contribution

Each person who was required to contribute, even though no contributions were made, to the Public School Teachers' Permanent Fund, now existing, on or before June 30, 1935, and any member who is required as a condition of employment to contribute to a local fund, may at his option elect to contribute 4 per cent of each salary payment received by him less the contribution required as a deduction from said salary payment for the Permanent Fund. Likewise any member who contributes to the Annuity Deposit Fund at the rate heretofore provided in this section, may at his option elect to contribute to such fund, an additional percentage of each salary payment received by him, his total annuity deposit then being said additional percentage plus said 4 per cent of said salary payment, less the contribution required as a deduction therefrom for the Permanent Fund. A member may at his option elect to cease contributing said additional percentage.

Election to cease contributing

Any member who shall make contributions under this section while employed in a status which is not subject to a local fund, and who thereafter is employed by a local district which, as a condition of employment, requires contributions to a local fund, may elect to cease contributing under this section, even though said member is excluded from said local fund, and accumulated annuity deposits standing to the credit of his individual account, because of service upon the basis of which he will receive a benefit from said local fund, shall be refunded to him upon his request filed with the Retirement Board within two years after he becomes a member of said local fund, or two years after September 1, 1939, whichever shall be the later date, but, otherwise, accumulated annuity deposits standing

to the credit of his individual account shall remain so credited and shall not be refunded except as provided elsewhere herein

Any election under this section shall be by written notice to the Retirement Board, consenting and agreeing to the deduction and stating the month with which said deduction shall commence, and an election to contribute 4 per cent shall be irrevocable. Said month shall be any month from September, 1935, to June, 1937, inclusive, with which the deduction began, but otherwise it shall not be earlier than the month next following the month in which the written notice is executed, and if no month be entered in said notice, or if the month entered be earlier than the month next following said month of execution, the member shall be considered as having stated that the deduction shall commence with the month next following said execution.

Salary deductions

Contributions required of a person to the Annuity Deposit Fund shall be deducted from each salary payment in the manner prescribed in Section 5.852 hereof. Notwithstanding the provisions of the two paragraphs immediately preceding, annuity deposit contributions shall not be deducted from salary payments to any member employed as a part time or substitute employee, from which Permanent Fund contributions are not deducted by provisions of this chapter or by rule of the board. Every person accepting employment who is required to contribute under this section, shall be deemed to consent and agree to the deduction of the annuity deposits from his salary payments as provided herein.

Notwithstanding any other law, rule or regulation affecting the salary, pay, compensation, other prerequisites or tenure of any person to whom this chapter applies or shall apply and notwithstanding that the minimum salary, pay, compensation or other prerequisites, provided by law for such person shall be reduced thereby, payment less the contributions required by this section and by Section 5.850 shall be in full and complete discharge and acquittance of all claims and demands whatsoever for service rendered by such teacher during the period covered by such payment, except his claim to benefits to which he may be entitled under the provisions hereof.

Stats 1939, p 2853

SEC. 4. Section 5.852 of the School Code is amended to read:

Order

5.852. The governing board of each school district shall draw an order for the amount of salary payments due, from time to time, to the respective members employed by such board, less the amount of contributions required to be deducted from such payments, by Sections 5.850 and 5.851 hereof, and shall inform the county superintendent of schools of the amount of such contributions. The county superintendent of schools at the close of each month shall draw requisitions against the funds of the respective school districts and in favor of the Teachers' Permanent Fund and Teachers'

Requisition

Annuity Deposit Fund, which are hereby created in each county treasury, for amounts equal to the total of said contributions deducted during said month for the Permanent Fund and Annuity Deposit Fund, respectively, and said amounts shall be deposited in the county treasury to the credit of said funds, respectively. The county superintendent of schools may draw requisitions in the same manner to transfer contributions deducted from salary payments earned prior to July 1, 1937, from funds of school districts to the Permanent Fund and Annuity Deposit Fund.

Deduction

The county superintendent of schools shall deduct from salary payments due, from time to time, to the respective members employed by him, contributions as required by Sections 5.850 and 5.851 hereof, and at the close of each month shall draw requisitions against the funds from which said salaries were paid and in favor of said Permanent and Annuity Funds, respectively, for amounts equal to the total of said contributions deducted during said month for the Permanent Fund and Annuity Deposit Fund, respectively, and said amounts shall be deposited in the county treasury to the credit of said funds, respectively.

Transfer

The county auditor shall deduct from salary payments due, from time to time, to the respective members employed by the county, contributions as required by Sections 5.850 and 5.851 hereof, and at the close of each month shall transfer in the county treasury from the funds from which said salaries were paid, to the said Permanent and Annuity Deposit Funds, respectively, amounts equal to the total of said contributions deducted during said month for the Permanent Fund and Annuity Deposit Fund, respectively.

Receipt

The county superintendent of schools in each January and July shall issue a receipt for said contributions to each member from whose salary payments the deductions were made during the six months immediately preceding said months; provided, that the Retirement Board may issue to each member, after the close of the school year and in lieu of such receipt, either one receipt for all such contributions deducted from his salary during said year or a statement of his individual account.

Warrant

In January and July of each year, or in each month at the option of the Retirement Board, said county superintendent of schools shall draw his requisition against the county auditor, and said requisition when allowed and signed by the county auditor shall constitute a warrant against the county treasurer, for the amount of contributions deducted from members' salary payments during the six calendar months or month, as the case may be, immediately preceding. The county auditor thereupon shall forward said warrant to the office of the Retirement Board in Sacramento, California.

Report

The requisition of the county superintendent of schools drawn in January and July, beginning with the report for

the 12 months ending June 30, 1943 only in July at the option of the Retirement Board, shall be accompanied by a report giving the names of the members from whose salary payments contributions were deducted during the preceding six or 12 months, as the case may be, the amount of the contributions in the case of each member and such other information as the board may require. The original copy of said report shall be sent by the county superintendent of schools to the Retirement Board. If monthly requisitions are required under the paragraph immediately preceding, said reports may at the option of the board, be required monthly.

Other employing agencies

Employing agencies other than school districts or counties shall deduct from each salary payment due, from time to time, to the respective members employed by them, contributions as required by Sections 5.850 and 5.851 hereof, and shall remit in January and July, or in each month at the option of the Retirement Board, of each year to the Retirement Board, in a form satisfactory to the board, such contributions deducted during the six calendar months or month, as the case may be, immediately preceding, such remittances to be accompanied by a report in the manner required of the county superintendent.

Deposit

Said amounts received under this section shall be deposited forthwith by the Retirement Board in the State Treasury to the credit of the Permanent Fund or the Annuity Deposit Fund respectively.

Optional method of collection

The Retirement Board at its option and in lieu of all or part of the method of collecting members' contributions described in the preceding paragraphs of this section, may require any county, city, city and county or district superintendent of schools, any governing board of a school district or any disbursing officer of any other employing agency, to furnish the said board with a copy of each and every pay roll of school districts or of other employing agency. Such pay roll shall show for the period covered thereby and for each person employed by said district or other employing agency during the said period any or all of, the time served, the compensation earnable, the amount of salary earned, the contributions deducted for the Permanent Fund and the Annuity Deposit Fund respectively, the net amount paid and such other data as the board may require. Such pay roll shall be verified by a duly authorized official, and shall be accompanied by a remittance to the Retirement Board in a form acceptable to said board, of the total of the contributions shown on said pay roll as deducted from the salary payments of members listed thereon.

Statement of salary deductions

Upon the request of the Retirement Board, the county superintendent of schools or employer shall furnish the said board with a statement of the amount of contributions deducted from salary payments of any member since the end of the period covered by the last report of said superintendent or employer. The Retirement Board may include contributions shown in

such statement, in contributions paid to said member or to a beneficiary, or used in determining said member's status upon retirement, even though said contributions will not be received by said board until after said payment or determination.

Credit of contributions

Contributions made by a member under Sections 5.850 and 5.851 hereof, shall be credited to his individual account, by the Retirement Board. Interest shall be credited to his individual account on the accumulated annuity deposits therein, at rates declared from time to time by the board.

Adjustments

If more or less than the correct amount of contribution imposed by Sections 5.850 and 5.851 hereof, or of the similar contribution required by Part 4 repealed hereby, is or has been paid with respect to any salary payment, including salary payments to exchange teachers for service outside of this State, then, under rules of the Retirement Board, proper adjustments shall be made, without interest, in connection with subsequent salary payments, or such adjustments may be made by direct cash payments between the member in connection with whom the error was made, and the county superintendent of schools, employer or the Retirement Board. Adjustments to correct any other errors in payments to or by the Retirement Board may be made in the same manner.

Stats 1941, p. 1975

SEC. 5. Section 5.852-1 of the School Code is amended to read:

Contributions by members in armed forces, etc.

5.852-1. Any member of the Retirement System serving in the active military service of the United States of America or of the State of California, including active service in any uniformed auxiliary of, or to, any branch of such military service created or authorized as such auxiliary by the Congress of the United States of America or by the Legislature of the State of California, or in the full time paid service of the American Red Cross, as provided in Section 5.822 hereof, during or after the termination of such service and at his option, may pay to the employing agency from the service of which he entered said military service, or said auxiliaries thereof, or Red Cross, such amounts as may be necessary, when added to contributions, if any, for the Permanent and Annuity Funds, deducted by such agency during such absence, shall make his contributions to the Permanent Fund, and at his option to the Annuity Fund, equal to the contributions he would have made had he not been absent from the service of the employing agency. The contributions so made shall be remitted to the Retirement Board and administered by said board in the same manner as contributions deducted from salary payments as provided in Section 5.852 hereof. Said employing agency may at its option, make such contributions for and in lieu of said member, and contributions so made by said agency shall be administered as if made by said member. If said member shall not pay said contributions to the Permanent Fund as provided in this section, during his service in said armed forces or Red Cross service, then such contributions shall be deducted from his salary payments during the 12

months next following his return to duty in a position requisite to membership in the Retirement System.

Note.—See Stats. 1943, Ch. 71.

SEC. 11. Sections 6, 7, 8, 9 and 10 of this act become operative only if the Education Code is enacted by the Legislature at its Fifty-fifth Session and, in such case, at the same time as said code takes effect; at which time Sections 5.822, 5.850, 5.851, 5.852, and 5.852-1 of the School Code amended by this act are hereby repealed. Effect Stats. 1943, Ch. 71 Repeal

SEC. 12. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows: Urgency

Experience with the administration of the State Teachers Retirement System has demonstrated the desirability of amending the State Teachers Retirement Act in the manner set forth in this act in order to clarify certain provisions thereof and to make the administration of the act more efficient and economical. It is essential that it be possible to make the provisions of the act effective not later than the beginning of the next school year in order that the administration of the act proceed in an orderly manner, conducive to the welfare of the State Teachers Retirement System. It is therefore necessary that this act take effect immediately.

CHAPTER 814

An act to add Section 4.283 to the School Code and to add Section 5007 to the Education Code, relating to the investment of funds of school districts in bonds issued by the United States of America, declaring the urgency thereof, to take effect immediately. Stats. 1943, Ch. 71, amended

[Approved by Governor May 28, 1943 Filed with Secretary of State May 28, 1943.] In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Section 4.283 is added to the School Code, to read: New section

4.283. The governing board of any school district which now has, or hereafter shall have, funds in a special accumulative building fund of the district or any surplus moneys not required for the immediate necessities of the district, is hereby authorized to invest all or any part of such funds in bonds issued by the United States of America. Any bonds so purchased may be sold and the proceeds reinvested in similar bonds of the United States of America or placed in the county Investment in U S bonds

treasury for credit to the fund of the district from which purchased. This section shall not be construed as in any way limiting or modifying the application of any other law providing for or authorizing the investment of any funds of a school district.

Note.—See Stats. 1943, Ch. 71.

Effect
Stats 1943, Ch 71
Repeal

SEC. 3. Section 2 of this act becomes operative only if the Education Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said code takes effect; at which time Section 4.283 of the School Code added by this act is hereby repealed.

Urgency

SEC. 4. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

A number of school districts have heretofore accumulated moneys for capital outlay and other purposes which they can not presently expend for such purposes because of conditions created by the wars in which the United States of America is now engaged. It is desirable that such funds be used immediately for the purposes of aiding the United States of America in financing its war effort.

CHAPTER 815

Stats 1943, Ch 71, amended

An act to add Sections 5.127-1 and 5.141-1 to the School Code and to add 12008.1 and 12042.1 to the Education Code, relating to emergency credentials authorizing service in the public school system, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor May 28, 1943 Filed with Secretary of State May 28, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 5.127-1 is added to the School Code, to read:

Emergency credentials

5.127-1. The Superintendent of Public Instruction, during any National emergency declared by the President of the United States of America, may, on the recommendation of the Commission of Credentials, issue emergency credentials. The expiration date of each credential issued hereunder shall be fixed by the Superintendent of Public Instruction, but in no event shall such credential be valid for any purpose after the end of the school year in which the President of the United States of America declares such National emergency has ceased to exist.

SEC. 2. Section 5.141-1 is added to the School Code, to read: New section

5.141-1. For an emergency credential, as high a general standard as conditions at the time will warrant. General standard

Note.—See Stats. 1943, Ch. 71.

SEC. 5. Sections 3 and 4 of the act become operative only if the Education Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said code takes effect at which time Sections 5.127-1 and 5.141-1 of the School Code added by this act are hereby repealed. Effect Stats 1943, Ch 71 Repeal

SEC. 6. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows: Urgency

There exists at this time a marked shortage of qualified teachers for the public schools of California. This shortage is becoming increasingly severe due to the entrance of men and women into military service and into war industry, the increasing of pupil enrollment on the elementary level and to an expansion of the offerings in technical subjects on the secondary level.

In order that this shortage in teachers may be met in the most efficient and satisfactory manner, it is necessary that this bill take immediate effect.

CHAPTER 816

An act to add Sections 1.94 and 1.95 to the School Code and to add Sections 16276 and 16277 to the Education Code, relating to the lease of busses owned by, or under lease to, school districts, declaring the urgency thereof, to take effect immediately. Stats 1943, Ch 71, amended

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.] In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Section 1.94 is added to the School Code, to read: New section

1.94. The governing board of a school district may without complying with any other provision of law lease busses owned by, or under lease to, the district to any common carrier or to any other type of carrier for the transportation of persons employed by, or in the military service of, the United States of America and persons engaged in agriculture or other war industries upon such terms and conditions as the governing board of the district may prescribe except that such terms and conditions shall provide for the payment to the district by the lessee of an amount which shall not be less and may be more Lease of busses

than sufficient to reimburse the district for all expense arising from, caused by, or incident to, such lease.

Restriction

No bus shall be leased by the governing board of a school district under this section if by such lease pupils of the district will be deprived of necessary transportation to and from their homes and school.

Liability of district

The lease of a bus by a district under the conditions herein set forth shall not operate to make the district liable under any law now in effect, or hereafter enacted, for the payment of any fee, license, tax, or charge of any kind on account of such bus for which such district would not be liable if such bus had not been so leased.

Duration

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature, or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first

Existing law

occurs. While this section is in effect, it shall supersede any existing provisions of law which are in conflict with it, but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

New section

SEC. 2. Section 1.95 is added to the School Code, to read:

Operation of busses

1.95. The governing board of a school district may operate any bus owned or under lease to the district for the transportation of persons employed by, or in the military service of, the United States of America and persons engaged in agriculture or other war industries and may require persons transported to pay a reasonable charge for transportation furnished.

District not common carrier

Any such operation maintained for other than pupils of the public schools shall, if maintained on a fixed schedule between fixed termini for a period in excess of one week, be subject to such regulations as the State Railroad Commission may prescribe. Such operation of a bus shall not make the district a common carrier nor make the district liable under any law now in effect, or hereafter enacted, for the payment of any fee, license, tax, or charge of any kind on account of such bus for which such district would not be liable if such bus had not been so used.

Liability

Nothing in this section shall relieve a school district of any liability now imposed upon it by law and the governing board of a school district operating a bus under this section shall insure the liability of the district, other than that imposed by Division 4 of the Labor Code in any insurance company authorized to do business in California.

Duration

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature, or until the cessation of hostilities in all wars in which the United States is now engaged, whichever

Existing law

first occurs. While this section is in effect, it shall supersede any existing provisions of law which are in conflict with it, but

such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

Note.—See Stats. 1943, Ch. 71.

Effect Stats 1943, Ch 71 Repeal

SEC. 5. Sections 3 and 4 of this act become operative only if the Education Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said code takes effect; at which time Sections 1.94 and 1.95 of the School Code added by this act are hereby repealed.

Urgency

SEC. 6. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

There is a scarcity of facilities for the transportation of workers to and from work engaged in industries essential to the successful prosecution of the war in which the United States of America is now engaged. School busses owned or leased by school districts when not needed for the transportation of pupils should be made available at once for the transportation of such workers. This act should therefore take effect immediately.

CHAPTER 817

An act to amend Section 12751 of the Education Code, relating to the suspension of credentials issued by the State Board of Education.

Stats 1943, Ch 71, amended

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

In effect August 4, 1943

Note.—See Stats. 1943, Ch. 71.

CHAPTER 818

An act to amend Section 3.816 of the School Code and to amend Section 10624 of the Education Code, relating to credit hours of junior college work.

Stats 1943, Ch 71, amended

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 3.816 of the School Code is amended to read:

Stats 1937, p. 1748

3.816. One credit hour of junior college work is hereby defined as approximately three hours of recitation, study or

"Credit hour" defined

laboratory work per week throughout a term of 16 weeks. Where a term is more or less than 16 weeks more or less than one credit hour shall be allowed in the same ratio that the length of the term is to 16 weeks.

Note.—See Stats. 1943, Ch. 71.

Effect Stats 1943, Ch 71 Repeal

SEC. 3. Section 2 of this act becomes operative only if the Education Code is enacted by the Legislature at its Fifty-fifth Session, and, in each case, at the same time as said code takes effect; at which time Section 3.816 of the School Code amended by this act is hereby repealed.

CHAPTER 819

Stats 1943, Ch 71, amended

An act to add Sections 12010 and 12154 to the Education Code, relating to credentials and certificates.

In effect August 4, 1943

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

Note.—See Stats 1943, Ch. 71.

CHAPTER 820

Stats 1943, Ch. 71, amended

An act to amend Section 2.1412 of the School Code and to amend Section 144 of the Education Code, relating to the Deputy Superintendent of Public Instruction.

In effect August 4, 1943

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

The people of the State of California do enact as follows:

Sch. C., 1929, p 100 Salary of Deputy Superintendent, etc

SECTION 1. Section 2.1412 of the School Code is amended to read:

2.1412. The annual salary of the Deputy Superintendent of Public Instruction shall be five thousand four hundred dollars ($5,400). The Superintendent of Public Instruction shall have the power to employ assistant superintendents and other necessary clerical and expert assistants in addition to statutory employees enumerated in Section 2.1411 of this code, and to fix the compensation of all statutory and other employees except as herein otherwise provided.

Note.—See Stats. 1943, Ch. 71.

Effect Stats 1943, Ch 71 Repeal

SEC. 3. Section 2 of this act becomes operative only if the Education Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said code takes effect; at which time Section 2.1412 of the School Code amended by this act is hereby repealed.

CHAPTER 821

An act to amend Section 1233 of the Probate Code and Section 2009 of the Code of Civil Procedure, relating to rules of pleading and practice in judicial proceedings, declaring the urgency thereof, to take effect immediately.

Stats 1931, p 587, amended

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Section 1233 of the Probate Code is amended to read:

Stats 1931, p 587

1233. Except as otherwise provided by this code, the provisions of Part 2 of the Code of Civil Procedure are applicable to and constitute the rules of practice in the proceedings mentioned in this code with regard to trials, new trials, appeals, records on appeal, and all other matters of procedure.

Part 2 of C C P applicable

An affidavit or verified petition must be received as evidence when offered in any uncontested probate proceedings, including proceedings relating to the administration of estates of decedents and proceedings relating to the administration of estates of minors or incompetent persons after a guardian has been appointed therein and in uncontested proceedings to establish a record of birth.

Affidavit or verified petition as evidence

SEC. 2. Section 2009 of the Code of Civil Procedure is amended to read:

Stats 1943, Ch. 11

2009. An affidavit may be used to verify a pleading or a paper in a special proceeding, to prove the service of a summons, notice, or other paper in an action or special proceeding, to obtain a provisional remedy, the examination of a witness, or a stay of proceedings, and in uncontested proceedings to establish a record of birth, or upon a motion, and in any other case expressly permitted by some other provision of this code.

Use of affidavits

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution, and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

Urgency

The United States Government has declared, and it is well known, that there is a great shortage of rubber, various petroleum products, and other essential material and labor used in the transportation of goods and persons, and it is therefore essential that unnecessary transportation of persons must be eliminated. There is a substantial amount of travel daily by parties and witnesses in probate proceedings in the courts of California for the purpose of giving oral testimony in court, practically all of which can be eliminated. The passage of this act will substantially contribute to the saving of rubber, various petroleum products, and other vital materials

and labor used in the transportation of persons, by substituting affidavits of parties and witnesses in probate proceedings in place of their oral testimony given on their personal appearance in the probate courts of this State.

CHAPTER 822

Stats. 1939, p. 1174, amended

An act to amend Section 6015 of the Revenue and Taxation Code and to add Section 6364 to said code, relating to the taxation of the privilege of selling and of storing, using, or otherwise consuming tangible personal property and to certain exemptions from said taxation, and providing that this act shall take effect immediately.

In effect immediately

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

The people of the State of California do enact as follows:

Stats. 1943, Ch. 699

SECTION 1. Section 6015 of the Revenue and Taxation Code is amended to read:

"Retailer"

6015. "Retailer" includes:

(a) Every person engaged in the business of making sales at retail or in the business of making retail sales at auction of tangible personal property owned by the person or others.

(b) Every person engaged in the business of making sales for storage, use, or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use, or other consumption.

(c) Any person conducting a race meeting under the provisions of Chapter 769, Statutes of 1933, as amended, with respect to horses which are claimed during such meeting.

When the board determines that it is necessary for the efficient administration of this part to regard any salesmen, representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors, or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors, or employers the board may so regard them and may regard the dealers, distributors, supervisors, or employers as retailers for purposes of this part.

New section

SEC. 2. A new section is added to said code to be numbered 6364, and to read:

Returnable and nonreturnable containers

6364. There are exempted from the taxes imposed by this part, the gross receipts from sales of and the storage, use, or other consumption in this State of:

(a) Nonreturnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container.

(b) Containers when sold with the contents if the sales price of the contents is not required to be included in the measure of the taxes imposed by this part.

(c) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling.

As used herein the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers."

Constitutionality

SEC. 3. If any section, subsection, clause, sentence or phrase of this act which is reasonably separable from the remaining portions of this act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed the remaining portion of this act irrespective of the fact that any such section, subsection, clause, sentence or phrase of this act be declared unconstitutional.

Tax levy

SEC. 4. This act, inasmuch as it provides for a tax levy for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately; provided, however, the provisions of this act shall become operative on July 1, 1943.

CHAPTER 823

An act to add Section 13654 to the Education Code, relating to reappointment rights of permanent employees.

Stats 1943, Ch 71, amended

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

In effect August 4, 1943

Note.—See Stats. 1943, Ch. 71.

CHAPTER 824

An act to amend Section 103½ of the Code of Civil Procedure, relating to justices' clerks in cities and towns.

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

Stats 1941, p 1780

SECTION 1. Section 103½ of the Code of Civil Procedure is amended to read:

Clerks of justices' courts

103½. Every city justice's court in any city or town of the second and one-fourth, second and three-eighths, second and three-fourths and third classes shall have a clerk. Every city justice's court in any city or town of the second and three-eighths class and the second and one-half class where there is

a police court or other inferior court organized under the city charter shall have one clerk. Every city justice's court in any city or town of the second and three-eighths class where there is no police court or other inferior court organized under the city charter shall have one clerk and two deputy clerks. Every city justice's court in any city or town of the second and one-half class where there is no police court or other inferior court organized under the city charter shall have one clerk and three deputy clerks. Said clerks shall be respectively appointed by the justice of the peace of said court and shall hold office during the pleasure of said justice. Said clerks and deputy clerks shall each give a bond in the sum of five thousand dollars ($5,000) with at least two sureties to be approved by the mayor or, if the clerk's salary is paid by the county, to be approved as provided for county officers, conditioned for the faithful discharge of the duties of their office. They shall keep a record of the proceedings of said court and issue all process ordered by the justice of said court. The clerk of said court or a deputy clerk in the discretion of the justice of the peace, shall receive and pay into the city treasury, or into the county treasury if the salary of the clerk is paid by the county, all fines, forfeitures and fees paid into said court, and shall render each month to the city council or county board of supervisors where the salary of the clerk is paid by the county an exact account under oath of all fines, forfeitures and fees paid and collected. Said clerks and deputy clerks shall prepare bonds, justify bail when the amount has been fixed by the court or justice and may administer and certify oaths, and shall remain in the courtrooms of said court during court hours and during such reasonable times thereafter as may be necessary for the proper performance of their duty. The clerk of the court shall have custody of all records and papers of said justice's court. Every clerk of the justice's court in any city or town of the second and one-fourth class shall receive a salary of one thousand six hundred dollars ($1,600) per annum. Every clerk of the justice's court in any city or town of the second and one-half class, where there is a police court or other inferior court organized under the city charter, shall receive an annual salary of two thousand one hundred dollars ($2,100). Every clerk of the justice's court in any city or town of the second and three-eighths class, where there is a police court or other inferior court organized under the city charter, shall receive an annual salary of two thousand two hundred five dollars ($2,205). Every clerk of the justice's court in any city or town of the second and three-eighths class where there is no police court or other inferior court organized under the city charter, shall receive an annual salary of two thousand seven hundred dollars ($2,700), and every clerk of the justice's court in any city or town of the second and one-half class where there is no police court or other inferior court organized under the charter, shall receive an annual salary of three thousand six hundred dollars

($3,600), and the deputy clerks of said city or town shall each receive an annual salary of two thousand one hundred dollars ($2,100). Every clerk of the justice's court in any city or town of the second and three-fourths class shall receive an annual salary of two thousand one hundred dollars ($2,100). Every clerk of the justice's court of any city or town of the third class shall receive an annual salary of one thousand eight hundred dollars ($1,800); said salaries shall respectively be payable in equal monthly installments by warrants drawn each month upon the salary fund, or if there be no salary fund, then upon the general fund, of such city or county as the case may be, such warrants to be audited and paid as salaries of any other city or county officials respectively, and said salaries shall be the full compensation for all services rendered by the clerks of said courts.

CHAPTER 825

An act to add Section 53.55 to the Alcoholic Beverage Control Act, relating to containers and cartons.

Stats 1935, p 1123, amended

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 53.55 is added to the Alcoholic Beverage Control Act, to read:

New section

Sec. 53.55. The provisions of Section 53.5 with respect to corrugated paper cartons commonly known as single trip cartons and used as a package for beer shall not apply during the continuation of hostilities in all wars in which the United States is now engaged, unless during such continuance the manufacturers representing the major part of the production of beer in California during the calendar year next preceding the filing of the petition mentioned herein shall file with the board a petition stating a sufficient supply of such corrugated paper cartons is available to the California brewing industry to permit compliance with said Section 53.5 in connection with such containers or cartons and said board shall upon hearing find the facts of such petition to be true. The board shall record in its records the date of receipt of any such petition and its decision and conclusion on such petition. Manufacturers' names or brand names or print or markings first placed on returnable beer containers or cartons made of wood or fibre board shall not be obliterated, mutilated or marked out without the written consent of the manufacturer whose name or brand or print or markings is to be obliterated, mutilated or marked out, provided that this sentence shall not apply to wood or fibre board containers or cartons of a beer manufacturer who has discontinued business and production and is no longer a licensed beer manufacturer.

Corrugated paper cartons

CHAPTER 826

An act to amend Section 4236o of the Political Code, relating to the compensation of jurors.

In effect August 4, 1943

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

The people of the State of California do enact as follows:

Stats. 1913, p. 1734

SECTION 1. Section 4236o of the Political Code is amended to read:

Trial jurors

4236o. In counties of the seventh class the fees for trial jurors for attendance in any court shall be four dollars ($4) for each day's attendance, and said trial jurors shall be allowed mileage at the rate of five cents ($0.05) per mile for each and every mile actually and necessarily traveled in attending upon and returning from court, said mileage to be computed for daily attendance, irrespective of whether said daily attendance covers one or more sessions of court.

Grand jurors

Each member of the grand jury shall be allowed three dollars ($3) for each day in attendance upon the sessions of the grand jury or for each day's service as a member of any committee of the grand jury; each grand juror shall be allowed mileage at the rate of five cents ($0.05) per mile for each and every mile actually and necessarily traveled in attendance upon and returning from meetings of the grand jury, or any session of a grand jury committee, duly called by the secretary, or committee chairman.

CHAPTER 827

Stats 1943, Ch 71, amended

An act to amend Section 5.409a of the School Code and to amend Section 13011 of the Education Code, relating to the absence of exchange teachers from duty because of illness, injury or quarantine.

In effect August 4, 1943

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

The people of the State of California do enact as follows:

Stats 1939, p. 1875

SECTION 1. Section 5.409a of the School Code is amended to read:

Salary of exchange teacher teaching outside State

5.409a. If the teacher from the district within this State who shall serve as an exchange teacher without this State and the governing board regularly employing such teacher shall so agree, such district may pay the regular salary of such teacher, making all deductions provided by law for retirement purposes, to such teacher so serving without this State during the period of such exchange teaching, but in such case such district shall not pay the salary of the exchange teacher from

without the State, serving such district in exchange for its regular teacher.

In the event a teacher from a district within this State serving as an exchange teacher without the State and to whom the governing board of such district is paying the regular salary of such teacher as herein provided, is compelled to absent herself from her duties because of injury, illness or quarantine, the governing board of the district within this State may pay the substitute employed to take the place of such teacher and shall deduct the amount so paid the substitute from the compensation of the teacher. Substitute

Note.—See Stats. 1943, Ch. 71.

SEC. 3. Section 2 of this act becomes operative only if the Education Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said code takes effect; at which time Section 5.409a of the School Code amended by this act is hereby repealed. Effect Stats 1943, Ch 71 Repeal

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CHAPTER 828

An act to add Section 5.503-1 to the School Code and to add Section 13099.1 to the Education Code, relating to the classification of persons as permanent employees of school districts, declaring the urgency thereof, to take effect immediately. Stats 1943, Ch 71, amended

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.] In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Section 5.503-1 is added to the School Code, to read: New section

5.503-1. Service by a person under a credential authorizing service in the public schools only as an instructor in defense training classes for adults or in classes organized for training war production workers in special day and evening classes for adults or in classes conducted under contract with public or private agencies for training in or for military service or for war production shall not be included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a permanent employee of a school district. Service as defense training instructor

Note.—See Stats. 1943, Ch. 71.

SEC. 3. Section 2 of this act becomes operative only if the Education Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said code takes effect, at which time Section 5.503-1 of the School Code added by this act is hereby repealed. Effect Stats 1943, Ch 71 Repeal

SEC. 4. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Urgency

Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

Under existing provisions of law a large number of persons employed by school districts as instructors in defense training classes or in war production training classes will become permanent employees of school districts if not dismissed from the service of such districts at the close of the then current school year. Inasmuch as most, if not all, of such classes will, in all probability, be discontinued at the conclusion of the war in which the United States of America is now engaged and many of such instructors will then have to be dismissed, it is desirable that they not be given the status of permanent employees of school districts. In order that governing boards of school districts be not required to dismiss many of such instructors at the close of the current school year in order to avoid their becoming permanent employees of such districts, it is necessary that this act take immediate effect.

CHAPTER 829

Stats 1943, Ch 71, amended

An act to add Section 13841.1 to the Education Code, relating to leaves of absence for persons employed by school districts in positions requiring certification qualifications.

In effect August 4, 1943

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

Note.—See Stats. 1943, Ch. 71.

CHAPTER 830

Stats 1935, p 1123, amended

An act to add Section 53.65 to the Alcoholic Beverage Control Act, relating to bottles.

In effect August 4, 1943

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 53.65 is added to the Alcoholic Beverage Control Act, to read:

Return of single trip beer bottles prohibited

Sec. 53.65. Empty single trip beer bottles shall not be returned to a beer manufacturer or wholesaler or offered for return to a beer manufacturer or wholesaler by or for any licensee either alone or mixed with returnable beer bottles. Nothing herein contained shall be construed to prohibit a manufacturer of glass from accepting return of such bottles to be used as cullett.

Definition

As used in this section "single trip beer bottles" shall mean any bottle as described in Exhibit B-12 and B-13 of Schedule

B to Limitation Order L-103 of the War Production Board as such order was amended January 4, 1943, and as set forth in volume 8 number 2 pages 117 to 119 inclusive of the Federal Register, and shall also include bottles which, before their first use, are of a pressure resistance or industrial use or reuse less than that of the stubby, steinie, export or select standard returnable beer bottle used principally and generally to bottle or contain beer in the malt beverage industry in the United States on January 4, 1943.

Marking

Such beer bottles used by licensees and which are manufactured for one filling only and such beer bottles used by licensees and which, before their first use, are of a pressure resistance or industrial use or reuse less than that hereinabove set forth for the standard returnable beer bottle above described, shall be as described in Exhibit B-12 or B-13 above mentioned or shall be so designed as to contour, shape or other external characteristics as to be reasonably distinguishable from the steinie, export, or select standard returnable bottles above mentioned and must be lettered plainly on shoulder or face, "not to be re-filled," or "no return," or language of similar import.

Ale bottles exempted

Ale bottles as described in Exhibits B-10-A and B-11 of said Schedule B of said Order L-103 or as generally in use to bottle ale in the malt beverage industry in the United States on January 4, 1943, shall not be held to be "single trip beer bottles" as mentioned in this section, such ale bottles being in fact standard returnable bottles for ale.

CHAPTER 831

An act to amend Section 1043 of the Insurance Code, relating to insurance.

Stats 1935, p 496, amended

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 1043 of the Insurance Code is amended to read:

Stats. 1935, p. 496

1043. In any proceeding under this article, the commissioner, as conservator or as liquidator, may, subject to the approval of said court, and subject to such liens as may be necessary mutualize or reinsure the business of such person, or enter into rehabilitation agreements. No commissioner who acts as conservator of such person or who mutualizes, merges or reinsures the business of such person or who enters into rehabilitation agreements affecting such person, and no deputy commissioner who has participated in the administration of the affairs of such person for the commissioner as conservator shall for a period of two years from and after the effective

Mutualization, reinsurance and rehabilitation

date of such mutualization, reinsurance or rehabilitation become an officer or director of, or serve as an officer or director of, or serve in any position of gain or profit in, any company formed in whole or in part of the assets or funds, or any part of the assets or funds of such mutualized, merged, reinsured or rehabilitated person.

Penalty

Every person violating this provision is guilty of a public offense and shall be punished by imprisonment in the State prison not exceeding five years, or in the county jail not exceeding two years, or by a fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment.

Approval

Such rehabilitation or reinsurance agreements shall provide that, subsequent to the date thereof and for such period of time as the commissioner may determine, no investment or reinvestment of the assets of the person rehabilitated or reinsured shall be made without first obtaining the written approval of the commissioner.

Penalty

Every party to such agreement, and every director, officer, agent and employee of such person, and every other person who knowingly in violation thereof directs or aids or assists in causing to be made an investment or reinvestment of any of said assets without first having obtained the written approval of the commissioner, or who makes such investment or reinvestment in nonconformity with the written approval of the commissioner then in effect authorizing such investment or reinvestment, is guilty of a public offense and shall be punished by imprisonment in the State prison not exceeding five years or in the county jail not exceeding two years, or by a fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment.

CHAPTER 832

Stats 1931, p 483, amended

An act to add Section 13.20 to the Building and Loan Association Act, relating to employment of the commissioner or his employees by merged, liquidated or reorganized associations.

In effect August 4, 1943

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 13.20 is added to the Building and Loan Association Act, to read:

Commissioner as officer of reorganized association, etc

Sec. 13.20. No commissioner and no person who is appointed by him or in any other way acts as conservator, receiver or liquidator under the provisions of this act, or otherwise, or who reorganizes, merges, or rehabilitates an association or

associations under the provisions of this act, and no deputy commissioner who has participated in the administration of the affairs of such association or associations for the commissioner shall for a period of two years from and after the effective date of such reorganization, merger or rehabilitation become an officer or director of, or serve as an officer or director of, or serve in any position of gain or profit in, any company or association formed in whole or in part of the assets or funds, or any part of the assets or funds of such reorganized, merged, or rehabilitated association.

Every person violating this section is guilty of a public offense and shall be punished by imprisonment in the State prison not exceeding five years, or in the county jail not exceeding two years, or by a fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment. Penalty

CHAPTER 833

An act to add Section 13003.1 to the Education Code, relating to persons employed by school districts in positions requiring certification qualifications. Stats 1943, Ch 71, amended

[Approved by Governor May 28, 1943 Filed with Secretary of State May 28, 1943.] In effect August 4, 1913

Note.—See Stats. 1943, Ch. 71.

CHAPTER 834

An act to repeal Sections 2244 and 2259 of the Political Code and to repeal Sections 20773 and 20923 of the Education Code, relating to the qualifications of certain teachers appointed or employed by the State Department of Education. Stats 1943, Ch 71, amended

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Sections 2244 and 2259 of the Political Code are hereby repealed. Repeals

Note.—See Stats. 1943, Ch. 71.

SEC. 3. Section 2 of this act becomes operative only if the Education Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said code takes effect. Effect Stats 1943, Ch. 71 Repeal

CHAPTER 835

Stats 1917, p 673, amended

An act to add Section 21a to the Corporate Securities Act, relating to the commissioner or his employees accepting employment by corporations, the organization, reorganization, rehabilitation or merger of which they supervised.

In effect August 4, 1943

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 21a is added to the Corporate Securities Act, to read:

Commissioner prohibited from being officer of reorganized corporation

Sec. 21a. No commissioner and no person who may act as a deputy commissioner, in supervising the organization, merger, reorganization, or rehabilitation of any corporation under the provisions of this act or any other statute of this State shall for a period of two years from and after the effective date of such organization, reorganization, merger or rehabilitation become an officer or director of, or serve as an officer or director of, or serve in any position of gain or profit in, any corporation formed in whole or in part of the assets or funds, or any part of the assets or funds of such corporation.

Penalty

Every person violating this section is guilty of a public offense and shall be punished by imprisonment in the State Prison not exceeding five years, or in the county jail not exceeding two years, or by a fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment.

CHAPTER 836

Stats 1943, Ch 71, amended

An act to add Sections 2533.1 and 2585.1 to the Education Code, relating to elementary school districts.

In effect August 4, 1943

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

Note.—See Stats. 1943, Ch. 71.

CHAPTER 837

Stats 1943, Ch. 71, amended

An act to add Section 5.798-1 to the School Code and to add Section 14122.5 to the Education Code, relating to eligible lists and temporary appointments, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 5.798-1 is added to the School Code, to read:

Merger of successive eligibility lists

5.798-1. Combinations of successive eligibility lists during their first year may be made whenever dearth of available eli-

gibles makes such combinations desirable. Eligibles on lists established within the first year of the life of another list may be placed in the order of their relative excellence in the examination on the like list, if lists so merged have been promulgated under conditions and techniques which are sufficiently similar to preserve their competitive character.

Temporary appointments

Successive 90-day temporary appointments may be made in the absence of an appropriate eligibility list. Successive temporary appointments may be made and persons employed in temporary capacities under a given governing board for a total of more than six months in any one year.

Duration

This section shall remain in effect until six months after the cessation of hostilities in all wars in which the United States is now engaged. While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section; but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

Existing law

Note—See Stats. 1943, Ch. 71.

Effect

SEC. 3. Section 2 of this act becomes operative only if the Education Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said Education Code takes effect, at which time Section 5.798-1 of the School Code added by this act is repealed.

Stats 1943, Ch. 71

Repeal

Urgency

SEC. 4. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

As a direct result of the war in which we are engaged California schools are losing a large and increasing number of officers and employees, particularly in the noncertificated field; there is a sharp and substantial decrease in the number of persons applying to take classified examinations and a marked increase in the number of persons on eligibility lists who decline appointments or fail to report when certified; that in many cases eligibility lists are exhausted immediately after their establishment; that it is now difficult and frequently impossible to establish eligibility lists within 90 days after temporary appointments are made, as prescribed in Section 5.798 of the School Code, and that therefore, essential services rendered by the departments of the school administration are now and will be interrupted or impaired, and, in some cases, will be discontinued if temporary appointments are not permitted to continue for more than 90 days; that continued and continuous rendition of essential services of these schools is essential to the health, welfare and safety of the inhabitants of California school districts, and is of vital importance to a successful local and National defense; that,

therefore, this law is enacted for the purpose of providing for all essential services in order that the school administration may function as nearly normally as may be.

CHAPTER 838

Stats 1939, p 482, amended

An act to amend Sections 26457, 26472, 26490, 26491, 26492, 26493, 26494, 26495, 26496, 26510, 26511, 26512, 26518, 26520, 26522, 26526, 26527, 26541, 26548, 26549, 26560, 26561, 26562, 26566, 26567, 26581, 26584, 26586, 26587, 26588, 26600, 26617, 26621, and 26622 of, and to add Section 26463 to, the Health and Safety Code, relating to adulterating, misbranding, false advertising, and sale of foods and the powers of the State Department of Public Health in relation thereto.

In effect August 4, 1943

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

The people of the State of California do enact as follows:

Stats 1939, p 182

SECTION 1. Section 26457 of the Health and Safety Code is hereby amended to read as follows:

"Advertisement"

26457. The term "advertisement" means all representations or any representation disseminated in any manner or by any means other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food.

New section

SEC. 2. Section 26463 is added to said code, to read as follows:

Short title

26463. The sections contained in Chapter 3 of Division 21 of the Health and Safety Code may be known as the California Pure Foods Act. (Short Title.)

Stats 1941, p 2697

SEC. 3. Section 26472 of said code is amended to read as follows:

Adulterated food

26472. A food shall be deemed to be adulterated:

(a) (1) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or

(2) If any substance has been substituted wholly or in part therefor; or

(3) If damage or inferiority has been concealed in any manner; or

(4) If any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight or reduce its quality or strength or make it appear better or of greater value than it is.

(b) If it is confectionery and it bears or contains any alcohol or nonnutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-tenths of 1 per centum, harmless natural gum, and pectin. This subsection shall not apply to any confectionery by reason of its containing less than one-half of 1 per centum by volume of alcohol derived solely from the use of flavoring

extracts, or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances.

(c) If it bears or contains a coal tar other than one from a batch which has been certified by the Federal Security Agency, Food and Drug Administration.

(d) If any mineral oil has been added thereto or mixed or packed therewith.

(e) If it be fresh meat and it contains any chemical substance containing sulphites, sulphur dioxide, benzoate of soda or any other chemical preservative which is not approved by the United States Bureau of Animal Industry, or the United States Department of Agriculture, or the Bureau of Animal Industry of the California State Department of Agriculture, or the California State Board of Public Health.

(f) If it be chopped or ground beef, or hamburger containing any substance other than the striated muscle of cattle; and the total fat content (determined by ether extract method of analysis) derived from cattle is in excess of 25 per cent.

(g) Nothing in this article shall be deemed to prohibit the introduction into meat or the addition to meat of common salt, sugar, wood smoke, cider vinegar, wine vinegar, malt vinegar, sugar vinegar, glucose vinegar, spirit vinegar, pure spices, saltpeter, nitrate of soda and nitrite of soda in natural state or in form of brine or pickling solutions; provided, no such substances shall increase the green or original weight by more than 10 per cent of products which are not smoked or cooked and by not more than 1 per cent of the green or original weight of products which are cooked or smoked. In the case of meat food products such as sausage or sausage loaves, 10 per cent added water shall be permitted and allowed in smoked or cooked products of such nature, and 3 per cent in said products which are not cooked or smoked.

(h) If it be alimentary paste and contains any artificial color derived from coal tar or vegetable substances.

SEC. 5. Section 26490 of said code is amended to read as follows: Stats 1939, p. 482

26490. A food shall be deemed to be misbranded: Misbranded food

(1) If its labeling is false or misleading in any particular;

(2) If it is offered for sale under the name of another food;

(3) If it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and immediately thereafter, the name of the food imitated;

(4) If its container is so made, formed or filled as to be misleading.

SEC. 5. Section 26491 of said code is amended to read as follows: Stats 1939, p. 482

26491. A food shall be deemed to be misbranded if in package form, unless it bears a label containing (1) the name and place of business of the manufacture, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure or numerical count. Contents of label

Under clause (2) of this section reasonable variat or shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the board.

Stats. 1939, p 482

SEC. 6. Section 26492 of said code is amended to read as follows:

Contents of label: Display

26492. A food shall be deemed misbranded if any word, statement or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or emblems, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

Stats 1939, p 482

SEC. 7. Section 26493 of said code is amended to read as follows:

Standards: Identity

26493. A food shall be deemed to be misbranded if it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by Sections 26540 and 26541 unless (1) it conforms to such definition and standard, and (2) its label bears the name of the food specified in the definition and standard, and, insofar as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring and coloring) present in such food.

Stats 1939, p 482

SEC. 8. Section 26494 of said code is amended to read as follows:

Quality and container

26494. A food shall be deemed to be misbranded if it purports to be or is represented as:

(1) A food for which a standard of quality has been prescribed by regulations as provided by Sections 26540 and 26541 and its quality falls below such standard unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard; or

(2) A food for which a standard or standards of fill of container have been prescribed by regulation as provided by Sections 26540 and 26541 and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard.

Stats 1939, p 482

SEC. 9. Section 26495 of said code is amended to read as follows:

Labels on certain foods

26495. A food shall be deemed to be misbranded if it is not subject to the provisions of Section 26493, unless its label bears (1) the common or usual name of the food, if any there be, and (2) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient. Spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each.

Exceptions

The requirements of clause (2) of this section shall not apply to any carbonated beverage the ingredients of which have been fully and correctly disclosed to the board in the

manner described by clause (2) above in a sworn affidavit, nor shall such requirements apply to beer as defined in the Alcoholic Beverage Control Act.

To the extent that compliance with the requirements of clause (2) of this section is impractical or results in deception or unfair competition, exemption shall be established by regulations promulgated by the board.

SEC. 10. Section 26496 of said code is amended to read as follows: Stats. 1939, p. 482

26496. A food shall be deemed to be misbranded: Dietary foods

(1) If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the board determines to be, and by regulations prescribes as, necessary in order fully to inform purchasers as to its value for such uses;

(2) If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact. To the extent that compliance with the requirements of this paragraph is impracticable, exemptions shall be established by regulations promulgated by the board. Artificial flavoring

The provisions of this section and Sections 26493 and 26495 with respect to artificial coloring shall not apply in the case of butter, cheese, or ice cream. Exceptions

SEC. 11. Section 26510 of said code is amended to read as follows: Stats 1939, p. 482

26510. The manufacture, production, preparation, compounding, packing, selling, offering for sale or keeping for sale, or advertising within the State of California, or the introduction into this State from any other State, Territory, or the District of Columbia or from any foreign country, of any article of food which is adulterated or misbranded is prohibited. Manufacture, etc.

SEC. 12. Section 26511 of said code is amended to read as follows: Stats 1939, p. 482

26511. Any person who imports or receives from any other State or Territory or the District of Columbia or from any foreign country, or who having so received delivers for pay or otherwise or offers to deliver to any other person, any article of food which is adulterated or misbranded, or any person who shall manufacture or produce, prepare or compound, or pack or sell, or offer for sale, or keep for sale, or advertise in the State of California any such adulterated or misbranded food, shall be guilty of a misdemeanor punishable as provided in Section 26519. Importation

SEC. 13. Section 26512 of said code is amended to read as follows: Stats 1939, p 482

26512. No article of food shall be deemed adulterated or misbranded within the provisions of this chapter when prepared for export beyond the jurisdiction of the United States and prepared or packed according to specifications or directions of the foreign purchaser, when no substance is used in Exports

the preparation or packing thereof in conflict with the laws of the foreign country to which the article is intended to be shipped.

If such foods are in fact sold or kept or offered for sale for domestic uses and consumption, then this section shall not exempt the article from the operation of any provisions of this chapter.

Stats 1939, p 482

SEC. 14. Section 26518 of said code is amended to read as follows:

Evidence

26518. The possession, sale, or offering for sale of any adulterated or misbranded article of food by any manufacturer, producer, jobber, packer, or dealer in food, or broker, commission merchant, agent, employee, or servant of any such manufacturer, producer, jobber, packer, or dealer, shall be prima facie evidence of the violation of this chapter.

Stats 1941, p 2697

SEC. 15. Section 26520 of said code is amended to read as follows:

When prosecution forbidden

26520. No dealer shall be prosecuted under the provisions of this chapter if after receipt of an article he has used reasonable care in the use and handling thereof and he can produce a guarantee signed by the wholesaler, jobber, manufacturer, or other party located or residing in the United States from whom he purchased such article, to the effect that the same is not adulterated or misbranded within the meaning of this chapter; provided, however, that as to food contained in an original unbroken package, no retailer, who after the receipt of such package has used reasonable care in the use and handling thereof, shall be prosecuted under this chapter for a violation of any provision thereof in connection with any article received by such retailer in the regular channels of trade and as usual first-class merchantable stock and not as seconds, or damaged articles or merchandise or job lots purchased under such conditions as to put the purchaser on notice that such merchandise was not regular first-class merchandise. (Added by Stats. 1939, Ch. 731; amended by Stats. 1941, Ch. 1042.)

Original package

Stats 1939, p 482

SEC. 16. Section 26522 of said code is amended to read as follows:

General guaranty

26522. A general guaranty shall guarantee without condition or restriction all of the products or articles produced, prepared, compounded, packed, distributed, or sold by the guarantor as not adulterated or misbranded within the meaning of this chapter.

Stats 1939, p 482

SEC. 17. Section 26526 of said code is amended to read as follows:

Guaranty under Federal act

26526. If the guaranty is to the effect that such article is not adulterated or misbranded within the meaning of the Federal act it shall be sufficient for all the purposes of this chapter and have the same force and effect as though it referred to this chapter whether given by a person residing in the United States or elsewhere.

SEC. 18. Section 26527 of said code is amended to read as follows: Stats 1939, p. 482

26527. In case the wholesaler, jobber, manufacturer or other party making such guaranty to the person resides without this State and it appears from the certificate of the Chief of the Division of Laboratories that such article or articles were adulterated or misbranded, within the meaning of this chapter or the Federal act, the district attorney must forthwith notify the Attorney General of the United States of such violation. Nonresident guarantor

SEC. 19. Section 26541 of said code is amended to read as follows: Stats 1941, p 2855

26541. In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the board shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label. All definitions and standards promulgated pursuant to this chapter shall not in any instance require a higher standard than the standards required pursuant to the definitions currently promulgated by the Federal Security Agency, Food and Drug Administration. Such definitions and standards of identity promulgated by the board for distilled spirits shall not be inconsistent with similar standards promulgated by the United States Bureau of Internal Revenue, Alcohol Tax Unit, or other Federal agency; provided, however, that the provisions of this section shall not apply to wine. Optional ingredients

SEC. 20. Section 26548 of said code is amended to read as follows: Stats 1939, p 482

26548. Any agent shall have free access, at all reasonable hours, for the purpose of examining any place where it is suspected that any article of adulterated or misbranded food exists. Inspection

SEC. 21. Section 26549 of said code is amended to read as follows: Stats 1939, p 482

26549. If a sale is refused upon a tender of the market price of the articles, the agent may take from any person samples of any articles suspected of being adulterated or misbranded, and shall deliver or forward such samples to the State laboratory for examination and analysis. Samples

SEC. 22. Section 26560 of said code is amended to read as follows: Stats 1939, p 482

26560. The board or its secretary shall require the Chief of the Division of Laboratories to make examinations and analyses of foods which are on sale in California and which are suspected of being adulterated or misbranded. Analyses

SEC. 23. Section 26561 of said code is amended to read as follows: Stats 1939, p 482

26561. Whenever evidence indicates or examination or analysis shows that adulterated or misbranded food has been on sale in this State, the Chief of the Division of Laboratories of the State department shall forthwith report to the secretary Report on adulteration, etc

of the board and shall promptly transmit a certificate of the facts so found.

Stats. 1939, p 482

SEC. 24. Section 26562 of said code is amended to read as follows:

Report of adulterat on

26562. Whenever evidence indicates that adulterated or misbranded food has been on sale in this State, the Chief of the Bureau of Food and Drug Inspections shall forthwith report to the secretary of the board and shall promptly transmit a certificate of the facts so found.

Stats 1939, p 482

SEC. 25. Section 26566 of said code is amended to read as follows:

District attorney

26566. If the examination or analysis is found to be correct, or if the party fails to appear at such hearing after notice duly given, the secretary of the board shall forthwith transmit a certificate of the facts so found to the district attorney of the county in which the adulterated or misbranded food was found. No publication of the facts found shall be made until the conclusion of the hearing.

Stats 1939, p. 482

SEC. 26. Section 26567 of said code is amended to read as follows:

Reports· Division of Laboratories

26567. On or before August 1st of each year, the Chief of the Division of Laboratories of the State Department shall make an annual report to the board upon adulterated or misbranded foods. The report shall include the list of cases examined by him in which adulterants were found, the list of articles found to be misbranded, and the names of the manufacturers, producers, jobbers, and sellers. The Chief of the Bureau of Food and Drug Inspections shall report at the same time on all activities of that bureau.

Stats 1939, p 482

SEC. 27. Section 26581 of said code is amended to read as follows:

Quarantine

26581. Whenever the findings of the State laboratory or of the Chief of the Bureau of Food and Drug Inspections show after investigation and examination, that any food found in the possession of any person is adulterated or misbranded, the food may be seized and quarantined.

Stats 1939, p 482

SEC. 28. Section 26584 of said code is amended to read as follows:

Destruction of food

26584. Food found to be adulterated or misbranded may, by order of a court or judge, or in the absence of such order, with the written consent of the owner thereof, be seized or destroyed.

Stats. 1939, p 482

SEC. 29. Section 26586 of said code is amended to read as follows:

Petition for condemnation

26586. When an article is found to be adulterated or misbranded, and is detained or quarantined under this article, the board shall petition the court in whose jurisdiction the article is detained or quarantined for a libel for condemnation of such article. When such agent has found that an article so detained or quarantined is not adulterated or misbranded, he shall remove the tag or other marking.

SEC. 30. Section 26587 of said code is amended to read as follows: Stats. 1939, p 482

26587. If the court finds that a detained or quarantined article is adulterated or misbranded, after entry of the decree such article shall be destroyed at the expense of the claimant thereof, under the supervision of the agent. All court costs and fees, and storage and other proper expenses, shall be taxed against the claimant of such article or his agent. Destruction

SEC. 31. Section 26588 of said code is amended to read as follows: Stats 1939, p. 482

26588. If the adulteration or misbranding can be corrected by proper labeling or processing of the article, after entry of the decree and after costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that such article shall be so labeled or processed, has been executed, the court may by order direct that such article be delivered to the claimant thereof for such labeling or processing under the supervision of an agent of the board. The expense of such supervision shall be paid by the claimant. Correction of article

SEC. 32. Section 26600 of said code is amended to read as follows: Stats. 1939, p 482

26600. On presentation to him of a verified complaint of the violation of any provisions of this chapter, the sheriff of any county of this State shall at once obtain by purchase a sample of the adulterated or misbranded food complained of, and divide the article into three parts. Each part shall be sealed by the sheriff with a seal provided for that purpose. If the package be less than four pounds in weight or in volume less than two quarts, three packages of approximately the same size shall be purchased and the marks and tags upon each package noted as above. Sheriff's duties

SEC. 33. Section 26617 of said code is amended to read as follows: Stats 1939, p 482

26617. A local food protection and enforcement division shall make, or cause to be made, examinations and analyses of food which is suspected of being adulterated or misbranded and which is on sale within the territory where such local division has jurisdiction. Examinations

SEC. 34. Section 26621 of said code is amended to read as follows: Stats 1939, p 482

26621. If such examination or analysis be found correct, or if the party or parties fail to appear after notice duly given, the health officer conducting the hearing shall certify the facts found to the district attorney of the county in which the adulterated or misbranded food was found, sold, or offered or exposed for sale. No publication shall be made until after the hearing is concluded. District attorney

SEC. 35. Section 26622 of said code is amended to read as follows: Stats 1939, p. 482

26622. In exercising the powers conferred upon him by Section 26547 the sheriff of a county shall furnish samples of all adulterated or misbranded foods seized or purchased by Sheriff's duties

him to the health officer of the local food inspection and enforcement division, if any, having jurisdiction over the territory within which such seizure or purchase is made. In carrying out the duties imposed by Section 26600 a sheriff shall purchase an additional sample and forward the same to such health officer.

CHAPTER 839

Stats 1933, p 60, amended

An act to amend Sections 1300.15, 1300.16 and 1300.19 of the Agricultural Code, relating to the marketing of agricultural commodities.

In effect August 4, 1943

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

The people of the State of California do enact as follows:

Stats 1941, p. 2562

SECTION 1. Section 1300.15 of the Agricultural Code is amended to read:

Advisory boards

1300.15. (a) (1) Any marketing order issued pursuant to this chapter shall provide for the establishment of an advisory board to assist the director in the administration of any marketing order. The members of the board shall be appointed by the director and may hold office at the pleasure of the director. If the marketing order affects directly only producers of a particular commodity the members of the board shall be producers. If the marketing order affects directly only handlers of a particular commodity the members of the board shall be handlers. If the marketing order affects directly both producers and handlers of a particular commodity, such board shall be composed of both producers and handlers. The number of producers or handlers upon any such board shall be such number of producers or handlers as the director finds is necessary to assist properly in the administration of such order.

Compensation

(2) No member of any such board shall receive a salary but each shall be entitled to his actual expenses incurred while engaged in performing his duties herein authorized. The director may authorize such board to employ necessary personnel including attorneys engaged in the private practice of the law, fix their compensation and terms of employment, and to incur such expenses, to be paid by the director from moneys collected as herein provided, as the director may deem necessary and proper to enable such board properly to perform such of its duties as are authorized herein. The duties of any such board shall be administrative only and may include only the following:

Duties of board

a. Subject to the approval of the director to administer such marketing order.

b. To recommend to the director administrative rules and regulations relating to the marketing order.

c. To receive and report to the director complaints of violations of the marketing order.

d. To recommend to the director amendments to the marketing order.

e. To assist the director in the assessment of members of the industry and in the collection of funds to cover expenses incurred by the director in the administration of the marketing order.

f. To assist the director in the collection of such necessary information and data as the director may deem necessary to the proper administration of this chapter.

Provisions of marketing order

(b) Subject to the legislative restrictions and limitations set forth herein any marketing order issued by the director pursuant to this chapter may contain any or all of the following provisions for regulating or providing methods for regulating producer marketing or the handling or any of the operations of processing or distributing by handlers of any agricultural commodity within this State, but no others:

Surplus

(1) Provisions for determining the existence and extent of the surplus of any agricultural commodity, or of any grade, size or quality thereof, and providing for the control and disposition of such surplus, and for equalizing the burden of such surplus elimination or control among the producers, processors, distributors or other handlers affected.

Limitations on quantity to be marketed

(2) Provisions for limiting the total quantity of any agricultural commodity, or of any grade, size or quality thereof, which may be marketed by producers, processed, distributed or otherwise handled in intrastate commerce, during any specified period or periods, by any and all persons engaged in such producer marketing, processing, distributing or handling; provided, that any such limitation shall be applied under a uniform rule applicable to all such persons so regulated. The total quantity of any such commodity so regulated and permitted to be marketed by producers, processed, distributed or otherwise handled, shall not be less than the quantity which the director finds is reasonably necessary to supply the market demands of consumers of such commodity.

Allotment of quantity acquired from producer

(3) Provisions for allotting the quantity of any agricultural commodity, or of any grade, size or quality thereof, which each handler may purchase or acquire from, or handle on behalf of, any and all producers thereof, in intrastate commerce, during any specified period or periods under a uniform rule, applicable to all handlers so regulated based upon the amounts produced or sold by such producers in a prior period which the director finds to be representative, or upon the current season's production or sales of such producers, or both, to the end that the total quantity of such commodity, or of any grade, size or quality thereof, so purchased or handled in intrastate commerce shall be apportioned equitably among the producers thereof.

Allotment for quantity handled

(4) Provisions for allotting the quantity of any agricultural commodity, or of any grade, size or quality thereof, which each

handler may process, distribute or handle in intrastate commerce under a uniform rule, applicable to all handlers so regulated, based upon the quantities of such commodity or of any grade, size or quality thereof of the current season's crop which each such handler has available for such processing, distribution or handling, or upon the quantities of such commodity or of any grade, size or quality thereof so processed, distributed or handled by each such handler in a prior period which the director finds to be representative, or based upon both, to the end that the total quantity of such commodity or any grade, size or quality thereof, processed, distributed or handled in intrastate commerce during any specified period or periods shall be equitably apportioned among all such handlers thereof.

Period for handling or marketing

(5) Provisions regulating the period, or periods, during which any agricultural commodity, or any grade, size or quality of such commodity, may be processed, distributed or otherwise marketed within this State by any and all persons engaged in such processing, distributing or marketing within this State; provided, that the total quantity of such commodity so regulated and permitted to be processed, distributed or otherwise marketed during such period or periods, shall not be less than the quantity which the director finds is necessary to reasonably supply the needs of consumers of such commodity.

Surplus or reserve pools

(6) Provisions for the establishment of surplus or reserve pools of any agricultural commodity, or of the representative value of such commodity, or of any grade, size or quality thereof, and providing for the sale of such surplus commodity, and the equitable distribution, among the persons interested therein, of the net returns derived from the sale of such commodity or such distribution of such representative value of such commodity.

Uniform grading and inspection

(7) Provisions for the establishment of uniform grading and inspection of any agricultural commodity delivered by producers to handlers or others engaging in the handling thereof and for the establishment of grading standards of quality, condition, size or pack for any agricultural commodity, and the inspection and grading of such commodity in accordance with such grading standards so established. Such grading standards for any such commodity shall not be established below any minimum standards now prescribed by law for such commodity.

Advertising

(8) Provisions for the establishment of plans for advertising and sales promotion to create new or larger markets for agricultural commodities grown in the State of California. The director is hereby authorized to prepare, issue, administer and enforce plans for promoting the sale of any agricultural commodity.

Provided, that any such plan shall be directed toward increasing the sale of such commodity without reference to a particular brand or trade name, and

Provided, further, that no advertising or sales promotion program shall be issued by the director which shall make use of false or unwarranted claims in behalf of any such product, or disparage the quality, value, sale or use of any other agricultural commodity.

Unfair trade practices

(9) Provisions relating to the prohibition of unfair trade practices. In addition to the unfair trade practices, now prohibited by law, applicable to the processing, distribution or handling of agricultural commodities within this State, the director is hereby authorized to include in any marketing order issued hereunder provisions designed to correct any trade practice affecting the processing, distributing or handling of any agricultural commodity within this State which the director finds, after a hearing thereupon in which all interested persons are given an opportunity to be heard, is unfair and detrimental to the effectuation of the declared purposes of this act.

Production adjustment benefits

(10) Provisions for the application for, review, certification and equitable payment of, production adjustment benefits to growers from funds collected for such purpose on a uniform basis from all commercial growers of any agricultural commodity in the State, for which production adjustment payments are made. Such funds may be supplemented by funds, if any, received from Federal, State or other agencies for such purpose.

No program of production adjustment adopted hereunder shall authorize payments for the removal of acreages of trees or vines of the species, variety or varieties specified in the program which have, during the three years immediately preceding the date of application, produced an annual yield per acre in excess of the comparably computed average yield from bearing trees or vines of the same species, variety or varieties for the State as a whole, such yields and averages to be determined by the director from statistical data compiled by State or Federal agencies or such other data as the director deems to be representative and reliable.

Stats 1941, p 2565

SEC. 2. Section 1300.16 of the Agricultural Code is amended to read:

Handlers' assent

1300.16. (a) (1) No marketing order or amendment thereto, directly affecting handlers, issued pursuant to this chapter, shall become effective unless and until the director finds that such marketing order or amendment thereto has been assented to in writing by the handlers engaged in the marketing activity or activities regulated by such marketing order who handle not less than sixty-five per cent (65%) of the volume of the agricultural commodity regulated thereby which is processed or distributed within the area defined in such marketing order or amendment thereto, or that such marketing order or amendment thereto has been assented to in writing by not less than sixty-five per cent (65%) of the number of handlers engaged in the marketing activity or activity regulated by such marketing order; provided, however, that any marketing order or amendment thereto directly affecting processors engaged

in the operation of canning of fresh fruits or vegetables or canning or packing of dried fruits shall not be made effective by the director unless and until the director finds that such marketing order or amendment thereto has been assented to in writing by such processors engaged in the marketing activity or activities regulated by such marketing order or amendment thereto who processed not less than sixty-five per cent (65%) of the volume of such agricultural commodity which is processed within the area defined in such marketing order or amendment thereto and by sixty-five per cent (65%) of the number of such processors engaged in the marketing activity or activities regulated by such marketing order or amendment thereto.

Producers' assent

(2) No marketing order or amendment thereto, directly affecting producers or producer marketing, issued pursuant to this chapter, shall be made effective by the director unless and until the director finds that such marketing order or amendment thereto has been assented to in writing by not less than sixty-five per cent (65%) of the producers who are engaged, within the area specified in such marketing order or amendment thereto, in the production for market, or engaged in such producer marketing of not less than fifty-one per cent (51%) of the agricultural commodity specified therein in commercial quantities, or that such marketing order or amendment thereto has been assented to in writing by producers who produce not less than sixty-five per cent (65%) of the volume of such agricultural commodity and by fifty-one per cent (51%) of the total number of producers so engaged.

Assent by cooperatives

(3) In finding whether such marketing order or amendment thereto is assented to in writing pursuant to the provisions of this chapter, the director shall consider the approval of any nonprofit agricultural cooperative marketing association, which is authorized by its members so to assent, as the approval of the producers who are members of, or stockholders in, such nonprofit agricultural cooperative marketing association.

What may be regulated

(b) Subject to the provisions, restrictions and limitations imposed herein, the director may issue marketing orders regulating producer marketing, the processing, distributing or handling in any manner of agricultural commodities by any and all persons engaged in such producer marketing, processing, distributing or handling of such agricultural commodities within this State.

Suspension and termination of marketing order

(c) The director shall suspend or terminate any marketing order, whenever he finds, after a public hearing duly noticed and held in accordance with the provisions of Section 1300.13 of this chapter, that such marketing order is contrary to or does not tend to effectuate the declared purposes or provisions of this chapter within the standards and subject to the limitations and restrictions herein imposed; provided, that such suspension or termination shall not become effective until the

expiration of the marketing season then current. If the director finds that the termination of any marketing order is requested in writing by more than forty per cent (40%) of the producers, who are engaged within the State of California in the production for market of the agricultural commodity specified in such marketing order, and who produce forty per cent (40%) of the volume of such agricultural commodity produced within the State of California for market, and finds that the termination of such marketing order is requested in writing by handlers who handle more than forty per cent (40%) of the volume of the agricultural commodity covered thereby and by more than forty per cent (40%) of the number of handlers of the agricultural commodity covered thereby, the director shall, if he finds such marketing order is contrary to or does not tend to carry out the declared policy of this chapter, terminate such marketing order; provided, that such termination shall be effective only if announced on or before such date (prior to the end of the marketing period then current) as may be specified in such marketing order.

Amendment of marketing order

(d) The director may amend any marketing order if such amendment or amendments have been considered at a public hearing duly noticed and held in accordance with the provisions of Section 1300.13 of this chapter, and after appropriate findings have been made by the director pursuant to Section 1300-14 of this chapter; and provided, that no amendment shall be made effective unless the director finds that such amendment has been assented to in writing in accordance with the provisions of this section.

Public notice

(e) Upon issuance of any order making effective a marketing order, or any suspension, amendment or termination thereof, a notice thereof shall be posted on a public bulletin board to be maintained by the director in his office and a copy of such notice shall be published in a newspaper of general circulation published in the capital of the State and in such other newspaper or newspapers as the director may prescribe. No marketing order or any suspension, amendment or termination thereof shall become effective until the termination of a period of five (5) days from the date of such posting and publication. It shall also be the duty of the director to mail a copy of the notice of said issuance to all persons, directly affected by the terms of such marketing order, suspension, amendment or termination, whose names and addresses may be on file in the office of the director and to every person who files in the office of the director a written request for such notice.

Rules and regulations

(f) Upon recommendation by an advisory board the director shall have power, consistent with this act, to establish such rules and regulations covering the operations of marketing orders as may be necessary to carry out the purposes and attain the objectives of this act or any marketing order issued thereunder. The provisions of subdivision (e) relative to posting

and giving of notice and time of taking effect shall be applicable to any rule or regulation established under this subdivision. The exercise of the powers granted to an advisory board in its administration of a marketing order made effective in accordance with the provisions of this act shall be subject to the approval of the director.

Stats. 1939, p. 2124

SEC. 3. Section 1300.19 of the Agricultural Code is amended to read:

Enforcement

1300.19. The Director of Agriculture shall be responsible for the administration and enforcement of this act.

The following penalties, remedies, procedures and actions shall apply in instances of violations and complaints of violations of the provisions of this act or of any marketing order or the rules and regulation issued by the director under the authority of this act or any marketing order issued thereunder:

Civil liability

(a) Any person who violates any provision of this act or any marketing order duly issued by the director, or who violates any rule and regulation issued by the director under the provisions of this act, shall be liable civilly, in an action brought by the director, for a penalty in an amount not to exceed a sum of five hundred dollars ($500) for each and every violation. Any money recovered under this provision shall be deposited in the State Treasury to the credit of the Department of Agriculture Fund.

Criminal penalty

(b) Every person who violates any provision of this act or any provision of any marketing order duly issued by the director hereunder, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than fifty dollars ($50), nor more than five hundred dollars ($500), or by imprisonment of not less than 10 days nor more than six months, or by both such fine and imprisonment. Each day during which any of the violations above referred to continue shall constitute a separate offense.

Violations: Complaint

(c) Upon the filing of a verified complaint charging violation of any provision of this act or of any provision of any marketing order or any rule or regulation issued by the director hereunder, and prior to institution of any court proceedings authorized hereinafter, the director may, in his discretion, refer the matter to the Attorney General or any district attorney of this State for action pursuant to the provisions of this act, or call a hearing to consider the charges set forth in such

Notice

verified complaint. In such case, the director shall cause a copy of such complaint together with a notice of the time and place of hearing of such complaint, to be served personally or by mail upon the person or persons named as respondent or respondents therein. Such service shall be made at least 10 days before said hearing, which shall be held in the city or town in which is situated the principal place of business of the respondent, or in which the violation complained of is alleged to have occurred, or in the nearest office of the State Department of Agriculture, at the discretion of the director. At the

Hearing

time and place designated for such hearing, the director or his agents shall hear the parties to said complaint, and shall enter in the office of the director at Sacramento, his findings based upon the facts established at such hearing.

(d) If the director finds that no violation has occurred he shall forthwith dismiss such complaint and notify the parties to such complaint.

Findings

(e) If the director finds that a violation has occurred he shall so enter his findings and notify the parties to such complaint. Should the respondent or respondents thereafter fail, neglect or refuse to desist from such violation, within the time specified by the director, the director may thereupon file a complaint against such respondent or respondents in a court of competent jurisdiction as set forth hereinafter.

Court action

(f) The Attorney General of this State, or any district attorney of this State, may, upon his own initiative, and shall upon complaint of any person, if, after investigation he believes a violation to have occurred, bring an action in the name of the people of this State in any court of competent jurisdiction in the State of California against any person violating any provisions of this act or of any marketing order duly issued by the director hereunder.

(g) The Attorney General of this State, or any district attorney of this State, may, upon his own initiative, and shall upon complaint of any person, if, after investigation he believes a violation to have occurred, bring an action in the name of the people of this State in the superior court of the State of California for an injunction against any person violating any provisions of this act or of any marketing order or any rule or regulation duly issued by the director hereunder.

Injunction

(h) Upon compliance with Section 527 of the Code of Civil Procedure of the State of California, the court may issue a temporary restraining order and preliminary injunction as in other actions for injunctive relief and upon trial of such action, if judgment be in favor of plaintiff, the court shall permanently enjoin defendant from further violations.

Attorney's fees

(i) In any suit brought by the director to enforce any of the provisions of this act, the judgment, if in favor of the plaintiff, shall provide that the defendant pay to the plaintiff costs of such suit including reasonable attorney's fees incurred by an advisory board in the prosecution of such action.

Venue

(j) Any such action may be commenced either in the county where defendant resides, or where any act or omission or part thereof complained of occurred.

Penalties cumulative

The penalties and remedies prescribed in this section with respect to any violation mentioned in this section shall be concurrent and alternative and neither singly nor combined shall the same be exclusive and either singly or combined the same shall be cumulative with any and all other civil, criminal or administrative rights, remedies, forfeitures or penalties provided or allowed by law with respect to any such violation.

CHAPTER 840

Stats 1937, p 1005, amended

An act to amend Section 1526 of the Welfare and Institutions Code, relating to the residence of needy children.

In effect August 4, 1943

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

The people of the State of California do enact as follows:

Stats 1939, p 2840

SECTION 1. Section 1526 of the Welfare and Institutions Code is amended to read:

County aid

1526. Except as provided in Sections 1512 and 1557, and subdivision (d) of Section 1526, no county is required to pay aid under this chapter for a child unless the child has had residence in the county in which application is made for the period of one year immediately preceding the date of application.

County residence

For the purposes of this chapter, the county residence of the child shall not be lost until another is gained and shall be determined in accordance with the following rules:

(a) The residence of the father determines that of the child during the lifetime of the father, unless the father has abandoned the child, has been legally deprived of his custody, or is in fact living separate and apart from the mother of the child; in the latter case the residence of the child is determined by the residence of the parent who has his custody.

(b) If the child's residence is not determined under subdivision (a) hereof, then the residence of the mother determines that of the child during the lifetime of the mother, unless the mother has abandoned the child or has been legally deprived of his custody. The residence of the husband shall not be deemed the residence of the wife if they are living separate and apart and in such case each may have a separate residence dependent upon proof of the fact and not upon legal presumptions. The residence of the parent having custody of the child determines his residence.

(c) If the residence of the child is not determined under subdivisions (a) and (b) hereof, then the residence of any individual who has been appointed legal guardian determines the residence of the child; if the child is a ward of the juvenile court, the county in which the court is located shall be considered the residence of the child.

(d) The residence of a foundling shall be deemed to be that of the county in which the child is found.

(e) If the residence of the child is not determined under subdivisions (a), (b), (c), or (d) hereof, and the child has been placed in an institution or boarding home by a public agency, the county in which the child has residence at the time of such placement shall be considered the residence of the child until his residence can be determined under subdivisions (a), (b), or (c) of this section.

(f) If the residence of the child is not determined under (a), (b), (c), (d), or (e) hereof, the county in which the child is living shall be deemed the county of residence, if and when the child has had a physical presence in the county for one year. The county may accept an application in the case of a child living with a relative who does not have legal custody or the county, itself, shall file an application for aid on behalf of the child and also be responsible for its share of the child's support. This subdivision does not apply to a child for whom an application is made under Section 1557.

CHAPTER 841

An act to amend Sections 689 and 689.5 of the Political Code, relating to collections by the State Department of Finance from other State agencies.

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 689 of the Political Code is amended to read: Stats. 1941, p. 2374

689. From any State department, officer, board or commission having any special fund in the State Treasury made available by law for the use, support or maintenance of any part or all of the work and affairs of such department, office, board or commission, the Department of Finance may fix and collect: Collections from special fund agencies

(a) The pro rata share of the cost of insuring motor vehicles belonging to such department, officer, board or commission against liability for damages resulting from the negligent operation of motor vehicles and arising under the provisions of Section 400 of the Vehicle Code or, in the discretion of the director, an amount which he considers equivalent to such pro rata share to be expended by him in accordance with law paying claims under Section 400 of the Vehicle Code and paying for the investigation, adjustment, defense and administration of such claims; Insurance cost

(b) Rent for the use or occupancy of space in any building owned, managed or controlled by the State and used or occupied by such State department, officer, board or commission where such space is utilized in carrying out the work and affairs, or that portion of the work and affairs, of such department, officer, board or commission, for the carrying out of which said special fund was created; Rentals

(c) The actual cost of janitor and maintenance service rendered to such department, officer, board or commission to enable it to carry out the work and affairs, or that portion of its work and affairs, for the carrying out of which the special fund was created; and Cost of janitor service

Workmen's compensation insurance

(d) The pro rata cost of workmen's compensation insurance covering the officers and employees of such department, officer, board, or commission.

Cost of bonds

(e) The pro rata cost of any bond or bonds covering the officers and employees of such department, officer, board, or commission.

Claim

The State Department of Finance may file a claim against any appropriations made from special funds for the support or maintenance of any part or all of the work and affairs of any State department, officer, board or commission for a pro rata share of the costs or services included within this section, when such State department, officer, board, or commission refuses to pay such pro rata share of such costs or services, and the State Controller shall draw his warrant in accordance with law upon such claim in favor of the State Department of Finance.

Account and report of moneys received

All moneys received by the Department of Finance pursuant to paragraphs (a), (d), and (e) under the provisions hereof shall be accounted for and reported at the end of each month by said department to the State Controller to be by said Controller credited as an abatement of the expenses of said department, and at the same time such moneys shall be remitted to the State Treasury to become a part of any appropriation made available by law from out of which the expenses for such purposes were paid.

All other moneys received by the Department of Finance under the provisions of paragraph (b) hereof shall be accounted for and reported at the end of each month by said department to the State Controller, and at the same time such moneys shall be remitted to the State Treasurer to become a part of the General Fund and all moneys received by the Department of Finance under the provisions of paragraph (c) herein shall be accounted for as provided in Section 689.5 of the Political Code.

Stats 1941, p 2374

SEC. 2. Section 689.5 of the Political Code is amended to read:

Service Revolving Fund

689.5. There is hereby created in the State Treasury the Service Revolving Fund, from which fund shall be paid all salaries and wages and other expenses incurred by the Bureau of Buildings and Grounds in the Department of Finance. The cost of rendering services to agencies supported from funds other than the General Fund, and the cost of rendering services to any agency at its request, shall be determined monthly by the Department of Finance and by said department charged to such agencies. After deducting the cost of services rendered and charged to other agencies, the remaining expenditures out of the Service Revolving Fund shall be a charge against the appropriation for the support of the Bureau of Buildings and Grounds and upon certification by the Department of Finance shall be transferred monthly by the State Controller from said appropriation to the Service

Revolving Fund. Charges thus made against this appropriation shall be exempt from Section 695 of the Political Code, as added by Statutes of 1933, and from Section 59 of the State Civil Service Act. The retirement contribution for that portion of these charges which represents compensation paid to State employees shall be payable from the General Fund under the provisions of Section 108 of the State Employees' Retirement Act.

Any moneys received by the Department of Finance for services rendered to other State agencies shall be accounted for and reported at the end of each month by the Department of Finance to the State Controller to be by the Controller credited to the Service Revolving Fund, and at the same time such money shall be remitted to the State Treasury to become a part of said fund.

CHAPTER 842

An act to add Section 276.5 to the Vehicle Code, relating to drivers' license.

Stats. 1935, p 93, amended

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 276.5 is added to the Vehicle Code, to read:

New section

276.5. Extension of Time of Expiration of Drivers' License. Whenever the Governor shall find that by reason of war an emergency exists whereby the State can no longer, or, in view of all circumstances, should no longer renew drivers' licenses he shall proclaim such fact. Thereafter the Director of Motor Vehicles shall have authority from time to time to extend the date of expiration of any or all drivers' licenses which may be outstanding for fixed periods not exceeding four years.

Emergency extension of drivers' licenses

When the Governor finds that the emergency necessitating the continuance of outstanding drivers' licenses no longer exists, he shall proclaim such fact, and thereafter, the director shall have no further authority to extend drivers' licenses under the authority of this section.

This section shall remain in effect until six months after the cessation of hostilities in the war in which the United States is now engaged as declared by the President or Congress of the United States.

Duration

While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section; but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

Existing law

CHAPTER 843

Stats 1937, p 792 amended

An act to add Section 6077.6 to the Harbors and Navigation Code, relating to harbor districts.

In effect August 4, 1943

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 6077.6 is added to the Harbors and Navigation Code, to read:

Investment of funds

6077.6. It may by resolution order that all or any of the funds under its control and not necessary for current operating expenses be invested in obligations, bonds or securities of the United States of America or of any agency or instrumentality thereof.

CHAPTER 844

Stats 1873-4, p 511, amended

An act to amend Section 11 of an act entitled "An act to define the boundary, provide for the care, strengthening and repairing of levees, and the payment of the indebtedness of Levee District Number 1 of Sutter County," approved March 20, 1874, relating to the compensation and powers of officers of said district.

In effect August 4, 1943

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

The people of the State of California do enact as follows:

Stats 1935, p 1007

SECTION 1. Section 11 of the act cited in the title hereof is hereby amended to read as follows:

Salaries

Sec. 11. The directors shall each receive an annual salary of five hundred dollars ($500), payable in quarterly installments of one hundred twenty-five dollars ($125) each on the first Monday in March, June, September and December of each year, which sum shall be in full compensation for all services of every nature or kind rendered by said directors. During the years that an assessment is made in said district, the ex officio assessor of the district shall receive a salary of five hundred dollars ($500), and the ex officio treasurer and the ex officio tax collector of the district shall receive a combined annual salary of five hundred dollars ($500), such salaries to be paid quarterly on the first Monday of March, June, September and December of each such year. During any calendar year that no assessment is made in said district, the ex officio assessor of said district shall receive an annual salary of one hundred dollars ($100) per year, and the ex officio treasurer and ex officio tax collector of the district shall receive a combined annual salary of one hundred dollars ($100) per year, payable quarterly on the first Monday of March, June,

September and December of each such year. The auditor of Sutter County shall be the ex officio auditor of the district and shall receive an annual salary of five hundred dollars ($500) for his services to said district payable in equal installments on the first Monday in June and December of each year. Election officers at any and all elections held in the district shall receive for their services such sum as the board of directors shall deem just and reasonable. Claims for such salaries and services must be sworn to and presented to the board of directors of said district and before any warrants are drawn for the same, such claims shall be audited and approved by said board.

CHAPTER 845

An act making an appropriation for the contingent expenses of the Senate for the Fifty-fifth Session of the Legislature including committee expenses, to take effect immediately.

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.] In effect immediately

The people of the State of California do enact as follows:

SECTION 1. The sum of one hundred thousand dollars ($100,000) or so much thereof as may be necessary, is hereby appropriated out of any money in the State treasury not otherwise appropriated for the contingent expenses of the Senate for the Fifty-fifth Session of the Legislature including expenses of committees composed in whole or in part of Members of the Senate. Appropriation Senate contingent expenses

SEC. 2. This act, inasmuch as it makes an appropriation for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately. Current expenses

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CHAPTER 846

An act to add Sections 30a to 30r to the Bank Act and to add Section 3081 to the Civil Code, relating to the disposal of unclaimed contents of safe deposit boxes rented by banks or other corporations and relating to unclaimed items of personal property left with a bank for safekeeping or storage. Stats 1909, p 87, amended

[Approved by Governor May 28, 1943 Filed with Secretary of State May 28, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 30a is added to the Bank Act, to read: New section

Sec. 30a. Every bank organized under the laws of, or doing business in this State and operating a safe deposit Special remedies Safe deposit boxes

department shall be entitled to the special remedies set forth in Sections 30b to 30r, inclusive, in enforcing the liabilities of safe deposit box renters and those of safekeeping and storage depositors.

New section

SEC. 2. Section 30b is added to said act, to read:

Notice of unpaid rental

Sec. 30b. If the rental of any safe deposit box is not paid within one year from the day it is due, the bank, at any time thereafter and while said rental remains unpaid, may mail a notice to the person in whose name such safe deposit box stands on its records stating that if the amount due for such rental is not paid on or before a specified day, which must be at least 30 days after the date of mailing such notice, the bank will cause such safe deposit box to be forced open.

New section

SEC. 3. Section 30c is added to said act, to read:

Opening of box

Sec. 30c. At any time after the date specified in such notice, if the rental for such safe deposit box to the date of payment and the cost of giving said notice has not been paid, the bank, in the presence of two of its officers, may cause such safe deposit box to be opened and the contents thereof to be removed and inventoried. The inventory shall be signed by such officers, and a copy thereof shall be filed with the county treasurer.

New section

SEC. 4. Section 30d is added to said act, to read:

Retention and delivery of contents

Sec. 30d. All contents removed from a safe deposit box by authority of Section 30c shall be retained by the bank for at least two years unless sooner delivered to or on the order of the person in whose name such safe deposit box stood on the records of the bank. The bank shall deliver the contents of such safe deposit box to or on the order of the person in whose name such box stood on its records, upon payment to it before such contents are sold or destroyed, of all rental due at the time of opening the box, the cost of giving notice, charges for opening the box and for custody of the contents and any other proper charges. The bank may deliver said contents on the order of the person in whose name said safe deposit box stood on its records irrespective of any information disclosed by said contents indicating ownership thereof by any other person.

New section

SEC. 5. Section 30e is added to said act, to read:

Sale: Notice

Sec. 30e. At any time after two years from the day when a safe deposit box has been opened under the authority of this act, the bank may mail a notice to the person in whose name such safe deposit box stood on its records, stating that unless the amounts due the bank for rental, for cost of mailing and publishing notice of sale, and for its charges for opening the box and for custody of its contents, giving the total amount thereof, are not paid, the bank will offer for sale the contents thereof at a time and place named therein, which time shall be at least 30 days after the mailing of said notice. If the amounts specified in said notice are not paid before the time of sale specified in said notice, the bank may sell all or any portion of the contents found in said safe deposit box, other than those contents referred to in Section 30g and other than

bonds or other securities which at the time of the sale are listed on an established stock exchange in the United States, at public sale at the time or place given in said notice. Notice of the time and place of sale shall be published in a newspaper of general circulation in the county in which the sale is to be held once at least five days before the date of sale, or if no such newspaper is published in the county, such notice shall be posted in three public places in the county at least five days before the date of sale. Such notice need not describe the property to be sold except as unclaimed contents of a safe deposit box. Such sale may be postponed from time to time by public pronouncement at the time and place of sale.

Sale of bonds or securities

Notwithstanding any of the provisions of Sections 30a to 30r of this act, no stocks, bonds or other securities which, at the time of said sale, are listed on any established stock exchange in the United States shall be sold at such public sale but may be sold at any time thereafter through an established stock exchange. Upon the making of any such sale, there shall be executed by an officer of the bank and attached to the securities so sold an affidavit reciting facts showing that said securities were sold pursuant to the provisions of this act and that the provisions of this act governing said sale have been complied with. Such affidavit shall be and constitute sufficient authority to any corporation whose stock is so sold or to any registrar or transfer agent thereof to cancel the certificates of stock so sold and to issue a new certificate or certificates representing such stock to purchaser thereof and to any registrar, trustee or transfer agent of registered bonds or other securities to register any such bonds or other securities in the name of the purchaser thereof.

New section

SEC. 6. Section 30f is added to said act, to read:

Disposition of proceeds

Sec. 30f. From the proceeds of any sale, the bank shall deduct the amount set forth in said notice and any further charges which may have accrued since the mailing of the notice and shall credit the balance of such proceeds, if any, to an account in the name of such delinquent renter. Such account shall be deemed a deposit within the meaning of Section 15 of this act as of the date of said sale.

New section

SEC. 7. Section 30g is added to said act, to read:

Delivery or destruction of articles with no intrinsic value

Sec. 30g. Any documents, letters or other articles found in a safe deposit box opened under authority of Section 30c, which in the judgment of an officer of the bank have no intrinsic or marketable value, need not be offered for sale. Such documents, letters and articles and any other contents which have been offered for sale and for which no purchaser has been found, shall be retained by the bank for not less than five years from the date when said safe deposit box was opened. At any time thereafter, unless sooner delivered to or on the order of the person in whose name such safe deposit box stood on the records of the bank, such documents, letters and articles and also those contents which have been offered for sale and for which no purchaser has been found may be

destroyed in the presence of an officer of the bank; provided, that if no notice of intended sale of the contents of said box has been given under Section 30e, the bank shall mail a notice of its intention to destroy such documents, letters, and articles at least 30 days before the destruction of the same to the person in whose name said box stood on the records of the bank.

New section

SEC. 8. Section 30h is added to said act, to read:

Retroactive effect

Sec. 30h. If, prior to the effective date of this section, a bank, or its predecessor in interest, shall have caused a safe deposit box to be opened for nonpayment of rental and the contents of said box remain in its custody, it shall be entitled to the special remedies in enforcing the liability of the former renter of such box as set forth in Sections 30a to 30g, inclusive, whether or not such box was rented prior to the enactment thereof.

New section

SEC. 9. Section 30i is added to said act, to read:

Bailment · Application of Stats 1909, p. 437

Sec. 30i. Whenever any bank shall have received personal property upon deposit for safekeeping or storage, as bailee, and shall have issued a receipt therefor, the provisions of the Warehouse Receipts Act shall apply to such deposit to the same extent and with the same effect as is now provided in said act with reference to warehousemen; provided, however, that the lien of said bank as warehouseman shall also, at its option, be enforceable as follows: As provided in Sections 30i to 30*l*, inclusive.

New section

SEC. 10. Section 30j is added to said act, to read:

Notice of charges unpaid

Sec. 30j. If the amount charged by a bank for the safekeeping or storage of any such personal property is not paid within one year from the day it is due, the bank, at any time thereafter and while said charges remain unpaid, may mail a notice to the person in whose name the receipt was issued, giving the amount then due for such safekeeping or storage and stating that unless such amount and any other charges accruing to date of payment, are not paid, the bank will sell such personal property at a time and place named therein, which time shall be at least 30 days after the mailing of said notice. If the amount specified in said notice and all other charges of the bank and expenses of mailing and publishing notice of sale accruing to time of payment are not paid, the bank may sell all or any portion of the said personal property at public sale at the time and place given in said notice. Notice of the time and place of sale shall be published once at least five days before the date of sale in a newspaper of general circulation published in the county in which the sale is to be held, or if no such newspaper is published in the county such notice shall be posted in three public places in the county at least five days before the date of sale. Such sale may be postponed from time to time by public pronouncement at the time and place of sale. The bank may include in the notice required to be mailed a statement to the effect that if the amount due it is not paid at least 10 days before the date set for the sale, it may cause any container in which any of said personal property

Sale

Notice of sale

may be to be opened and the contents thereof sold at the time and place fixed for the sale with or without said container or the container may be sold without the contents. If such statement is included in the notice, the bank may, at any time within 10 days before the date fixed for the sale, open any such container and remove the contents in the presence of two officers of the bank both of whom shall make and sign an inventory of the contents. Thereafter, on the day fixed for the sale, the contents may be sold as a whole or separately and with or without the container or the container may be sold without the contents.

New section

SEC. 11. Section 30k is added to said act, to read:

Disposition of proceeds

Sec. 30k. From the proceeds of the sale, the bank shall deduct all charges as stated in said final notice, together with any further charges that shall have accrued since the mailing thereof, and reasonable expenses for notices, advertising and sale, and shall credit the balance of said proceeds, if any, to an account in the name of the person in whose name the receipt for said personal property was issued.

New section

SEC. 12. Section 30*l* is added to said act, to read:

Delivery or destruction of articles with no intrinsic value

Sec. 30*l*. Any documents, letters or other articles, which, in the judgment of an officer of the bank, have no apparent intrinsic or marketable value, need not be offered for sale. Such documents, letters and articles and any other articles which have been offered for sale and for which no purchaser has been found, shall be retained by the bank for not less than five years from the date when notice of sale was mailed. At any time thereafter, unless sooner delivered to or on the order of the person in whose name the receipt was issued, such documents, letters and articles may be destroyed in the presence of an officer of the bank and of a notary public.

New section

SEC. 13. Section 30m is added to said act, to read:

Power to sell when bailor is not owner of property

Sec. 30m. The power given a bank to sell the contents of a safe deposit box or personal property received for safekeeping or storage for nonpayment of rental or other charges, shall be deemed to include power to sell any bonds, stock certificates, promissory notes, choses in action or other securities and any other tangible and intangible property found in such box or in the container in which such personal property was received for safekeeping or storage, regardless of whether or not it shall appear from such securities or property that the person in whose name the box stood or to whom the safekeeping or storage receipt was issued possesses title to any interest in such securities, or other property, or power to transfer such title or interest.

New section

SEC. 14. Section 30n is added to said act, to read:

Box rented by predecessor in interest

Sec. 30n. A bank holding a safe deposit box originally rented from, or personal property against which a safekeeping or storage receipt was issued by, a predecessor in interest, or a bank holding the contents of such box, shall be entitled to the remedies as to such box or the contents thereof or safekeeping or storage of property in like manner and to the same extent

as if such box had been rented from or such safekeeping or storage of personal property had been received by such bank in the first instance.

New section

SEC. 15. Section 30o is added to said act, to read:

Remedies cumulative

Sec. 30o. The provisions of Sections 30a to 30r do not preclude any other remedy by action or otherwise now or hereafter existing for the enforcement of the claims of a bank against the person in whose name the safe deposit box stood, or stands, or in whose name the safekeeping or storage receipt was issued, nor bar the right of a bank to so recover, at its option, either the entire amount of the debt due it without recourse to sale of the property, if any, or so much of the debt due it as shall not have been paid by the proceeds of the sale of all or any portion of the property deposited with it.

New section

SEC. 16. Section 30p is added to said act, to read:

Collection of dividends and interest payments

Sec. 30p. If the principal of, or interest or dividends on, any securities that have come into the possession of any bank by reason of action taken in accordance with the provisions of Sections 30a to 30r, inclusive, is due and payable at the time it comes into its possession, or thereafter while such personal property remains in the possession of the bank, shall become due and payable, the bank at its election may collect such principal, interest or dividends and from the proceeds thereof may deduct all sums then due it from the person to whom such safe deposit box was rented or to whom such safekeeping or storage receipt was issued. The remainder of the moneys so collected, if any, shall be credited by the bank to the account of the delinquent boxholder or of the person in whose name the safekeeping or storage receipt was issued.

New section

SEC. 17. Section 30q is added to said act, to read:

Definitions and procedure

Sec. 30q. Wherever in Sections 30a to 30r, inclusive, the word "person" appears, it shall be construed to mean the individual or individuals, corporation, firm, copartnership, association, or other organization in whose name or names the safe deposit box stood or stands in the records of the bank or the safekeeping or storage receipt was issued. Wherever it is provided in said sections that notice be sent to a person and the box stood or stands in the records of the bank, or the safekeeping or storage receipt was issued, in the names of two or more persons, notice addressed to either or to any one of such two or more persons shall be binding upon and effective as to the, or all, remaining person or persons; notice addressed to the name of any deceased individual shall be binding upon his legal representative and on his heirs and devisees. Whenever it is provided in said sections that notice be published prior to a sale, said notice shall include the name and address of the person in whose name the safe deposit box stood on the records of the bank or the safekeeping or storage receipt was issued; provided, also, that the names and addresses of all such persons whose property is to be sold at the same time and place, may be included in a single published notice. Wherever it is provided in said sections that an amount be credited to the

account of a person in whose name a safe deposit box stood in the records of the bank or a safekeeping or storage receipt was issued, and the box stood, or the receipt was issued, in two or more names, said account shall be in both or all of said names, subject to withdrawal by or upon the written order of either or any of said persons, or their successors or legal representatives, jointly. Whenever it is provided in said sections that a notice shall be mailed to the person in whose name the safe deposit box stood or to the person in whose name the receipt was issued, such notice shall be deemed to have been so mailed when it is enclosed in a sealed envelope, addressed to the person in whose name the safe deposit box stood in the branch or office of the bank at which the records of such safe deposit box rentals are kept or to the person in whose name such receipt was issued, as the case may be, addressed to such person at the address or place appearing on the safe deposit or storage records of such branch or office of the bank, and such envelope with postage prepaid has been deposited by registered mail in the United States mail.

New section

SEC. 18. Section 30r is added to said act, to read:

Taxes included

Sec. 30r. Whenever an amount of safe deposit rental, custody, safekeeping, storage or other charges is to be paid or deducted in accordance with the provisions of this act, there shall be added to and paid or deducted with said amount the amount of any tax imposed by laws and regulations.

New section

SEC. 19. Section 3081 is added to the Civil Code, to read:

Corporations

3081. Any corporation engaged in the business of renting to the public safe deposit boxes may dispose of the unclaimed contents of the safe deposit boxes in the manner set forth in Sections 30a to 30r, inclusive, of the Bank Act.

CHAPTER 847

Stats 1935, p 496, amended

An act to amend Sections 4037, 4038, 4112, 4152 and 4178 of, to add Sections 4036½ and 4152a to, and to repeal Sections 4039, 4040 and 4179 of, the Political Code; to amend Section 1052 of the Code of Civil Procedure; and to add Section 12073 to the Insurance Code, relating to duties of county officers.

In effect August 4, 1943

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

The people of the State of California do enact as follows:

Stats 1907, p 354

SECTION 1. Section 4037 of the Political Code is amended to read:

County clerk ex officio clerk of board

4037. The county clerk is ex officio clerk of the board of supervisors of his county or city and county unless other provision therefor is made by law.

Stats 1907 p 354

SEC. 2. Section 4038 of the Political Code is amended to read:

Duties of clerk

4038. The clerk of the board must:

1. Attend each session of the board of supervisors of his county, or city and county, and attend committee meetings when requested so to do.

2. Keep the minute book of the board and enter therein a full and complete record of the proceedings of the board at all regular and special meetings.

The record in the minute book shall include the entry in full of all resolutions and of all decisions on questions concerning the allowance of accounts. The vote of each member on every question shall be recorded.

3. Immediately after each meeting of the board deliver to and leave with the auditor all demands allowed for the payment of money.

4. File and preserve all petitions, applications, and other papers and records which may be deposited with him.

5. Authenticate with his signature and the seal of the board and file each ordinance passed by the board.

6. Perform all other duties required of him by law.

Stats 1919, p 161

SEC. 3. Section 4112 of the Political Code is amended to read:

County treasurer's report

4112. Each county treasurer must, not later than the twenty-fifth day of each month, file with the board of supervisors a detailed report of all money received by him, and the disbursements thereof made by him during the preceding calendar month, so that the receipts into the treasury and the amounts of disbursements therefrom for the said period may distinctly appear. The said report shall be filed and preserved by the clerk of the said board.

Stats 1907, p 354

SEC. 4. Section 4152 of the Political Code is amended to read:

Clerk of superior court

4152. The county clerk is ex officio clerk of the superior court in and for his county.

Stats 1907, p 354

SEC. 5. Section 4178 of the Political Code is amended to read:

Duties of county clerk

4178. The county clerk must:

1. Act as clerk of the superior court in and for his county, or city and county.

2. Act as clerk of the board of supervisors in his county, or city and county, unless other provision therefor is made by law.

3. Register as voters such electors as apply for registration and perform such other duties as may be required of him by the Elections Code, unless other provision therefor is made by law.

4. Take charge of and safely keep, or dispose of according to law, all books, papers and records which, as required by law, may be filed or deposited in his office.

5. Perform such other duties as may be required of him by law.

SEC. 6. Section 4036½ is added to the Political Code, to read: New section

4036½. The board must cause to be kept: Books kept by board

1. Its minute book.

2. An ordinance book.

3. An "allowance book" in which must be recorded all orders for the allowance of moneys from the county treasury, to whom made, and on what account, dating, numbering, and indexing the same through each year; provided, that in any county using certified duplicate lists of claims allowed, as permitted by Section 4076 of this code, one such list shall constitute the "allowance book" within the meaning of this section; and provided further, that when in any county the auditor maintains an index of claims allowed, the index required by this section may be dispensed with. In lieu of recording in the allowance book, claims or duplicates thereof may be filed with the clerk of the board, who must make an alphabetical index of such filed.

4. A "warrant book" to be kept by the county auditor, in which must be entered, in the order of drawing, all warrants drawn on the treasury, with their number and reference to the order on the minute book, with the date, amount, on what account, and name of payee; provided, that in any county using a list of claims allowed for an allowance book, as permitted in Subdivision 3 of this section and in Section 4076 of this code, the list filed in the office of the auditor shall constitute the warrant book, within the meaning of this section.

SEC. 7. Section 4152a is added to the Political Code, to read: New section

4152a. Duties of Clerk. The clerk must: Duties of clerk

1. Attend each session of the superior court in his county, or city and county, and upon the judge or judges thereof in chambers when required.

2. Keep such indexes as will insure ready reference to any action or proceeding filed in the court. There shall be separate indexes of plaintiffs and defendants in civil actions and of defendants in criminal actions and the name of each plaintiff and defendant shall be indexed and there shall appear opposite each name indexed the number of the action or proceeding and the name or names of the adverse litigant or litigants if such there be.

3. Issue all process and notices required to be issued.

4. Keep the minutes and other records of the court, entering at length any order, judgment and decree of the court which is required to be so entered.

5. Keep a register of actions in which must be entered the title of each cause, with the date of its commencement; a memorandum of every subsequent proceeding therein, with date thereof.

6. Safely keep or dispose of according to law all papers and records filed or deposited in any action or proceeding before the court.

7. Perform such other duties as may be required of him by law.

Stats 1933, p 2222

SEC. 8. Section 4039 of the Political Code is repealed.

Stats 1907, p 354

SEC. 9. Section 4040 of the Political Code is repealed.

Stats 1923, p 243

SEC. 10. Section 4179 of the Political Code is repealed.

Stats 1933, p 1836

SEC. 11. Section 1052 of the Code of Civil Procedure is amended to read:

Register of actions

1052. The clerk of a municipal court must keep among the records of the court a register of actions. He must enter therein the title of the action commenced in said court, with brief notes under it, from time to time, of all papers filed and proceedings had therein.

New section

SEC. 12. Section 12073 is added to the Insurance Code, to read:

Record of admitted surety insurers

12073. The county clerk shall keep an index or other conveniently arranged record which shall show all admitted surety insurers as certified to him by the insurance commissioner and such further information as to such surety insurers as may be certified to the county clerk by the said commissioner.

CHAPTER 848

Stats 1913, p 626, amended

An act to amend Section 5 of an act entitled "An act to establish a Legislative Counsel Bureau and making an appropriation therefor," approved May 26, 1913, relating to the Legislative Counsel.

In effect August 4, 1943

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

The people of the State of California do enact as follows:

Stats 1941, p 2369

SECTION 1. Section 5 of the act cited in the title hereof is amended to read:

Salaries

Sec. 5. The salary of the Legislative Counsel shall be seven thousand five hundred dollars ($7,500) per annum and shall be payable in equal monthly installments. The Legislative Counsel shall have authority to employ and to fix the compensation of such professional assistants and such clerical and other employees as he may deem to be necessary for the effective conduct of the work under his charge. The salary of the Legislative Counsel and of every other employee of the bureau shall be paid in the same way as the salaries of other State officers are paid. The Legislative Counsel shall be repaid all actual expenses incurred or paid by him in carrying out the provisions of this act.

CHAPTER 849

An act to add Section 740.5 to the Welfare and Institutions Code, relating to minors believed to be mentally unsound, authorizing the juvenile court to order commitments for observation, and providing for subsequent proceedings in relation to such minors.

Stats 1937, p 1005, amended

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 740.5 is added to the Welfare and Institutions Code, to read:

New section

740.5. Whenever any person has been adjudged to be a ward of the juvenile court, or whenever any person is alleged to come within the provisions of subdivision (*l*) of Section 700, and the court, after hearing, is in doubt concerning the state of mental health of the person, the court may commit the person to the Department of Institutions for placement in a State hospital for a period of not more than 90 days, for observation of the mental health of the person and recommendations concerning his future care, supervision, and treatment. If the Department of Institutions has designated a particular State hospital to receive minors so committed for observation, all commitments for that purpose shall be made for placement in the hospital so designated.

Minor person committed for observation

For each minor person so committed for observation the county from which he is committed shall pay the State at the rate of forty dollars ($40) per month for the time the person so committed remains in the State hospital for observation. Such expense shall be considered expense of support and maintenance within the meaning of Article 10 of this chapter, and the county shall be entitled to reimbursement therefor from the earnings, property, or estate of the minor, or from his parents, guardian or other person liable for his support and maintenance, in accordance with the provisions of that article. Each county auditor shall include in his State settlement report, rendered to the Controller in the months of January and June, the amount due under the provisions of this section, and the county treasurer, at the time of settlement with the State in such months, shall pay to the State Treasurer, upon the order of the Controller, the amounts found to be due by reason of such commitments.

Monthly payment

State settlement report

The medical superintendent or other person in charge of the State hospital in which a minor person is placed for observation pursuant to this section shall, within 90 days,

Health report

examine the person to determine the state of his mental health, and return him to the committing court, together with a report on the state of his mental health, which shall include a diagnosis of the nature of his mental illness or disability, if any, and recommendations concerning his future care, supervision, and treatment.

If the medical superintendent or other person in charge of the State hospital in which the minor has been placed for observation reports to the court that the minor is not affected with any mental illness, disorder, or other mental disability for which he might be committed to the Department of Institutions for placement in any State institution under Division 6 of this code, the court shall proceed with the case in accordance with the provisions of this chapter.

If the medical superintendent or other person in charge of the State hospital in which the minor has been placed for observation reports to the court that the minor is affected with any mental illness, disorder, or other mental disability for which he may be committed to the Department of Institutions for placement in any State institution under Division 6 of this code, and recommends that the minor person be so committed,

Petition for commitment in proper court

the juvenile court may direct the filing of a petition for such commitment in the court having jurisdiction to make such commitments, in accordance with the provisions of this code applicable to such commitments.

When the juvenile court directs the filing in any other court of a petition for the commitment of a minor to the Department of Institutions for placement in any State institution, the juvenile court shall transmit to the court in which the petition is filed a copy of the report of the medical superintendent or other person in charge of the State hospital in which the minor was placed for observation. The court in which the petition for commitment is filed may accept the report of the medical superintendent or other person in charge of the State hospital in lieu of the appointment, certificate, and testimony of medical examiners or other expert witnesses appointed by the court, if the laws applicable to such commitment proceedings provide for the appointment by the court of medical examiners or other expert witnesses, or may consider the report as evidence in addition to the certificates and testimony of medical examiners or other expert witnesses.

Suspension of jurisdiction

The jurisdiction of the juvenile court over the minor shall be suspended during such time as the minor is subject to the jurisdiction of the court in which the petition for commitment is filed, or under commitment ordered by that court.

CHAPTER 850

An act to add Section 4539 to the Elections Code, relating to campaign statements.

Stats 1939, p 49, amended

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. A new section to be designated as Section 4539 is added to the Elections Code, to read:

New section

4539. Such statements and vouchers shall be held by the officer with whom filed during the term of office for which filed and for four years after expiration of the term. Thereafter they may be destroyed by such officer.

Destruction of statements and vouchers

CHAPTER 851

An act to add Section 325 to Article 2 of Chapter 1, of Division 3 of the Agricultural Code, relating to foreign cold storage meat.

Stats 1933, p 60, amended

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 325 is added to Article 2 of Chapter 1 of Division 3 of the Agricultural Code, to read:

New section

325. Nothing contained in this article shall apply to cold storage meat produced in the Dominion of Canada and imported from the Dominion of Canada in accordance with the laws of the United States.

Canadian cold storage meat

CHAPTER 852

An act to add Section 799.1 to the Fish and Game Code, relating to abalones.

Stats 1933, p 394, amended

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 799.1 is added to the Fish and Game Code, to read:

New section

799.1. Diving apparatus may be used to take abalones, the shell of which is not less than eight inches measured in the greatest diameter, in District 10 when the abalones are taken in water not less than 20 feet in depth. Abalones may be taken in this district for commercial purposes only under a

Diving apparatus to take abalones

revocable permit of the commission and the shells of abalones so taken after being brought ashore and the meat removed shall be returned to the ocean waters at approximately the points from which taken.

Duration

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section; but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

Existing law

CHAPTER 853

Stats 1933, p 394, amended

An act to add Section 39.6 to the Fish and Game Code, relating to the sale of certain properties, real or personal, no longer necessary, or useful to the Fish and Game Commission.

In effect August 4, 1943

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 39.6 is added to the Fish and Game Code, to read:

Authority to dispose of specified property

39.6. The commission may grant, sell or otherwise dispose of:

(a) The Forest Home Hatchery property, consisting of seven and one-half ($7\frac{1}{2}$) acres, more or less, located in San Bernardino County, about 17 miles east of Redlands, on Mill Creek;

(b) The Fort Seward Hatchery property, consisting of forty (40) acres, more or less, located in Humboldt County, about 4 miles north of Alderpoint, on the Eel River;

(c) The Scott Creek Egg Collecting Station property, consisting of one and one-tenth (1.1) acres, more or less, located in Santa Cruz County, near the town of Davenport, on Scott Creek;

(d) The Cowhead Lake property, consisting of three hundred and fifty-nine (359) acres, more or less, located in the extreme northeastern portion of Modoc County;

(e) The Friant Bass Hatchery property, consisting of forty-four (44) acres, more or less, located in Fresno County, adjoining the town of Friant;

together with all buildings, improvements, and personal properties attached to, part of, or situated upon, such lands and premises, and which are determined by the commission to be no longer necessary to, or useful for, the purposes of the commission and which it is impractical to move, or transfer to other locations, or to other properties of the commission.

Moneys received from any grants, sales, or other disposals of any of such lands and premises, or personal properties, shall be deposited to the credit of the Fish and Game Preservation Fund. Disposition of proceeds

SEC. 2. Any grant, sale, or other disposition of any of such lands and premises, or personal properties, shall be signed, sealed, and countersigned in conformity with Section 14 of Article 5 of the Constitution of California. Sale formalities

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CHAPTER 854

An act to amend Section 1395 of the Labor Code, relating to the employment of minors in radio broadcasting and television studios. Stats 1937, p. 185, amended

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 1395 of the Labor Code is hereby amended to read as follows: Stats 1941, p 1415

1395. If the written consent of the Labor Commissioner is first obtained, or if such consent is not required for radio or television by the provisions of subdivision (e) of Section 1394, nothing in this article or Article 2 of Chapter 2 of this part shall prohibit or prevent: Employment of minors as actors, etc.

(a) The employment of any minor, in the presentation of any drama, legitimate play, or in any radio broadcasting or television studio.

(b) The employment of any minor 12 years of age or over in any other performance, concert, or entertainment.

(c) Any minor over the age of eight years from appearing in any performance, concert, or entertainment during the public school vacation.

CHAPTER 855

An act to add Section 6726.1 to, and to amend Section 6727 of, the Welfare and Institutions Code, relating to payment for family care and other needs of patients on parole from State hospitals, and declaring the urgency thereof. Stats 1937, p 1005, amended

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.] In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Section 6726.1 is hereby added to the Welfare and Institutions Code, to read as follows: New section

6726.1. The department may pay any private home, licensed by the department for the care of patients paroled from State hospitals, for the care of any patient paroled to its custody at a rate to be approved by the Department of Finance but not Payment for private home patients

exceeding thirty-five dollars ($35) per month during the time such patient shall remain on parole to such private home.

Duration

This section shall remain in effect until the ninety-first day after the final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect it shall supersede the provisions of Section 6726 which are in conflict with this section, but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

Existing law

Stats 1937, p 1005

SEC. 2. Section 6727 of the Welfare and Institutions Code is hereby amended to read as follows:

Clothing and money on discharge

6727. No patient or inmate shall be discharged or paroled from a State hospital without suitable clothing adapted to the season in which he is discharged; and, if it can not otherwise be obtained, the superintendent, under general conditions prescribed by the Department of Institutions, shall furnish the same and money, not exceeding twenty-five dollars ($25), to defray the necessary expenses of such paroled or discharged patient until he can reach his relatives or friends, or find employment to earn a subsistence.

Payments to parolees

The superintendent may, under general conditions prescribed by the Department of Institutions, furnish to patients while on parole such incidental moneys, supplies or services as are necessary and advisable in the care, supervision and rehabilitation of such paroled patients. Payments therefor shall be made from funds available for support of patients in the State hospital or hospitals from which such patients have been paroled.

Urgency

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California, and as such shall go into immediate effect.

The following is a statement of facts constituting such necessity:

The increased cost of living as produced by the war conditions has affected the program of paroling patients to private homes to an alarming degree; the rate of twenty-five dollars ($25) per month is entirely inadequate to induce private caretakers to care for paroled patients. The increased demands upon the State hospitals in these times of stress, makes it imperative that the program of paroling patients be continued in view of the impossibility of obtaining additional equipment or building new facilities during the war emergency. It is, therefore, necessary for the immediate preservation of the public health and safety that the paroled patients be placed in such private homes, and that the incidental needs involved in their care, supervision, and rehabilitation, be provided for during this period of emergency and stress.

CHAPTER 856

An act to amend Section 2160.5 of the Welfare and Institutions Code, relating to aid to the aged. Stats 1937, p 1005, amended

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 2160.5 of the Welfare and Institutions Code is amended to read: Stats 1939, p 2238

2160.5. Notwithstanding any provision of subdivision (e) of Section 2160 to the contrary, aid shall be granted to any person who is an inmate of a home or institution maintained by any fraternal, benevolent, or other nonprofit organization; (a) if the organization has not been paid for the life care and maintenance of the person through assessment of or dues of said inmate or otherwise, whether or not the person has agreed or promised to pay for his maintenance in the event that he receives any pension, bequest, devise, or other inheritance; (b) and if the home or institution has a written license or permit from the State department or from an inspection service approved or accredited by the department, in accordance with Section 2300. Aid to inmates of institution

The county from which such inmate came to such home shall, for the purposes of this section, be considered the residence of such inmate to grant such aid. Residence

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CHAPTER 857

An act to add Section 1656.5 to and to amend Section 1657 of the Insurance Code, relating to insurance. Stats. 1935, p 496, amended

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 1656.5 is hereby added to the Insurance Code, to read as follows: New section

1656.5. Documents executed by an insurer or its authorized representative appointing the applicant as its agent in this State shall be filed with the commissioner in duplicate. The commissioner shall retain one copy of the document and forward the other copy to the agent at his last known address as shown on the records of the commissioner. At any time an agent may notify the commissioner that he is no longer acting as agent for a specified insurer, and the commissioner shall thereupon cause his records to reflect that fact. Documents of agent's appointment

SEC. 2. Section 1657 of the Insurance Code is amended to read: Stats 1935, p 496

1657. In order to terminate the appointment of an agent, an insurer shall file with the commissioner in duplicate a notice Notice of termination of agency

of termination of appointment and the commissioner shall forthwith transmit a copy of such termination to the agent whose appointment is thus terminated. Upon receiving notice of the termination of the agency, from the licensee or from the licensee's principal, the commissioner shall cancel the agency appointment.

CHAPTER 858

Stats. 1933, p 60, amended

An act to amend Section 1260.15 of the Agricultural Code, relating to time of payment of grain warehouse registration fees.

In effect August 4, 1943

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

The people of the State of California do enact as follows:

Stats 1933, p. 60

SECTION 1. Section 1260.15 of the Agricultural Code is amended to read:

Registration Fee

1260.15. It shall be unlawful to operate, conduct or maintain a public warehouse for grain storage without having registered such warehouse with the director. Each warehouseman shall pay a registration fee of ten dollars ($10) for each warehouse for each fiscal year or portion thereof beginning July 1st, but in no case shall the total of registration fees for one warehouseman exceed one hundred fifty dollars ($150) in any one fiscal year. If a warehouse is licensed and bonded under the provisions of Chapter 5 of Division 6 of the Agricultural Code, the registration fee for such warehouse shall be waived. Each such licensee and warehouseman who registers one or more warehouses shall file with the director the address to which notices under this chapter shall be mailed and notices mailed to such address shall be conclusively presumed to have been received.

CHAPTER 859

Stats 1933, p 394, amended

An act to amend Sections 658 and 658.1 of the Fish and Game Code, relating to the taking of salmon.

In effect August 4, 1943

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.]

The people of the State of California do enact as follows:

Stats 1941, p 2743

SECTION 1. Section 658 of the Fish and Game Code is amended to read:

Districts 10, 11

658. In Districts 10 and 11, salmon may be taken with hook and line between May 1st and September 15th. There is no bag limit. The size limit is as provided in Section 661 of this code.

SEC. 2. Section 658.1 of the said code is amended to read: Stats 1943, Ch 597

658.1. In Districts 10 and 11, salmon may be taken with hook and line between September 16th and October 31st. The bag limit is two per day. Not more than one daily bag limit may be possessed by any person during any one day. No such salmon may be sold. Districts 10, 11

CHAPTER 860

An act to amend Sections 717.5 and 868, of the Fish and Game Code, relating to fish. Stats 1933, p 394, amended

[Approved by Governor May 28, 1943. Filed with Secretary of State May 28, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 717.5 of the Fish and Game Code is amended to read: Stats. 1935, p 1751

717.5. It is unlawful between May 1st and August 31st for any person to have in possession on any boat, barge or vessel, more than 500 pounds of yellow-tail, 500 pounds of white sea bass, per person. Between May 1st and August 31st, not more than 2,500 pounds of yellow-tail or white sea bass may be possessed on any boat, barge or vessel at any one time. Possession limit on boat

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CHAPTER 861

An act to amend Sections 11502, 11505, 11507, 11510, 11512, and 11513 of, to add Sections 11512.1, 11512.2, 11512.3, and 11516.5 to, and to repeal Section 11497 of, the Insurance Code, all relating to insurance. Stats 1935, p 496, amended

[Approved by Governor May 29, 1943. Filed with Secretary of State May 29, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 11497 of the Insurance Code is repealed. Stats 1939, p 1227

SEC. 2. Section 11502 of said code is amended to read: Stats 1941, p 1455

11502. The State Department of Public Health, before issuing its certificate authorizing any hospital within the State of California to furnish hospital services under any hospital service plan, shall cause the hospital to be inspected by an inspector appointed by the said department. The report of such inspection shall be filed with the State Department of Public Health. If the State Department of Public Health shall find after such inspection that the hospital making application to render hospital services under the hospital service plan fully complies with and possesses the standards set forth in Section 11501, it shall issue its certificate of approval upon Inspection; Report; Certificate of approval

Fee

the payment of a registration fee, not to exceed twenty-five cents ($0.25) per bed, computed upon the daily average number of beds, other than bassinets, occupied during the preceding calendar year, but in no event less than fifteen dollars ($15) per hospital.

Stats 1937, p 2437

SEC. 3. Section 11505 of said code is amended to read:

Conditions for issuance of certificate of authority

11505. The Commissioner of Insurance shall not issue his certificate of authority to any corporation proposing to establish, maintain or operate a nonprofit hospital service plan until such corporation shall have established:

(a) That the corporation has entered into contracts with hospitals in the State of California holding certificates of approval issued by the State Department of Public Health and having an aggregate bed capacity sufficient to render the services contemplated to be furnished under the hospital service plan to persons in the State of California.

(b) That the contract proposed to be entered into by such corporation with those who may become subscribers is not such as will work a fraud or injustice upon such subscribers or any person.

(c) That the rates, dues, fees or other periodic charges to be imposed upon subscribers and the fees, rates or other considerations to be paid for services rendered to subscribers, are not such as will, after providing for such legal reserves as the Insurance Commissioner may deem necessary and reasonable, result in profit to such corporation, and are such as will enable such corporation to furnish or provide the hospital services which it proposes to make available to its subscribers without impairment of the legal reserves fixed and required by the Insurance Commissioner, and without a constant depletion of the assets of such corporation.

Stats 1937, p 2437

SEC. 4. Section 11507 of said code is amended to read:

Reserve fund

11507. No corporation subject to the provisions of this chapter shall establish, maintain or operate a hospital service plan unless it shall have and at all times maintain a reserve fund equal to the following minimum amounts in relation to the number of individuals entitled to hospital benefits under contracts issued by such corporation:

Number of individuals entitled to benefits	Amount of reserve fund
2,500 or less	$10,000.00
2,501 to 3,500 inclusive	12,500.00
3,501 to 4,500 inclusive	15,000.00
4,501 to 5,500 inclusive	17,500.00
5,501 and above	20,000.00

In computing said reserve fund, the commissioner shall include the amounts agreed to be paid by contracting hospitals to the corporation or its equivalent value of hospital service to be rendered without charge by the contracting hospital to the hospital service corporation.

Contracts with California hospitals

In addition to the reserves provided for in this chapter the commissioner shall require every corporation subject to this

chapter to make, and to maintain in force, such contracts with enough hospitals in the State of California as will be adequate, in the opinion of the commissioner, to provide care for all individuals entitled to hospital benefits in the State of California under contracts issued by such corporation.

Stats 1937, p 2437 Acquisition costs

SEC. 5. Section 11510 of said code is amended to read:

11510. All acquisition costs in connection with the solicitation of subscribers to such hospital service plan shall at all times be subject to the approval of the Commissioner of Insurance, and the administrative expenses for any calendar year of any such corporation organized under this chapter, including acquisition costs, shall be limited to 25 per cent of the aggregate amount of rates, dues, fees and other periodic charges actually received during that year. If the commissioner shall find that acquisition costs of any corporation operating under the provisions of this chapter are excessive, or that the administrative expenses exceed the amount above stated, such finding shall be sufficient ground to justify the commissioner in revoking his consent to the establishment, maintenance and operation by such corporation of the hospital service plan.

Stats 1937, p 2437 See also Stats 1943, Ch 862 Hospital service contracts Required provisions

SEC. 6. Section 11512 of said code is amended to read:

11512. No hospital service contract shall be entered into between a corporation proposing to furnish or provide any one or more of the services authorized under this chapter and a subscriber:

(a) Unless the entire consideration therefor is expressed in the contract;

(b) Unless the times at which the benefits or services to the subscriber take effect and terminate are stated in a portion of the contract above the evidence of its execution;

(c) If the contract purports to entitle more than one person to benefits or services except family hospital service contracts issued under Section 11512.1 and group hospital service contracts issued under Section 11512.2;

(d) Unless every printed portion and any indorsement or attached papers is plainly printed in type of which the face is not smaller than 10 points;

(e) Except for group hospital service contracts issued under Section 11512.2, unless the exceptions of the contract are printed with greater prominence than the benefits to which they apply;

(f) Except for group hospital service contracts issued under Section 11512.2, unless, if any portion of such contract purports, by reason of the circumstances under which an illness, injury or disablement is incurred to reduce any service to less than that provided for the same illness, injury or disablement incurred under ordinary circumstances, such portion is printed in bold-face type and with greater prominence than any other text of the contract;

(g) If the contract contains any provisions purporting to make any portion of the charter, constitution or by-laws of

such nonprofit corporation a part of the contract unless such portion is set forth in full in the contract;

(h) Unless such contract for hospital service contains in black-face type not less than 10-point the following provisions:

"Nothing in this contract contained shall in any way or manner restrict or interfere with the right of any individual entitled to hospital service and care hereunder to select the contracting hospital or to make a free choice of his attending physician, who shall be the holder of a valid and unrevoked physician and surgeon's certificate and who is a member of, or acceptable to, the attending staff and board of directors of the hospital in which said hospital services are to be provided and rendered."

New section

SEC. 7. Section 11512.1 is added to said code, to read:

Family hospital service contracts

11512.1. Family hospital service contracts may be issued to a family consisting of an individual and one or more persons dependent upon him and may include his spouse whether or not dependent upon him. Such contracts shall contain a provision to the effect that to the family originally covered may be added from time to time all new members of the family group eligible for coverage and that the head of the family shall give the corporation notice of the addition to the family of any person eligible for coverage under the contracts.

New section

SEC. 8. Section 11512.2 is added to said code, to read:

Group hospital service contracts

11512.2. Group hospital service contracts may be issued in conformity with all of the following conditions:

(a) Written under a master hospital service contract,

(1) Issued either to the Federal or State Government, or to any Federal or State agency, political subdivision or district, or to any public, governmental, or municipal corporation, or to any unit, agency, or department thereof, or to any corporation, copartnership or individual employer, offering hospital services to all the employees of any such employer or to all of any class or classes thereof determined by conditions pertaining to employment and covering not less than 10 such employees or such employees together with their dependents for amounts of hospital services based upon some plan which will preclude individual selection by the employee as to the amount of hospital services he may obtain thereunder; or

(2) Issued to any association having a constitution and by-laws and formed in good faith for purposes other than that of obtaining insurance offering hospital services to all the members of such association and covering not less than 10 such members or such members together with their dependents and not less than 50 per cent of all eligible members for amounts of hospital services based upon some plan which will preclude individual selection by the member as to the amount of hospital services he may obtain thereunder. Any such master hospital service contract shall by its terms require the rates, dues, fees or other periodic charges to be paid to the corporation either by means of pay roll deduction or periodically by

some designated person acting on behalf of the association covered, and under which

(b) For delivery to each person covered under the master hospital service contract, other than dependents of an insured employee or person, there is issued to the holder of such master hospital service contract by the corporation an individual certificate setting forth the benefits and the exceptions under, and referring to, the master hospital service contract under which the certificate is issued.

SEC. 9. Section 11512.3 is added to said code, to read: New section

11512.3. Every group master hospital service contract issued under the terms of the foregoing section shall contain the following provisions: Group master hospital service contracts

(a) A provision that the contract, the application of the employer, or executive officer or trustee of any association, and the individual applications, if any, of the employees or members covered shall constitute the entire contract between the parties, and that all statements made by the employer, or the executive officer, or trustee, or by the individual employee or members shall, in the absence of fraud, be deemed representations and not warranties, and that no such statement shall be used in defense to a claim under the contract, unless it is contained in a written application;

(b) A provision that the corporation will issue to the employer or to the executive officer or trustee of the association, for delivery to each of the employees or members who are covered under such contract, an individual certificate setting forth a statement as to the hospital service to which he is entitled;

(c) A provision that to the group or class thereof originally covered shall be added from time to time all new employees of the employer or members of the association eligible to and applying for coverage in such group or class;

(d) A statement that such contract is not in lieu of and does not affect any requirement or coverage by workmen's compensation insurance;

(e) Such provisions as may be promulgated by the commissioner from time to time.

SEC. 10. Section 11513 of said code is amended to read: Stats 1937, p 2437

11513. A hospital service contract or certificate of individual coverage under a group contract shall not be issued or delivered in this State until: Filing of hospital service contracts, etc

(a) A copy of the form thereof, and, if more than one class of risk is written, of the classification of risks, and the consideration payable by the subscriber pertaining thereto are filed with the commissioner.

(b) Either:

(1) Thirty days expires without notice from the commissioner after such copy is filed, or,

(2) The commissioner gives his written approval prior to that time.

New section

Contracts with public agencies

SEC. 11. Section 11516.5 is added to said code, to read:

11516.5. Any nonprofit hospital service corporation heretofore or hereafter organized and created under the provisions of this chapter of the Insurance Code and engaged in the operation of a hospital service plan, may contract, without regard to the limitations in respect to contracts imposed by this chapter, with any agency, instrumentality or political subdivision of the United States of America or of the State of California for the furnishing of hospital service and care and, in aid or furtherance of said contract, may accept, receive and administer in trust, funds directly or indirectly made available by such agency, instrumentality or political subdivision, and further, any such nonprofit hospital service corporation may subcontract with any organization which has contracted with any agency, instrumentality or political subdivision of the United States of America or of the State of California for the furnishing of medical and hospital services, by which subcontract such hospital service corporation undertakes to furnish the hospital services required by the basic contract.

CHAPTER 862

Stats 1913, Ch 71, amended
Stats 1935, p 496, amended

An act to add Section 16424 to the Education Code and to amend Sections 10270 and 11512 of the Insurance Code and to add Section 11512.1 to the Insurance Code, all relating to the insurance of pupils of the public schools.

In effect August 4, 1943

[Approved by Governor May 29, 1943. Filed with Secretary of State May 29, 1943.]

The people of the State of California do enact as follows:

Note.—See Stats. 1943, Ch. 71.

Stats 1941, p 1158

SEC. 3. Section 10270 of the Insurance Code is amended to read:

Exemptions

10270. This chapter shall not affect workmen's compensation insurance, nor shall it apply (a) to a blanket policy issued to a volunteer fire company providing benefits to members only in event of accident incurred while performing actions incident to such membership, (b) to a blanket policy issued to a college, school, or other institution of learning or to the head or principal thereof agreeing to indemnify for loss of tuition by reason of disability of students enrolled therein, or (c) to a blanket policy issued to a school district or to the governing board of any school district providing benefits to pupils or persons responsible for their support for hospital, medical and surgical expenses resulting from accident to such pupils while they are in or on buildings or premises of the school or district during the time such pupils are required to be therein or thereon by reason of their attendance upon a college or a regular day school or any regular day school of a school district or while being transported to and from school

or other place of instruction. No pupil shall be compelled to accept such service without the consent of his parent or guardian. Such policies, however, shall not be issued until approved as to substance and form by the commissioner. The commissioner may after notice and hearing promulgate general rules as to provisions reasonably required in such blanket policies.

Stats 1943, Ch 861

SEC. 4. Section 11512 of the Insurance Code is amended to read:

Hospital service contracts Required provisions

11512. No hospital service contract shall be entered into between a corporation proposing to furnish or provide any one or more of the services authorized under this chapter and a subscriber:

(a) Unless the entire consideration therefore is expressed in the contract;

(b) Unless the times at which the benefits or services to the subscriber take effect and terminate are stated in a portion of the contract above the evidence of its execution;

(c) If the contract purports to entitle more than one person to benefits or services except family hospital service contracts issued under Section 11512.1, group hospital service contracts issued under Section 11512.2 and blanket contracts issued under Section 11512.4;

(d) Unless every printed portion and any endorsement or attached papers is plainly printed in type of which the face is not smaller than 10 points;

(e) Except for group hospital service contracts and blanket contracts issued under Section 11512.2, unless the exceptions of the contract are printed with greater prominence than the benefits to which they apply;

(f) Except for group hospital service contracts and blanket contracts issued under Section 11512.2, unless, if any portion of such contract purports, by reason of the circumstances under which an illness, injury or disablement is incurred to reduce any service to less than that provided for the same illness, injury or disablement incurred under ordinary circumstances, such portion is printed in bold-face type and with greater prominence than any other text of the contract;

(g) If the contract contains any provisions purporting to make any portion of the charter, constitution or by-laws of such nonprofit corporation a part of the contract unless such portion is set forth in full in the contract;

(h) Unless such contract for hospital service contains in black-face type not less than 10-point the following provisions:

Nothing in this contract contained shall in any way or manner restrict or interfere with the right of any individual entitled to hospital service and care hereunder to select the contracting hospital or to make a free choice of his attending physician, who shall be the holder of a valid and unrevoked physician and surgeon's certificate and who is a member of, or acceptable to, the attending staff and board of directors of the hospital in which said hospital services are to be provided and rendered.

New section

SEC. 5. Section 11512.4 is added to the Insurance Code, to read:

Contracts with schools, etc.

11512.4. Blanket hospital service contracts may be issued to a college or school or to the head or principal thereof or to the governing board of any school district providing for services to pupils of such schools when such services are required as the result of accident to such pupils while they are required to be in or on buildings or other premises of the school or district during the time they are required to be therein or thereon by reason of their attendance upon a college or regular day school or any regular day school of a school district or while being transported to and from school or other place of instruction. No pupil shall be compelled to accept such service without the consent of his parent or guardian.

CHAPTER 863

An act to amend Section 359c of the Political Code, relating to vacations of State officers and employees.

In effect August 4, 1943

[Approved by Governor May 29, 1943. Filed with Secretary of State May 29, 1943.]

The people of the State of California do enact as follows:

Stats 1937, p 415

SECTION 1. Section 359c of the Political Code is amended to read:

State employees' vacation

359c. Except as otherwise provided by law, each officer and employee of the State of California shall be entitled to a vacation of not to exceed 15 days' duration, excluding Sundays and holidays, with pay, during each year of continuous service. The time when such vacations shall be taken shall be determined by the appointing power of such officer or employee.

When a State officer or employee is transferred from one agency of the State to another, his accumulated vacation privileges shall be a charge against the agency to which he is transferred unless the agency to which he transfers requires the officer or employee to take his accumulated vacation before the effective date of such transfer.

CHAPTER 864

An act to add Section 2521.5 to the Penal Code, relating to prison employees appointed by the wardens.

In effect August 4, 1943

[Approved by Governor May 29, 1943. Filed with Secretary of State May 29, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 2521.5 is added to the Penal Code, to read:

Qualifications of officers and employees of prisons

2521.5. No person shall be appointed to any office by the wardens or be employed in the prisons on behalf of the State who is a contractor or agent, or who is interested directly or indirectly in any business carried on therein; and no male

person who is not a citizen of the United States and a resident of the State of California shall be appointed by the wardens to any office in or about the prisons, nor shall any be appointed or employed who is in the habit of intemperate use of liquors. A single act of intemperance shall justify the discharge of such officer or employee, and the warden shall discharge him. Additional qualifications may be prescribed by the board.

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect it shall supersede any provisions of Section 2521 which are in conflict with it; but such provisions are not repealed by this section and after this section is no longer effective such provisions shall have the same force as though this section had not been enacted.

Duration

Existing law

CHAPTER 865

An act to add Sections 132.5, 293.5, 296.5, 5901.5, and 5931.5 to the Elections Code, relating to absentee registration and voting of members of the armed forces of the United States, or any auxiliary branch thereof.

Stats 1939, p 49, amended

[Approved by Governor May 29, 1943. Filed with Secretary of State May 29, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 132.5 is added to the Elections Code, to read:

New section

132.5. If a person is a member of the armed forces of the United States or any auxiliary branch thereof, he may appear before any commissioned officer to make an affidavit as to his residence, in compliance with Section 132.

Affidavit of residence Member of armed forces

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section and in particular, Section 132, but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

Duration

Existing law

SEC. 2. Section 293.5 is added to said code, to read:

New section

293.5. The county clerk shall cancel the registration of any person registered who has voted at neither the preceding direct primary nor at the preceding general election unless, prior to the time he has canceled the registration, he has had written notice from the voter or a member of the voter's immediate

Registration of member of armed forces

family, or the sworn affidavit of a friend of the voter, that the voter is a member of the armed forces of the United States, or any auxiliary branch thereof, in which case he shall not cancel the registration, but it shall remain permanent unless canceled for any other cause enumerated in Section 293. If the county clerk has already canceled the affidavit of registration, then upon receipt of the proper information within 60 days after mailing the notice provided for in Section 296.5, he shall restore the affidavit of registration to the files.

Cancellation

Duration

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section and in particular, Section 293, but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

Existing law

New section

SEC. 3. Section 296.5 is added to said code, to read:

Notice of cancellation of registration re military service

296.5. When the county clerk cancels the registration of any person for failure to vote, he shall mail a notice to that person at the address given on the registration or upon the last application for transfer of registration, stating that "your registration has been canceled this day because you did not vote at either the last direct primary or general election and you will be required to register as provided by law before you shall again be entitled to vote, unless you are a member of the armed forces of the United States or any auxiliary branch thereof, and you or your immediate family, or a friend by affidavit has notified the county clerk of that fact within 60 days after date of mailing of this notice, in which case your affidavit of registration shall be restored to the file and shall remain permanent unless canceled for any other cause."

Duration

This section shall remain in effect until the ninety-first day after the final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section and in particular, Section 296, but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

Existing law

New section

SEC. 4. Section 5901.5 is added to said code, to read:

Absentee ballot: Member of armed forces

5901.5. If the voter is serving in the armed forces of the United States, or any auxiliary branch thereof, he may make his application for an absent voter's ballot at any time after being notified that he is about to leave the State or to be confined to camp, and no later than five days before the election.

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section and in particular Section 5901, but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

Duration

Existing law

SEC. 5. Section 5931.5 is added to said code, to read:

New section

5931.5. If a voter is a member of the armed forces of the United States or any auxiliary branch thereof, he may appear to mark his absent voter's ballot before any commissioned officer if he is unable, by reason of his service in the armed forces of the United States or any auxiliary branch thereof, to go to his polling place or to go before the clerk of the county, municipality or district in which he resides.

Marking ballot
Member of armed forces

This section shall remain in effect until the ninety-first day after the final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section and in particular, Section 5931, but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

Duration

Existing law

CHAPTER 866

An act to amend Sections 3824 and 3921 of the Elections Code, relating to ballots.

Stats 1939, p 49, amended

[Approved by Governor May 29, 1943. Filed with Secretary of State May 29, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 3824 of the Elections Code is amended to read:

Stats 1939, p 49

3824. The number on each ballot shall be the same as that on the corresponding stub, and the ballots and stubs shall be numbered consecutively in each county. All ballots printed by county clerks and registrars of voters, except those printed for a city and county, shall have printed immediately below the perforated line along the top of the ballot, and above the instructions to voters, in capital type at least 12 point in size the words "GENERAL BALLOT," followed by the respective number of the congressional, senatorial, and assembly district, or the name of the county in which the ballot is to be voted and the date of the election. All ballots printed by the registrar of voters of a city and county and also all ballots printed

Corresponding numbers

"General ballot"

"Municipal ballot"

by the clerk, or other officer of any incorporated city or town, shall have printed below the perforated line the words "MUNICIPAL BALLOT." All municipal ballots shall be printed upon paper of a different tint from that of the general ballot.

Stats 1909, p 49

SEC. 2. Section 3921 of said code is amended to read:

"Official primary election ballot"

"Nonpartisan ballot"

3921. Across the top of the ballot shall be printed in heavy-faced gothic capital type, not smaller than 48 point, the words: "Official primary election ballot"; except that on a nonpartisan ballot the words may be printed in gothic capital type not smaller than 24 point. Beneath this heading shall be printed in heavy-faced gothic capital type, not smaller than 24 point, the party designation if it be a party ballot; or, in the case of a ballot containing the names of no candidates except candidates for a judicial, school, county, or township office, the words "Nonpartisan ballot." Beneath the party designation of the words "Nonpartisan ballot," shall be printed the respective number of the congressional, senatorial, or assembly district or the name of the county in which the ballot is to be voted and the date of the election in black-faced type, as large as the width of the ballot makes possible. In the case of ballots to be used at any primary election held for the nomination of candidates other than those to be voted for at a presidential or a general State election, and on which the names of candidates may be printed in a single column or in two parallel columns, as the case may be, the words "Official primary election ballot" shall be printed thereon in heavy-faced gothic capital type, not smaller than 24 point. The party or nonpartisan designation shall be printed in heavy-faced gothic capital type, not smaller than 18 point. The instructions to voters shall be printed in 10 point gothic type.

District number

Type

CHAPTER 867

An act to amend Section 189 of the Code of Civil Procedure, relating to the destruction of records, files and exhibits in justice courts.

In effect August 4, 1943

[Approved by Governor May 29, 1943 Filed with Secretary of State May 29, 1943]

The people of the State of California do enact as follows:

Stats 1933, p 1806

SECTION 1. Section 189 of the Code of Civil Procedure is hereby amended to read as follows:

Destruction of court records

189. Except as hereinafter provided, all records, papers, and exhibits in any civil case and all records and papers in any criminal case in a justice's court, may be disposed of for the purpose of destruction, or may be destroyed, by the clerk of the court, or by a justice thereof, after the lapse of seven years after the date on which judgment in such case became final, or after the lapse of five years from the date of filing of

the complaint, if such case has not been prosecuted to judgment provided that in criminal cases the consent of either the district attorney or prosecuting attorney shall first be obtained. In civil cases notice must be published once in a newspaper of general circulation, published in the county in which the court is situate, at least 30 days before the proposed disposal. The notice shall be substantially as follows: Notice in civil cases

NOTICE OF INTENTION TO DESTROY RECORDS

Notice is hereby given that on _____ (date) the justice (or clerk) of the justice's court of _____ intends to dispose of the records, papers, and exhibits of all cases in which judgment became final seven years prior thereto, or which have not been prosecuted to judgment within five years prior thereto, unless a party to the case or his attorney appears in court and moves that such records, papers, and exhibits be not destroyed.

Such records, papers, and exhibits may be destroyed at any time after the effective date of this section and the cost thereof, and the cost of publication of the notice, shall be a county charge. Minute book entries, dockets and judgment dockets shall not be destroyed, and shall be and constitute for all purposes the record in lieu of the records, papers, and exhibits destroyed.

CHAPTER 868

An act to amend Sections 1 and 5a of an act entitled "The California Air Navigation Act," relating to air navigation. Stats 1929, p 1874, amended

[Approved by Governor May 29, 1943 Filed with Secretary of State May 29, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 1 of the act cited in the title hereof hereby is amended to read as follows: Stats 1941, p 3206

Section 1. (a) The term "aircraft" means any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air, except a parachute or other contrivance designed for such navigation but used primarily as safety equipment. Definitions

(b) The term "air navigation facility" includes any airport, emergency landing field, light, or other signal structure, radio directional finding facility, radio or other communication facility, and any other structure or facility used as an aid to air navigation.

(c) The term "airport" means any locality either of water or land which is adapted for the landing and taking off of aircraft and which provides facilities for shelter, supply, and repair of aircraft, or a place used regularly for receiving or discharging passengers or cargo by air.

(d) The term "airman" means any individual (including the person in command and any pilot, mechanic, or member of the crew) who engages in the navigation of aircraft while under way, and any individual who is in charge of the inspection, overhauling, or repairing of aircraft.

(e) The term "Federal license" shall mean, as the case may be, a valid, unrevoked and unsuspended aircraft license issued under the authority of the laws of the United States and the rules and regulations promulgated pursuant thereto to aircraft which have met the minimum air worthiness requirements thereof, or airman license issued under the authority of the laws of the United States and the lawful rules and regulations issued or which may be issued thereunder.

(f) The term "person" means every natural person, firm, copartnership, association or corporation.

Stats 1941, p 3206

SEC. 2 Section 5a of the act cited in the title hereof hereby is amended to read as follows:

Federal certificate of authority

Sec. 5a. It shall be unlawful for any person after the effective date of this act to operate or cause to be operated, for the transportation of passengers for hire, any aircraft between fixed termini over a route entirely within this State unless such person holds a Federal certificate of authority.

The term "Federal certificate of authority" shall mean a valid, unrevoked and unsuspended passenger air transport certificate issued under the laws of the United States pertaining to aviation and air commerce and the rules and regulations thereunder and regulating the scheduled operation of passenger air transport services.

CHAPTER 869

Stats 1913, p 769

An act to amend Section 1 of an act entitled "An act relating to cold storage, regulation of refrigerating warehouses, the disposition or sale of food kept or preserved therein, and defining the duties of the State Board of Health in relation thereto," approved June 13, 1913, relating to the cold storage of foods.

In effect August 4, 1943

[Approved by Governor May 29, 1943. Filed with Secretary of State May 29, 1943.]

The people of the State of California do enact as follows:

Stats 1915, p 601

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

"Cold storage"

Section 1 The term "cold storage" as used in this act shall be construed to mean a place artificially refrigerated to a temperature of 45 degrees Fahrenheit or below but shall not include such a place in a private home, hotel, restaurant, or exclusively retail establishment not storing articles of food for other persons. The term "cold stored" as used in this act shall be construed to mean the keeping of "articles of

"Cold stored"

food," in "cold storage" for a period exceeding 30 days. The term "articles of food" as used in this act shall be construed to mean all articles of food used for human consumption and shall include fresh meat and fresh meat products (except in process of manufacture), fresh and dried fruit and vegetables, fish, shellfish, game, poultry, eggs, butter and cheese but this act shall not apply to a brewery or malt beverages. The term "storer" as used in this act shall be construed to mean the person or persons who offer articles of food for cold storage.

CHAPTER 870

An act to amend Sections 1181, 1380, 1381, 1383, 1386, 1387, 1392, and 1410 of, and to add Sections 1384.5, 1385.5, 1387.5 and 1392.5 to, the Fish and Game Code, relating to fish and game.

Stats. 1933, p. 394, amended

[Approved by Governor May 29, 1943. Filed with Secretary of State May 29, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 1181 of the Fish and Game Code is amended to read:

Stats 1933, p 394

1181. Pheasants may be domestically raised or imported alive, and such pheasants may be killed and sold or disposed of at any time.

Pheasants

Any person importing into this State live pheasants must be licensed as a game breeder under Section 1380 of this code.

SEC. 2. Section 1380 of this code is amended to read:

Stats 1933, p 394

1380. Any person engaged in raising and/or selling and/or importing and any person who harbors in this State domesticated game birds or mammals must within 30 days after the acquisition thereof procure a breeder's license, except that no breeder's license shall be required of persons designated in Sections 1392 and 1392.5 of this code.

Breeder's license

SEC. 3. Section 1381 of the said code is amended to read:

Stats 1933, p 394

1381. The commission shall issue a breeder's license upon the payment of a fee of five dollars ($5).

Fee

SEC. 4. Section 1383 of the said code is amended to read:

Stats 1933, p 394

1383. No domesticated game shall be transported or sold dead unless each quarter and each loin of the carcass of each deer and the carcass of each bird or small mammal is tagged with a tag or seal supplied or approved by the commission. Said tag or seal shall not be removed until such quarter or loin or carcass is consumed. No tag so affixed shall be used again No tag or seal shall be sold by the commission to anyone other than a person duly licensed under Section 1380 of this code.

Tags

New section
Game birds
Sale

SEC. 5. Section 1384.5 is added to the said code, to read:

1384.5. No game bird except domesticated game birds taken under the provisions of this code in any open season shall be sold. Only domesticated game birds as defined in this article are subject to sale in this State.

New section
Presumption

SEC. 6. Section 1385.5 is added to said code, to read:

1385.5. The carcass of a game bird which shows that it has been killed by shooting shall constitute prima facie evidence that it was not a domesticated game bird. The fact that said bird had been tagged in accordance with Section 1384 of this code shall not alter this presumption.

Stats 1933, p 394
Report

SEC. 7. Section 1386 of the said code is amended to read:

1386. Every person other than a person duly licensed under Section 1380 of this code who affixes a tag to the carcass of a game bird or mammal shall, within five days thereafter, make and file with the commission a written report thereof, stating the name of the person by whom such game bird or mammal was bred or raised and killed, the number of each species killed, and the names of the purchasers or consignees.

Stats 1933, p 394
Report

SEC. 8. Section 1387 of the said code is amended to read:

1387. On or before January 31st of each year, every person to whom a breeder's license has been issued shall report to the department on a form provided by the commission the total number of each species of game birds and mammals killed, sold or shipped during the preceding year, the names of the persons to whom such game birds or mammals were sold or shipped, the name of the person in whose presence such game birds or mammals were tagged, and a complete list of the game birds and mammals held in his possession at the time the report is made. Such report shall be verified by the affidavit of the licensee.

New section
Report

SEC. 9. Section 1387.5 is added to the said code, to read:

1387.5. Every licensee under Section 1380 of this code shall make a written report to the commission, on a form supplied or approved by the commission, of every sale, gift or exchange of any game birds or the eggs thereof and of every mammal, within 30 days of any such sale, gift or exchange. Such report shall contain a statement of the number and species of the game bird, or eggs or mammal so sold, given or exchanged and the name of the person to whom sold, given or exchanged, and the date thereof and shall be signed by the licensee.

Stats 1933, p 1177
Retail sales
Restaurants, etc

SEC. 10. Section 1392 of the said code is amended to read:

1392. The keeper of a hotel, restaurant, or boarding house, or a club, may sell portions of a quarter or loin of any such deer, or the carcass of any such game bird or mammal to a patron for actual consumption on the premises only and no license shall be required of such keeper or club. All keepers of hotels, restaurants, or boarding houses, or clubs who sell any such game for consumption to a patron shall be required to submit to inspection of their premises by the commission

Inspection

and shall display for such inspection any carcass or parts thereof held in storage for sale as aforesaid. All such game shall be tagged under Section 1383 of this code. Tags

SEC. 11. Section 1392.5 is added to the said code, to read: New section

1392.5. A retail meat dealer may sell portions of a quarter or loin of any such deer or the carcass of any such game bird or mammal to a customer for actual consumption and no license shall be required therefor. Such retail dealers shall submit their premises to inspection by the commission and shall display at any such authorized inspection any carcass or parts thereof held by them in storage. Such game meat or carcasses shall be tagged under Section 1383 of this code. Sales by retail dealers

SEC. 12. Section 1410 of the said code is amended to read: Stats 1933, p 394

1410. The commission of any act declared by this code to be unlawful, or the violation of any provision of this code or of any rule or regulation made thereunder, unless otherwise provided herein, is a misdemeanor, and is punishable by a fine of not more than five hundred dollars ($500) or by imprisonment in the county jail for not to exceed six months, or by both, except that for any violation of: Fines and penalties

A. (1) Division 3;

(2) Chapter 2 of Part 1 of Division 4;

(3) The following portions of Part 2 of Division 4:

(a) Article 1 (except Sections 480, 481) and Article 3 of Chapter 1;

(b) Chapters 2 and 3;

(c) Articles 1 and 3 of Chapter 5;

(4) The following portions of Part 3 of Division 4:

(a) Chapters 1 and 2; and

(b) Articles 3, 5, 6 and 7 of Chapter 3; the minimum penalty is a fine of twenty-five dollars ($25) or imprisonment in the county jail for 10 days.

(c) Article 8 of Chapter 3; the minimum penalty is a fine of fifty dollars ($50) or imprisonment in the county jail for 10 days.

B. Article 2 of Chapter 3 of Part 3 of Division 4, except provisions relating to elk, the minimum penalty is a fine of fifty dollars ($50) or imprisonment in the county jail for 10 days.

C. (1) Chapter 1 of Part 1 of Division 4;

(2) Article 4 of Chapter 3 of Part 3 of Division 4; the minimum penalty is a fine of ten dollars ($10) or imprisonment in the county jail for five days.

D. (1) Sections 480 and 481, and Article 2 of Chapter 1 of Part 2 of Division 4;

(2) Chapter 4, and Articles 2, 4, and 5 of Chapter 5 of Part 2 of Division 4; the minimum penalty is a fine of one hundred dollars ($100) or imprisonment in the county jail for 25 days.

CHAPTER 871

An act to add Section 79.03a to, and to amend Sections 79.03, 79.04 and 79.05 of the Civil Code, all relating to premarital examinations.

In effect August 4, 1943

[Approved by Governor May 29, 1943 Filed with Secretary of State May 29, 1943.]

The people of the State of California do enact as follows:

Stats 1943, Ch 214

SECTION 1. Section 79.03 of the Civil Code is amended to read:

"Certificate form"

79.03. Except as hereinafter provided, the certificate of a physician and the statement from a person in charge of a laboratory or from a person authorized to make reports for the laboratory shall be on a form to be provided and distributed by the California State Department of Public Health to laboratories in the State approved by the California State Department of Public Health. This form is hereinafter referred to in this article as "the certificate form."

New section

SEC. 2. Section 79.03a is added to the Civil Code, to read:

Certificate forms from other States

79.03a. Certificate forms provided by other States having comparable laws will be accepted for persons who have been examined and who have received serological tests for syphilis outside of California provided such examinations and tests are performed not more than 30 days prior to the issuance of a marriage license. Certificates provided by the United States Army or Navy will be accepted for military personnel provided such certificates are signed by a medical officer commissioned in the United States Army or Navy and provided the certificates state the examinations and serological tests for syphilis were performed not more than 30 days prior to the issuance of the marriage license.

Stats 1943, Ch 214

SEC. 3. Section 79.04 of the Civil Code is amended to read:

"Standard serological test"

79.04. For the purpose of this act a standard serological test shall be a test for syphilis approved by the California State Department of Public Health and an approved laboratory shall be the laboratory of the California State Department of Public Health or a laboratory approved by the California State Department of Public Health or any other laboratory the director of which is licensed by said State Department of Public Health according to law. In case of question concerning accuracy of tests prescribed in this article, it shall be mandatory upon the State Department of Public Health to accept specimens for checking purposes from any district in the State.

Stats. 1943, Ch 214

SEC. 4. Section 79.05 of the Civil Code is amended to read:

Laboratory reports

79.05. The California State Department of Public Health shall issue a "Laboratory Report Form" to be distributed upon application to all laboratories approved to do tests called for in this article. Any laboratory doing tests called for in this article shall prepare the report in triplicate. The original

of this report shall be transmitted by the laboratory doing such test together with the certificate form to the certifying physician. The duplicate reports shall be forwarded at weekly intervals to the California State Department of Public Health. The triplicate shall be retained by the laboratory on file for five years and shall be open during that time for inspection by any authorized representative of the California State Department of Public Health.

CHAPTER 872

An act to add Sections 838.5, 1710, 1691.3, 1831.6, 1831.7, 1831.8, and 1831.9 to the Insurance Code, to add Article 18, comprising Sections 1110 to 1113, inclusive, to Chapter 1, Part 2, Division 1, thereof, and to amend Sections 382, 763, 1200, 1202, 1591, 1808 and 1831.5, and to repeal Section 1710 of the Insurance Code, all relating to insurance.

Stats 1935, p 496, amended

[Approved by Governor May 29, 1943. Filed with Secretary of State May 29, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 1710 of the Insurance Code is repealed.

Stats 1939, p 1803

SEC. 2. Section 1710 is added to said code, to read:

New section

1710. The commissioner shall conduct or arrange for written qualification examinations to be given at least four times a year at such places as the commissioner may determine, upon questions prepared by him as to the qualifications of applicants to act as life agents.

Written qualification examinations

Stats 1935, p 496

SEC. 3. Section 382 of said code is amended to read:

382. Covering notes may be issued to bind insurance temporarily pending the issuance of the policy. Within 90 days after issue of a covering note a policy shall be issued in lieu thereof, including within its terms the identical insurance bound under the covering note and premium therefor.

Covering notes

Covering notes may be extended or renewed beyond such 90 days with the written approval of the commissioner if the commissioner determines that such extension is not contrary to and is not for the purpose of violating any provision of this code. The commissioner may promulgate rules and regulations governing such extensions for the purpose of preventing such violations and may by such rules and regulations dispense with the requirement of written approval by him in the case of extensions in compliance with such rules and regulations.

Renewals

SEC. 4. Section 838.5 is added to said code, to read:

New section

838.5. Pursuant to this code, the commissioner has been and is authorized, in the instance of an application for a permit to issue securities in exchange for one or more bona fide outstanding securities, claims or property interest, or partly in such exchange and partly for cash, to approve the terms and conditions of such issuance and exchange and the fairness of such

Permit for issuance of securities, etc

terms and conditions, after a hearing upon the fairness of such terms and conditions, to which all persons to whom it is proposed to issue securities in such exchange shall have the right to appear.

New article

SEC. 5. Article 18, comprising Sections 1110 to 1113, inclusive, is added to Chapter 1, Part 2, Division 1, of said code, to read:

Article 18. Multiple Insurer Operations

Application of article

1110. This article does not apply to combination automobile insurance policies in which one insurer issues a policy covering certain classes of insurance on a risk, and another insurer covers certain other classes of insurance on the same risk. This article applies to:

(a) The issuance of a policy in which more than one insurer indemnifies the insured severally, jointly, or jointly and severally with other insurers for all or a specified portion of a risk.

(b) The issuance of a policy which is subject to an automatic reinsurance agreement under which several insurers participate with the insurer or insurers issuing the policy to the same extent as though they were primary insurers, and the contract is negotiated upon the basis of such reinsurance and the policy makes reference to the fact of such reinsurance.

(c) Policies issued pursuant to a plan providing for the allocation among various insurers of risks who have been unable to procure such insurance without resort to the plan.

Statement of plan

1111. Insurers desiring to issue policies to which this article is applicable, and to pay commissions to persons who are licensed as insurance agents, but not as agents for all insurers participating in the risk, and who are not licensed as insurance brokers, may file with the commissioner in such form as he may require, a statement of the plan under which they intend to operate, and a list of the insurers that will operate under the plan.

Permit

If the commissioner finds that the nature of the plan is not such that the interests of the insuring public will be jeopardized by permitting an agent of one or more of the insurers to act in a transaction with or for all the insurers, or for the particular insurer paying the commission without being licensed as agent for such insurer or as an insurance broker, he may issue a permit authorizing the operation of the plan by or on behalf of the insurers listed in the application, and the payment of commissions pursuant to the plan as approved by the commissioner shall be lawful.

Notice of change in plan

1112. Within 10 days after the withdrawal of an insurer from the plan or from the time additional insurers participate in the plan, notice of the change shall be given the commissioner in writing, and unless such notice is so given, the permit theretofore issued by the commissioner shall expire on the tenth day after such change. Unless the permit expires as provided in the preceding sentence, it shall remain in force continuously unless the commissioner after hearing finds that

the insurers have deviated materially from the plan, and that it is against public interest to continue its operation.

1113. For filing application for a permit issued pursuant to this article, the commissioner shall charge and collect the sum of twenty-five dollars ($25). Fee

SEC. 6. Section 763 of said code is amended to read: Stats 1937, p 2042

763. The following acts are not unlawful rebates: Permitted rebates

(a) The return by an insurer issuing policies on a participating plan, or any portion of the premium as a dividend after the expiration of the term covered by such policy.

(b) The payment of commission by any insurer, or insurance agent, broker or solicitor, to another insurer, or insurance agent, broker or solicitor, upon insurance lawfully transacted in that capacity.

(c) The allowance by any marine insurer, or marine insurance agent, broker, or solicitor to any insured, of such usual discount as is sanctioned by custom among marine insurers as being additional to the agent's or broker's commission.

(d) The paying by an insurer to another insurer, or to an insurance agent, broker, or solicitor, of a commission in respect to a policy under which the payee is insured, or the receiving by such payee of such commission.

(e) The paying by an insurer of bonuses to policyholders on nonparticipating life insurance or otherwise abating their premiums, in whole or in part, out of surplus accumulated from nonparticipating insurance.

(f) The return as a dividend by a life insurer of any portion of the premium on policies issued on a participating plan at any time.

(g) The return, by an insurer transacting industrial insurance on a weekly payment plan, to policyholders who have made premium payments for a period of at least one year directly to the insurer at its home or district office, of a percentage of the premium which the insurer would have paid for the weekly collection of such premiums.

(h) The paying by any life insurer, or the receiving by life insurance policyholders of special compensations, or the allowing and receiving of credits already agreed upon in life insurance contracts now in force.

(i) The payment by an insurer of any portion of life insurance premiums payable by its employees pursuant to a life insurance program under which 75 per cent or more of its employees are required to carry life insurance on their lives so long as they remain in the employment of insurer.

(j) The payment or allowance of a fee or commission by one surety insurer to another surety insurer in respect to a risk on which both are cosureties.

SEC. 7. Section 1200 of said code is amended to read: Stats 1935, p. 496

1200. An excess funds investment shall not be made unless authorized or approved by the directors of the investor or by a committee thereof charged with the duty of supervising or making such investment. Such authorization or approval shall Approval of excess funds investments

be entered upon the records or minutes of the investor and, if made upon authority of such a committee a report shall be submitted to the directors at their next meeting.

Stats 1935, p 496

SEC. 8. Section 1202 of said code is amended to read:

Disposal of investments made

1202. The commissioner may, in his discretion and after hearing, by written order require the disposal of any investments made in violation of the provisions of this article, pending which disposal pursuant to such order no value shall be allowed for such investment in any statement, required by any provision of this code, purporting to show the financial condition of the owner thereof, or in measuring the financial condition of the owner thereof for the purpose of determining whether such owner is solvent or insolvent. The commissioner may also, for good cause, require the disposal of any excess funds investments.

Stats 1941, p 677

SEC. 9. Section 1591 of said code is amended to read:

Statement of condition Admitted alien insurer

1591. In addition to complying with all other applicable requirements of this code, every admitted alien insurer shall on or before the first day of March in each year after the year 1941, file with the commissioner a statement on a form prescribed by him, showing as of the thirty-first day of December then next preceding, the following information:

(a) All of its assets within the United States on deposit with officers of any State thereof for the benefit and security of all the policyholders, or of all the policyholders and creditors, of such alien insurer within the United States. Such assets so deposited are designated "general State deposits."

(b) All of its assets within the United States, other than general State deposits, on deposit with officers of any State thereof for the benefit and security of all or, as the case may be, certain classes of, the policyholders, or policyholders and creditors, of such alien insurer within the State of deposit. Such assets so deposited are designated "special State deposits." The value to be allowed in such statement for any special State deposit shall not exceed the liability secured thereby.

(c) All of its assets within the United States, other than general State deposits and special State deposits, held by any trustee for the benefit and security of all the policyholders, or of all the policyholders and creditors, of such alien insurer within the United States. Such assets so held are designated "trusteed assets."

(d) The amount of interest receivable, accrued at the date of such statement on the general State deposits, the special State deposits, and the trusteed assets of such alien insurer, if such interest is collectible by the State or trustee.

(e) All of the reserves and other liabilities of such alien insurer in the United States arising out of policies or obligations issued, assumed or incurred by it. Said reserves and other liabilities are designated as "liabilities in the United States."

For the purpose of determining the liabilities in the United States of such alien insurer there may be deducted: Determination of liabilities in U S

(1) From the amount of such liabilities for unpaid losses, the amount, included therein, of reinsurance recoverable thereon from insurers authorized to do business in any State in which such alien insurer is authorized to do business.

(2) From the amount of such liabilities for unearned premiums, first, the unearned portion, included in such amount, of premiums receivable by such alien insurer from its agents or policyholders under policies issued by it in the United States and not more than 90 days past due on the date of such statement, and second, the unearned portion, included in such amount, of reinsurance premiums receivable by such alien insurer from other insurers authorized to do business in any State in which such alien insurer is authorized to do business.

(3) Those liabilities in the United States, pertaining to any asset in the United States of such alien insurer, other than the assets described in subdivisions (a), (b), (c) and (d), but such deduction shall in no case exceed that portion of the value of such asset which is applicable to the liability pertaining thereto.

(4) If such alien insurer is a life insurer, the amount of the unpaid principal and interest of any loan made by it to the holder of, and solely on the security of, any policy of life insurance issued or assumed by it, on the life of any person in the United States. Such amount shall in no case exceed the amount of the reserve required to be maintained on such policy by such insurer. Such amount is designated as "policy loans in the United States."

(f) Such further information required by the commissioner, as he deems necessary to apply the provisions of this article.

Stats. 1939, p. 1693

SEC. 10. Section 1808 of said code is amended to read:

Renewal of licenses

1808. (a) Unless sooner suspended, revoked, or terminated, the license of every bail agent, permittee, or solicitor expires June 30th of each year unless application for renewal is filed as provided in subdivision (b).

(b) Application for renewal of such license may be filed on or before June 3d, upon payment of the renewal fee.

(c) Such license may be renewed upon application filed between June 3d and June 30th upon payment of the renewal fee plus an additional fee equal to the renewal fee.

(d) The commissioner shall mail notice for forfeiture of renewal rights not later than June 20th, to:

(1) The licensee.

(2) The employing bail agent or permittee, if any.

(3) The appointing insurers, if any.

Failure to mail such notice shall not continue the right of renewal.

(e) Such license shall not be renewed after June 30th, but the person may make application for a new license as provided in this code, and shall take and pass the qualifying examination.

New section
Travel insurance agent
Dispensing with separate renewal applications

SEC. 11. Section 1691.3 is added to said code, to read:

1691.3. In lieu of requiring separate applications for renewal of license to act as travel insurance agent, the commissioner may dispense with such separate applications if on or before the third day of June of any year there is filed a request for renewal of such license for the ensuing year by the insurer for whom the agent is appointed to act. Such request may include the names of all or a portion of the travel insurance agents of such insurer. The fee for filing such request shall be one dollar ($1) for each name included in the request. If individual applications for renewal are not filed as required by Article 1 of this chapter, and if application is not filed as required by this section, the penalties provided by such Article 1 shall be applicable. The commissioner may make reasonable rules and regulations necessary for the convenient administration of the provisions of this code respecting the licensing and renewal of licenses of travel insurance agents.

Stats 1941, p 437
Licensees in armed forces

SEC. 12. Section 1831.5 of said code is amended to read:

1831.5. Any natural person who while licensed under Chapters 5, 6 or 7 of this part, or under Part 5 of Division 2, has heretofore entered or enters the military service of the United States may at any time prior to the termination of the license period during which his period of military service terminates, or if his period of military service terminates during the last six months of a license period at any time within six months after the termination of such service, secure licenses of the type held by him on his entry into military service upon the filing of an application and paying the fee therefor without the necessity of taking any examination or paying any penalty. During such period all licenses held by such person shall remain in full force and effect.

The commissioner may issue a certificate of convenience to a person designated by such person for the purpose of conserving his insurance business during such period.

New section
Firm licensee in armed forces

SEC. 13. Section 1831.6 is added to said code, to read:

1831.6. Any natural person who while pursuant to Section 1645 is named to exercise the powers and perform the duties of a copartnership, association, or corporation agency or brokership, or while licensed as one of the coholders of a firm license under Section 1703.92, has heretofore entered or enters the military service of the United States may at any time prior to the termination of the license period during which his period of military service terminates, or if his period of military service terminates during the last six months of a license period, at any time within six months of the termination of such service, secure licenses of the type under which he was named, or which he as one of the persons on the firm license held, at the time of his entry into military service, upon the filing of an application and paying the fee therefor without the necessity of taking any examination or paying any penalty.

SEC. 14. Section 1831.7 is added to said code, to read: New section

1831.7. In the event that the natural person entering military service is the only one designated to exercise the agency or brokerage powers under a copartnership, association or corporation license, the commissioner may issue a certificate of convenience to the copartnership, association or corporation which shall stay in force only for the time necessary to qualify another person to exercise such powers, in no event to exceed six months. Certificate of convenience

SEC. 15. Section 1831.8 is added to said code, to read: New section

1831.8. In the event that the natural person who is a joint holder of a firm license enters military service and the copartnership, association or corporation jointly named with him has no firm licenses jointly with another person, a certificate of convenience may be issued to such copartnership, association or corporation, and any other natural person specified in Insurance Code Section 1703.92 (b) for the purpose of permitting such other person to qualify as a life agent, and in no event operative for a period extending beyond six months. Certificate of convenience

SEC. 16. Section 1831.9 is added to said code, to read: New section

1831.9. All certificates of convenience referred to in this chapter shall be renewed in the same manner and subject to the same conditions as the permanent licenses for which they are a substitute. Renewal of certificate of convenience

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CHAPTER 873

An act to repeal Sections 834 and 835 of, and to add Section 833.5 to, the Welfare and Institutions Code, relating to proceedings in the juvenile court with respect to persons over the age of 18 years and under the age of 21 years. Stats 1937, p 1005, amended

[Approved by Governor May 29, 1943. Filed with Secretary of State May 29, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 834 of the Welfare and Institutions Code is hereby repealed. Stats 1943, Ch 481

SEC. 2. Section 835 of the Welfare and Institutions Code is hereby repealed. Stats 1943, Ch 481

SEC. 3. Section 833.5 is hereby added to the Welfare and Institutions Code, to read as follows: New section

833.5. Any court having jurisdiction in criminal matters may, at any stage of a criminal proceeding in relation to a person over the age of 18 years and under the age of 21 years, suspend proceedings as to such person and certify the matter to the juvenile court of the county in which such criminal court is located. Such certification shall constitute for all purposes a filing of a petition in the juvenile court under the provisions of Section 720 of the Welfare and Institutions Code, Transfer from criminal to juvenile court

and in particular a petition alleging that the minor certified is a person who comes within the description of subdivision (m) of Section 700 of the Welfare and Institutions Code.

If the juvenile court, on hearing said petition, does not declare the minor person therein named to be unfit for consideration under the juvenile court law and remand him for trial under the provisions of the general law, then all proceedings theretofore had in the certifying court shall be construed to be proceedings under the provisions of the juvenile court law and shall not constitute criminal proceedings of any nature against such minor person.

CHAPTER 874

Stats 1939, p 1274, amended

An act to amend Sections 7, 7305, 7306, 7307, 7308, 7351, 7352, 7353, 7401, 7454, 7457, 7481, 7485, 7493, 7507, 7508, 7651, 7652, 7701, 7702, 7703, 7704, 7727, 7728, 7729, 7730, 7871, 7891, 7892, 7895, 7934, 7935, 7981, 8101, 8191, 8253, 8303, 8304, 8306, 8403, and 50007 of the Revenue and Taxation Code, to add Sections 28, 7407, 7655, 7660, 7661, 7662, 7663, 7698, 7699, 7700, 7706, 8193, 8194, to amend the headings of Articles 1, 2, and 3 of Chapter 5 of Part 2 of Division 2, and of Article 5 of Chapter 7 of said part, to add Article 2.5 consisting of Sections 7670 to 7675, inclusive, and Article 3 5 consisting of Sections 7710 to 7716, inclusive, to Chapter 5 of said part, and to repeal Sections 7653, 7654, 7676, 7677, and 7678 of said code, relating to the scope of, returns under, payments under, administration of, and collection of the motor vehicle fuel license tax, and providing that this act shall take effect immediately.

In effect immediately

[Approved by Governor May 29, 1943. Filed with Secretary of State May 29, 1943.]

The people of the State of California do enact as follows:

Stats 1939, p 1274

SECTION 1. Section 7 of the Revenue and Taxation Code is hereby amended to read as follows:

Delegation of power

7. Whenever a power is granted to, or a duty imposed on, any person or board by any provision of this code, it may be exercised or performed by any deputy or person authorized by the person or board to whom the power is granted or on whom the duty is imposed, unless it is expressly provided that the power or duty shall be exercised or performed only by the person or board to whom the power is granted or on whom the duty is imposed.

Stats 1941, p 2414

SEC. 2. Section 7305 of the Revenue and Taxation Code is hereby amended to read as follows:

"Distribution"

7305. "Distribution" includes any of the following:

(a) The refining, manufacturing, producing, blending, or compounding of motor vehicle fuel in this State, and the sale,

donation, consignment for sale, barter, or use of the fuel in this State.

(b) The importing of motor vehicle fuel into this State, and the sale, donation, consignment for sale, barter, or use of the fuel in this State unless the State is prohibited by the Constitution or laws of the United States from imposing a tax with respect to such sale, donation, consignment of sale, barter or use.

(c) The receiving in this State of motor vehicle fuel with respect to which there has been no prior taxable distribution and the sale, donation, consignment for sale, barter, or use of the fuel in this State.

SEC. 3. Section 7306 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p. 558

7306. "Distributor" includes every person who, within the meaning of the term "distribution" as defined in this chapter, distributes motor vehicle fuel and also includes every person who refines, manufactures, produces, blends or compounds motor vehicle fuel in this State and every person who imports motor vehicle fuel into this State or who receives in this State motor vehicle fuel of which there has been no prior taxable distribution. "Distributor"

SEC. 4. Section 7307 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 558

7307. "Producer" includes every person, other than a distributor, engaged in the business of producing or manufacturing kerosene distillate, kerosene, Diesel fuel, gas oil, stove oil, distillate or any other petroleum product used in, or which may be used in, the blending, compounding, or manufacturing of motor vehicle fuel. "Producer" does not include a person whose business with respect to petroleum products is confined to the production, purchase or sale of crude oil which it is necessary to refine before it may be used in such blending, compounding, or manufacturing. "Producer"

SEC. 5. Section 7308 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 558

7308. "Broker" includes every person, other than a distributor, dealing, either as the owner or as the agent of another, in motor vehicle fuel, kerosene distillate, kerosene, Diesel fuel, gas oil, stove oil, distillate or any other petroleum product used in, or which may be used in, the blending, compounding, or manufacturing of motor vehicle fuel. "Broker" does not include anyone dealing in such fuel or product only in quantities of less than 200 gallons nor a person whose business with respect to petroleum products is confined to the dealing in crude oil which it is necessary to refine before it may be used in such blending, compounding, or manufacturing. "Broker"

SEC. 6. Section 7351 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 558

7351. For the privilege of distributing motor vehicle fuel a license tax is hereby imposed upon distributors at the rate Levy of tax Rate

of three cents ($0.03) for each gallon of fuel distributed by them in this State.

Stats 1941, p 558

SEC. 7. Section 7352 of the Revenue and Taxation Code is hereby amended to read as follows:

Presumption

7352. For the purpose of the proper administration of this part and to prevent evasion of the license tax, unless the contrary is established, it shall be presumed that all motor vehicle fuel refined, manufactured, produced, blended, or compounded in this State or imported into this State and no longer in the possession of the distributor has been distributed. This presumption can not be overcome by proof that the motor vehicle fuel has been converted to his own use by any person to whom the distributor has entrusted the control or possession of the fuel either as bailee, consignee, employee, or agent.

Stats 1941, p 558

SEC. 8. Section 7353 of the Revenue and Taxation Code is hereby amended to read as follows:

Fuel remaining after license canceled

7353. Upon revocation or cancellation of the license of the distributor or his cessation of business, all motor vehicle fuel remaining in his possession or ownership shall be deemed distributed and subject to jeopardy assessment as provided in Section 7698 if, in the judgment of the board, this is necessary to insure payment of the tax with respect to distribution of such fuel.

Stats 1941, p 558

SEC. 9. Section 7401 of the Revenue and Taxation Code is hereby amended to read as follows:

Exempt transactions

7401. The provisions of this part requiring the payment of license taxes do not apply to any of the following:

(a) Natural gasoline sold to a duly licensed distributor under such regulations as the board may prescribe.

(b) Motor vehicle fuel exported from this State by the distributor or delivered by the distributor to any vessel clearing from a port of this State for a port outside of this State and actually exported from this State in the vessel.

(c) Motor vehicle fuel sold for the exclusive use of the United States to the United States or any agency or any instrumentality thereof, but this exemption shall not apply to any corporate agency or corporate instrumentality unless wholly owned by the United States or by a corporation wholly owned by the United States.

(d) Motor vehicle fuel sold to, or exchanged with, a distributor who has furnished bond and security in the maximum amount prescribed by Section 7454 and who has established to the satisfaction of the board that this bond, together with property to which the lien imposed by Section 7871 attaches, is sufficient security to assure payment of all license taxes as they may become due to the State from him under this part.

Every distributor claiming an exemption shall report the exports or sales to the board in such detail as the board may require; otherwise the exemption granted in this section shall be null and void and all the fuel shall be considered distributed in this State subject fully to the provisions of this part.

SEC. 10. Section 7454 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p. 558

7454. Subject to the limitations provided in this section, the board shall fix the total amount of the bond or bonds required of any distributor and may increase or reduce the amount at any time. In fixing the total amount of the bond or bonds required, the board shall require a bond or bonds equivalent in total amount to twice the distributor's estimated monthly license tax ascertained in such manner as the board may deem proper. If any distributor be required to pay his license tax weekly as provided in Section 7701, the board shall fix the bond or bonds required of him in a total amount equivalent to twice the license tax accruing on account of his estimated weekly distributions ascertained in such manner as the board deems proper. The total amount of the bond or bonds required of any distributor shall never be less than one thousand dollars ($1,000) nor more than one hundred thousand dollars ($100,000). Amount of bond

SEC. 11. Section 7457 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 558

7457. The license issued to any distributor is not transferable and is valid until canceled or revoked. License non-transferable

SEC. 12. Section 7481 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 2414

7481. Every person before becoming a producer or broker shall apply for a license on forms prescribed by the board. Each application shall be accompanied by a license fee of ten dollars ($10) payable to the board. It is unlawful for any person to be a producer or broker without first securing a license. Application for license

SEC. 13. Section 7485 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 558

7485. If any person shall become a producer or broker without first securing a license or if any producer or broker fails to apply for the license required and to pay the fee specified prior to January 1st of each year, a penalty of 25 per cent of the fee shall be added thereto on account of the delinquency. Penalty

SEC. 14. Section 7493 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 2414

7493. The notice may be served personally or by mail. If by mail, service shall be made pursuant to Section 1013 of the Code of Civil Procedure and shall be addressed to the applicant at his address as it appears in the records of the board, but the service shall be deemed complete at the time of the deposit of the notice in the mail without extension of time on account of the distance between the place of deposit and the place of address. Service of notice

SEC. 15. Section 7507 of the Revenue and Taxation Code is hereby amended to read as follows: Stats. 1941, p 558

7507. Before revoking any license the board shall notify the licensee to show cause within 10 days after the notice is Notice

given, why his license should not be revoked. The notice may be served as prescribed by Section 7493.

Stats 1941, p 558

SEC. 16. Section 7508 of the Revenue and Taxation Code is hereby amended to read as follows:

Cancellation: Hearing

7508. The board may cancel any license issued under this part immediately upon surrender thereof but before revoking a license the board shall allow the distributor, producer, or broker an opportunity to show cause as provided in Section 7507.

Stats 1941, p 2414

SEC. 17. Section 7651 of the Revenue and Taxation Code is hereby amended to read as follows:

Monthly return

7651. Each distributor shall prepare and file with the board on forms prescribed by the board a return verified by oath showing the total number of gallons of motor vehicle fuel distributed by him within this State during each calendar month, or such monthly period ended during that calendar month as the board may authorize, the amount of license tax due for the month covered by the return, and such other information as the board deems necessary for the proper administration of this part. The distributor shall file the return on or before the first day of the second calendar month following the monthly period to which it relates, together with a remittance payable to the Controller for the amount of license tax due for that period less whatever amounts may have been paid theretofore for the same period because of returns and payments made on a weekly basis.

Stats 1941, p 558

SEC. 18. Section 7652 of the Revenue and Taxation Code is hereby amended to read as follows:

Fuel not sold for exclusive use of U S

7652. Whenever the exemption for which provision is made in Section 7401 is inapplicable because the motor vehicle fuel is not sold for the exclusive use of the United States, the license tax shall be payable with respect to these distributions in such manner and at such time as the laws of the United States may provide. These distributions may be excluded from taxable distributions in the returns of distributors filed under Section 7651, but when the license tax is paid with respect thereto shall be credited to the accounts of the distributors from whom the motor vehicle fuel was obtained and offsetting additional determinations of license tax in like amount against these distributors shall be made by the board. These determinations shall not include any penalties or interest.

Stats 1941, p 558

SEC. 19. Section 7701 of the Revenue and Taxation Code is hereby amended to read as follows:

Weekly returns and payments

7701. If the board deems such procedure necessary in order to insure payment to the State of the amount of license taxes due from any distributor under this part, it may require him to make returns and payments of his license taxes on a weekly basis. The distributor must then file a return each Tuesday showing the total number of gallons of motor vehicle fuel distributed by him during the week ending the Saturday next preceding, the amount of tax due for that week and such other

information as the board deems necessary for the proper administration of this article. The return shall be accompanied by a remittance payable to the Controller for the amount of license tax due for the period covered.

SEC. 20. Section 7702 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 558

7702. A distributor required to make weekly payments is not relieved of the duty of filing the verified monthly return required by Article 1 of this chapter. Monthly report

SEC. 21. Section 7703 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 558

7703. Whenever any distributor who is required to pay his license tax in weekly installments as provided by Section 7701 fails to make a weekly return or to pay the full amount in accordance with the terms and conditions prescribed by the board, his license may be revoked forthwith. Delinquency; Revocation of license

SEC. 22. Section 7704 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 558

7704. If a distributor fails to make his weekly return or to pay any weekly installment of the license tax, or any part thereof, pursuant to the requirement imposed upon him under Section 7701, the full amount of the installment becomes immediately due and payable. The board shall thereupon make a jeopardy determination under Section 7698 and the Controller and the Attorney General shall forthwith collect the license tax due from the distributor in the manner prescribed by Chapters 5 and 6 of this part. All provisions of those chapters, where relevant, apply to collections required to be made under this article. Collection of delinquent taxes

SEC. 23. Section 7727 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 558

7727. The board shall forthwith ascertain as best it may the amount of the distributions and shall determine immediately the license tax on the amount, adding to the license tax a penalty of 100 per cent of the amount of the tax, and shall give the unlicensed distributor notice of this determination as prescribed by Section 7493. Provisions of Sections 7699 and 7700 shall be applicable with respect to the finality of the determination and the right of the unlicensed distributor to petition for a redetermination. Tax and penalty

SEC. 24. Section 7728 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 558

7728. The board shall file a copy of this jeopardy determination with the Controller who shall forthwith collect the license tax, penalty and interest due from the unlicensed distributor by seizure and sale of property in the manner prescribed for the collection of a delinquent monthly license tax. Collection of tax and penalty

SEC. 24.5. Section 7729 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 558

7729. At the request of the Controller the Attorney General shall commence and prosecute to final determination an action at law to collect the license tax, penalty and interest, Action to collect tax

or any part thereof, determined against an unlicensed distributor.

Stats 1941, p. 558

SEC. 25. Section 7730 of the Revenue and Taxation Code is hereby amended to read as follows:

Certificate of jeopardy determination

7730. In the suit a copy of the jeopardy determination certified by the secretary of the board or by the Controller, shall be prima facie evidence that the unlicensed distributor is indebted to the State in the amount of the license tax, penalties and interest computed as prescribed by Section 7706.

Stats 1941, p 558

SEC. 25.5. Section 7871 of the Revenue and Taxation Code is hereby amended to read as follows:

Lien of tax

7871. The license tax, together with all penalties, interests and costs accruing thereupon or with respect thereto, is a lien upon all property of the distributor, attaching at the time of the distribution subject to the license tax. The lien is paramount to all private liens or encumbrances of whatever character and has the effect of an execution duly levied against all property of the distributor. The lien remains until the license tax, together with all penalties, interests and costs accruing thereupon or with respect thereto, is paid or the property sold in payment thereof.

Stats 1941, p 558

SEC. 26. Section 7891 of the Revenue and Taxation Code is hereby amended to read as follows:

Seizure and sale

7891. Whenever any distributor is delinquent in the payment of the license tax, the Controller or his authorized representative may forthwith collect the license tax due in the following manner: The Controller shall seize any property, real or personal, of the distributor, and thereafter sell the property, or a sufficient part of it, at public auction to pay the license tax due together with any penalties, interest and any costs incurred on account of the seizure and sale.

Stats 1941, p 558

SEC. 27. Section 7892 of the Revenue and Taxation Code is hereby amended to read as follows:

Notice of sale

7892. Notice of the sale and the time and place thereof shall be given to the delinquent distributor in writing at least 10 days before the date set for the sale. The notice shall be inclosed in an envelope addressed to the distributor at his last known place of business in this State and shall be deposited in the United States mail, postage prepaid. The notice shall also be published for at least 10 days before the date set for the sale in a newspaper of general circulation published in the county in which the property seized is to be sold. If there is no newspaper of general circulation in the county, notice shall be posted in three public places in the county 10 days prior to the date set for the sale. The notice shall contain a description of the property to be sold, a statement of the amount of the taxes, penalties, interest and costs, the name of the distributor, and the further statement that unless the taxes, penalties, interest and costs are paid on or before the time fixed in the notice for the sale, the property, or so much of it as may be necessary, will be sold in accordance with law and the notice.

Contents

SEC. 28. Section 7895 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 558

7895. If upon the sale the moneys received exceed the amount of all license taxes, penalties, interest and costs due the State from the distributor, the Controller shall return the excess to the distributor and obtain his receipt. If for any reason the receipt of the distributor is not available, the Controller shall deposit the excess moneys with the State Treasurer, as trustee for the distributor, subject to the order of the distributor, his heirs, successors, or assigns. Disposal of excess proceeds

SEC. 29. Section 7934 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 558

7934. The Controller shall distribute the proceeds of the sale in the following order: Distribution of proceeds

(a) The payment of all expenses of the sale.

(b) The payment of all amounts due from the distributor under this part.

(c) The remainder to the General Fund of the State.

SEC. 30. Section 7935 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 558

7935. At the sale the Controller shall deliver to the purchaser a bill of sale for any personal property and a deed for any real property sold. The bill of sale or deed vests title in the purchaser free from any existing lien for amounts due under this part. Bill of sale

SEC. 31. Section 7981 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 558

7981. In any suit brought to enforce the rights of the State under this part a copy of the return filed with the board by the distributor, certified by the secretary of the board, or a copy of the notice of determination prepared by the board and filed with the Controller, certified either by the secretary of the board or the Controller, showing unpaid license taxes, penalties, or interest assessed or determined against any distributor, shall be prima facie evidence of the following: Tax return prima facie evidence

(a) The determination of the license tax, the delinquency thereof, and the amount of the license tax, penalties, and interest due and unpaid to the State.

(b) The indebtedness of the distributor to the State in the amount of the license tax, penalties and interest therein appearing unpaid.

(c) The full compliance by all persons required to perform administrative duties under this part with all the forms of law in relation to the determination and levy of the license tax, penalties and interest.

SEC. 31.5. Section 8101 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 558

8101. The following persons who have paid a license tax for motor vehicle fuel, either directly or to the vendor from whom it was purchased, or indirectly by the adding of the Tax refunds

amount of the tax to the price of the fuel, shall be reimbursed and repaid the amount of the tax:

(a) Any person who buys and uses the motor vehicle fuel for purposes other than in motor vehicles operated upon the public highways of the State.

(b) Any person who exports the motor vehicle fuel for use outside of this State. Motor vehicle fuel carried from this State in the fuel tank of a motor vehicle is not deemed to be exported from this State.

(c) Any employee of the United States who buys the motor vehicle fuel and uses it exclusively in the transportation of rural free delivery mail and special delivery mail.

(d) The United States or any department thereof which buys the motor vehicle fuel for official use and on which fuel no claim for exemption from payment of the tax could be filed in accordance with Chapter 3 of this part.

(e) Any person who sells the motor vehicle fuel to the United States or any agency or instrumentality thereof under circumstances that would have entitled him to an exemption from the payment of the license tax under Section 7401 had he been the distributor of this fuel.

Stats 1941, p 558

SEC. 32. Section 8191 of the Revenue and Taxation Code is hereby amended to read as follows:

Correction of reports

8191. If examinations of the records of distributors or investigations made by the board disclose that any returns of distributors filed with the board show incorrectly the amount of gallonage of motor vehicle fuel distributed or the tax accruing thereon, the board may make such determinations of the taxes of the distributors as it deems necessary to correct the errors so disclosed. These determinations shall be made in pursuance of the procedure provided in Chapter 5 of this part.

Stats 1941, p 558

SEC. 33. Section 8253 of the Revenue and Taxation Code is hereby amended to read as follows:

Investigations

8253. The board may make such examinations of the records of distributors, producers and brokers and such other investigations as it may deem necessary in carrying out the provisions of this part.

Stats 1941, p 558

SEC. 34. Section 8303 of the Revenue and Taxation Code is hereby amended to read as follows:

Producer's records

8303. Every producer shall keep an accurate record in such form as the board may prescribe of all manufacture, sales, and deliveries of kerosene distillate, kerosene, Diesel fuel, gas oil, stove oil, distillate and any other petroleum product used in, or which may be used in, the blending, compounding, or manufacturing of motor vehicle fuel.

Stats 1941, p 558

SEC. 35. Section 8304 of the Revenue and Taxation Code is hereby amended to read as follows:

Broker's record

8304. Every broker shall likewise keep an accurate record of all purchases and sales of motor vehicle fuel and petroleum products mentioned in Section 8303, the record to show the

vendor and vendee, the quantity purchased and sold, the correct description of the commodity, and the means of transportation from the vendor to the broker and from the broker to his vendee.

SEC. 36. Section 8306 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 2414

8306. Upon demand of the board or its representatives a distributor shall furnish a statement under oath reflecting the contents of any records kept by him with respect to the matters specified in this chapter. Sworn statement

SEC. 37. Section 8403 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 2414

8403. It is unlawful for any person, firm, association, or corporation, or any officer or agent thereof, to conduct any activities requiring a license under this part without a license or after a license has been surrendered, canceled, or revoked. Acting without license

Any violation of this section is subject to the same punishment as is prescribed in Section 8402.

SEC. 38. Section 50007 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 558

50007. The Motor Vehicle Fuel License Tax Act and all acts amendatory thereof and supplementary thereto are hereby repealed except that all said acts shall be continued in full force and effect with respect to any amounts due and payable thereunder on or before July 1, 1943, as a result of any action theretofore taken by anyone on whom an administrative duty was conferred by said acts or any of them. The Motor Vehicle Fuel License Tax Law as contained in this code is a continuation of the Motor Vehicle Fuel License Tax Act and all persons having any administrative duty under said act shall continue to have full authority to determine and collect any amounts found to be due and payable on account of any distributions of motor vehicle fuel or other activity of any person prior to July 1, 1943 subject to the provisions of said act. All liens that have attached under said act shall continue in full force and effect under said law and may be discharged only as in said law provided. Repeal

Saving clause

SEC. 39. Section 28 is added to the Revenue and Taxation Code, to read as follows: New section

28. As used in Division 2 of this code "person" shall include, in addition to the items of definition contained in Section 19, trustee, trustee in bankruptcy, receiver, executor, administrator, or assignee. "Person"

SEC. 40. Section 7407 is added to the Revenue and Taxation Code, to read as follows: New section

7407. At its discretion the board may extend for reasonable cause the time for filing certificates of export as fixed in Section 7403 and claims for exemption as fixed in Section 7405. Extension of time for filing

New section

SEC. 40.5. Section 7655 is added to the Revenue and Taxation Code, to read as follows:

Delinquent taxes: Penalties

7655. Any distributor who fails to pay the amount of license tax shown to be due by his return on or before the first day of the second calendar month following the monthly period to which it relates must pay a penalty of 10 per cent of the license tax, together with interest on said license tax at the rate of one-half of 1 per cent per month, or fraction thereof, from the date on which the license tax became due and payable to the State until the date of payment.

New section

SEC. 41. Section 7660 is added to the Revenue and Taxation Code, to read as follows:

Estimate by board of fuel distributions

7660. If any distributor fails, neglects, or refuses to file the return within the time prescribed by this article, the board shall estimate the motor vehicle fuel distributions of the distributor for the period for which he made no return within the time required. Upon the basis of this estimate the board shall determine the license tax due from the distributor, and shall add to the license tax a penalty of 10 per cent thereof.

New section

SEC. 42. Section 7661 is added to the Revenue and Taxation Code, to read as follows:

Interest

7661. All determinations so made, exclusive of penalties, shall bear interest at the rate of one-half of 1 per cent per month, or fraction thereof, from the first day of the second calendar month after the close of the monthly period for which the amount or any portion thereof should have been returned until the date of payment.

New section

SEC. 43. Section 7662 is added to the Revenue and Taxation Code, to read as follows:

Fraud or intent to evade

7662. If the neglect or refusal of a distributor to file a return is due to fraud or intent to evade the license tax, a penalty of 25 per cent of the tax shall be added thereto in addition to the 10 per cent penalty provided in Section 7660.

New section

SEC. 44. Section 7663 is added to the Revenue and Taxation Code, to read as follows:

Delinquent notice

7663. Promptly after making its determination the board shall give to the delinquent distributor written notice of the estimate, tax, and penalty, the notice to be served personally or by mail as prescribed by Section 7493.

New section

SEC. 45. Section 7698 is added to the Revenue and Taxation Code, to read as follows:

Jeopardy determination

7698. If the board believes that the collection of any amount of license tax imposed under this part will be jeopardized by delay, it shall thereupon make a determination of the amount of tax, noting that fact upon the determination. The amount determined is immediately due and payable.

New section

SEC. 46. Section 7699 is added to the Revenue and Taxation Code, to read as follows:

Finality of determination

7699. If the amount of the tax, interest, and penalty specified in the jeopardy determination is not paid within 10

days after service upon the distributor of notice of the determination, the determination becomes final, unless a petition for redetermination is filed within the 10 days, and the delinquency penalty and interest provided in Article 2 of this chapter shall attach to the amount specified.

New section

SEC. 47. Section 7700 is added to the Revenue and Taxation Code, to read as follows:

Petition for redetermination

7700. The distributor against whom a jeopardy determination is made may petition for the redetermination thereof pursuant to Article 3.5 of this chapter. He shall, however, file the petition for redetermination with the board within 10 days after the service upon him of notice of the determination. The distributor shall also within the 10-day period deposit with the board such security as it may deem necessary to insure compliance with this part.

New section

SEC. 48. Section 7706 is added to the Revenue and Taxation Code, to read as follows:

Interest

7706. All jeopardy determinations including those made under Section 7704, exclusive of penalty, shall bear interest at the rate of one-half of 1 per cent per month, or fraction thereof, from the first day of the second calendar month following the close of the monthly period for which the amount or any portion thereof should have been returned until the date of payment.

New section

SEC. 49. Section 8193 is added to the Revenue and Taxation Code, to read as follows:

Overpayment of tax. Interest

8193. Interest shall be paid upon any overpayment of any amount of tax at the rate of one-half of 1 per cent per month from the first day of the second calendar month following the monthly period for which the overpayment is made; but no refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid:

(a) In the case of a refund, if the claimant files a claim on his own initiative or within 30 days after he is notified by the board that a claim may be filed, to the tenth day after the date upon which the claim is certified to the State Board of Control; otherwise to the thirtieth day after the date upon which claimant is notified by the board that the claim may be filed.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

New section

SEC. 50. Section 8194 is added to the Revenue and Taxation Code, to read as follows:

Careless overpayment

8194. If the board determines that any overpayment has been made intentionally or by reason of carelessness, it shall not allow any interest thereon.

Stats 1941, p 558

SEC. 51. The article heading of Article 1 of Chapter 5 of Part 2 of Division 2 of the Revenue and Taxation Code is amended to read as follows:

Article heading

Article 1. Returns and Payments

Stats 1941, p 558

SEC. 52. The article heading of Article 2 of Chapter 5 of Part 2 of Division 2 of the Revenue and Taxation Code is amended to read as follows:

Article heading

Article 2. Determination if No Return Made

Stats 1941, p 558

SEC. 53. The article heading of Article 3 of Chapter 5 of Part 2 of Division 2 of the Revenue and Taxation Code is amended to read as follows:

Article heading

Article 3. Jeopardy Determinations and Weekly Payments

Stats 1941, p 558

SEC. 54. The article heading of Article 5 of Chapter 7 of Part 2 of Division 2 of the Revenue and Taxation Code is amended to read as follows:

Article heading

Article 5. Cancellations and Refunds of Overpayments

New article

SEC. 55. Article 2.5, consisting of Sections 7670 to 7675, inclusive, is hereby added to Chapter 5 of Part 2 of Division 2 of the Revenue and Taxation Code, to read as follows:

Article 2.5. Deficiency Determinations

Determination

7670. If the board is not satisfied with the return made by any distributor, it may make a deficiency determination of the license tax required to be paid by the distributor based upon information contained in the return or upon any information in the possession of the board. The board may make a determination for more than one period and may make one or more determinations for the same period.

Notice

7671. The board shall give the distributor written notice of its determination. The notice may be served as prescribed by Section 7493.

Penalty Neglect, etc

7672. If any part of the deficiency for which a deficiency determination is made is due to neglect or intentional disregard of this part or authorized rules and regulations, a penalty of 10 per cent of the amount of the determination shall be added thereto.

Fraud or intent to evade

7673. If any part of the deficiency for which a deficiency determination is made is due to fraud or an intent to evade the tax a penalty of 25 per cent of the amount of the determination shall be added thereto.

Interest

7674. All deficiency determinations, exclusive of penalty, shall bear interest at the rate of one-half of 1 per cent per month, or fraction thereof, from the first day of the second calendar month following the close of the monthly period for which the amount or any portion thereof should have been returned until the date of payment.

7675. Except in the case of a fraudulent return, neglect, or refusal to make a return, every notice of a deficiency determination shall be given to the distributor within three years after the first day of the second calendar month following the monthly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires the later. Time for giving notice

SEC. 56. Article 3.5, consisting of Sections 7710 to 7716, inclusive, is hereby added to Chapter 5 of Part 2 of Division 2 of the Revenue and Taxation Code, to read as follows: New article

Article 3.5. Redeterminations

7710. Any distributor against whom a determination is made by the board under Articles 2 and 2.5 of this chapter may petition for a redetermination within 30 days after the date the notice thereof is given to him. If a petition for redetermination is not filed within the 30-day period, the determination becomes final at the expiration of the period. Petition

7711. If a petition for redetermination is filed within the 30-day period, the board shall reconsider the determination and, if the distributor has so requested in his petition, shall grant him an oral hearing and shall give him 10 days notice of the time and place of the hearing. Service of notice shall be as prescribed by Section 7493. The board may continue the hearing from time to time as may be necessary. Oral hearing

7712. The order or decision of the board upon a petition for redetermination becomes final 30 days after the giving of notice thereof to the distributor as prescribed by Section 7493. Finality of order

7713. All determinations made by the board under this chapter are due and payable at the time they become final. If they are not paid when due and payable, a penalty of 10 per cent of the amount of the determination, exclusive of interest and penalties, shall be added thereto. Payment shall be made in the form of a remittance payable to the Controller and shall be filed with the board together with a copy of the notice of determination which the board shall furnish to the distributor for that purpose. Payment Penalty

7714. In making a determination the board may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods, against penalties, and against the interest on the underpayments. The interest on the underpayments and overpayments shall be computed in the manner set forth in Sections 7674 and 8193. Offset

7715 All payments received by the board from distributors under this part shall be deposited by the board for the Controller in the State Treasury and appropriate advices of such payments shall be transmitted to him by the board. Deposit of proceeds

7716. The board shall notify the Controller of any and all determinations made pursuant to this chapter as well as the amounts self-determined under this part, and the Controller shall keep an appropriate record of all such matters. Notice and records

Repeals

SEC. 57. Sections 7653, 7654, 7676, 7677, and 7678 of the Revenue and Taxation Code are hereby repealed.

Constitutionality

SEC. 58. If any section, subsection, clause, sentence or phrase of this act which is reasonably separable from the remaining portions of this act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed the remaining portions of this act irrespective of the fact that any such section, subsection, clause, sentence or phrase of this act be declared unconstitutional.

Tax levy

SEC. 59. This act, inasmuch as it provides for a tax levy for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution take effect immediately, but the provisions hereof amending, adding to, and repealing certain provisions of the Revenue and Taxation Code shall become operative at the same time as Part 2 of Division 2 of that code and not before that time.

When operative

CHAPTER 875

Stats. 1935, p. 93, amended

An act to amend Section 54 of the Vehicle Code and Section 1.91 of the School Code, relating to school buses.

In effect August 4, 1943

[Approved by Governor May 29, 1943. Filed with Secretary of State May 29, 1943.]

The people of the State of California do enact as follows:

Stats. 1939, p. 1453

SECTION 1. Section 54 of the Vehicle Code is amended to read:

"School bus" defined

54. "School bus." A "school bus" is any motor vehicle while being used for the transportation of any school pupil to and from school or to and from school activities, except the following:

(a) A motor vehicle of the pleasure type designed for and when actually carrying not more than eight persons, including the driver;

(b) A motor vehicle operated by a common carrier subject to the jurisdiction of the State Railroad Commission, except when any said vehicle is in use exclusively for the transportation of school pupils;

(c) A motor vehicle of any type carrying only members of the household of the owner thereof.

Stats 1935, p 1482

SEC. 2. Section 1.91 of the School Code is amended to read:

See also Stats 1943, Ch 71

1.91. The State Board of Education shall have the power to adopt reasonable regulations relating to the construction, design, operation, equipment and color of school buses. No regulation relating to the construction, design or color of school buses shall apply to buses purchased prior to the effective date of this section, except that any school bus repainted after the effective date of this section shall, regardless of the

Regulation of operation, design, etc., of school buses

date when purchased be painted to conform to all the regulations relating to the color of school buses. Such regulations, if approved by the Chief of the California Highway Patrol, shall be enforced by the California Highway Patrol. The State Board of Education shall have the authority to issue an order prohibiting the operation on public streets and highways of any school bus which does not comply with such regulations, and any such order shall be enforced by the California Highway Patrol.

For the purposes of this section a school bus is defined as a motor vehicle regularly used for the transportation of pupils of the public schools to and from school or to and from school activities and owned and/or operated by any school district or owned and/or operated by any person, firm, association, partnership or corporation, excepting motor vehicles of the type commonly called pleasure cars and carrying eight persons, including the driver, or less; and excepting motor vehicles subject to and meeting all requirements of the State Railroad Commission operated by carriers operating under the jurisdiction of the State Railroad Commission but not used exclusively for the transportation of public school pupils, except that when such vehicles are being used for the transportation of public school pupils the operators thereof must possess the qualifications required by such regulations of school bus operators. School bus defined

Any officer, agent or employee of a school district, or any other person knowingly operating, or permitting or directing the operation of, a school bus, the operation of which is in violation of any order of the State Board of Education, and any person knowingly operating a school bus without possessing the qualifications required by the regulations of the State Board of Education of school bus operators, shall be guilty of a misdemeanor. Violation

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CHAPTER 876

An act to amend Sections 619, 625, 645, 646, 665, and 699 of, to add Section 620.5 to, and to repeal Section 707 of, the Vehicle Code, relating to lamps and devices on vehicles, elevated wheels and length of loads. Stats 1935, p 93, amended

[Approved by Governor May 29, 1943. Filed with Secretary of State May 29, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 619 of the Vehicle Code is amended to read: Stats. 1935, p 93

619. Headlamps on Motor Vehicles. Every motor vehicle other than a motorcycle, at the times specified in Section 618 hereof, shall be equipped with two lighted headlamps, no more and no less, mounted on opposite sides of the front of said vehicle, and, except as to vehicles registered prior to January 1, 1930, they must be located directly above or in advance of the front axle of said vehicle. Said headlamps Headlamps Location

shall be located at a height measured from the center of the headlamps of not more than 54 inches nor less than 28 inches above the level surface upon which said vehicle stands.

New section

SEC. 2. Section 620.5 is added to the Vehicle Code, to read:

Motorized scooters

620.5. Headlamps on Motorized Scooters. Every motorized scooter or motorized bicycle at all times specified in Section 618 hereof shall be equipped with at least one and not more than two lighted headlamps so aimed and of sufficient intensity to reveal a person or vehicle at a distance of at least 100 feet ahead of the vehicle. The headlamps may be of the single-beam type; provided, that the power supply and the complete electrical system of the vehicle shall be adequate to permit the headlamp or headlamps to conform to the photometric requirements.

Stats 1941, p 1814

SEC. 3. Section 625 of the Vehicle Code is amended to read:

Clearance lamps

625. Side Clearance Lamps on Wide Vehicles. (a) Every vehicle having a body or load width in excess of 80 inches, at the times specified in Section 618 hereof, shall be equipped with at least four clearance lamps, one on each side near the front displaying a green light visible from a distance of 500 feet to the front and to the side of the vehicle on which it is located, and one on each side near the rear displaying a green light visible from a distance of 500 feet to the rear and to the side of the vehicle on which it is located. The provisions of this section shall not apply to passenger common carrier vehicles.

(b) Every trailer coach having a body width of less than 80 inches shall be equipped with two clearance lamps, one on each side near the rear, each of which shall display a green light visible for a distance of 500 feet to the rear and to the side of the vehicle on which it is located.

(c) On and after January 1, 1940, the color of the light emitted from clearance lamps on new vehicles sold or operated in this State and required to be equipped with clearance lamps as provided in this section shall be amber or amber at the front and red at the rear of the vehicle. Vehicles sold or operated prior to January 1, 1940, may be equipped with and display amber clearance lamps or amber at the front and red at the rear of the vehicle.

Stats 1939, p 2095

SEC. 4. Section 645 of the Vehicle Code is amended to read:

Testing and approval of lamps

645. What Lamps and Devices Must be Tested and Approved Before Sale or Use. No person shall sell or offer for sale for use upon or as part of the equipment of a motor vehicle, trailer or semitrailer, nor shall any persons use upon any such vehicle any lamp or device referred to in this section unless of a type which has been submitted to and approved by the department.

This section shall apply to every electric headlamp, auxiliary driving or fog lamp, every rear or tail lamp, every signal lamp or signal device and any lamp equipment regulating the light emitted from any such lamp or the light source therein,

also to clearance lamps, and reflectors required on any vehicle except any rear or tail lamp or stoplight in use on or prior to December 1, 1935.

No person shall sell or offer for sale for use upon any motor vehicle any special lamp or lighting device required for use in dimout areas or during air raid alarms unless of a type which has been submitted to and approved by the department.

SEC. 5. Section 646 of the Vehicle Code is amended to read: Stats 1939, p 1725

646. Application for Test and Approval. (a) Any person desiring approval of any lamp or device subject to approval by the department shall submit to the department two units of each type of such lamp or device for which approval is desired, together with the proper fee as follows: Application for test and approval

For any headlamp, auxiliary driving or passing or fog lamp	
1 or 2 beams	$50
3 beam	$75
For any rear or tail lamp	$25
For any license plate lamp	$25
For any stop signal lamp	$25
For any individual turn signal lamp	$25
For any reflex reflector	$25
For any signal system complete with operating mechanism	$50
For any combination lamp incorporating two or more of the above types of lamps the fee shall be the sum of the individual fees but shall not exceed	$100
For any clearance lamp	$15
For any lamp equipment regulating the light emitted from a lamp or signal lamp or signal device	$50
For any partial test or retest one-half of the regular fee.	
For any lamp or light control device applied to the lamp or to the electrical circuit of the lamp required in conformance with the regulations pertaining to a National emergency which lamp or device is not covered by the above schedule	$25

(b) With any such lamp or device the applicant shall submit a statement as to the adjustment of the same deemed appropriate and the candlepower of the light source intended to be used therewith and any other information relative thereto requested by the department.

SEC. 6. Section 665 of the Vehicle Code is amended to read: Stats 1935, p 93

665. Official Lamp and Brake Testing Stations. (a) The department may designate, furnish instructions to and supervise official stations for adjusting headlamps, auxiliary driving, fog lamps or other required lamps or brakes upon vehicles to conform with the provisions of this code. The department may prescribe the qualifications of any such station as a condition of such designation and further may suspend or revoke Official lamp and brake testing establishments

any such designation upon determining that the business of such station is improperly conducted.

(b) Whenever any such station upon an inspection or after an adjustment, made in conformity with the instructions of the department, determines that the headlamps, auxiliary driving, fog lamps or other required lamps or the brakes upon any vehicle conform with the requirements of this code, said station shall issue to the owner or operator of such vehicle a certificate of adjustment on a form prescribed by the department which certificate shall contain the date of issuance, the make and registration number of the vehicle, the name of the owner of the vehicle and the official designation of said station.

Stats 1941, p 1686

SEC. 7. Section 699 of the Vehicle Code is amended to read:

Exceptions as to certain vehicles and equipment

699. Exceptions to Length Limitations. The limitations of Sections 697 and 698 hereof as to length of vehicles and loads shall not apply to pole or pipe dollies used in connection with a motor vehicle solely for the purpose of transporting poles or pipes; provided, that no pole or pipe exceeding 100 feet in length shall be so transported unless a permit has first been obtained as authorized in Section 710.

The limitations of Sections 697 and 698 hereof as to height and length of vehicles shall not apply to implements of husbandry incidentally operated or moved over a highway.

Stats 1939, p 93

SEC. 8. Section 707 of the Vehicle Code is repealed.

CHAPTER 877

Stats 1935, p 93, amended
Stats 1939, p 1274, amended

An act to amend Sections 130, 142, 146, 154, 164.5, 164.7, 175, 217, 222, 225, 245.5, 371.5, 374, 378, 383, 384 and 776 of, and to add Sections 56 and 372.5 to the Vehicle Code, relating to registration of vehicles and fees, and Section 11001 of the Revenue and Taxation Code, relating to the report and deposit of moneys.

In effect August 4, 1943

[Approved by Governor May 29, 1943. Filed with Secretary of State May 29, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 56 is added to the Vehicle Code, to read:

"Transferee" defined

56. "Transferee." A "transferee" is a person who has acquired the sole ownership of or an equity in a vehicle of a type required to be registered hereunder.

Stats 1941, p 3126

SEC. 2. Section 130 of the Vehicle Code is amended to read:

Records

130. Records of Department. (a) All records of the department relating to the registration of vehicles and such information as is contained on an application for an operator's or chauffeur's license shall be open to public inspection during

office hours. Other records of the department relating to the physical or mental condition of any person shall be confidential.

(b) The department may charge the sum of ten cents ($0.10) for each request for information in its records concerning any vehicle. The department may sell stamps or coupons in appropriate denominations for the convenient enforcement of this section. Such stamps or coupons may be used to accompany requests for information in lieu of cash, but otherwise shall be nonredeemable and shall be canceled by the department upon granting the request for information. This subdivision does not apply to statistical information of the type heretofore compiled and distributed by the department nor to information, the purpose of which relates to traffic accidents or traffic offenses or traffic enforcement.

(c) The department shall have the right to sell copies of all or any part of its records at a charge sufficient to pay the actual cost to the department of such copies, the charge for such records and the conditions under which they may be sold to be determined by the Director of Motor Vehicles, with the approval of the Department of Finance.

(d) The department shall not make any charge for any copies of records, or for information given out from its records, to any county, city, or city and county, or to any State department, or Federal Government.

SEC. 3. Section 142 of the Vehicle Code is amended to read: Stats 1935, p. 93

142. Exemption from Registration. The registration provisions of this chapter shall not apply to any of the following vehicles: Exemptions

(a) Any vehicle of a type otherwise subject to registration hereunder which is driven or moved upon a highway in conformance with the provisions of this code relating to dealers, transporters or nonresidents or under a temporary registration permit issued by the department as authorized by Section 147 hereof.

(b) Any vehicle of a type otherwise subject to registration hereunder which is driven or moved upon a highway only for the purpose of crossing such highway from one property to another in accordance with a permit issued by the Department of Public Works.

(c) Any implement of husbandry, whether of a type otherwise subject to registration hereunder or not, which is only incidentally operated or moved over a highway.

(d) Special mobile equipment.

(e) Any self-propelled wheel chair or invalid tricycle.

SEC. 4. Section 146 of the Vehicle Code is amended to read: Stats 1939, p 1392

146. Application for Registration of Vehicle Previously Registered Outside This State. (a) Upon application for registration of a vehicle previously registered outside this State, the application shall be verified and shall also state Vehicles registered outside State

such fact and the time and place of the last registration of such vehicle outside this State and the name and address of the governmental officer, agency, or authority making such registration, together with such further information relative to its previous registration as may reasonably be required by the department, including the time and place of original registration, if known, and if different from such last foreign registration. The applicant shall surrender to the department all unexpired license plates, seals, certificates or other evidence of foreign registration as may be in his possession or under his control. Upon application made at the time of their surrender to the department and upon payment of a fee of one dollar ($1), the department shall return the unexpired license plates to the official in charge of the registration of motor vehicles in the State of issue of said license plates.

(b) Where in the course of interstate operation of a vehicle registered in another State it is desirable to retain registration of said vehicle in such other State, such applicant need not surrender but shall submit for inspection said evidence of such foreign registration and the department upon a proper showing shall register said vehicle in this State but shall not issue a certificate of ownership for such vehicle.

Stats 1935, p 93

SEC. 5. Section 154 of the Vehicle Code is amended to read:

Certificate re vehicle previously registered outside State

154. Distinctive Certificate and Card for Vehicles Previously Registered Outside This State. The certificate of ownership and registration card issued upon registration of a vehicle previously registered outside this State and every renewal or reissue thereof shall give the name of the State or country in which such vehicle was last previously registered outside this State.

Stats 1937, p 164

SEC. 6. Section 164.5 of the Vehicle Code is amended to read:

Affidavit of nonoperation

164.5. When Vehicle Not Operated. When the registration of a vehicle has expired at midnight on the thirty-first day of December of any year and such vehicle is not thereafter operated upon the highways, then any application for renewal made subsequent to the fourth day of February following the expiration of such registration and for succeeding calendar years in which such vehicle has not been registered shall be accompanied by an affidavit of nonoperation and such application for renewal of registration, whether or not accompanied by an application for transfer of any title or interest therein, shall be received by the department upon payment of the proper fees for the current calendar year and without penalty for any such fees imposed under this act or under Chapter 362, Statutes of 1935, or any act continuing the tax thereby imposed or substituting a similar tax, provided that the department receives said application and affidavit of nonoperation within 30 days after the date said vehicle is first operated during the current calendar year.

SEC. 7. Section 164.7 of the Vehicle Code is amended to read: Stats 1941, p 2066

164.7. Stolen or Embezzled Vehicles. Whenever by reason of the theft or embezzlement of a vehicle the owner or legal owner is not in possession of such vehicle at the time penalties accrue for failure to obtain annual renewal of registration, the owner or legal owner may secure the reregistration of such vehicle within 30 days after its recovery upon filing an affidavit setting forth the circumstances of the theft or embezzlement, if the theft or embezzlement of such vehicle has been reported pursuant to the provisions of this code, without payment of any of the following: Stolen or embezzled vehicles

(a) Penalty for delinquent payment of registration fee;

(b) Penalty for delinquent payment of the license fee imposed by Chapter 362, Statutes of 1935 as amended.

SEC. 8. Section 175 of the Vehicle Code is amended to read: Stats 1941, p. 2453

175. Indorsement of Certificate Upon a Transfer. (a) Upon a transfer of the title or any interest of the legal owner or owner in or to a vehicle registered hereunder, the person whose title or interest is to be transferred shall write his signature, and the transferee shall write his signature and address, in the appropriate spaces provided upon the reverse side of the certificate of ownership issued for such vehicle. Transfers

(b) When the required certificate of ownership is lost, stolen, damaged, or mutilated, application for transfer may be made upon a form provided by the department for a duplicate certificate of ownership under the provisions of Section 165 hereof. The person whose title and interest is to be transferred shall write his signature and the transferee shall write his signature and address in the appropriate spaces provided upon the reverse side of such application and file same with the department, together with the proper fees for duplicate certificate of ownership and transfer. The department, when satisfied as to the correctness of such an application for duplicate certificate of ownership and transfer, shall issue a new certificate of ownership to the transferee entitled thereto. An application for duplicate certificate of ownership and transfer shall be subscribed and sworn to before a notary public or an authorized employee of the Department of Motor Vehicles.

SEC. 9. Section 217 of the Vehicle Code is amended to read: Stats 1937, p 1666

217. Foreign Vehicles Used Commercially—When Exempt from Fees. The vehicles mentioned in Section 215 or 216 shall not be subject to registration or payment of fees in this State, if the State, District of Columbia, Territory or country in which the owner has his residence and in which such vehicle is registered exempts from registration fees like vehicles from the State of California, and the same privileges shall be granted by this State to the vehicles from such other State, Reciprocal exemption

District of Columbia, Territory or country as said State, District of Columbia, Territory or country grants to like vehicles registered in California.

Stats 1937, p. 1980

SEC. 10. Section 222 of the Vehicle Code is amended to read:

Action by department on reports of stolen vehicles

222. Action by Department on Report of Stolen or Embezzled Vehicle. The department upon receiving a report of a stolen or embezzled vehicle as hereinbefore provided shall file and appropriately index the same and shall immediately suspend the registration of the vehicle so reported and, except as otherwise provided in subdivisions (a) and (b) herein, shall not transfer the registration of the same until such time as it is notified in writing that such vehicle has been recovered.

(a) When sufficient evidence is presented to the department that an insurance company has paid a total theft loss on said vehicle, the department may transfer the title to the vehicle to such company.

(b) When sufficient evidence is presented to the department that at the time of theft the title to the vehicle had been transferred by the registered or legal owner pursuant to the provisions of Section 175, the department may complete such transfer.

A report of a stolen or embezzled vehicle is effective for a period of not less than one year from the date first reported or longer as the department may determine.

Stats 1937, p. 164

SEC. 11. Section 225 of the Vehicle Code is amended to read:

Suspension or revocation of special plates

225. Suspending or Revoking Certificate or Special Plates. The department may suspend or revoke a certificate or the special plates issued to a manufacturer, transporter, or dealer upon determining that any said person is not lawfully entitled thereto or has made or knowingly or negligently permitted any illegal use of such plates or has committed fraud in the registration of vehicles or failed to give notices of transfers when and as required by this code or failed to deliver to a transferee lawfully entitled thereto a properly indorsed certificate of ownership.

Stats. 1941, p 2657

SEC. 12. Section 245.5 of the Vehicle Code is amended to read:

Revocation

245.5. Suspending or Revoking Certificate, License or Special Plates Issued to Automobile Wrecker. The department may suspend or revoke a certificate or license, or the special plates issued to an automobile wrecker, upon determining that any such automobile wrecker is not lawfully entitled thereto or has made, or knowingly or negligently permitted, any illegal use of such plates, license or certificate, or has committed fraud in the registration of vehicles, or failed to give notices of transfers when and as required of him by this code, or has failed to surrender to the department license plates or certificates for vehicles wrecked or dismantled.

SEC. 13. Section 371.5 of the Vehicle Code is amended to read: Stats 1937, p 503

371.5. Registration Fees for Vehicle Registered Outside This State. In addition to the registration fee specified in Section 370 and any weight fee, there shall be paid a service fee of three dollars ($3) for the original registration within this State of every vehicle previously registered outside this State. If such vehicle has been registered and operated in this State during the same year in which application for reregistration is made, a fee of one dollar ($1) only shall be paid. Vehicles previously registered outside State

SEC. 14. Section 372.5 is added to the Vehicle Code, to read: New section

372.5. Alterations or Additions to Vehicles. Alterations or additions to registered vehicles for which fees have been paid under Section 372 placing such vehicles in weight fee classifications under Section 372 greater than the weight fees previously paid shall be reported to the department and at the same time the difference between such weight fee previously paid, subject to reduction by one-twelfth for each month which shall have elapsed since the beginning of the year, and said greater weight fee, subject to reduction by one-twelfth for each month which shall have elapsed since the beginning of the year, shall be paid to the department upon the operation of such vehicles in the greater weight fee classification under Section 372. Weight fee where vehicle altered, etc

SEC. 15. Section 374 of the Vehicle Code is amended to read: Stats 1941, p 2443

374. Exemptions from Registration Fees. (a) The fees specified in this code except fees for duplicate license plates, certificates or cards need not be paid for any vehicle of a type subject to registration hereunder owned by any foreign government or by a consul or other official representative thereof or by the United States or by any State or political subdivision thereof or by any municipality duly organized under the Constitution or laws of this State, nor for any like vehicle owned by a voluntary fire department organized under the laws of this State and used exclusively for fire fighting purposes, nor for any like vehicle owned by and used exclusively in the operative work of any persons taxed for State purposes and exempt from the payment of license fees under the Constitution of this State (nor for any vehicle operated by the State, or by any county, city, district or political subdivision of the State, as lessee under a lease, lease-sale or rental-purchase agreement which grants possession of the vehicle to the lessee for a period of 12 months or more). (The exemption in this subsection pertaining to vehicles leased by the State, or by any county, city, district, or political subdivision of the State, under a lease, lease-sale, or rental-purchase agreement, is not applicable to any vehicle leased after the effective date of this Exemptions

section, as amended in 1940, which is used or maintained for the transportation of persons for hire, compensation, or profit.)

(b) All such vehicles so exempt from the payment of registration fees shall be registered as otherwise required by this code by the person having custody thereof and such custodian shall display upon said vehicle a license plate or plates bearing distinguishing marks or symbols as hereinbefore specified which said plate or plates shall be furnished by the department free of charge.

Stats 1937, p 2450

SEC. 16. Section 378 of the Vehicle Code is amended to read:

Delinquencies

378. When Fees Delinquent. Penalties. (a) (1) Whenever any vehicle is operated upon any highway of this State without the registration fee having first been paid as required by this code, such fee is delinquent.

(2) Whenever any person has received as transferee a properly indorsed certificate of ownership and the registration card of the vehicle described in said certificate and card and the transfer fee has not been paid as required by this code within 10 days, such fee is delinquent.

(3) Whenever any person becomes an automobile wrecker without first having paid the license or certificate and special plate fees as required by this code, such fees are delinquent.

Penalties

(b) A penalty shall be added upon any application for annual renewal of registration made on or after February 5th except as provided in Section 164.5 of this code.

(c) Except as otherwise provided in subdivision (b), if any fee is not paid within 30 days after the same becomes delinquent a penalty shall be added thereto.

(d) In every event the penalty shall be equal to the fee and shall be collected therewith.

Stats 1937, p 374

SEC. 17. Section 383 of the Vehicle Code is amended to read:

Return of fees

383. When Fees Returnable. (a) Except as provided in subdivision (c), whenever any application to the department is accompanied by any fee as required by law and such application is refused or rejected, the fees shall be returned to the applicant.

(b) Whenever the department collects any fee not required to be paid hereunder the same shall be refunded to the person paying the same upon application therefor made within one year after the date of such payment.

(c) Whenever any application is made for the first set of special plates under subdivision (a) of Section 375, or for the certificate or license and the first set of special plates under subdivision (b) (1) of Section 248, and the application is refused or rejected, the sum of five dollars ($5) only shall be returned to the applicant.

SEC. 18. Section 384 of the Vehicle Code is amended to read: Stats 1941, p 2721

384. Credit for Fees Paid. Whenever any registered commercial vehicle for which fees have been paid under Section 372 is withdrawn from service in this State before the expiration of such registration the owner may surrender the registration card and license plates previously issued for such vehicle to the department and, within 90 days of the time of withdrawal, make application for the registration of another commercial vehicle which is subject to the fees specified in Section 372. In such event and upon a proper showing of the facts the department upon determining the fees payable hereunder shall allow as credit thereon the unexpired portion, as of the month of such application, of the fee paid under Section 372 for the previous registration but in addition to fees otherwise payable hereunder less any such credit shall charge and collect an additional fee of two dollars ($2) for issuance of such new registration. Credit for fees

SEC. 19. Section 776 of the Vehicle Code is amended to read: Stats 1937, p 2228

776. Report and Deposit of Money. The department shall file monthly with the State Controller a report of money received by the department covering all fees for applications accepted by the department and at the same time deposit all money so reported with the State Treasurer. Of such moneys so reported and redeposited, the Treasurer shall place to the credit of the "Motor Vehicle Support Fund," which fund is hereby created, (a) thirty-six and one-half per cent (36½%) of all fees received as registration and weight fees and penalties thereon, and fees for special plates, (b) all other moneys received by the department and not otherwise appropriated. Deposit of funds; "Motor Vehicle Support Fund"

The balance of the money so received and reported as registration and weight fees and penalties thereon, and fees for special plates, shall be placed to the credit of the "Motor Vehicle Fund," which fund is hereby created in the State Treasury. "Motor Vehicle Fund"

All salaries and expenses of the department, including deductions for retirement pay, shall be paid from the Motor Vehicle Support Fund.

SEC. 20. Section 11001 of the Revenue and Taxation Code is amended to read: Stats 1943, Ch 589

11001. All money collected by the department for accepted applications under this part shall be reported monthly to the Controller and at the same time deposited in the State Treasury to the credit of the Motor Vehicle License Fee Fund, which fund is continued in existence. Motor Vehicle License Fee Fund

CHAPTER 878

Stats 1935, p 93 amended

An act to add Section 156.5 to the Vehicle Code, relating to the issuance of stickers in lieu of license plates to vehicles.

In effect August 4, 1943

[Approved by Governor May 29, 1943. Filed with Secretary of State May 29, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 156.5 is added to the Vehicle Code, to read:

Duration stickers in lieu of license plates

156.5. Department May Issue Stickers in Lieu of License Plates. Beginning January 1, 1944, and until the end of the first complete calendar year following the termination of the present war, unless the authority granted herein is sooner terminated by proclamation of the Governor, the department may issue one or more stickers or other suitable devices in lieu of the license plates provided for under this code. Except where the physical differences between such stickers or devices and license plates by their nature render the provisions of this code inapplicable, all provisions of this code relating to license plates shall apply to such stickers or devices.

The department may make appropriate rules and regulations for the use and display of such stickers or devices and shall publish a summary thereof.

CHAPTER 879

Stats 1937, p 1005, amended

An act to amend Sections 6720 and 6721 and to repeal Section 6726.5 of the Welfare and Institutions Code, relating to escaped and paroled patients and inmates of public hospitals and institutions.

In effect August 4, 1943

[Approved by Governor May 29, 1943. Filed with Secretary of State May 29, 1943.]

The people of the State of California do enact as follows:

Stats 1943, Ch 267

SECTION 1. Section 6720 of the Welfare and Institutions Code is hereby amended to read as follows:

Arrest of escaped inmates

6720. When any patient or inmate has escaped from any State hospital or from any hospital or facility operated by or under the Veterans' Administration of the United States Government, or when a patient's return from parole has been authorized or ordered by the Department of Institutions or the facility of the Veterans' Administration, the sheriff of any county in which he is found shall without the necessity of a warrant or court order, or any person designated by the Department of Institutions to perform such duties may, apprehend, take into custody and deliver him to a State hospital or to a facility of the Veterans' Administration, or to any per-

son or place authorized by the Department of Institutions, or by the Veterans' Administration, as the case may be, to receive him. Every officer or employee of the department so designated shall have the powers and privileges of peace officers so far as necessary to enforce the provisions of this article.

SEC. 2. Section 6721 of the Welfare and Institutions Code is hereby amended to read as follows: Stats 1937, p 1005

6721. Any person who wilfully assists any patient or inmate of a State hospital to escape, or to attempt to escape therefrom or to resist being returned from parole, is guilty of a misdemeanor. Assisting inmates to escape

SEC. 3. Section 6726.5 of said code is hereby repealed. Stats 1943, Ch 267

CHAPTER 880

An act to amend Sections 7051, 7058, 7069 and to add Section 7058.1 and to repeal Section 7051.5 of the Welfare and Institutions Code, relating to defective and psychopathic delinquents. Stats 1937, p. 1005, amended

[Approved by Governor May 29, 1943 Filed with Secretary of State May 29, 1943] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 7051 of the Welfare and Institutions Code is hereby amended to read as follows: Stats 1939, p 2776

7051. The Director of Institutions, with the approval of the Department of Finance, may provide on the grounds of an existing State institution or institutions or on other property owned or acquired by the State one or more institutional units to be used for the custodial care and treatment or defective or psychopathic delinquents. Each such unit shall be known as an institution for defective or psychopathic delinquents, and shall be administered in the manner provided by law for the government of the institution in which such unit is established. Establishment of units

SEC. 2. Section 7051.5 of the Welfare and Institutions Code is hereby repealed. Stats 1941, p 3203

SEC. 3. Section 7058 of the Welfare and Institutions Code is hereby amended to read as follows: Stats 1939, p 2776

7058. If the court after hearing the evidence is in doubt whether the minor is a defective or psychopathic delinquent, the court may commit the minor to the Department of Institutions for placement in a State institution for defective or psychopathic delinquents for observation and diagnosis for a period not to exceed ninety (90) days, with the further provision in said order that the superintendent of such institution shall, within the ninety (90) day period, report to the court his diagnosis and recommendations concerning such minor. The court shall attach to the order of 90-day commitment its findings and conclusions, together with all the social and other Order for commitment

data it has bearing upon the case, and the same shall be delivered to the institution with such order.

The medical superintendent or other person in charge of the State institution in which the minor has been placed for observation pursuant to this section shall, within 90 days, examine the person and return him to the committing court together with a report, diagnosis, and recommendation concerning the person's future care, supervision and treatment.

Report Where minor not delinquent

If the medical superintendent or other person in charge of the State institution in which the minor has been placed for observation reports to the court that the minor is not a defective or psychopathic delinquent, the court shall proceed with the case and make such other disposition thereof as the court may deem necessary and proper under all circumstances.

Where minor delinquent

If the medical superintendent or other person in charge of the State institution in which the minor has been placed for observation reports to the court that the minor is a defective or psychopathic delinquent, the court may make an order committing the person to the Department of Institutions for placement in a State institution for defective or psychopathic delinquents for an indeterminate period.

On the presentation of either order designated herein, the superintendent of the institution to which the minor is committed may receive him therein if there is room in the unit designated under Section 7051 and if the fund available for its support is not exhausted and if in the opinion of the Department of Institutions such minor is a suitable subject for admission to such unit. Before any such person is conveyed to the institution it shall be ascertained from the superintendent thereof that such person has been accepted as herein set forth.

Stats 1939, p 2776

SEC. 4. Section 7069 of the Welfare and Institutions Code is hereby amended to read as follows:

Escape

7069. Any person who procures the escape of any inmate of an institution for defective or psychopathic delinquents, or who advises, connives at, aids or assists in such escape, or conceals any such escape, is guilty of a misdemeanor.

Any person under commitment as a defective or psychopathic delinquent who escapes or attempts to escape from the institution to which committed, or who commits an assault upon any person while on escape, escaping or attempting to escape from the institution to which committed, is guilty of a misdemeanor.

New section

SEC. 5. Section 7058.1 is hereby added to the Welfare and Institutions Code, to read as follows:

Application of State hospital provisions

7058.1. Except as otherwise provided in this chapter, the provisions of this code referring to State hospitals or to the officers or inmates thereof or to the persons committed thereto shall, as far as applicable, apply to the institutional units designated as the institutions for defective and psychopathic delinquents, and to the officers and inmates thereof and to the persons committed thereto.

CHAPTER 881

An act to amend Section 5050.7 of the Welfare and Institutions Code, relating to the apprehension of mentally ill or insane persons.

Stats 1937, p 1005, amended

[Approved by Governor May 29, 1943. Filed with Secretary of State May 29, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 5050.7 of the Welfare and Institutions Code is hereby amended to read as follows:

Stats 1939, p 1549

5050.7. The officer shall, pursuant to the order herein directed, apprehend the person, as provided in this chapter, and cause him to be delivered at the place designated in the order until examination can be had, as herein provided. At the time of such apprehension, or within a reasonable time thereafter, unless the person's guardian or responsible relative has taken possession of his personal property, the officer shall take all necessary precautions with respect to the property in the possession of or in the premises occupied by such mentally ill or insane person to preserve and safeguard the same pending the determination of the proceedings. Upon the commitment of the person to the Department of Institutions and his placement in a State hospital, the officer shall furnish to the superintendent of the hospital a full and complete report of the disposition of the patient's property so preserved and safeguarded; thereupon the responsibility imposed herein upon the officer shall terminate. Pending the examination, such order may be made relative to the care, custody, confinement and the preservation and safeguarding of the property of the alleged mentally ill person as to the judge seems for the best interests, welfare and health of the patient.

Apprehension and custody

Report

CHAPTER 882

An act to amend Section 435 of the Political Code, relating to the reversion of unexpended balances of certain appropriations.

[Approved by Governor May 29, 1943. Filed with Secretary of State May 29, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 435 of the Political Code is amended to read:

Stats 1941, p 1304

435. An appropriation not otherwise limited by law as to availability shall be available for expenditure for three years after the date upon which it becomes available. No encumbrances may be placed against such appropriation after the period of availability.

Period of availability

Payment of encumbrances

Encumbrances made during the period of availability and not paid during that period, may be paid during the year following. If not paid before the expiration of four years after the appropriation became available, the claim for which

Reversion

the money was encumbered shall be barred. Four years after the date upon which such appropriation became available for expenditure, any balance in such appropriation shall finally revert to and become a part of the fund from which the appropriation was made.

Exceptions

This section does not affect or apply to:

(a) Transfers of money from the General Fund for the benefit of elementary schools, high schools, the University of California, the Interest and Sinking Fund, or any other bond interest fund.

(b) Regular periodic expenditures of fixed sums for any public purpose.

(c) Appropriations made for cooperative work under specific agreement or under contract.

(d) Appropriations transferred to revolving funds specifically created by law.

Legislative intent

SEC. 2. The provisions of Section 435 of the Political Code, as amended by this act, insofar as they are substantially the same as the provisions of Chapter 238 of the Statutes of 1941, hereby amended, shall be construed as restatements and continuations thereof, and not as new enactments.

CHAPTER 883

Stats 1943, Ch 71, amended

An act to amend Sections 12291, 13053, 16441, 16442, 16443, 16481, 16484, 16485, 16461 and 18221 of, and to add Sections 13059.1 and 13059.2 to, the Education Code, relating to supervision of the health of pupils in the public schools.

In effect August 4, 1943

[Approved by Governor May 29, 1943. Filed with Secretary of State May 29, 1943.]

Note.—See Stats. 1943, Ch. 71.

CHAPTER 884

Stats 1931, p 587, amended

An act to amend Section 1023 of the Probate Code, relating to final distribution of estates in probate.

In effect August 4, 1943

[Approved by Governor May 29, 1943. Filed with Secretary of State May 29, 1943.]

The people of the State of California do enact as follows:

Stats 1931, p 587

SECTION 1. Section 1023 of the Probate Code is hereby amended to read as follows:

Death of heir before distribution

1023. If an heir, devisee or legatee dies before the distribution to him of his share of the estate, such share may be

distributed to the representative of his estate for the purpose of administration therein, or to the estate of such decedent for the purpose of administration therein, with the same effect as if it had been distributed to him while living.

CHAPTER 885

An act to amend Section 4212 of, and to add Section 4215 to, the Business and Professions Code, relating to pharmacy.

Stats 1937, p 1229, amended

[Approved by Governor May 29, 1943. Filed with Secretary of State May 29, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 4212 of the Business and Professions Code is amended to read:

Stats 1937, p 1229

4212. The fact the holder of any certificate becomes or is intoxicated while engaged in the discharge of his duties constitutes a ground for the temporary or permanent revocation of his certificate by the board.

Intemperance

SEC. 2. Section 4215 is added to said code, to read:

New section

4215. The adjudication of insanity or incompetency or commitment under any of the provisions of Division 6 of the Welfare and Institutions Code or under any of the provisions of Division 4 of the Probate Code or the adjudication of insanity or incompetency by any Federal court of competent jurisdiction constitutes a ground for the temporary suspension or revocation of a certificate by the board.

Adjudication of insanity, etc

CHAPTER 886

An act to amend Section 6731 of the Welfare and Institutions Code, relating to the discharge of patients from State hospitals, and for their subsequent care and support.

Stats 1937, p 1005, amended

[Approved by Governor May 29, 1943. Filed with Secretary of State May 29, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 6731 of the Welfare and Institutions Code is amended to read:

Stats 1937, p 1005

6731. The medical superintendent shall not refuse to discharge any patient as improved, on the ground that the guardian, friends, or relatives of the patient are not financially able and willing to care properly for the patient after his discharge. Any patient whose condition has improved so as to render him eligible for discharge under Section 6730, and whose guardian, friends, or relatives are not financially able and willing to care properly for him after his discharge shall

Refusal to discharge

Patient eligible for discharge

be returned to the county from which he was committed, at the expense of the county, and shall be cared for by the county as are other indigent persons.

CHAPTER 887

Stats 1937, p 2184, amended

An act to amend Section 4 of the Corporation Income Tax Act of 1937, relating to corporation taxes.

In effect immediately

[Approved by Governor May 29, 1943. Filed with Secretary of State May 29, 1943.]

The people of the State of California do enact as follows:

Stats 1941, p 2210

SECTION 1. Section 4 of the Corporation Income Tax Act of 1937 is hereby amended to read as follows:

Exempted corporations

Sec. 4. The following corporations shall be exempt from taxation under this act:

(a) Labor organizations.

(b) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this act, shall not be taxed under this act.

(c) Corporations classified as diversified management companies under Section 5 of the Federal Investment Company Act of 1940, and registered as provided in that act, shall not be taxed under this act.

(d) Fraternal beneficiary societies, orders, or associations, (A) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system; and (B) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents.

(e) Cemetery companies owned and operated exclusively for the benefit of their members; or which are not operated for profit; or any corporation chartered for cemetery purposes and permitted by its charter to engage in any business related to that purpose, no part of the net earnings of which inures to the benefit of any shareholder or member thereof.

(f) Corporations organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation.

(g) Business leagues, chambers of commerce, real estate boards, or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(h) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

(i) Clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder.

(j) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents, if (A) no part of their net earnings inures (other than through such payments) to the benefit of any private shareholder or individual, and (B) 85 per centum or more of the income consists of amounts collected from members and amounts contributed to the association by the employer of the members for the sole purpose of making such payments and meeting expenses.

(k) Teachers' retirement fund associations of a purely local character, if (A) no part of their net earnings inures (other than through payment of retirement benefits) to the benefit of any private shareholder or individual, and (B) the income consists solely of amounts received from public taxation, amounts received from assessments upon the teaching salaries of members, and income in respect of investments.

(*l*) Religious or apostolic corporations, if such corporations have a common treasury or community treasury, even if such corporations engage in business for the common benefit of the members, but only if the members thereof include (at the time of filing their returns) in their gross income their entire pro rata shares, whether distributed or not, of the net income of the corporation for such year. Any amount so included in the gross income of a member shall be treated as a dividend received.

(m) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or their designated beneficiaries, if (A) admission to membership in such association is limited to individuals who are officers or employees of the United States Government, and (B) no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual.

SEC. 2. This act, inasmuch as it provides for a tax levy for the usual current expenses of the State, shall under the provisions of Section 1 of Article IV of the Constitution take effect immediately. However the provisions of this act shall only be applicable to taxable years beginning after the effective date of this act. Tax levy Application

CHAPTER 888

An act to amend Sections 290, 303, 403c and 504 of the Civil Code, relating to corporations.

In effect August 4, 1943

[Approved by Governor May 29, 1943 Filed with Secretary of State May 29, 1943.]

The people of the State of California do enact as follows:

Stats 1933, p 1358

SECTION 1. Section 290 of the Civil Code is hereby amended to read:

Articles of incorporation

290. Articles of Incorporation. Articles of incorporation shall state:

1. The name of the corporation.

2. The purposes for which it is formed.

3. The county in this State where the principal office for the transaction of the business of the corporation is to be located.

4. If the corporation is to be authorized to issue only one class of shares of stock, the total number of shares which the corporation shall have authority to issue and the aggregate par value, if any, of all shares, and (a) the par value of each of such shares, or (b) a statement that all such shares of stock are to be without par value; or if the corporation is to be authorized to issue more than one class of shares, the total number of shares which the corporation shall have authority to issue and the aggregate par value of all shares that are to have a par value, and (a) the number of shares of each class that are to have a par value, and the par value of each share of each such class, and/or (b) the number of shares of each class that are to be without par value.

5. If the shares are to be classified, or if any class of shares is to have two or more series, a statement of the preferences, privileges, and restrictions granted to or imposed upon the respective classes or series of shares and/or upon the holders thereof, and of the number of shares constituting each series. Except as to matters and things so stated, no distinction shall exist between said classes or series of shares or the holders thereof; provided, however, that in lieu of a statement of the dividend rate, conversion rights, voting rights, the redemption price, or the liquidation preferences of any class or of any series of any class or the number of shares constituting any series, the articles may authorize the board of directors, within the limits and restrictions stated therein, to fix the dividend rate, conversion rights, voting rights, the redemption price, the liquidation preferences of any wholly unissued class or of any wholly unissued series of any class of shares, or the number of shares constituting any unissued series of any class, or all or any of them.

6. The number of its directors not less than three; the names and addresses of the persons who are appointed to act as the first directors. The number so fixed shall constitute the authorized number of directors until changed by amendment of the

articles or, unless the articles provide otherwise, by a by-law duly adopted by the shareholders.

7. Any provisions which may be desired

(a) Granting, with or without limitations, the power to levy assessments upon the shares or any class thereof;

(b) Granting to shareholders preemptive rights to subscribe to any or all issues of shares or securities;

(c) Imposing such limitations and requirements as are authorized by this title and otherwise regulating the business and affairs of the corporation and the powers of the directors and shareholders in a manner not in conflict with law.

SEC. 2. Section 303 of the Civil Code is hereby amended to read: Stats 1933, p. 1358

303. What may be regulated in by-laws. The by-laws of a corporation may make provisions not in conflict with law or its articles for: What may be regulated in by-laws

1. The time, place and manner of calling, conducting and giving notice of shareholders' and directors' meetings. The by-laws may dispense with notice of all regular and/or annual meetings of shareholders or directors, except as required under Section 312, Civil Code.

2. The requirements for a quorum for a shareholders' meeting, which shall be not less than a majority of the shares entitled to vote in case of a stock corporation.

3. The manner of execution, revocation and use of proxies.

4. The number, qualifications and duties of directors; the time of their annual election; the requirements of a quorum for a directors' meeting, in no case less than one-third of the authorized number of directors nor less than two. The authorized number of directors may be changed by amendment of the articles, or, unless the articles forbid, by a by-law duly adopted by the shareholders.

In any case in which it is proposed to reduce the authorized number of directors below five the votes or written consents of shareholders holding more than 80 per cent of the voting power shall be necessary for such reduction.

5. The appointment and authority of an executive committee and other committees of the board of directors.

6. The appointment, duties, compensation and tenure of office of officers other than directors, and the compensation of directors.

7. Special qualifications of persons who may be shareholders and reasonable restrictions upon the right to transfer or hypothecate shares.

8. The method of publication of notices of meetings of the shareholders or board of directors when publication is required; the mode of determination of shareholders of record; and the making of annual reports and financial statements to the shareholders or dispensing therewith.

9. The issue of certificates for shares prior to full payment.

10. The qualifications of members and different classes of memberships of nonstock corporations, and the property, voting and other rights, interests or privileges of each class.

11. The admission, election or appointment, suspension or expulsion of members.

12. The transfer, forfeiture and termination of membership, and whether the property interest of members shall cease at their death and the mode of ascertaining the property interest, if any, at death or termination of membership.

13. Cooperative corporations for profit may provide in their articles or by-laws for the distribution of the profits arising from the business in whole or in part among certain classes of persons other than the members or shareholders, if any, and the persons to whom and the manner in which such distribution may be made.

14. The fees of admission, transfer fees, dues and assessments to be paid by members or different classes of members of nonstock corporations and the method of collection. Such dues or assessments or both may be authorized upon all classes of membership alike, or in different amounts or proportions or upon a different basis upon different classes of membership, and memberships of one or more classes may be made exempt from either dues or assessments or both.

The amount and method of collection of such dues or assessments or both may be fixed in the by-laws or the by-laws may authorize the board of directors to fix the amount thereof from time to time, and make them payable at such times or intervals, and upon such notice, and by such methods as the directors prescribe. They may be made enforceable by action or by forfeiture of membership, or both, upon reasonable notice.

15. The manner of voting by members of nonstock corporations and whether they have the right of cumulative voting.

16. Any other proper and lawful regulations.

Stats 1935, p 400

SEC. 3. Section 403c of the Civil Code is hereby amended to read:

Certificate of winding up

403c. Order or certificate of winding up and dissolution. (1) When a corporation has been completely wound up without court proceedings therefor, a majority of the directors or trustees shall sign and acknowledge a certificate stating:

(a) That the corporation has been completely wound up.

(b) Whether its known debts and liabilities have been actually paid, or adequately provided for, or paid as far as its assets permitted, or that it has incurred no known debts or liabilities, as the case may be.

(c) Whether its known assets have been distributed, or wholly applied on account of its debts and liabilities, or that it acquired no known assets, as the case may be.

Filing

Such certificate shall be filed in the office of the Secretary of State and thereupon corporate existence shall cease except for the purpose of further winding up if needed. A copy of the certificate, certified by the Secretary of State, shall be filed in

the office of the county clerk of the county in which the principal office of the corporation is located.

Franchise Tax Commissioner's certificate

Before any corporation taxed under the Bank and Corporation Franchise Tax Act may file a certificate of dissolution it must file or cause to be filed with the Secretary of State the certificate of the Franchise Tax Commissioner provided for by Section 29 of said act.

Alternative court procedure. Petition

(2) In lieu of filing the certificate provided for in subdivision (1) of this section the directors or trustees, if the winding up has been accomplished without court proceedings, may petition the superior court of the county in which the principal office of the corporation is located for an order declaring the corporation duly wound up and dissolved. Such petition shall be filed in the name of the corporation.

Order

Upon the filing of such petition the court shall make an order requiring all persons interested to show cause why an order should not be made declaring the corporation duly wound up and dissolved and shall direct that the order be served by publication of a copy thereof in a newspaper of general circulation in the county where the principal office of the corporation is located, if there be one, or if not, in such newspaper as may be designated by the court, once a week for a period of two consecutive months.

Publication of order

Hearing

Any persons claiming to be interested either as shareholders, creditors or otherwise shall at any time before the expiration of 30 days from the completion of such publications have the right to appear in said proceeding and to contest said petition.

Order on hearing

Upon the hearing of said petition the court may make an order declaring the corporation duly wound up, its known assets distributed, any tax or penalty due under the Bank and Corporation Franchise Tax Act paid, and its other known debts and liabilities actually paid or adequately provided for or paid as far as its assets permit, the accounts of its directors settled and the directors or trustees discharged from their duties and liabilities to creditors or shareholders, and declaring the corporation dissolved, or it may make such other order and grant such other relief as it may deem proper upon the evidence submitted.

Filing of order

If an order be made that the corporation has been duly wound up and dissolved a copy of such order, certified by the clerk of the court, shall be filed in the office of the Secretary of State.

Discharge

Upon the making of such order, corporate existence shall cease except for the purposes of further winding up if needed and the directors or trustees shall be discharged from their duties and liabilities.

Stats. 1941, p. 2089

SEC. 4. Section 604 of the Civil Code is hereby amended to read:

Membership certificates

604. Membership in corporations formed under this title may be evidenced by certificates. Upon the face of such certificates there must be printed in clear type a statement that the corporation is not one for profit.

CHAPTER 889

Stats 1939, p 1274, amended

An act to amend Sections 6736, 6738, 6757 and 6796, and to repeal Sections 6360 and 6361 of the Revenue and Taxation Code, relating to the sales and use taxes, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor May 29, 1943. Filed with Secretary of State May 29, 1943.]

The people of the State of California do enact as follows:

Stats 1941, p 532

SECTION 1. Section 6360 of the Revenue and Taxation Code is repealed.

Stats 1941, p 532

SEC. 2. Section 6361 of said code is repealed.

Stats 1941, p 532

SEC. 4. Section 6736 of said code is amended to read:

Tax certificate

6736. If any amount required to be paid to the State under this part is not paid when due, the board may within three years after the amount is due file in the office of the county clerk of Sacramento County, or any county, a certificate specifying the amount required to be paid, interest and penalty due, the name and address as it appears on the records of the board of the person liable, the compliance of the board with this part in relation to the determination of the amount required to be paid, and a request that judgment be entered against the person in the amount required to be paid, together with interest and penalty as set forth in the certificate.

Stats 1941, p 1321

SEC. 5. Section 6738 of said code is amended to read:

Recordation of judgment abstract

Lien

6738. An abstract of the judgment or a copy may be filed for record with the county recorder of any county. From the time of the filing the amount required to be paid together with interest and penalty set forth constitutes a lien upon all the real property in the county owned by the person liable or afterwards and before the lien expires acquired by him. The lien has the force, effect, and priority of a judgment lien and shall continue for five years from the date of the judgment so entered by the county clerk unless sooner released or otherwise discharged. The lien may within five years from the date of the judgment or within five years from the date of the last extension of the lien in the manner herein provided, be extended by filing for record in the office of the county recorder of any county an abstract or copy of the judgment and from the time of such filing the lien shall be extended to the real property in such county for five years unless sooner released or otherwise discharged.

Stats 1941, p. 1321

SEC. 6. Section 6757 of said code is amended to read:

Recordation of certificate of delinquency

6757. If any amount required to be paid to the State under this part is not paid when due, the board may within three years after the amount is due file for record in the office of any county recorder a certificate specifying the amount, interest, and penalty due, the name and address as it appears on the records of the board of the person liable for the same, and the fact that the board has complied with all provisions of this

part in the determination of the amount required to be paid. From the time of the filing for record, the amount required to be paid together with interest and penalty constitutes a lien upon all real property in the county owned by the person or afterwards and before the lien expires acquired by him. The lien has the force, effect, and priority of a judgment lien and shall continue for five years from the time of the filing of the certificate unless sooner released or otherwise discharged. The lien may, within five years from the date of the filing of the certificate or within five years from the date of the last extension of the lien in the manner herein provided, be extended by filing for record a new certificate in the office of the county recorder of any county and from the time of such filing the lien shall be extended to the real property in such county for five years unless sooner released or otherwise discharged. Lien

SEC. 8. Section 6796 of said code is amended to read: Stats 1941, p. 532

6796. At any time within three years after any person is delinquent in the payment of any amount, the board may forthwith collect the amount in the following manner: The board shall seize any property, real or personal, of the person and sell the property, or a sufficient part of it, at public auction to pay the amount due together with any interest or penalties imposed for the delinquency and any costs incurred on account of the seizure and sale. Seizure and sale of property

Any seizure made to collect a sales tax due shall be only of property of the retailer not exempt from execution under the provisions of the Code of Civil Procedure.

SEC. 9. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect and become operative July 1, 1943. A statement of the facts constituting such necessity is as follows: Urgency

The amendments effected by this act were not in 1941 included in the Revenue and Taxation Code, Part 1, Division 2 thereof, which part takes effect July 1, 1943. This act, if it takes effect immediately, will maintain continuity in the provisions of the State tax laws, without which confusion would result.

CHAPTER 890

An act to add Section 258.1 to the Vehicle Code, relating to chauffeurs. Stats 1935, p 93, amended

[Approved by Governor May 29, 1943. Filed with Secretary of State May 29, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 258.1 is added to the Vehicle Code, to read: New section

258.1. Temporary Chauffeurs' Licenses. Temporary chauffeurs' licenses or permits may be issued at the discretion of Issuance to persons 16 years of age

the director to persons 16 years of age to permit such persons to drive motor vehicles with a load capacity of not more than four tons as chauffeurs during times of seasonal stress in transporting agricultural products and to transport war materials to or from war plants, and other merchandise vital to the war effort and necessary for the preservation of food and the transportation and delivery of heating fuel, upon furnishing the department with evidence that such temporary license or permit is necessary to facilitate the transportation of agricultural products and war material and to protect the health of the armed forces of the United States and the civilian population.

Duration

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section; but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

Existing law

CHAPTER 891

Stats 1935, p 248, amended

An act to add Sections 195.5 and 1623.5 to the Streets and Highways Code, relating to expenditure of money allocated to counties, cities, and cities and counties.

In effect August 4, 1943

[Approved by Governor May 29, 1943. Filed with Secretary of State May 29, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 195.5 is added to the Streets and Highways Code, to read:

Expenditure where patented paving material required

195.5. When the department delegates the expenditure of such money none of it shall be used for the construction or improvement of any highway or street if the contract for such construction or improvement specifies the use of any patented or proprietary paving material, unless the contract has been awarded to the lowest responsible bidder therefor after alternate bids have been called for and opportunity afforded for bids to be submitted for nonpatented or nonproprietary paving material in competition with an equal thickness and like design of such patented or proprietary paving material. This section shall not be deemed nor construed to prohibit the use of any patented or proprietary paving material in the maintenance of any highway or street when such highway or street was constructed of such material and, in the opinion of the body, board or officer ordering such maintenance, it would be impractical to use a different paving material for such maintenance.

SEC. 2. Section 1623.5 is added to the Streets and Highways Code, to read: New section

1623.5. None of the amounts paid to the counties shall be used for the construction or improvement of any highway or street if the contract for such construction or improvement specifies the use of any patented or proprietary paving material, unless the contract has been awarded to the lowest responsible bidder therefor after alternate bids have been called for and opportunity afforded for bids to be submitted for nonpatented or nonproprietary paving material in competition with an equal thickness and like design of such patented or proprietary paving material. This section shall not be deemed nor construed to prohibit the use of any patented or proprietary paving material in the maintenance of any highway or street when such highway or street has been constructed of such material and, in the opinion of the body, board or officer ordering such maintenance, it would be impractical to use a different paving material for such maintenance. Expenditure where patented paving material required

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CHAPTER 892

An act to amend Sections 752, 757, 763 and 771 of the Code of Civil Procedure, relating to partition of real and personal property.

[Approved by Governor May 29, 1943 Filed with Secretary of State May 29, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 752 of the Code of Civil Procedure is amended to read: Stats 1927, p 1446

752. When several cotenants own real property as joint tenants, or tenants in common, in which one or more of them have an estate of inheritance, or for life or lives, or for years, or when real property is subject to a life estate with remainder over, an action may be brought by one or more of such persons, or, where property is subject to a life estate with remainder over, by the life tenant, or where real property is subject to a lien on a parity with that on which the owner's title is based, by the owner or by the holder of such lien, for a partition thereof according to the respective rights of the persons interested therein, and for a sale of such property, or a part thereof, if it appears that a partition can not be made without great prejudice to the parties. Partition action

SEC. 2. Section 757 of said code is amended to read: Stats 1939, p 1902

757. If a party having a share or interest or lien is unknown, or any one of the known parties reside out of the State, or can not be found therein, and such fact is made to appear by affidavit, the summons may be served on such absent Service on unknown parties

or unknown party by publication, as in other cases. When publication is made, the summons, as published, must contain the description of the property which is the subject of the action.

Stats 1931, p 1511

SEC. 3. Section 763 of said code is amended to read:

Sale

763. If it appears by the evidence, whether alleged in the complaint or not, that the property or any part of it is so situated that partition can not be made without great prejudice to the owners, or where property is subject to a life estate and the remainder is a contingent remainder, the court may

Partition

and in the latter case must order the sale thereof; otherwise, upon the requisite proofs being made it must order a partition according to the respective rights of the parties as ascertained

Referees

by the court, and appoint three referees therefor, and must designate the portion to remain undivided for the owners whose interests remain unknown, or are not ascertained; or the court may with the consent of the parties appoint one referee instead of three, and he when appointed, has all the powers and may perform all the duties required of three referees; and the court must appoint as referee any person or persons to whose appointment all the parties have consented, and no person shall be appointed as referee who is disqualified from acting as an appraiser under the provisions of the Probate Code.

City within boundaries

When the site of an incorporated city or town is included within the exterior boundaries of the property to be partitioned, the court must direct the referees to survey and appraise the entire property to be partitioned by actual lots and subdivisions then existing in the actual possession of the several tenants in common, exclusive of the value of improvements thereon, first setting apart necessary portions of the property for ways, roads and streets, as in Section 764 provided, and to report such survey and separate appraisement on each lot and subdivision to the court.

Action of court

The court may confirm, change, modify, or set aside the report in whole or in part, and if necessary appoint new referees.

Sale

When, after the final confirmation of the report of such survey and appraisement, it appears by evidence to the satisfaction of the court that an equitable partition of the whole property is impracticable, and a sale of the site of such city or town, or any portion thereof, will be for the best interests of the owners of the whole property, it must order a sale thereof; provided, that within 60 days thereafter any tenant in common or tenants in common, having improvements erected on any town or city lot or subdivision included in such order of sale, shall have the prior right to purchase the same at such appraised valuation, and may pay into court the amount so appraised as the value thereof, and upon such payment the title shall vest in such purchaser or purchasers, and the court shall cause to be executed by such referees a deed for such lot or subdivision in fee and in severalty to such purchaser or purchasers; such further proceeding shall then be had as to the

remainder of the property, and the money so paid to the court, as by this chapter provided.

If, during the pendency of the action, any of the parties die, or become insane, or otherwise incompetent, the proceedings shall not for that cause be delayed or suspended, but the attorney who has appeared for such party may continue to represent such interest; and in case any such party has not appeared by an attorney, the court must appoint an attorney to represent the interest which was held by such party, until his heirs or legal representatives, or successors in interest, shall have appeared in the action; and an attorney so appointed must be allowed by the court a reasonable compensation for his services, which may be taxed as costs against the share or interest represented by such attorney, and may be adjudged a lien thereon in the discretion of the court. Death or insanity of a party

SEC. 4. Section 771 of said code is amended to read: 1872 Code Application of proceeds of sale

771. The proceeds of the sale of encumbered property must be applied under the direction of the court, as follows:

1. To pay its just proportion of the general costs of the action;

2. To pay the costs of the reference;

3. To satisfy and cancel of record the several liens in their order of priority, if entitled to priority over the lien under which the owner's title was obtained, by payment of the sums due and to become due; the amount due to be verified by affidavit at the time of payment;

4. The residue among the parties, according to their respective shares therein, as found by the court.

CHAPTER 893

An act to add Section 4090.2 to the Political Code, relating to county coroners.

[Approved by Governor May 29, 1943. Filed with Secretary of State May 29, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 4090.2 is added to the Political Code, to read: New section

4090.2. Notwithstanding Sections 4074 and 4290, in cases where no private ambulance service other than that operated by a coroner is available, in addition to his salary and such other fees as may be allowed by law, a county coroner may be reimbursed for ambulance services rendered in conveying persons to the county hospital, where such persons and the persons responsible for their support are unable to pay for such services. Reimbursement for ambulance services

CHAPTER 894

Stats. 1931, p. 587, amended

An act to add Article 4a (comprising Sections 970 to 977, inclusive) to Chapter 15 of Division 3 of the Probate Code, relating to the payment of Federal estate taxes.

In effect August 1, 1943

[Approved by Governor May 29, 1943. Filed with Secretary of State May 29, 1943.]

The people of the State of California do enact as follows:

New article

SECTION 1. Article 4a (comprising Sections 970 to 977, inclusive) is added to Chapter 15 of Division 3 of the Probate Code, to read:

Article 4a. Payment of Federal Estate Tax

Proration

970. Whenever it appears upon any accounting, or in any appropriate action or proceeding, that an executor, administrator, trustee or other fiduciary has paid an estate tax to the Federal Government under the provisions of any Federal estate tax law, now existing or hereafter enacted, upon or with respect to any property required to be included in the gross estate of a decedent under the provisions of any such law, the amount of the tax so paid, except in a case where a testator otherwise directs in his will, and except in a case where by written instrument executed inter vivos direction is given for apportionment within the fund of taxes assessed upon the specific fund dealt with in such inter vivos instrument, shall be equitably prorated among the persons interested in the estate to whom such property is or may be transferred or to whom any benefit accrues.

Jurisdiction and method of proration

971. The proration shall be made by the court having jurisdiction in probate of any property in the estate in the proportion, as near as may be, that the value of the property, interest or benefit of each such person bears to the total value of the property, interests and benefits received by all such persons interested in the estate.

Allowances

972. In making a proration allowances shall be made for any exemptions granted by the act imposing the tax and for any deductions allowed by such act for the purpose of arriving at the value of the net estate.

Charge against corpus

973. In cases where a trust is created, or other provision made whereby any person is given an interest in income, or an estate for years, or for life, or other temporary interest in any property or fund, the tax on both such temporary interest and on the remainder thereafter shall be charged against and be paid out of the corpus of such property or fund without apportionment between remainders and temporary estates.

Payment before distribution

974. The tax shall be paid by the executor or administrator out of the estate before its final distribution.

Recovery by executor from person in possession

975. In all cases in which any property required to be included in the gross estate does not come into the possession of the executor or administrator, he shall be entitled, and it

shall be his duty, to recover from whomever is in possession, or from the persons interested in the estate, the proportionate amount of the tax payable by the persons interested in the estate with which such persons interested in the estate are chargeable under the provisions of this article, and the probate court may by order direct the payment of such amount of tax by such persons to the executor or administrator. Order

976. The probate court, upon making a determination as provided in this article, shall make a decree or order directing the executor, administrator or other fiduciary to charge the prorated amounts against the persons against whom the tax has been prorated insofar as he is in possession of property or interests of such persons against whom the charge may be made and summarily directing all other persons against whom the tax has been prorated or who are in possession of property or interests of such persons to make payment of such prorated amounts to such executor, administrator or other fiduciary. Court order

977. Except where the context otherwise requires, as used in this article: Definitions

(a) "Person interested in the estate" means any person who receives or is the beneficiary of any property transferred pursuant to a transfer which is subject to a tax imposed by any Federal estate tax law, now existing or hereafter enacted.

(b) "Gross estate" or "estate" means all property included for Federal estate tax purposes in determining the Federal estate tax pursuant to the Federal estate tax law.

SEC. 2. This act applies only to the estates of persons dying after the effective date hereof. Application

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CHAPTER 895

An act to add Section 1714.5 to the Civil Code, relating to negligence as a matter of law, and defenses, for acts or omissions in complying with orders or proclamations of military authorities, declaring the urgency of this act, to take effect immediately.

[Approved by Governor May 29, 1943. Filed with Secretary of State May 29, 1943.] In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Section 1714.5 is added to the Civil Code, to read: New section

1714.5. The violation of any statute or ordinance shall not establish negligence as a matter of law where the act or omission involved was required in order to comply with an order or proclamation of the Commanding General of the Western Defense Command or such other military commander as may be designated by the Secretary of War and authorized to issue such orders or proclamations. No person shall be Violation of statute required by U. S. military order

prosecuted for a violation of any statute or ordinance when violation of such statute or ordinance is required in order to comply with an order or proclamation of the Commanding General of the Western Defense Command or such other military commander as may be designated by the Secretary of War and authorized to issue such orders or proclamations. The provisions of this section shall apply to such acts or omissions whether occurring prior to or after the effective date of this section.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

Certain military proclamations and orders made under the paramount authority of the United States in the exercise of the war power prescribe rules of conduct contrary to those prescribed by State and local laws and ordinances with the result that compliance with both is impossible. This act is therefore necessary in order that the people may comply with such military orders and proclamations without the danger of civil liability for violation of State and local laws or ordinances.

CHAPTER 896

Stats 1937, p 1229, amended

An act to add Section 3056 to the Business and Professions Code, relating to the admission to practice optometry, to take effect immediately.

In effect immediately

[Approved by Governor May 29, 1943. Filed with Secretary of State May 29, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 3056 is added to the Business and Professions Code, to read:

Examination of persons under 21

3056. Notwithstanding the age requirement of Section 3044, any person under the age of 21 years, otherwise qualified under this article, may file an application for an examination and be examined by the board. If he satisfactorily passes the examination, he shall be registered in the board's register of optometrists and shall be issued a certificate of registration as soon as he has paid the issuance fees after attaining the age of 21 years.

Duration

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public

peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

The prescribed courses in optometry have been intensified and shortened in furtherance of the war effort, resulting in students being ready to be graduated before they are 21. It is in the interest of the people of the State that those being graduated be examined by the board immediately so that when they become 21, they may be issued their certificate or registration and sooner fill the present shortage of qualified optometrists. In addition, many of the students who are under 21 and have completed their courses will be inducted in the armed forces, and unless permitted to qualify now, may be under a great handicap when they return from military service.

CHAPTER 897

An act to add Chapter 10, consisting of Sections 3950 to 3972, inclusive, to Part 6, Division 1, of the Revenue and Taxation Code, relating to actions by purchasers of tax-deeded property to determine adverse claims to or clouds upon that property.

Stats. 1939, p. 1274, amended

[Approved by Governor May 29, 1943. Filed with Secretary of State May 29, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Chapter 10, consisting of Sections 3950 to 3972, inclusive, is added to Part 6, Division 1 of the Revenue and Taxation Code, to read:

New chapter

CHAPTER 10. RIGHTS OF PURCHASER OF TAX-DEEDED PROPERTY, OR ANY OTHER PERSON CLAIMING THROUGH HIM, TO BRING ACTION TO DETERMINE ADVERSE CLAIMS TO OR CLOUDS UPON TAX-DEEDED PROPERTY PURCHASED FROM THE STATE

Action

3950. Whenever tax-deeded property has been purchased from the State, either under Chapter 7 or Chapter 8, and all subsequent taxes levied have been paid, the purchaser, or any person claiming through him, may bring an action to determine adverse claims to or clouds upon that property. The complaint shall be verified, shall aver the matters above enumerated, and shall set forth the interest of all persons in the property whether such persons are known or unknown.

Complaint

Defendants

3951. The complaint shall include as defendants to the action, all persons who are known to plaintiff or who appear of record to have some claim or cloud on the land described in plaintiff's complaint. The State may be made a party defendant.

State

Unknown defendants

3952. The complaint may further include as defendants persons unknown to plaintiff who claim any right, interest,

lien or claim on the land or cloud upon the title of plaintiff thereto.

Description of unknown defendants

3953. All unknown defendants, except unknown defendants owning a special assessment, shall be described in the complaint, as follows: "Also all other persons unknown, claiming any right, title, estate, lien or interest in the real property described in the complaint, adverse to plaintiff's ownership or any cloud upon plaintiff's title thereto."

Same

3954. Unknown defendants owning or claiming an interest in a special assessment shall be described in the complaint, as follows: "The owner or any person claiming an interest in a special assessment lien (here describe said lien as it is described in the bond or assessment records of the district in which it was issued)."

Other parties defendant

3955. Whenever unknown defendants owning or claiming an interest in special assessments are made parties defendant, the following persons shall also be made parties defendant: (a) The payee, as shown by the bond representing the special assessment, if any; (b) the owner of the special assessment, or any person claiming an interest therein, as shown by the treasurer's records; and (c) the treasurer, as collecting agent and trustee of the funds collected for unknown owners of a special assessment or persons claiming an interest therein.

Lis pendens

3956. Within 10 days after the filing of the complaint, plaintiff shall file or cause to be filed in the office of the county recorder of the county where the property is situated, a notice of the pendency of the action, containing the matters required by Section 409 of the Code of Civil Procedure.

Summons

3957. Within one year after the filing of the complaint, a summons must be issued which shall contain the matters required by Section 407 of the Code of Civil Procedure, and in addition, a description of the property and a statement of the object of the action. In the summons, the unknown defendants shall be designated as they are in the complaint.

Posting

3958. Within 30 days after the issuance of the summons, the plaintiff shall post, or cause to be posted, a copy thereof in a conspicuous place on the property.

Service

3959. All known defendants residing in the State of California, whose place of residence is known to the plaintiff, shall be served personally. All other defendants shall be served personally or by publication and mailing, as provided in Sections 412 and 413 of the Code of Civil Procedure, except that the publication need be made only once each week for a period of not less than four weeks, instead of two months.

Diligence

3960. In addition to the matters required to be set forth in the affidavit by the plaintiff pursuant to Sections 412 and 413 of the Code of Civil Procedure, it must appear by the affidavit that the plaintiff used due diligence to ascertain the identity and residence of the unknown defendants named in the complaint.

Rights of unknown defendants

3961. All unknown defendants served by publication shall have the same rights as are provided by law for other defendants upon whom personal service or service by publication is made. The action shall proceed against the unknown defendants in the same manner as against the other defendants who are served personally or by publication. Regardless of any legal disability, any unknown defendant, who has been served, and anyone claiming under him, who has or claims to have any right, title, estate, lien or interest in the property, or cloud upon the title thereto, or who owns or claims to own an interest in a special assessment lien adverse to plaintiff at the time of the commencement of the action, shall be concluded by a judgment in the action as if the action were brought against and personal service made upon that person by his or her name. Service shall be deemed complete upon the completion of the publication.

Default

3962. No decree quieting title or establishing the rights of any of the defendants as to the property shall be granted on default of the defendant, unless the court requires proof of the facts alleged.

Determination

3963. On the trial of the action, the court shall determine the rights of all the parties thereto.

Decree

3964. If the court determines that any of the defendants have any right, title, interest, lien or estate in or to the parcel of property involved, the court shall render its decree establishing these rights, and may order the sale of the property or the partition thereof.

Order of sale or partition

3965. If the court orders a sale of the property or a partition thereof, the same shall be made in accordance with the provisions of Chapter 4, Title 10, Part 2 of the Code of Civil Procedure, except that:

(a) The court may appoint one referee instead of three, and

(b) Proceeds of sale belonging to unknown special assessment owners, or persons claiming an interest in said special assessments, shall be paid to the treasurer, to be held by him as in like instances of collections by said treasurer of special assessments.

Cancellation of assessment

3966. If the right, title, interest, lien or estate of a known or unknown defendant established by the decree of the court, is based upon a special assessment or arises from a special assessment, the decree establishing such rights shall direct the treasurer to cancel the special assessments on his records.

Same

3967. If the court determines that none of the defendants have any right, title, interest, lien or estate in the property, the court shall render its final decree quieting the plaintiff's title under the tax deed and, if any of the defendants claims to be the owner of or have an interest in a special assessment, which special assessment the court determines to be invalid or inferior to plaintiff's title, the decree shall direct that the treasurer cancel the assessment on his records.

Effect of decree

3968. The decree, after it has become final, is conclusive against all the persons named in the complaint who have been served.

Treasurer

3969. After the judgment has become final, a certified copy thereof shall be delivered to the treasurer. Upon receipt of the copy, he shall cause to be canceled the special assessments described in the decree. The treasurer shall, upon his records, mark the special assessment as follows: "Canceled by judgment of court, superior court case number (here give number)."

Remedies cumulative

3970. The remedy provided in this chapter shall be construed as cumulative and not exclusive of any other remedy, form or right of action or proceeding now allowed by law.

"Treasurer"

3971. "Treasurer," as used in this chapter, means any person who is the custodian of the funds collected on special assessments and/or has the duty to cancel the assessments upon the payment thereof.

"Special assessment"

3972. "Special assessment," as used in this chapter, means any assessment levied pursuant to any of the improvement acts of the State of California, whether or not represented by a bond, and which are liens upon a specific parcel of real property.

CHAPTER 898

Stats 1937, p 1005, amended

An act to add Section 1737.5 to the Welfare and Institutions Code, relating to commitments to the Youth Authority.

In effect August 4, 1943

[Approved by Governor May 29, 1943. Filed with Secretary of State May 29, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 1737.5 is added to the Welfare and Institutions Code, to read:

Effect of commitment

1737.5. A commitment to the Authority is a judgment within the meaning of Chapter 1 of Title 8 of Part 2 of the Penal Code, and is appealable.

CHAPTER 899

Stats 1937, p 185, amended

An act to amend Section 2351 of the Labor Code, relating to conditions in places of employment.

In effect August 4, 1943

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.]

The people of the State of California do enact as follows:

Stats 1941, p 1637

SECTION 1. Section 2351 of the Labor Code is amended to read:

Ventilation and exits

2351. Every factory or workshop and every projection room of every moving picture theater in which one or more persons

are employed shall be so ventilated while work is carried on that the air will not become injurious to the health of the employees, and shall also be so ventilated as to render harmless, as far as practicable, all injurious gases, vapors, dust, or other impurities generated in the course of the manufacturing process or handicraft carried on therein, and every such projection room in every moving picture theater hereafter constructed shall have at least two separate exit doors for the better protection of the safety of the operator or operators in such projection room in case of fire. In every moving picture theater hereafter remodeled, such projection room shall have two such separate doors whenever possible.

CHAPTER 900

An act to add Section 9112.5 to the Public Resources Code, relating to soil conservation districts.

Stats 1939, p 1067, amended

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 9112.5 is added to the Public Resources Code, to read:

New section

9112.5. If at said hearing the board finds that more than 5 per cent of the total approximate acreage of the privately-owned land included by the petition in the proposed district will not be benefited by such inclusion, it shall defer action upon the petition and shall immediately call such finding to the attention of the commission and request that the commission make a further investigation of the proposed district with reference to the practicability and feasibility for effectively controlling run-off or preventing or controlling soil erosion in said proposed district at a cost commensurate with the probable benefits if the land so found not to be benefited is excluded therefrom.

Exclusion of land not benefited

The board shall adjourn the hearing on the petition for a period not to exceed three months, and the commission shall within said time make such further investigation and file its recommendations with the board. The board shall not determine the boundaries of the proposed district and grant the petition on file unless the commission reports favorably to the organization of the proposed district with the land so found by the board not to be benefited, excluded therefrom.

Adjournment of hearing

CHAPTER 901

An act to amend Section 226 of the Civil Code, relating to the adoption of children.

In effect August 4, 1943

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.]

The people of the State of California do enact as follows:

Stats 1943, Ch 283

SECTION 1. Section 226 of the Civil Code is amended to read:

Adoption Petition

226. Any person desiring to adopt a child may for that purpose petition the superior court of the county in which the petitioner resides and the clerk of the court shall immediately notify the State Department of Social Welfare at

Consent

Sacramento in writing of the pendency of the action. In all cases in which consent is required, except in the case of an adoption by a step-parent where one natural parent retains his or her custody and control of the child, unless a society licensed by the State Department of Social Welfare to find homes for children and place children in homes for adoption joins in the petition for adoption, the consent of the natural parent or parents for the adoption must be signed in the presence of an agent of the State Department of Social Welfare on a form prescribed by such department and filed with the clerk of the superior court, in the county of the petitioner's residence.

Effect of consent

Such consent, when reciting that the person giving it is entitled to the sole custody of the minor child, shall, when duly acknowledged before such agent, be prima facie evidence of the right of the person making it to the sole custody of the child and such person's sole right to consent.

Duty of Department of Social Welfare

In all cases of adoption in which no agency licensed to place children for adoption is a party, except in the case of an adoption by a step-parent where one natural parent retains his or her custody and control of the said child, it shall be the duty of the Department of Social Welfare to ascertain whether the child is a proper subject for adoption and whether the proposed home is suitable for the child, prior to accepting the consent of a natural parent to the adoption of the child by the petitioner.

In all cases in which the consent of the natural parent or parents is not necessary and a society licensed to place children for adoption is not a party to the petition, the State Department of Social Welfare shall, prior to the hearing of the petition, file its consent to the adoption with the clerk of the superior court of the county in which the petition is filed. Such consent shall not be given by the Department of Social Welfare unless the child's welfare will be promoted by the adoption.

Report

Except in the case of the adoption of a child by a step-parent where one natural parent retains his or her custody

and control of the child, it shall be the duty of the Department of Social Welfare to submit to the court a full report of the facts disclosed by its inquiry with a recommendation regarding the granting of the petition within 180 days after the filing of the petition; provided, however, that the court may allow such additional time for the filing of said report as in its discretion it may see fit. The report required of the Department of Social Welfare may be waived by the department in all cases in which a society, licensed by the Department of Social Welfare to place children in homes for adoption, is a party or joins in the petition for adoption. Such waiver may be issued by the department at any time, either before or after the filing of the petition for adoption. Waiver

Whenever any report or findings are submitted to the court by the Department of Social Welfare under any provision of this section, a copy of such report or findings, whether favorable or unfavorable, shall be given to the attorney for the petitioner in the proceedings, if the petitioner has an attorney of record, or to the petitioner.

In case of an adoption of a child by a step-parent where one natural parent retains his or her custody and control of said child, the consent of either or both parents must be signed in the presence of a county clerk or probation officer of any county of this State on a form prescribed by the State Department of Social Welfare and the county clerk or probation officer before whom such consent is signed shall immediately file said consent with the clerk of the superior court of the county where the petition is filed and said clerk shall immediately file a certified copy of such consent to adoption with the State Department of Social Welfare. Adoption by step-parent

If the father or mother of a child to be adopted resides outside the State of California, his or her consent may be signed before a notary and in such case the consent of the Department of Social Welfare will also be necessary. Consent of nonresident parent

A parent who is a minor shall have the right to sign a consent for the adoption of his or her child and such consent shall not be subject to revocation upon such parent reaching his or her majority. Minor parent

If for a period of 180 days from the date of filing the petition, or upon the expiration of any extension of said period granted by the court, the Department of Social Welfare fails or refuses to accept the consent of the natural parent or parents to the adoption, or if said department fails or refuses to file or to give its consent to an adoption in those cases where its consent is required by this chapter, either the natural parent or parents or the petitioner may appeal from such failure or refusal to the superior court of the county in which the petition is filed, in which event the clerk shall immediately notify the Department of Social Welfare of such appeal and the department shall within 10 days file a report of its findings and the reasons for its failure or refusal to consent to the Appeal

adoption or to accept the consent of the natural parent. After the filing of said findings, the court may, if it deems that the welfare of the child will be promoted by said adoption, allow the signing of the consent by the natural parent or parents in open court, or if the appeal be from the refusal of said department to consent thereto, grant the petition without such consent.

CHAPTER 902

Stats 1937, p 1898, amended

An act to add Section 57.2 to, and to amend Sections 62, 93, 95, 96, 131, and 132 of, the County Employees Retirement Act of 1937, relating to retirement.

In effect August 4, 1943

[Approved by Governor May 31, 1943 Filed with Secretary of State May 31, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 57.2 is hereby added to the County Employees Retirement Act of 1937, to read as follows:

Provisions of by-laws and regulations

Sec. 57.2. The board of retirement in its by-laws or regulations, among other things, may also provide:

(a) From what warrants deductions of members' contributions shall be made where because of sickness, leave of absence, or other cause, deducting the total contribution due from the first salary or wage warrant drawn in any particular month would result in practical difficulty and unnecessary hardship to the member.

(b) For a further extension of time not to exceed one additional year during which a member may redeposit in the retirement fund an amount equal to that which he withdrew therefrom at the last termination of his membership.

(c) For a withdrawal charge against a member who withdraws his accumulated contributions. The withdrawal charge shall not exceed the interest credited to such member subsequent to the effective date of the by-law or regulation.

Stats 1941, p 1667

SEC. 2. Section 62 of the County Employees Retirement Act of 1937 is hereby amended to read as follows:

Investments

Sec. 62. All funds received by the county treasurer not required for current disbursements shall be invested in securities only which are legal for savings bank investments in California, or deposited at interest in any State or National bank in accordance with the provisions of law authorizing and controlling the deposit of public funds in banks. Such funds may also be invested in the certificates and shares of a building and loan association or a Federal savings and loan association if such certificates or shares are "insured" as defined in Title IV of the National Housing Act or in registered warrants of any political subdivision of this State.

SEC. 3. Section 93 of the County Employees Retirement Act of 1937 is hereby amended to read as follows: Stats 1937, p 1898

Sec. 93. The rate of contribution shall apply to so much of the earnable compensation of each member as does not exceed five hundred dollars ($500) per month. Except as otherwise provided by the by-laws or regulations of the board of retirement such contribution shall be deducted by the county auditor or other officer charged with the duty of drawing salary or wage warrants from the first salary or wage warrant drawn in each month in favor of each member of the retirement association which shall be paid by such officer to the county treasurer and placed to the credit of each individual member's account. Payment of salaries and wages less such contribution shall be full and complete discharge and acquittance of all claims and demands whatsoever for service rendered by members during the period covered by such payment except their claims to the benefits to which they may be entitled as members of a retirement association established in accordance with the provisions of this act. Contributions Deductions

SEC. 4. Section 95 of the County Employees Retirement Act of 1937 is hereby amended to read as follows: Stats 1937, p 1898

Sec. 95. Should the service of a member be discontinued otherwise than by death or retirement, upon proper application submitted to the county treasurer, he shall be paid forth with all of his accumulated contributions minus a withdrawal charge if such a withdrawal charge has been provided for by the by-laws or regulations of the board of retirement, except that the board of retirement may at its discretion order payment in whole or in part withheld for a period not to exceed six months after date of separation. Discontinuance of service

SEC. 5. Section 96 of the County Employees Retirement Act of 1937 is hereby amended to read as follows: Stats 1937, p 1898

Sec. 96. Any member may redeposit in the retirement fund, within one year after his reentrance into the service, or within such longer time as may be provided for in the by-laws or regulations of the board of retirement, an amount equal to that which he withdrew therefrom at the last termination of his membership. If a member, upon reentering the retirement system after a termination of his membership, does not make such redeposit, he shall reenter as a new member without credit for any previous service, and the rate of his contribution for future years shall be the normal rate provided for in this act at his age of reentrance; otherwise his rate of contribution for future years shall be the same as his rate prior to the last termination of his membership, and his membership shall be the same as if unbroken by such last termination. Reentrance into service

SEC. 6. Section 131 of the County Employees Retirement Act of 1937 is hereby amended to read as follows: Stats 1937, p 1898

Sec. 131. Subject to the requirements as to service and cause of disability stated in this article, any member or the Retirement for disability

head of the office or department in which the member is or was last employed, or any other person on his behalf, while he is in service, within four months after his discontinuance of service, or while he continuously, from the date of discontinuance of service to the time of the application, is physically or mentally incapacitated to perform his duties, may apply for retirement for disability. The board of retirement may require such proof, including a medical examination at the expense of the employee, as it deems necessary or the board of retirement upon its own motion may order a medical examination to determine the existence of such disability.

Medical examination

Stats 1937, p 1898

SEC. 7. Section 132 of the County Employees Retirement Act of 1937 is hereby amended to read as follows:

Duty of board

Sec. 132. If the proof received including any medical examination shows to the satisfaction of the board that the member is permanently incapacitated physically or mentally for the performance of his duties in the service, the board shall forthwith retire him for disability. The board shall secure such medical service and advice as is necessary to carry out the purpose of this article and shall pay for such medical services and advice such compensation as it deems reasonable.

CHAPTER 903

An act to amend Section 117p of the Code of Civil Procedure, relating to fees charged by public officers in connection with small claims actions.

In effect August 4, 1943

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.]

The people of the State of California do enact as follows:

Stats 1935, p 1029

SECTION 1. Section 117p of the Code of Civil Procedure is hereby amended to read as follows:

Fee

117p. A fee of one dollar ($1) shall be charged and collected for the filing of the affidavit for the commencement of any action, a fee of fifty cents ($0.50) shall be charged and collected for the mailing of the copy of the affidavit, and, except as otherwise provided for in this chapter, no other fee or charge shall be collected by any officer for any service rendered under this chapter, or for the taking of affidavits for use in connection with any action commenced under this chapter. All fees collected hereunder shall be deposited with the treasurer of the city, or city and county, or county under whose jurisdiction any such court shall exist.

Deposit of fee

CHAPTER 904

An act to add Section 487a to the Penal Code, and to add Section 378.5 to the Agricultural Code, relating to theft of animals or carcasses thereof.

Stats 1933, p 60, amended

[Approved by Governor May 31, 1943 Filed with Secretary of State May 31, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 487a is added to the Penal Code, to read:

New section

487a. Every person who shall feloniously steal, take, transport or carry the carcass of a bovine animal, which is the personal property of another, or who shall fraudulently appropriate such property which has been entrusted to him, is guilty of grand theft.

Theft of bovine animals

SEC. 2. Section 378.5 is added to the Agricultural Code, to read:

New section

378.5. The director is empowered to enforce the provisions of Sections 487 and 487a of the Penal Code, with reference to theft of bovine animals or carcasses thereof.

Penal enforcement

CHAPTER 905

An act to add Section 135g to the Bank Act, relating to conservators, Superintendent of Banks or their employees accepting employment by merged, liquidated or reorganized banks.

Stats 1909, p 87, amended

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 135g is added to the Bank Act, to read:

New section

135g. No Superintendent of Banks and no person appointed by him who acts as conservator or liquidator of a bank under the provisions of the Bank Act, or who reorganizes, merges or rehabilitates any bank or banks, and no deputy superintendent who has participated in the administration of the affairs of such bank for the superintendent or conservator shall for a period of two years from and after the effective date of such reorganization, merger or rehabilitation become an officer or director of, or serve as an officer or director of, or serve in any position of gain or profit in, any company or bank formed in whole or in part of the assets or funds, or any part of the assets or funds of such reorganized, merged, or rehabilitated bank.

Employment by reorganized banks prohibited

Every person violating this section is guilty of a public offense and shall be punished by imprisonment in the State prison not exceeding five years, or in the county jail not exceeding two years, or by a fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment.

Penalty

CHAPTER 906

Stats 1943, Ch 71, amended

An act to add Section 2264 to the Political Code and to add Section 20924 to the Education Code, relating to the employment of a field worker at the California School for the Blind.

In effect August 4, 1943

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 2264 is added to the Political Code, to read:

Field worker

2264. There is hereby created at the California School for the Blind the position of field worker to be appointed by the principal of the school with the approval of the Superintendent of Public Instruction and the State Director of Education. The field worker shall be a member of the teaching staff of the California School for the Blind and shall receive an annual salary of not less than three thousand dollars ($3,000), payable in the same manner and at the same time as the salaries of other officers of the school are paid.

The field worker shall visit graduates and former pupils of the school in their homes to advise them regarding the extension and continuance of their education, to assist them in securing remunerative employment, to improve their economic condition in all possible ways, and to provide them with preparatory instruction found necessary for a selected occupation. The field worker shall be a person who has had special training for such work. Blindness shall not be grounds to disqualify a person for this position.

Note.—See Stats. 1943, Ch. 71.

Appropriation

SEC. 3. Out of any moneys in the State Treasury not otherwise appropriated the sum of eight thousand dollars ($8,000) is hereby appropriated to be expended during the Ninety-fifth and Ninety-sixth Fiscal Years to carry out the provisions of this act.

Effect Stats 1943, Ch. 71

SEC. 4. Section 2 of this act becomes operative only if the Education Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said Education Code takes effect, at which time Section 2264 of the Political Code added by this act is repealed.

Repeal

CHAPTER 907

An act to amend Sections 102 and 112 of the Insurance Code, relating to insurance.

Stats 1935, p. 496, amended

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 102 of the Insurance Code is amended to read:

Stats 1935, p. 496

Fire insurance

102. Fire insurance includes:

(a) Insurance against loss by fire, lightning, windstorm, tornado, or earthquake.

(b) Insurance against loss of, or destruction of, or damage to, any of the following property, when such insurance includes loss thereof by fire and excludes coverage of property while in the custody of, or possession of, or being transported by, any carrier for hire or in the mail:

1. Accounts, books, maps, manuscripts, indexes and other valuable papers, documents and records incidental to the business or profession or activity in which the insured is engaged, resulting from any cause, but excluding any article constituting stock in trade or used as a sample or sold or held for sale.

2. Moneys, stamps, coins, bullion, securities, notes, drafts, acceptances or instruments of like kind or character, resulting from any cause, except:

(I) Forgery

(II) Any dishonest, fraudulent or criminal act of any officer, employee, partner, director, trustee or authorized representative of the insured.

The provisions of Section 2070 shall not apply to insurance written pursuant to this subdivision (b).

SEC. 2. Section 112 of the Insurance Code is hereby amended to read as follows:

Stats 1935, p. 496

Burglary insurance

112. Burglary insurance includes:

(a) Insurance against loss by burglary or theft or both.

(b) Insurance against loss of, or destruction of, or damage to, any of the following property, resulting from any cause, when such insurance includes loss thereof by burglary or theft, or both, and excludes coverage of property while in the custody of, or possession of, or being transported by, any carrier for hire or in the mail: Moneys, stamps, coins, bullion, securities, notes, drafts, acceptances or instruments of like kind or character, accounts, books, maps, manuscripts, indexes and other valuable papers, documents and records incidental to the business or profession or activity in which the insured is engaged.

CHAPTER 908

Stats. 1935, p. 496, amended

An act to amend Section 108 of the Insurance Code, relating to liability insurance.

In effect August 4, 1943

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.]

The people of the State of California do enact as follows:

Stats 1935, p 496

SECTION 1. Section 108 of the Insurance Code is amended to read:

Liability insurance

108. Liability insurance includes:

(a) Insurance against loss resulting from liability for injury, fatal or nonfatal, suffered by any natural person, or resulting from liability for damage to property, or property interests of others but does not include workmen's compensation, common carrier liability, boiler and machinery, or team and vehicle insurance;

(b) With respect to operations or property covered by a policy of liability insurance as defined in subdivision (a), insurance of medical, hospital, surgical and funeral benefits to persons injured, irrespective of legal liability of the insured, when issued with or supplemental to the insurance defined in subdivision (a);

(c) Insurance included in a policy insuring against liability arising out of the ownership, operation, maintenance or use of a motor vehicle and covering the person named as insured in such a policy for medical, hospital, surgical and funeral benefits necessitated by accident while operating, driving, riding in or entering or alighting from such motor vehicle. The provisions of this code relating to disability insurance do not apply to insurance defined in subdivisions (b) and (c).

CHAPTER 909

Stats. 1935, p. 496, amended

An act to add Sections 10176, 10206.5 and 10641.5 to, and to amend Sections 10202, 10203, 10206, 10270.5, 10270.55, 10270.9, 10270.93 and 10270.95 of, the Insurance Code, relating to insurance.

In effect August 4, 1943

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 10176 is added to the Insurance Code, to read:

Payment of expenses on reimbursement basis

10176. In disability insurance the policy may provide for payment of medical, surgical or hospital expenses upon a reimbursement basis, and provision may be made therein for payment of all or a portion of the amount of the charge for

such services without requiring that the insured first pay such expenses.

SEC. 2. Section 10202 of said code is amended to read: Stats 1935, p. 496

10202. Life insurance conforming to all the following conditions is one form of group life insurance: Employees' group life insurance

(a) Written under a policy covering when issued not less than 50 public or private employees.

(b) Written under a policy issued to the employer, the premium on which is to be paid by the employer or by the employer and employees jointly, and insuring either all of the employees or all of any class thereof, determined by conditions pertaining to the employment.

(c) For amounts of insurance based upon some plan which will preclude individual selection.

(d) For the benefit of persons other than the employer.

(e) When the premium is to be paid by the employer and employee jointly and the benefits of the policy are offered to all eligible employees, written under a policy insuring, when issued, not less than 75 per cent of such employees.

(f) Terminating if, subsequent to issue, (1) the number of employees insured falls below 50 lives or 75 per cent of the number of employees eligible and, (2) the employee contributions, if the premiums for the insurance are on a renewable term insurance basis, exceed one dollar ($1) per month per one thousand dollars ($1,000) of insurance coverage plus an amount equal to any additional premium per one thousand dollars ($1,000) of insurance coverage charged to cover one or more hazardous occupations.

Such insurance may be issued either with or without medical examinations.

SEC. 3. Section 10203 of said code is amended to read: Stats 1941, p. 131

10203. Life insurance conforming to all the following conditions is another form of group life insurance: See also Stats 1943, Ch. 947

(a) Written under a policy covering, when issued, not less than 50 members of any of the following: Associated persons in same occupation

(1) Any labor union.

(2) The National Guard.

(3) Any association of governmental or public employees.

(b) Written under a policy issued to such union or association.

(c) The premium on the policy to be paid by the union or association or by the union or association and the members thereof jointly or by the insured members alone.

(d) Insuring only members of such union who are actively engaged in the same occupation or members of such association.

(e) Insuring for amounts of insurance based upon some plan which will preclude individual selection.

(f) Insuring for the benefit of persons other than the union or association or its officials.

(g) Written under a policy insuring, when issued, not less than 75 per cent of all members eligible for insurance under the policy, or 75 per cent of such members of any class

thereof reasonably determined by conditions pertaining to employment or of any established unit thereof not formed for the purpose of procuring insurance; provided, that if a group policy is intended to insure several such classes or units it may be issued as respects any such class or unit of which 75 per cent are covered and extended to other such units or classes as 75 per cent thereof express the desire to be covered. In such case, when members apply and pay for additional amounts of insurance, a smaller percentage of members may be insured for such additional amounts of insurance. If any member fails to become insured under an existing policy when he becomes eligible and later wishes to become insured thereunder, the insurer may require satisfactory evidence of insurability before insurance is granted on such member.

Stats 1935, p 496
Incontestability

SEC. 4. Section 10206 of said code is amended to read:

10206. The policy shall provide that it is incontestable after two years from its date of issue, except for nonpayment of premiums and except for violation of the conditions of the policy relating to military or naval service.

New section
Liability for war losses

SEC. 5. Section 10206.5 is added to said code, to read:

10206.5. The policy may provide that the insurer is not liable, or is liable only in a reduced amount, for losses arising from conditions:

(a) Relating to war or act of war;

(b) Relating to military or naval service;

(c) Relating to aviation.

The commissioner may after notice and hearing prescribe reasonable rules and regulations relative to the use of provisions permitted by this section in respect to policies outstanding or hereafter issued.

Stats 1939, p. 1547
Group disability insurance defined

SEC. 6. Section 10270.5 of said code is amended to read:

10270.5. Group disability insurance is that form of disability insurance conforming to all of the following conditions:

(a) Written under a master policy,

(1) Issued either to the Federal or State Government, or to any Federal or State agency, political subdivision or district, or to any public, governmental, or municipal corporation, or to any unit, agency, or department thereof, or to any corporation, copartnership or individual employer, offering insurance to all the employees of any such employer or to all of any class or classes thereof determined by conditions pertaining to employment and covering not less than 10 such employees or such employees together with their dependents for amounts of insurance based upon some plan which will preclude individual selection by the employee as to the amount of his insurance coverage thereunder; or

(2) Issued to any association having a constitution and by-laws and formed in good faith for purposes other than that of obtaining insurance offering insurance to all the members of such association and covering not less than 10 such members or such members together with their dependents and not less than 50 per cent of all eligible members for amounts

of insurance based upon some plan which will preclude individual selection by the member as to the amount of his insurance coverage thereunder. Any such master policy shall by its terms require the premium to be paid to the insurer either by means of pay roll deductions or periodically by some designated person acting on behalf of the association insured; and under which

(b) For delivery to each person insured thereunder, other than dependents of an insured employee or person, there is issued to the holder of the master policy by the insurer an individual certificate setting forth the benefits and the exceptions under, and referring to, the master policy under which the certificate is issued.

Such certificates are not subject to the provisions of this chapter relating to the master policy, but the forms thereof shall be submitted to the commissioner for his approval and shall not be issued without such approval of such forms in the manner provided in the case of the master policy.

SEC. 7. Section 10270 55 of said code is amended to read: Stats 1941, p. 1658

10270 55. (a) Any policy issued to a corporation, copartnership or individual employer eligible for group insurance pursuant to Section 10270 5, may also provide that the term "employees" shall include the officers, managers and employees of subsidiary or affiliated corporations, and the individual proprietors, partners and employees of affiliated individuals and firms, when the business of such subsidiary or affiliated corporations, firms or individuals is controlled by the policyholder through stock ownership, contract or otherwise, or when the policyholder is controlled by affiliated corporations, firms or individuals through stock ownership, contract or otherwise. Inclusion of officers and employees of affiliates

(b) Nothing contained herein shall permit any person other than an officer, manager, or employee for compensation of the policyholder or of one or more of the individuals, firms, or corporations specified in subdivision (a) to become insured under a group policy.

SEC. 8. Section 10270.9 of said code is amended to read: Stats 1939, p. 1547

10270 9. Neither a group disability policy nor family expense disability policy shall be issued or delivered in this State unless a copy of the form thereof is filed with the commissioner and approved by him in accordance with Article 2 of this chapter as meeting in substance the provisions and requirements of Articles 3, 4 and 5 of this chapter which are reasonably applicable. Approval of policy form

Except as provided by Section 10314 no group disability policy nor family expense disability policy shall be issued or delivered to any person in this State, nor shall any endorsement for such policies be issued which contain any provision contradictory, in whole or in part, of any of the provisions promulgated by the commissioner as being required or optional or alternative provisions to be incorporated into such policies. Prohibition

Stats 1939, p 1547
Promulgation of provisions

SEC. 9. Section 10270.93 of said code is amended to read:

10270.93. The commissioner shall promulgate forms of provisions which incorporate in substance the applicable provisions set forth in Articles 4 and 5 of this chapter. The commissioner may, subsequently, after hearing, promulgate alternative provisions to be used at the option of the insurer, which incorporate the substance of the applicable provisions of Articles 4 and 5 of this chapter, but which are more favorable to the holders of individual certificates or not less favorable to the holders of such certificates and more favorable to policyholders. The commissioner may from time to time thereafter change any such provisions previously promulgated by him if, after mailing notice, postage prepaid, to every admitted disability insurer in the State of California, he first holds a hearing to determine whether or not the changes proposed incorporate in substance such applicable provisions or, in respect to alternative provisions, are more favorable to the holders of individual certificates or not less favorable to the holders of such certificates and more favorable to policyholders than the applicable provisions of Articles 4 and 5 of this chapter. He shall disapprove any policy not conforming to such forms.

Stats 1939, p 1547
Provisions not applicable

SEC. 10. Section 10270.95 of said code is amended to read:

10270.95. Without affecting the applicability or degree of applicability of other sections of this chapter it is hereby specified that the provisions of Sections 10312, 10313, 10401, of subdivisions (a), (c), (e), (f) and (g) of Section 10310, and of subdivision (a) of Section 10290 shall not apply to group disability insurance. The provisions of Section 10401 shall not apply to family expense disability insurance.

New section
Insurance to nonresidents forbidden

SEC. 11. Section 10641.5 is added to said code, to read:

10641.5. Mutual benefit life associations shall not issue contracts of life insurance to other than residents of this State.

CHAPTER 910

Stats 1937, p 1898, amended

An act to amend Sections 28, 43.5 and 43.6 of the County Employees Retirement Act of 1937, relating to retirement.

In effect August 4, 1943

[Approved by Governor May 31, 1943 Filed with Secretary of State May 31, 1943.]

The people of the State of California do enact as follows:

Stats 1937, p. 1898

SECTION 1. Section 43.5 of the County Employees Retirement Act of 1937 is amended to read:

Credit for prior services

Sec. 43.5. Except as provided in Section 43.6 credit for prior service shall be granted to each person who has rendered such service as defined in this act, and who has become a member of the retirement system on the day it becomes operative, or within one year after last rendering prior service. Prior service so credited shall be the basis for a retirement allowance

or benefit as provided in this act, only if the membership in the retirement system continues unbroken until retirement on a retirement allowance, or until the granting of such other benefit, provided that termination of membership by withdrawal of accumulated contributions followed by the redeposit of such contributions upon reentrance into service as herein provided shall not constitute a break in membership, but this section shall not be construed to entitle any person to credit as prior service for time during which he was not in service as defined in this act.

Stats 1941, p. 1667

SEC. 2. Section 43.6 of said act is amended to read:

Credit for prior services

Sec 43.6. In the event that officers or employees not previously included within the field of membership of an association are brought within such field of membership or in the case elected officials have chosen or shall choose to come within such field of membership subsequent to the establishment of such association no such employee shall receive credit for service or for prior service unless he elects to pay and does pay into such association within one year thereafter and before an application for retirement be filed an amount equal to the contributions he would have made had he been a member thereof from the date of organization of the association or from the date of his entry into county service whichever be the later, together with regular interest thereon.

Stats. 1941, p 1444

SEC. 3. Section 28 of said act is amended to read:

"Prior service"

Sec. 28. Upon the adoption of a system by any county pursuant to this act, "prior service" shall mean service prior to the date of entry of a member into the retirement system.

CHAPTER 911

Stats. 1935, p 93 amended

An act to amend Sections 251, 252, 257, 267, 271, 302, 305, 307, 310, 353, 414, 415, 416, 417 and 418 of the Vehicle Code, relating to driver's licenses and proof of ability to respond in damages.

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

Stats 1935, p 93

SECTION 1. Section 251 of the Vehicle Code is amended to read:

Exemptions

251. Certain Persons Exempt. (a) No person in the naval or military service of the United States, while operating a vehicle owned or controlled by the United States, need obtain an operator's or chauffeur's license.

(b) No person while driving or operating implements of husbandry incidentally operated or moved over a highway, need obtain an operator's or chauffeur's license.

(c) No person while operating a self-propelled wheelchair or invalid tricycle need obtain an operator's or chauffeur's license.

Stats. Ex Sess 1940, p. 169

SEC. 2. Section 252 of the Vehicle Code is amended to read:

Nonresident operator

252. When Nonresident Exempt. (a) A nonresident over the age of 21 years having in his immediate possession a valid operator's license issued to him in his home State or country may operate a motor vehicle in this State as an operator only for not to exceed one year without obtaining a license hereunder.

(b) A nonresident over the age of 21 years having in his immediate possession a valid chauffeur's license issued to him in his home State or country may operate a motor vehicle in this State without obtaining a license hereunder, but such nonresident must be licensed as a chauffeur under this code before accepting employment as a chauffeur from a resident of this State.

(c) A nonresident over the age of 21 years whose home State or country does not require the licensing of operators or chauffeurs may operate a foreign vehicle owned by him for not to exceed 30 days without obtaining a license hereunder.

(d) The provisions of subdivisions (a), (b) and (c) shall apply to any nonresident over the age of 16 years but under the age of 21 years, except that the maximum period during which such nonresident may operate a motor vehicle in this State without obtaining an operator's or chauffeur's license shall be limited to a period of 10 days immediately following the entry of such nonresident into this State.

Resident defined

(e) For the purposes of this division any person who, while residing in this State, accepts gainful employment within this State, shall be considered to be a resident of this State.

Stats 1939, p 1434

SEC. 3. Section 257 of the Vehicle Code is amended to read:

Age limit for operators

257. Age Limit for Operators No operator's license shall be issued to any person under the age of 16 years except that an operator's license may be issued to a person 14 years of age but less than 16 years of age upon application as required of other minors under Section 350 hereof; but the department shall not issue a license to any such person unless it shall be satisfied on reasonable proof that there is an actual and real necessity for the operation of a motor vehicle by such person. In such cases the department may issue a license for a period of less than four years and may cancel any such license at any time before the person is 16 years of age whenever in the opinion of the department the safety of such person or of other persons upon the highways may require such cancellation. The department may require an affidavit from a parent or other person having custody of such minor, setting out the facts of the case.

The department shall impose restrictions on any license issued to such minor as may be appropriate to limit the operation of motor vehicles by such minor to operation within the scope of the necessity as shown and such other restrictions as the department may deem necessary to assure the safe operation of a motor vehicle by the licensee.

SEC. 4. Section 267 of the Vehicle Code is amended to read: Stats 1935, p 93

267. Examinations for License. Upon application for an original license the department shall require an examination of the applicant and shall make provision therefor before an officer or employee or authorized representative of the department in the county wherein the applicant resides. Examination

SEC. 5. Section 271 of the Vehicle Code is amended to read: Stats 1937, p 1592

271. Grounds Permitting Refusal of License. The department may refuse to issue an operator's or chauffeur's license to any person: Optional grounds for refusal of license

(a) If the department is satisfied that the applicant is not entitled thereto under the provisions of this code.

(b) If the applicant has failed to furnish the department the information required in the application or reasonable additional information requested by the department.

(c) If the department determines that the applicant has made or permitted to be made unlawful use of any operator's or chauffeur's license.

(d) If the department determines that the applicant has used a false or fictitious name in any application for a license, or has knowingly made a false statement or knowingly concealed a material fact, or otherwise committed any fraud in any such application.

(e) If the department determines that the applicant is an habitual violator of the traffic laws.

SEC. 6. Section 302 of the Vehicle Code is amended to read: Stats 1939, p 2115

302. Suspension, Revocation and Cancellation Defined. Whenever any reference is made in this code to the suspension, revocation or cancellation of an operator's or chauffeur's license, such terms shall mean: Definition of suspension, etc

(a) Suspension means that the person's privilege to drive a motor vehicle upon a highway is temporarily withdrawn and all operator's and chauffeur's licenses issued to such person must be surrendered.

(b) Revocation means that the person's privilege to drive a motor vehicle upon a highway is terminated and all operator's and chauffeur's licenses issued to such person must be surrendered. A new license may be obtained only as provided in this code.

(c) Cancellation means that an operator's or chauffeur's license certificate is terminated without prejudice and must be surrendered. Any person whose license has been canceled may immediately apply for a license. Cancellation of license may be made only when specifically authorized in this code or when a license has been issued through error or voluntarily surrendered to the department.

SEC. 7. Section 305 of the Vehicle Code is amended to read: Stats 1939, p 2115

305. Additional Grounds Requiring Revocation by Department. (a) The department shall also revoke the license of Additional grounds for revocation of licenses

any person who has been found by a judge of the juvenile court to have committed any of the following offenses:

(1) Operating a vehicle while an habitual user of narcotic drugs or while under the influence of intoxicating liquor or narcotic drugs.

(2) Reckless driving.

(3) Failure to comply with duties imposed upon a driver involved in an accident resulting in injury or death to any person or damage to property, other than a collision with an unattended vehicle.

(4) Twice within a period of six months violating the provisions of this code limiting the speed of vehicles.

(5) A violation of any provision of this code punishable as a felony or of the provisions of the Penal Code relating to the grand theft of a motor vehicle, or a felony in the commission of which a motor vehicle was used.

(b) Each judge of a juvenile court shall immediately report such findings to the department.

(c) No new license shall be issued to a person whose license is revoked pursuant to this section until after the expiration of one year from the date of such revocation, and then only if such person has attained the age of 18 years.

Stats 1941, p 2847

SEC. 8. Section 307 of the Vehicle Code is amended to read:

Grounds for suspension of licenses

307. Grounds Requiring Suspension by the Department. (1) The department upon receipt of a duly certified abstract of the record of any court showing that any person has been convicted of operating a motor vehicle while under the influence of intoxicating liquor, punishable as a misdemeanor, or of reckless driving resulting in personal injury under subdivision (b) of Section 505, shall suspend the privilege of such person to operate a motor vehicle upon a highway; such suspension to remain in effect until such person surrenders to the department all operators' or chauffeurs' licenses such person may hold evidencing such privilege.

Probationary licenses

(2) Upon a showing by its records that any such person has never before been convicted of operating a motor vehicle while under the influence of intoxicating liquor, or of reckless driving resulting in personal injury under subdivision (b) of Section 505, the department shall issue to such person a probationary operator's or chauffeur's license.

Conviction during probationary period

(3) If following a conviction of an offense which would require the issuance of a probationary license and before a probationary license is issued by the department or if during the probationary period the licensee is convicted of operating a motor vehicle while under the influence of intoxicating liquor, a misdemeanor, or of violating the provisions of Section 481 or 505 of this code, the department shall suspend the privilege of such person to operate a motor vehicle upon a highway and require the surrender of all licenses which such person may hold evidencing such privilege until such person

gives proof of ability to respond in damages as provided in this code.

Withdrawal of probationary license

(4) At any time after one year from the date of issuance of such probationary license, the licensee may request that the department withdraw the probationary license and issue a regular operator's or chauffeur's license. The department shall issue a regular operator's or chauffeur's license upon request unless since the issuance of the probationary license the privilege of such person to operate a motor vehicle has been suspended or revoked. If the privilege was suspended a regular license shall not be issued until one year after the termination of the suspension. If the privilege was revoked a regular license shall not be issued until one year after a new probationary license was issued.

Second conviction

(5) Upon a showing by its records that any person who has been convicted of operating a motor vehicle while under the influence of intoxicating liquor, or of reckless driving resulting in personal injury under subdivision (b) of Section 505, has been convicted subsequently of either offense, the department shall suspend his driving privilege and all licenses evidencing such privilege, until the person gives proof of ability to respond in damages as provided in this code.

Suspension prior to August 27, 1937

(6) Any person whose privilege of operating a motor vehicle upon the highway was suspended prior to August 27, 1937, pending the giving of proof of ability to respond in damages under the provisions of Section 304 (c) or 308 of this code or Section 73½ of the California Vehicle Act, may request, and the department, upon a showing by its records that such person has been convicted of one violation only of an offense which would be ground for such suspension, shall withdraw the requirement that proof be filed and shall issue a probationary license to such person subject to the provisions of this section.

Supplemental procedure

(7) The provisions of this section shall not be construed as repealing or modifying any other provisions of this code relating to the issuance, suspension or revocation of licenses, but the procedure herein provided shall be supplemental to other provisions of this code.

Stats 1935, p 93

SEC. 9. Section 310 of the Vehicle Code is amended to read:

Nonresidents subject to license requirements

310. Nonresidents Subject to Chapter. (a) The privileges of nonresidents to operate vehicles in this State are subject to the provisions of this chapter in the same manner and to the same extent as the privileges of resident operators and chauffeurs.

(b) Any nonresident, whether or not licensed as an operator or chauffeur in another State or country, who operates a motor vehicle upon a highway within this State after his privilege of operating a motor vehicle or a former license issued to him in this State has been suspended or revoked in accordance with the provisions of this code, shall be in violation of Section 332 of this code.

Stats 1935, p 93

SEC. 10. Section 353 of the Vehicle Code is amended to read:

Release from liability

353. Release From Liability. Any person who has signed and verified the application of a minor for an operator's or chauffeur's license under Section 350 or any employer who has authorized the issuance of a license to a minor and who desires to be relieved from the joint and several liability imposed by reason of having so signed and verified such application may file a verified application with the department requesting that the license of said minor issued upon said application be canceled. Thereupon the department shall cancel the license of said minor and thereafter said person shall be relieved from the liability imposed under this division by reason of having so signed and verified said original application on account of any subsequent wilful misconduct or negligent operation of a motor vehicle by said minor.

Stats 1935, p 93

SEC. 11. Section 414 of the Vehicle Code is amended to read:

Proof of ability to respond in damages

414. Proof of Ability to Respond in Damages. Proof of ability to respond in damages when required by this code means proof of ability to respond in damages resulting from the ownership or operation of a motor vehicle, and arising by reason of personal injury to, or death of, any one person, of at least five thousand dollars ($5,000), and, subject to the limit of five thousand dollars ($5,000) for each person injured or killed, of at least ten thousand dollars ($10,000) for such injury to, or the death of, two or more persons in any one accident, and for damage to property (in excess of one hundred dollars ($100)) of at least one thousand dollars ($1,000) resulting from any one accident. Such proof of ability to respond in damages may be given by any of the following:

Insurance

(a) The written certificate or certificates of any insurance carrier duly authorized to do business within the State, that it has issued to or for the benefit of the person named therein a motor vehicle liability policy or policies as defined in Section 415, which, at the date of said certificate or certificates is in full force and effect, and designating therein by explicit description or by other appropriate reference all motor vehicles with respect to which coverage is granted by the policy certified to. The department shall not accept any certificate or certificates unless the same cover all motor vehicles registered in the name of the person furnishing such proof, except that this provision shall not apply to vehicles in storage; provided, the current license plates and registration cards are surrendered to the Department of Motor Vehicles in Sacramento. Additional certificates shall be required as a condition precedent to the registration of any additional motor vehicle or motor vehicles in the name of the person required to furnish such proof. Said certificate or certificates shall certify that the motor vehicle liability policy or policies therein cited shall not be canceled except upon 10 days' prior written notice to the department.

(b) The bond of a surety company duly authorized to do business within the State, or a bond of individual sureties each owning unencumbered real estate, approved by a judge of a court of record. Such bond shall be conditioned for the payment of the amount specified in this section, and shall provide for the entry of judgment on motion of the State in favor of any holder of any final judgment on account of damage to property over one hundred dollars ($100) in amount, or injury to any person caused by the operation of such person's motor vehicle, in the same manner as provided in Section 942 of the Code of Civil Procedure for the entry of judgment upon appeal bonds. Surety bond

(c) Evidence presented to the department of a deposit by such person with the State Treasurer of eleven thousand dollars ($11,000). The department shall not accept a deposit of money where any judgment or judgments theretofore recovered against such person as a result of damages arising from the operation of any motor vehicle shall not have been paid in full. The Treasurer of the State shall accept any such deposit and issue a receipt therefor. Deposit

SEC. 12. Section 415 of the Vehicle Code is amended to read: Stats 1937, p 2353

415. Requisites of Motor Vehicle Liability Policy. (a) A "motor vehicle liability policy," as used in this code means a policy of liability insurance issued by an insurance carrier authorized to transact such business in this State to or for the benefit of the person named therein as assured, which policy shall meet the following requirements: Motor vehicle liability policy

(1) Such policy shall designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby intended to be granted.

(2) Such policy shall insure the person named therein and any other person using or responsible for the use of said motor vehicle or motor vehicles with the express or implied permission of said assured.

(3) Such policy shall insure every said person on account of the maintenance, use or operation of every motor vehicle therein covered within the continental limits of the United States against loss from the liability imposed by law arising from such maintenance, use or operation to the extent and aggregate amount, exclusive of interest and costs, with respect to each such motor vehicle, or five thousand dollars ($5,000) for bodily injury to or death of each person as a result of any one accident and, subject to said limit as to one person, the amount of ten thousand dollars ($10,000) for bodily injury to or death of all persons as a result of any one accident and the amount of one thousand dollars ($1,000) for damage to property of others as a result of any one accident.

(b) Such policy shall (1) Cover the assured in the use or operation of all vehicles owned by him or registered in his name but not insuring such person when operating any motor vehicle not owned by him, or

(2) Cover the assured in the use or operation of all vehicles owned by him or registered in his name and insure such person in the operation of any motor vehicle not owned or registered in his name, or

(3) Cover the assured only in the operation of any motor vehicle not owned by him nor registered in his name, or

(4) Cover the assured only in the operation of a certain vehicle or vehicles not owned by him nor registered in his name.

(c) Any such policy may grant any lawful coverage in excess of or in addition to the coverage herein specified or contain any agreements, provisions or stipulations not in conflict with the provisions of this code and not otherwise contrary to law.

(d) Any liability policy issued hereunder need not cover any liability for injury to the assured or any liability of the assured assumed by or imposed upon said assured under any workmen's compensation law nor any liability for damage to property in charge of the assured or the assured's employees or agents.

(e) The provisions of subsection (b), parts (1) and (2), shall not apply to vehicles in storage; provided, the current license plates and registration cards are surrendered to the Department of Motor Vehicles in Sacramento.

Stats. 1939, p 2319

SEC. 13. Section 416 of the Vehicle Code is amended to read:

Payment of judgments in installments

416. Installment Payments of Civil Judgments. (a) The department shall not suspend a license or registration of a motor vehicle and shall restore any suspended license or registration following nonpayment of a final judgment when the judgment debtor gives proof of financial responsibility for future damages and when the trial court in which such judgment was rendered orders the payment of such judgment in installments and while the payment of any said installment is not in default. Whenever the trial court orders the payment of a judgment in installments as provided in this section such court shall forward a certified copy of such order to the department, together with a certified copy of judgment or certified copy of the docket entries in an action resulting in a judgment for damages and a certificate of facts relative to such judgment on a form provided by the department.

(b) The trial court may order the payment of a judgment in installments only when the defendant is not insured or when the insurance policy covering the automobile involved in the accident, for the ownership or operation of which the defendant is held liable, is not sufficient to pay the amount of said judgment, and then only as to such portion of said judgment not covered by such insurance policy. Such order shall fix the amounts and times of payment of the installments and shall be without prejudice to any other legal remedies available to the judgment creditor.

(c) In the event that it is made to appear to the court that the judgment debtor has failed to pay any installment as permitted by the order of the court, then the courts shall give notice of such default to the department and the department shall forthwith suspend the license and registration certificates and registration plates of the judgment debtor until said judgment is satisfied as provided in this act.

SEC. 14. Section 417 of the Vehicle Code is amended to read: Stats 1939, p. 2319

417. When Department May Release Proof. The department shall upon request cancel any bond or any certificate of insurance, or the department shall direct the return to the person entitled thereto of any money or securities deposited pursuant to this code as proof of financial responsibility, or the department shall waive the requirement heretofore or hereafter imposed of filing proof of financial responsibility in any of the following events: Release of proof

(a) When such person is no longer required to maintain such proof under the provisions of this code.

(b) At any time after three years from the date such proof was required when, during the three-year period immediately preceding the request, the person required to furnish such proof: (1) has not been convicted of any offense authorizing or requiring the suspension or revocation of a license by the department, and (2) has not suffered suspension or revocation of license upon order of the department or a court arising from a conviction of a violation of the law.

(c) Upon the death of the person on whose behalf such proof was filed.

(d) In the event of the permanent incapacity of such person to operate a motor vehicle if such person surrenders for cancellation his operator's or chauffeur's license and, if suspended under the provisions of Section 410 of this code, the registration cards and license plates issued for all motor vehicles registered in his name to the department.

(e) The department shall not release such proof: (1) if any action for damages upon a liability referred to in this code is then pending, or (2) if any judgment upon any such liability is outstanding and unsatisfied.

(f) An affidavit of the applicant of the nonexistence of such facts shall be prima facie evidence thereof.

SEC. 15. Section 418 of the Vehicle Code is amended to read: Stats 1937, p. 2353

418. Substitution or Failure of Proof. (a) The department shall cancel any bond or any certificate of insurance or direct the return of any money or securities to the person entitled thereto, upon the substitution and acceptance of other adequate proof of ability to respond in damages pursuant to this code. Substitution of proof

(b) Whenever any evidence of proof of ability to respond in damages filed by any person under the provisions of this code no longer fulfills the purpose for which required the Failure of proof

department shall, for the purpose of this code, require other evidence of ability to respond in damages as required by this code, and shall suspend the privilege of such person to operate a motor vehicle upon a highway or the operator's or chauffeur's license issued to him evidencing such privilege. Such suspension shall also include the registration card and license plates issued for all motor vehicles registered in the name of such person; provided, the original suspension resulted from an unsatisfied judgment. Such suspension shall remain in effect until adequate proof of ability to respond in damages shall have been filed with the department by such person.

CHAPTER 912

An act to amend Section 142 of the Civil Code, relating to payment of alimony.

In effect August 4, 1943

[Approved by Governor May 31, 1943 Filed with Secretary of State May 31, 1943.]

The people of the State of California do enact as follows:

Stats 1939, p 2762

SECTION 1. Section 142 of the Civil Code is amended to read:

Withholding of allowance from separate property

142. When the prevailing party in the action has either a separate estate, or is earning his or her own livelihood, or there is community property sufficient to give him or her alimony or a proper support, or if the custody of the children has been awarded to the other party, who is supporting them, the court in its discretion, may withhold any allowance to the prevailing party out of the separate property of the other party. Where there are no children, and either party has a separate estate sufficient for his or her proper support, no allowance shall be made from the separate estate of the other party.

CHAPTER 913

An act to amend and renumber Section 1208 of the Code of Civil Procedure as added by Statutes of 1905, Chapter 472, and amended by Statutes of 1935, Chapter 104, to be Section 1208.5, relating to liens upon animals.

In effect August 4, 1943

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.]

The people of the State of California do enact as follows:

Stats 1935, p 457

SECTION 1. Section 1208 of the Code of Civil Procedure, as added by Statutes of 1905, Chapter 472, and amended by

Statutes of 1935, Chapter 104, is amended and renumbered to read:

1208.5. Any person having a lien upon any animal or animals under the provisions of Sections 597a, or 597f, of the Penal Code may satisfy such lien as follows: If such lien be not discharged and satisfied, by the person responsible, within three days after the obligation becomes due, then the person holding such lien may resort to the proper court to satisfy the claim; or he, three days after the charges against such property become due, may sell the same, or such undivided fraction thereof as may become necessary, to defray the amount due and costs of sale, by giving three days' notice of the sale by advertising in some newspaper published in the county, or city and county, in which the lien has attached to the property; or, if there is no paper published in the county, then by posting notices of the sale in three of the most public places in the town or township for three days previous to the sale. Said notices shall contain an accurate description of the property to be sold, together with the terms of sale, which must be for cash, payable on the consummation of the sale. The proceeds of the sale must be applied to the discharge of the lien and the costs of sale; the remainder, if any, must be paid over to the owner, if known, and if not known must be paid into the treasury of the humane society of the county, or city and county, wherein the sale takes place; if no humane society exists in the county, then the remainder shall be paid into the county treasurer.

Satisfaction of liens on certain animals

Court action

Sale

Notice

Proceeds of sale

CHAPTER 914

An act to amend Sections 5700, 5703, 5705, 5706, 5707, 5708, 5751, and 5753 of the Welfare and Institutions Code, and to add Sections 5699 and 5700.5 thereto, relating to private institutions.

Stats 1937, p 1005, amended

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 5699 is hereby added to Chapter 1 of Part 2 of Division 6 of the Welfare and Institutions Code, to read as follows:

New section

5699. As used in this part, "establishment" and "institution" include every hospital, sanitarium, home, or other place receiving or caring for any insane, alleged insane, mentally ill, or other incompetent person referred to in this division.

"Establishment" and "Institution"

SEC. 1.5. Section 5700 of the Welfare and Institutions Code is hereby amended to read as follows:

Stats 1937, p 1005

5700. No person, association, or corporation, shall establish or keep, for compensation or hire, an establishment for

License required

the care, custody, or treatment of the insane, alleged insane, mentally ill, or other incompetent persons referred to in this division without first having obtained a license therefor from the State Department of Institutions, and having paid the license fee provided in this chapter.

Penalty for failure to obtain license

Any person who carries on, conducts, or attempts to carry on or conduct an establishment for the care or treatment, or for the care and treatment of the insane or alleged insane, mentally ill, or incompetents without first having obtained a license from the State Department of Institutions, as in this chapter provided, is guilty of a misdemeanor and on conviction thereof shall be punished by imprisonment in a county jail not exceeding six months or by a fine not exceeding one thousand dollars ($1,000), or by both such fine and imprisonment. The managing and executive officers of any corporation violating the provisions of this section shall be liable under the provisions of this section in the same manner and to the same effect as a private individual violating the same.

New section

SEC. 1.6. Section 5700 5 is hereby added to the Welfare and Institutions Code, to read as follows:

District attorney

5700.5. The district attorney of every county shall, upon application by the State Department of Institutions or its authorized representatives, institute and conduct the prosecution of any action brought for the violation within his county of any of the provisions of this chapter.

Stats 1937, p 1005

SEC. 2. Section 5703 of the Welfare and Institutions Code is hereby amended to read as follows:

Examination of conduct of institution

5703. The department may at any time examine and ascertain how far a licensed establishment is conducted in compliance with the license therefor. If the interests of the inmates of the establishment so demand, the department, after due notice of not less than five days by registered mail to the licensee of such establishment, and opportunity to be heard, and after having made a record of the proceedings upon such hearing, may, for just and reasonable cause, suspend or revoke any such license. The cause for the revocation or suspension shall be stated in the order, and the order shall take effect at such time after the service thereof upon the licensee as the department determines.

Revocation or suspension of license

Stats 1937, p 1005

SEC. 3. Section 5705 of the Welfare and Institutions Code is hereby amended to read as follows:

Visits and examinations

5705. The department may at any time cause any hospital, establishment or home caring for or treating insane, alleged insane, mentally ill or incompetent persons to be visited and examined.

Stats 1937, p. 1005

SEC. 4. Section 5706 of the Welfare and Institutions Code is hereby amended to read:

Scope of visits and examinations

5706. Each such visit may include an inspection of every part of each establishment, and all the outhouses, places, buildings, and grounds used in connection therewith. The representatives of the department may make an examination of all records, methods of administration, the general and spe-

cial dietary, the stores and methods of supply, and may cause an examination and diagnosis to be made of any person confined therein.

The patients who require it shall be given suitable opportunity to converse with the representatives of the department, apart from the officers and attendants.

The representatives of the department may examine the officers, attendants, and other employees, and make such inquiries as will determine their fitness for their respective duties.

SEC. 5. Section 5707 of the Welfare and Institutions Code is hereby amended to read as follows: Stats. 1937, p. 1005

5707. The representatives of the department may, from time to time, at times and places designated by the department, meet the managers or responsible authorities of such establishments in conference, and consider in detail all questions of management and improvement of the establishments, and may send to them from time to time, written recommendations in regard thereto. Meetings with institution's authorities

SEC. 6. Section 5708 of the Welfare and Institutions Code is hereby amended to read as follows: Stats 1937, p. 1005

5708. The authorities of each establishment for insane or mentally ill persons or other incompetents shall place on file in the office of the establishment the recommendations made by the department as a result of such visits, for the purpose of consultation by such authorities, and for reference by the departmental representatives upon their visits. Every private establishment or home for the care and treatment of insane, mentally ill or other incompetent persons referred to in this division shall keep records of every person admitted thereto, in the manner and form prescribed for State hospitals, and shall furnish to the department when required the facts mentioned in Sections 7504 and 7505 of this code. Filing of department's recommendations

SEC. 7. Section 5751 of the Welfare and Institutions Code is hereby amended to read as follows: Stats. 1937, p 1005

5751. No person in a private institution, hospital, sanitarium, department, or ward for the care or treatment of the mentally ill shall be restrained from sending written communications of the fact of his detention in such institution to a friend, relative, or other person. The physician in charge of such person and the person in charge of such hospital shall send each such communication to the person to whom it is addressed. If, however, the physician in charge finds it inadvisable to send any such communication because it contains other matter which would do harm to the reputation of, and would later cause mental anguish to, the person detained, or if the physician finds it impossible to send any such communication within 24 hours, then both the physician in charge of the patient and the person in charge of the institution shall give notice of the detention of such patient to the district attorney of the county from which the patient came at time of admission and the district attorney of the county in which Patient's communication as to detention

Notice of detention to district attorney

the institution is located, and to the Department of Institutions, giving the name and address of the patient and the names and addresses of the person or persons who arranged for his admission. Such district attorney or district attorneys shall investigate the detention of such patient and advise the patient concerning his legal rights and shall report in full concerning such patient to the Department of Institutions. The person in charge of the institution may detain a patient only when there has been compliance with the provisions of this section.

Stats 1937, p 1005

SEC. 8. Section 5753 of the Welfare and Institutions Code is hereby amended to read as follows:

Suspension or revocation of permit

5753. Upon proof of the violation of any provision of Part 2 of Division 6 of this code, the license to any person to operate such private institution, hospital, establishment, home, or sanitarium may be suspended or revoked by the Department of Institutions.

CHAPTER 915

Stats 1943, Ch 71, amended

An act to add Section 2.1364-2 to the School Code and to add Article 2.1 to Chapter 15 of Division 2 of the Education Code, relating to the powers and duties of the Director of Education, and making an appropriation.

In effect August 4, 1943

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 2.1364-2 is added to the School Code, to read:

Consultant services

2.1364-2. The Director of Education shall provide consultant services in connection with the education of hard of hearing children in areas where said services are not available. The services shall be provided through an expert in the fields of organization and planning for the education of the hard of hearing who shall be employed for that purpose by the Director of Education.

Note.—See Stats. 1943, Ch. 71.

Effect

SEC. 3. Section 2 of this act becomes operative only if the

Stats 1943, Ch 71

Education Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said code takes

Repeal

effect; at which time Section 2.1364-2 of the School Code added by this act is hereby repealed.

Appropriation

SEC. 4. Out of any moneys in the State Treasury, not otherwise appropriated, there is hereby appropriated the sum of twelve thousand dollars ($12,000) to be expended for the purposes of this act during the Ninety-fifth and Ninety-sixth Fiscal Years.

CHAPTER 916

An act to amend Section 25502 of the Water Code, relating to irrigation district assessments.

Stats 1943, Ch. 368

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.]

In effect August 4, 1943

Note.—See Stats. 1943, Ch. 368.

CHAPTER 917

An act to amend Section 4.5 of an act entitled "An act authorizing the governing bodies of counties, school districts, municipal corporations, political subdivisions, public corporations and other public agencies of the State of California to adopt a system of group life, health and accident insurance and health services for the benefit of officers and employees and to deduct from the compensation thereof the premiums upon such insurance," approved May 25, 1939, relating to group insurance of public employees.

Stats 1939, p 1505, amended

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 4.5 of the act cited in the title hereof is amended to read:

Stats 1941, p. 1372

Sec. 4.5. The governing bodies subject to this act may authorize payment from funds under their jurisdiction of not more than one-half of the premiums, for group life insurance authorized by this act on officers and employees subject to their jurisdiction, as they deem advisable. Expenditures for this purpose shall be a proper charge against such funds. Where the employer pays any portion of such life insurance premiums any dividends arising out of such insurance shall be the property of the employer.

Group life insurance premiums

CHAPTER 918

An act relating to public officers, deputies, assistants, and employees, and their return to public service.

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. In the event that any public officer, deputy assistant, or employee of the State, or of any city, county, city and county, school district, water district, irrigation district,

Return to office of resigned members in armed forces

or any other district, political corporation, political subdivision, or governmental agency thereof has resigned, or resigns, his office or position in order to serve with the armed forces of the United States, he shall have a right, if honorably discharged, to return to and to reenter upon the office or position within six months after the termination of his active service with the armed forces or within six months after the conclusion of peace treaties with all the foreign powers with which the United States of America has legally declared a state of war to exist, if his term would not have ended prior thereto if he had not resigned.

Rights preserved

SEC. 2. Upon such return and reentry or such return to the office or employment he shall have all of the rights and privileges in, connected with, or arising out of the office or employment which he would have enjoyed if he had not been absent therefrom.

Temporary appointments

SEC. 3. Any vacancy created by such resignation may be filled by a temporary appointment, as provided by law, for a term not to extend beyond the time of the return and reentry to the office or position by the person who so resigned or beyond the time his term would have ended if he had not resigned.

Oath and bond

SEC. 4. If any such officer, deputy, assistant, or employee was required by law to file an oath of office or to execute a bond prior to his original entry upon the duties of the office or employment, he shall file an oath and execute a bond in like manner and form prior to his reentry upon the duties of the office or employment.

CHAPTER 919

Stats. 1937, p. 1229, amended

An act to amend Section 22103 of the Business and Professions Code, relating to the marking of precious metals.

In effect August 4, 1943

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.]

The people of the State of California do enact as follows:

Stats. 1941, p. 1464

SECTION 1. Section 22103 of the Business and Professions Code is amended to read:

"Apply," etc.

22103. "Apply," "applies" or "applied" mean imprint, emboss or engrave on the article itself and not otherwise.

CHAPTER 920

An act to add Sections 3211.2, 3211.4, 3211.6, 3211.7, 3211.8, and 3352.5 to, and Chapter 10, comprising Sections 4301 to 4337, inclusive, to Part 1 of Division 4 of the Labor Code, and to add Article 10.5 to Chapter 1 of Division 7 of the Military and Veterans Code, relating to the furnishing of workmen's compensation benefits to civilian defense workers, including the limiting of the liability of the State of California, counties, cities, and civilian defense organizations for injuries arising out of and occurring in the course of activities as a civilian defense worker, authorizing the California State War Council to certify civilian defense organizations and to make rules and regulations for the classifying and registering of civilian defense workers, providing for the State Compensation Insurance Fund to act as adjusting agent, and making an appropriation for the furnishing of workmen's compensation benefits, to take effect immediately.

Stats 1937, p. 185, amended

Stats. 1935, p. 1338, amended

[Approved by Governor May 31, 1943 Filed with Secretary of State May 31, 1943.]

In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Section 3211.2 is hereby added to the Labor Code, to read as follows:

New section

3211.2. "Civilian defense organization" means a public agency which is empowered to register and direct the activities of civilian defense workers within the area of the county or city, or any part thereof, and is thus, because of such registration and direction, acting as an instrumentality of the State in aid of the carrying out of the general governmental functions and policy of the State, and includes a local council of defense established by ordinance.

"Civilian defense organization"

SEC. 2. Section 3211.4 is hereby added to the Labor Code, to read as follows:

New section

3211.4. "Accredited civilian defense organization" means a civilian defense organization which is certified by the California State War Council as conforming with the rules and regulations established by the California State War Council pursuant to the provisions of Article 10.5, Chapter 1, Division 7 of the Military and Veterans Code. A civilian defense organization remains accredited only while the certificate of the California State War Council is in effect and is not revoked.

"Accredited civilian defense organization"

SEC. 3. Section 3211.6 is hereby added to the Labor Code, to read as follows:

New section

3211.6. "Civilian defense worker" means any natural person in the State who is registered with a civilian defense organization for the purpose of engaging in either civilian protection or civilian war services without pay or other consideration. Volunteer civilian members of the Aircraft Warning

"Civilian defense worker"

Service of the United States Army Air Force shall be considered as civilian defense workers for the purposes of this act and shall be eligible for the compensation provided by this division.

Exclusion

"Civilian defense worker" does not include any male registered as an active fire fighting member of any regularly organized volunteer fire department, having official recognition, and full or partial support of the city, town or district in which such fire department is located.

New section

SEC. 4. Section 3211.7 is hereby added to the Labor Code, to read as follows:

"Civilian protection"

3211.7. "Civilian protection" means that part of civilian defense activities which has for its purpose the limitation of the effects of enemy action and the protection of life and property.

New section

SEC. 5. Section 3211.8 is hereby added to the Labor Code, to read as follows:

"Civilian war services"

3211.8. "Civilian war services" means all civilian defense activities, other than those relating to civilian protection, with which the State, communities and individuals must be concerned as a part of their contribution to the successful prosecution of the war. They include but are not limited to, salvage, transportation, war savings, services to service men, recreation, consumer interests, nutrition, health and medical care, welfare and child care, housing, education, agriculture, manpower supply and training, and plant utilization.

New section

SEC. 6. Section 3352.5 is hereby added to the Labor Code, to read as follows:

"Employee"

3352.5. "Employee" excludes a civilian defense worker while performing services as a civilian defense worker except

Exclusion

as provided in Chapter 10 of this part. "Employee" excludes any unregistered person performing like services as a civilian defense worker without pay or other consideration.

New chapter

SEC. 7. Chapter 10, comprising Sections 4301 to 4337, inclusive, is hereby added to Part 1, Division 4 of the Labor Code, to read as follows:

CHAPTER 10. CIVILIAN DEFENSE WORKERS

Article 1. General

Compensation for injuries

4301. Except as provided in this chapter, a civilian defense worker and his dependents shall have no right to receive compensation from the State, from the civilian defense organization with which he is registered, or from the county or city which has empowered the civilian defense organization to register him and direct his activities, for an injury arising out of and occurring in the course of his activities as a civilian defense worker.

Exclusive remedy

4302. Compensation provided by this division, as limited by the provisions of this chapter, is the exclusive remedy of a civilian defense worker, or his dependents, for injury or death arising out of and in the course of his activities as a civilian

defense worker as against the State, the civilian defense organization with which he is registered, and the county or city which has empowered the civilian defense organization to register him and direct his activities. Liability for the compensation provided by this division, as limited by the provisions of this chapter, is in lieu of any other liability whatsoever to a civilian defense worker or his dependents or any other person on the part of the State, the civilian defense organization with which the civilian defense worker is registered, and the county or city which has empowered the civilian defense organization to register him and direct his activities, for injury or death arising out of and in the course of his activities as a civilian defense worker. Exclusive liability

4303. Compensation shall be furnished to a civilian defense worker for any injury arising out of and occurring in the course of his activities as a civilian defense worker, and for the death of any such worker if the injury proximately causes death, in those cases where the following conditions concur: Compensation conditions

(a) Where, at the time of the injury the civilian defense worker is performing services as a civilian defense worker, and is acting within the course of his duties as a civilian defense worker.

(b) Where, at the time of the injury the civilian defense organization with which the civilian defense worker is registered is an accredited civilian defense organization.

(c) Where the injury is proximately caused by his service as a civilian defense worker, either with or without negligence.

(d) Where the injury is not caused by the intoxication of the injured worker.

(e) Where the injury is not intentionally self-inflicted.

4304. No compensation shall be paid or furnished to civilian defense workers or their dependents pursuant to the provisions of this division except from money appropriated for the purpose of furnishing compensation to civilian defense workers and their dependents. Liability for the payment or furnishing of compensation is dependent upon and limited to the availability of money so appropriated. Compensation from appropriated moneys only

After all money so appropriated is expended or set aside in bookkeeping reserves for the payment or furnishing of compensation and reimbursing the State Compensation Insurance Fund for its services, the payment or furnishing of compensation for an injury to a civilian defense worker or his dependents is dependent upon there having been a reserve set up for the payment or furnishing of compensation to that civilian defense worker or his dependents and for that injury, and liability is limited to the amount of the reserve. The excess in a reserve for the payment or furnishing of compensation or for reimbursing the State Compensation Insurance Fund for its services may be transferred to reserves of other civilian defense workers for the payment or furnishing of compensation and reimbursing the State Compensation Insurance Fund, Reserve

Reserve excess

or may be used to set up reserves for other civilian defense workers.

Provisions applicable

4305. Insofar as not inconsistent with the provisions of this chapter, all of the provisions of this division shall apply to civilian defense workers and their dependents, and to furnishing of compensation to them. "Employee," as used in this division, shall include civilian defense worker when liability for the furnishing of compensation exists pursuant to the provisions of this chapter and as limited by the provisions of this chapter.

"Employee"

Article 2. Benefits

Limited compensation

4311. Where liability for compensation exists, such compensation shall be provided as limited by this chapter.

Medical, surgical and hospital treatment

4312. The aggregate payment for the cost of medical, surgical, and hospital treatment provided a civilian defense worker shall not exceed two thousand five hundred dollars ($2,500) for any one injury.

Temporary total disability

4313. The weekly benefit for civilian defense workers is twenty dollars ($20) in all cases of temporary total disability except where 65 per cent of the average weekly earnings of the civilian defense worker as computed upon the basis of his average income from all sources during the year immediately preceding the date of injury or death is less than twenty dollars ($20), in which event the weekly benefit is 65 per cent of the average weekly earnings as so computed. In no event may the weekly benefit in cases of temporary total disability be less than six dollars and fifty cents ($6.50) nor more than twenty dollars ($20).

Temporary partial disability

4314. If the injury sustained by a civilian defense worker causes temporary partial disability, no disability payment shall be made to the worker during the period of such disability for the loss of wages due to such disability.

Permanent disability

4315. If the injury sustained by a civilian defense worker causes permanent disability, the percentage of disability to total disability shall be determined as for the occupation of a laborer of like age by applying the schedule for the determination of the percentages of permanent disabilities prepared and adopted by the commission. The amount of the weekly payment for permanent disability shall be the same as the weekly benefit which would be paid for temporary total disability pursuant to the provisions of Section 4313.

Maximum disability payments

4316. The aggregate disability payments for a single injury shall not exceed three thousand six hundred dollars ($3,600), nor shall the aggregate period for temporary total disability in any event extend beyond 240 weeks from the date of injury.

In no event, and not even if the percentage of permanent disability incurred exceeds 70 per cent, shall disability payments for permanent disability exceed three thousand six hundred dollars ($3,600).

Where an injury causes both temporary and permanent disability, the injured civilian defense worker is not entitled to

both a temporary and permanent disability payment, but only to the greater of the two.

Death benefit

4317. The death benefit shall be a sum sufficient to equal:

(a) In a case of total dependency, 240 times the weekly benefit which would be paid for temporary total disability pursuant to the provisions of Section 4313, but in no event in excess of three thousand six hundred dollars ($3,600), nor less than one thousand five hundred sixty dollars ($1,560).

(b) In a case of partial dependency only, 240 times the amount weekly devoted to support of the dependents by the civilian defense worker, but in no event in excess of three thousand six hundred dollars ($3,600).

Except as provided in the following paragraph, the death benefit, when added to all accrued disability payments, shall not exceed three thousand six hundred dollars ($3,600).

Disability payments for disability occurring within 12 months after injury shall not be deducted from the death benefit and shall be paid in addition to the death benefit.

Burial expenses

4318. In addition to the death benefit, reasonable expenses of the civilian defense worker's burial, not exceeding one hundred fifty dollars ($150), shall be paid.

Article 3. Adjustment of Claims

Adjustment agreement

4331. The California State War Council and the State Compensation Insurance Fund (hereinafter referred to as the State Fund) shall enter into an agreement requiring the State Fund, as adjusting agent, to adjust and dispose of claims and furnish compensation to civilian defense workers and their dependents. The agreement shall authorize the State Fund to make all expenditures, including payments to claimants for compensation or for the adjustment or settlement of claims.

Reimbursement of State Fund

4332. The agreement shall provide that the State Fund shall be reimbursed for the expenditures made as adjusting agent and for the cost of services rendered, which reimbursement shall be made out of money appropriated for the purpose of furnishing compensation to civilian defense workers. The reimbursement for cost of services rendered shall not exceed 12½ per cent of the total expenditures for medical treatment and disability and death payments made by the fund in the adjustment of claims arising under this chapter. The agreement shall provide for the setting up of bookkeeping reserves in order that provision may be made for the reimbursement of the State Fund and that liability for the payment or furnishing of compensation may be determined. The agreement shall also provide that the State Fund shall be notified promptly by the California State War Council when a civilian defense organization is certified as an accredited civilian defense organization and when the certification is revoked.

Other provisions

Automatic parties

4333. An accredited civilian defense organization, and the county or city which has empowered the civilian defense organization to register and direct activities of civilian defense

workers, automatically become parties to the agreement upon the civilian defense organization becoming an accredited civilian defense organization.

Provisions deemed necessary

4335. The agreement may also contain any other provision not inconsistent with this division deemed necessary by the California State War Council and the State Fund for the furnishing of compensation to civilian defense workers and their dependents in accordance with the provisions of this division, and the serving by the State Fund as adjusting agent. The agreement may be modified by action of the California State War Council and the State Fund.

Modification

Recovery from third person

4336. The State Fund may in its own name, or in the name of the California State War Council do any and all things necessary to recover any and all amounts which might be recovered from third parties due to the California State War Council, the accredited civilian defense organization, or the county or city which has empowered the civilian defense organization to register and direct activities of civilian defense workers, being subrogated to the rights of a civilian defense worker against third persons for damages, including the right to commence and prosecute actions or to intervene in other court proceedings, or to compromise claims before or after commencement of suit. All amounts so recovered shall be used for the furnishing of compensation benefits, and the agreement shall provide for the reimbursing of the State Fund for expense incurred in recovering such amounts and the manner in which such amounts shall be applied to the furnishing of compensation.

Federal aid Compensation reduction

4337. Should the United States Government or any agent thereof, in accordance with any Federal statute or rule or regulation, furnish monetary assistance, benefits, or other temporary or permanent relief to civilian defense workers or to civilian defense workers and their dependents for injuries arising out of and occurring in the course of their activities as civilian defense workers, then the amount of compensation which any civilian defense worker or his dependents are otherwise entitled to receive from the State of California under Division 4 of the Labor Code for any injury shall be reduced by the amount of monetary assistance, benefits, or other temporary or permanent relief the civilian defense worker or his dependents have received and will receive from the United States or any agent thereof as a result of the injury.

Medical treatment

If, in addition to monetary assistance, benefits, or other temporary or permanent relief, the United States Government or any agent thereof furnishes medical, surgical or hospital treatment or any combination thereof to an injured civilian defense worker, then the civilian defense worker has no right to receive similar medical, surgical or hospital treatment under Division 4 of the Labor Code. However, the State Compensation Insurance Fund, as adjusting agent of the California State War Council, may furnish medical, surgical or hospital

treatment as part of the compensation provided in Division 4 of the Labor Code in addition to that furnished by the United States Government or its agents.

If, in addition to monetary assistance, benefits, or other temporary or permanent relief, the United States Government or any agent thereof will reimburse a civilian defense worker or his dependents for medical, surgical or hospital treatment, or any combination thereof, furnished to the injured civilian defense worker, the civilian defense worker has no right to receive similar medical, surgical or hospital treatment under Division 4 of the Labor Code, but the State Compensation Insurance Fund, as adjusting agent of the California State War Council, may furnish medical, surgical or hospital treatment as part of the compensation provided in Division 4 of the Labor Code and apply to the United States Government or its agent for the reimbursement which will be made to the civilian defense worker or his dependents. As a condition to the furnishing of such medical, surgical or hospital treatment, the State Compensation Insurance Fund shall require the civilian defense worker and his dependents to assign to the State of California, for the purpose of reimbursing for any medical, surgical or hospital treatment furnished or to be furnished by the State, any privilege or right such civilian defense worker or his dependents may have to reimbursement from the United States Government or any agent thereof.

State compensation preventing Federal

If the furnishing of compensation under the provisions of Division 4 of the Labor Code to a civilian defense worker or his dependents prevents such civilian defense worker or his dependents from receiving assistance, benefits or other temporary or permanent relief under the provisions of a Federal statute or rule or regulation, then the civilian defense worker and his dependents shall have no right to, and shall not receive, any compensation from the State of California under the provisions of Division 4 of the Labor Code for any injury for which the United States Government or any agent thereof will furnish assistance, benefits or other temporary or permanent relief in the absence of the furnishing of compensation by the State of California.

SEC. 8. Article 10.5 is hereby added to Chapter 1 of Division 7 of the Military and Veterans Code, to read as follows:

Article 10.5. Accredited Civilian Defense Organizations

New article

"Civilian defense organization"

1595. As used herein, "civilian defense organization" and "civilian defense worker" have the meaning prescribed in Division 4 of the Labor Code.

Rules and regulations

1596. The California State War Council shall establish by rule and regulation various classes of civilian defense workers and the scope of the duties of each class. The California State War Council shall also adopt rules and regulations prescribing the manner in which civilian defense workers of each class are to be registered. All such rules and regulations shall be designed to facilitate the paying of workmen's compensation.

Certification as accredited civilian defense organization

1597. Any civilian defense organization which both agrees to follow the rules and regulations established by the California State War Council pursuant to the provisions of Section 1596 of this code and substantially complies with such rules and regulations shall be certified by the California State War Council. Upon making the certification, and not before, the civilian defense organization becomes an accredited civilian defense organization.

Revocation of certification

1598. Should an accredited civilian defense organization fail to comply with the rules and regulations of the California State War Council in any material degree, the California State War Council may revoke the certification, and upon the act of revocation the civilian defense organization shall lose its accredited status. It may again become an accredited civilian defense organization in the same manner as is provided for a civilian defense organization which has not had its certificate revoked.

Recertification

Appropriation

SEC. 9. Out of any money in the State treasury not otherwise appropriated there is hereby appropriated to the California State War Council the sum of five hundred thousand dollars ($500,000), or so much thereof as may be necessary to be expended by its adjusting agent, the State Compensation Insurance Fund, for the furnishing of workmen's compensation to civilian defense workers and their dependents in accordance with the provisions of Division 4 of the Labor Code, including the reimbursing of the State Compensation Insurance Fund for the cost of services rendered as adjusting agent, in order that patriotism may be encouraged, National and local defense efforts strengthened, and the National Government aided.

Revolving fund

The State Compensation Insurance Fund may draw from the State treasury out of the appropriation made by this section, without at the time presenting vouchers and itemized statements, a sum not to exceed in the aggregate one hundred thousand dollars ($100,000), to be used as a cash revolving fund. The revolving fund shall be deposited in such banks and under such conditions as the State Department of Finance determines. The Controller shall draw his warrants in favor of the State Compensation Insurance Fund for the amounts so withdrawn, and the Treasurer shall pay such warrants.

Exemption

Expenditures made from the revolving fund in payments on claims for workmen's compensation and for adjusting services are exempted from the operation of Section 669 of the Political Code. Reimbursement of the revolving fund for such expenditures shall be made upon presentation to the Controller of an abstract or statement of such expenditures. Such abstract or statement shall be in such form as the Controller requires.

Effect

Stats. First Ex Sess. 1943, Ch 1

SEC. 10. Sections 1 to 9, inclusive, of this act, become operative at the same time as the California War Powers Act becomes effective.

Urgency

SEC. 11. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public

peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows: This is a period of National emergency. The public health, safety and welfare necessitates civilian defense work to which many citizens are patriotically contributing their services. No provisions now exist for compensation for injuries sustained while engaged in such work. Many civilian defense workers may be injured and become burdens on their families or society. It is imperative to guarantee individuals protection from financial loss caused by such injuries. Such expense is justly chargeable to the cost of government which should be borne by all. To defer operation of this act would result in imposing undue hardship and loss on injured civilian defense workers. It is, therefore, necessary that this act take effect immediately.

CHAPTER 921

An act to provide for the licensing, visitation and supervision of schools teaching foreign languages, and to define and prescribe the powers and duties of the State Board of Education in respect thereto.

[Approved by Governor May 31, 1943 Filed with Secretary of State May 31, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Schools Teaching Foreign Languages. No person, firm, corporation, association, society or other organization shall conduct, maintain or operate any school, institute, class or course for the purpose of teaching or wherein any foreign language is taught, without making application for and being granted a license from the State Board of Education to so conduct, maintain or operate such school, institute, class or course.

License required

SEC. 2. Application and License. All applications for such license shall be made to the State Board of Education on forms prescribed by the State Board of Education. The application shall be accompanied with a verified statement showing the language or languages to be taught, the purpose for which the school, institute, class or course is to be maintained and conducted, the nature and extent of the instruction to be given, and as to whether the school, institute, class or course shall be open to minors, adults, or both, or to foreigners or aliens or to citizens of the United States, or to both foreigners and citizens. No license shall be granted for any such school, institute, class or course by the State Board of Education where it shall appear: First, that such school, institute, class or course is not open to minors or citizens of the United

Application

Statement

When license issuance prohibited

States, and second: Where it shall appear that the instruction proposed to be given or the manner in which such instruction is to be given creates or materially tends to create disloyalty to Government of the United States of America, or the State of California, or where it shall appear that the instruction proposed to be given, or the manner in which, or the general conditions under which such instruction is to be given creates or materially tends to create loyalty to any foreign government, emperor, king, prince, potentate, or leader, or where it shall appear that the instruction proposed to be given, or the manner in which, or the conditions under which such instruction is to be given subverts or materially tends to subvert the loyalty of any pupil, citizen of the United States, to the Government of the United States of America or to the State of California, or where it shall appear that such school, institute, class or course is to be conducted in a fraudulent manner.

Exemptions

SEC. 3. Exemptions. Licenses shall not be required of and the provisions of this act shall not be construed to apply to any public school, college or university of this State, or any institution of collegiate rank or grade in existence on January 1, 1943, nor shall such license be required of schools now or hereafter established and maintained by a religious denomination or sect well established as such, and maintaining and operating one or more schools within this State, other than in a war relocation center, at the time this act takes effect.

Inspection

SEC. 4. Visitation and Supervision; Revocation of License. A school, institute, class or course licensed as provided in this act shall be subject to visitation and supervision by any officer or employee of the State Department of Education designated by the State Board of Education.

Revocation of license

A license granted to such school, institute, class or course as provided in this act shall be subject to revocation by the State Board of Education, upon due notice after an opportunity to be heard before the State Board of Education, or a committee thereof, or an officer of the State Board of Education in each case designated by the State Board of Education. Such license shall be revoked when it shall appear to the satisfaction of the State Board of Education that such school, institute, class or course is being conducted, maintained and operated under the conditions prescribed in Section 2 of this act as being sufficient for a denial of such license.

Review

SEC. 5. Appeals From Action of State Board of Education. This action of the State Board of Education in refusing to grant a license as provided in this act or in revoking a license previously issued shall be subject to review as provided by law.

Penalty

SEC. 6. Penalty. Any person, firm, corporation, association, society or any other organization, or any representative or employee thereof, maintaining or conducting or operating a school, institute, class or course without a license as in this act provided shall be guilty of a misdemeanor and upon convic-

tion thereof shall be punished by a fine not exceeding five hundred dollars ($500) or by imprisonment in the county jail not exceeding six months, or both.

Whenever it shall appear that any person, firm, corporation, association, society or other organization is maintaining or conducting or operating a school, institute, course or class without such license, an appropriate action and injunction proceeding may be brought on behalf of the people of the State of California by the Attorney General to restrain such person, firm, corporation, association, society or other organization, or any representative or employee thereof, from continuing the maintenance, conduct or operation of such school, institute, course or class without such license. Injunction

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CHAPTER 922

An act to amend Section 2540 of the Elections Code, relating to parties qualified to participate in a primary election. Stats 1939, p 49, amended

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 2540 of the Elections Code is amended to read: Stats 1941, p 1288

2540. A party is qualified to participate in any primary election: Qualifications

(a) If at the last preceding gubernatorial election there was polled for any one of its candidates who was the candidate of that party only for any office voted on throughout the State, at least 3 per cent of the entire vote of the State, or for any one of its candidates who, upon the date of such gubernatorial election, as shown by the affidavits of registration of voters in the county of his residence, was affiliated with that party and who was the joint candidate of that party and any other party for any office voted on throughout the State, at least 6 per cent of the entire vote of the State; or

(b) If on or before the seventy-fifth day before any primary election it appears to the Secretary of State as a result of examining and totaling the statement of voters and their political affiliations transmitted to him by the county clerks, that voters, equal in number to at least 1 per cent of the entire vote of the State at the last preceding gubernatorial election, have declared their intention to affiliate with that party; or

(c) If on or before the seventy-fifth day before any primary election there is filed with the Secretary of State a petition signed by voters, equal in number to at least 10 per cent of the entire vote of the State at the last preceding gubernatorial election, declaring that they represent a proposed party, the name of which shall be stated therein, which proposed party

those voters desire to have participate in that primary election. This petition shall be circulated, signed, verified and the signatures of the voters thereon shall be certified to and transmitted to the Secretary of State by the county clerks substantially as provided for initiative petitions. Each page of the petition shall bear a caption in 18-point black-face type, which caption shall be the name of the proposed party followed by the words "Petition to participate in the primary election." No voters or organization of voters shall assume a party name or designation which is so similar to the name of an existing party as to mislead voters.

Disqualifications

(d) Except that whenever the registration of any party which qualified in the previous direct primary election falls below one-tenth of 1 per cent of the total State registration, that party shall not be qualified to participate in the primary election but shall be deemed to have been abandoned by the voters, since the expense of printing ballots and holding a primary election would be an unjustifiable expense and burden to the State for so small a group. The Secretary of State shall immediately remove the name of such party from any list, notice, ballot, or other publication containing the names of the parties qualified to participate in the primary election.

Removal of party name

CHAPTER 923

Stats 1943, Ch 71, amended

An act to add Sections 6.781-5 and 6.793-5 to the School Code and Sections 19602.5 and 19614.5 to the Education Code, and making an appropriation, relating to child care centers, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 6.731-5 is added to the School Code, to read:

Care of nonresident children

6.781-5. Said governing board may accommodate in a child care center maintained by it children residing in another district, upon such terms and under such conditions as may be agreed upon by the governing boards of both districts.

New section

SEC. 1.1. Section 6.793-5 is added to the School Code, to read:

Review of proposed standards

6.793-5. No standards relating to child care centers proposed to be established by the Superintendent of Public Instruction in accordance with the provisions of this chapter shall take effect unless and until such proposed standards have been reviewed and approved by the California State War Council.

Note.—See Stats. 1943, Ch. 71.

Appropriation

SEC. 1.5. In addition to any other sum appropriated, there is hereby appropriated out of any money in the State treasury not otherwise appropriated the sum of five hundred thousand dollars ($500,000), or as much thereof as may be necessary, to the California State War Council, to be used by the War Council during the Ninety-fifth and Ninety-sixth Fiscal Years for supplemental support of child care centers created pursuant to Chapter 3 of Part 3 of Division 6 of the School Code and Chapter 11 of Division 9 of the Education Code, where in the discretion of the War Council a demonstrated need for such supplemental support can be established. Any such allocations shall be made by the War Council directly to the governing board of the school district maintaining the child care center for which the allocation is made.

Allocation to Director of Education

SEC. 2. Of the sum hereby appropriated twenty-two thousand two hundred dollars ($22,200) shall be expended by the State War Council only for the purpose of making allocations to the Director of Education for the purpose of supervising such child care centers.

Allocation to local districts

SEC. 3. The remainder of the sum hereby appropriated shall be expended by the California State War Council only for the purpose of making allocations to local districts which have established such child care centers, for the purpose of supplementing support from the Federal Government, parents of children cared for, and industry where those sources are insufficient to meet the costs of operating the child care centers.

Legislative intent

SEC. 4. In making this appropriation, the Legislature makes the following statement of its intent:

(a) That child care centers are intended as emergency institutions, to be conducted for the period of the war only, and are to be discontinued completely within six months after the cessation of hostilities.

(b) That the Legislature views the problem of caring for children whose parents are employed in essential war industries as essentially a part of the National defense effort, and that the obligation of supporting the child care centers is primarily a Federal responsibility.

(c) That since the parents of the children are employed in industry, they are able to contribute to the cost of their care, and are primarily liable for furnishing the necessaries of life for the children.

(d) That participation by the State or locality in payment of the costs of the program should be of supplementary or emergency nature only, until the Federal Government, parents, and industry can maintain its full support.

(e) That limitation of the operation to care for children of day workers only should be encouraged, and industry, parents, and school districts should be encouraged to arrange for employment of mothers in daytime only.

(f) That employment of mothers of more than two children of very tender years appears inadvisable except in extreme cases.

(g) That the Legislature recognizes that the cost of maintenance of the child care centers should not be imposed against local real property, but must be paid for upon a broader tax basis.

Federal, etc., support

SEC. 5. Before allocating the funds appropriated the California State War Council shall make every effort to arrange for support of the child care centers by the Federal Government, parents of the children, and industry. If sufficient funds for the purpose can not be secured from these sources, the War Council may allocate to the respective child care centers such sums as it deems necessary for supplemental use only.

Determination of efficiency, etc

SEC. 6. Before making any allocation to any district, the California State War Council shall determine that the district is operating efficiently. In making such allocations the War Council shall not recognize costs based on elaborate organization or standards that are excessively high or extravagant.

Survey

SEC. 7. The California State War Council shall make a survey of the respective child care centers petitioning for allocation of funds, and after determining the necessity, costs, and support derived from the Federal Government, parents, and industry, shall allocate such sums to the respective child care centers as it deems necessary to insure their efficient operation.

Duration

SEC. 8. This act shall remain in effect until the one hundred eighty-first day after the cessation of hostilities in all wars in which the United States is now engaged, and the powers hereby conferred upon the California State War Council shall thereupon terminate.

Urgency

SEC. 9. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

In order that the successful prosecution of the war in which the United States of America is now engaged be not impeded, it is necessary that State funds be made available for temporary or supplemental financial assistance to child care centers where a demonstrated need can be shown and for proper supervision of child care centers so that parents who are engaged or hereafter must engage in essential war work may have assurance of proper care for their minor children during the hours of their employment. It is, therefore, necessary that this act take effect immediately.

CHAPTER 924

An act to amend Sections 2350, 2351, 2353, and 2357 of the Welfare and Institutions Code, and to add Sections 2350.5, 2353.1, 2353.2, and 2354.1 thereto, relating to agreements for the care of aged persons, providing for regulation and supervision of organizations and persons entering into such agreements by the State Department of Social Welfare, and providing for the issuance of writs of attachment in actions for the enforcement thereof.

Stats. 1937, p. 1005, amended

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 2350 of the Welfare and Institutions Code is amended to read:

Stats 1939, p. 1822

2350. Any organization or person maintaining a home for the aged may receive transfers of property conditioned upon his agreement to furnish life care or care for a period of more than one year to the transferor or his nominee, when granted a certificate of authority by the State Department of Social Welfare; provided, such organization or person has received a written license or permit pursuant to Chapter 2 of this division.

Agreement for care

SEC. 1.5. Section 2350.5 is added to said code, to read:

New section

2350.5. Before issuing the certificate of authority, the State Department of Social Welfare may, if it deems it necessary to safeguard the interests of the aged in the State, require any applicant for a certificate to file with the department a bond executed by an admitted surety insurer, in an amount satisfactory to the department, conditioned that the principal will faithfully perform all obligations undertaken by him pursuant to the certificate of authority, to and for the use and benefit of all persons who may be injured or aggrieved by the failure of the principal to perform any such obligation, and any person so injured or aggrieved may bring suit on such bond, in his own name, without an assignment thereof.

Surety bond

This section shall not apply to any charitable, religious, benevolent, fraternal, educational, or other nonprofit organization or society maintaining a home for the aged.

Exceptions

SEC. 2. Section 2351 of said code is amended to read:

Stats 1939, p 1822

2351. Upon granting the certificate of authority to receive transfers of property, the State Department of Social Welfare shall require the organization or person to establish and maintain reserves in an amount not less than the amount necessary as reserves for the agreements of the organization or person in accordance with the standard of valuation based upon McClintock's table of mortality among annuitants, with interest assumption at 2½ per cent per annum. Failure to maintain reserves as provided in this section shall be deemed a breach

Reserves

Failure to maintain

of any agreement to furnish life care or care for a period of more than one year as provided in Section 2350.

Character

The reserves shall consist only of the following:

(a) Cash, which shall include:

(1) Cash on hand;

(2) Deposits in demand and term savings accounts with banks which are members of the Federal Deposit Insurance Corporation, to the extent that such deposits are insured by such corporation;

(3) Investments in certificates issued by building and loan associations which are members of the Federal Savings and Loan Insurance Corporation, to the extent that such certificates are insured by such corporation.

(b) Securities of which 75 per cent shall be such as are permitted for the investment of funds of savings banks of California. Of the remaining 25 per cent of securities, 10 per cent may consist of preferred stocks and 15 per cent may consist of common stocks. Said stocks shall be limited to corporations which have an uninterrupted dividend record of at least 10 years and must be of a high investment grade. The stocks shall be subject to the approval of the Department of Insurance and upon the request of the Department of Insurance any stocks to which it objects shall be eliminated from the required reserve.

(c) Real estate, or equities therein, owned by the organization or person, to the extent of 60 per cent of the net value thereof, as appraised by two appraisers approved by the State Department of Social Welfare.

(d) Furniture and equipment as needed for the operation of the institution to the extent of 50 per cent of the net value thereof as appraised by two appraisers approved by the State Department of Social Welfare.

Stats. 1939, p 1822

SEC. 3. Section 2353 of said code is amended to read:

Contents of agreement

2353. The agreement must show:

(a) The value of the property transferred;

(b) The amount of care agreed to be furnished to the transferor or his nominee;

(c) The manner in which the care is to be furnished.

New section

SEC 4. Section 2353.1 is added to said code, to read:

Refunds

2353.1. If the agreement permits dismissal or discharge of the aged person from the home prior to the expiration of the agreement, with or without cause, an amount equal to the difference between the amount paid in and the amount used for the care of the aged person during the time he remains in the institution, based upon the per capita cost to the institution, shall be refunded to the transferor; however, in cases where a consideration greater than the minimum charge has been paid for accommodations above standard, a sum equal to the difference between the amount paid in and the ratio of the amount paid to the minimum consideration for standard accommodations times the current per capita cost to the

institution applied to the period the aged person remained in the institution shall be refunded to the transferor. If the per capita cost to the institution during the period can not be established otherwise, the cost during the period shall be deemed to be the cost at the time of the dismissal or discharge.

New section

SEC. 5. Section 2353.2 is added to said code, to read:

Attachment in action for breach of contract

2353 2. Whenever action is brought by or on behalf of an aged person against any organization or person maintaining a home for the aged for breach of an agreement to furnish life care or care for more than one year to the aged person, the plaintiff may, at the time of issuing the summons, or at any time afterward, have the property of the defendant, in an amount not to exceed the amount paid in or the value of the property transferred to the defendant at the time of the transfer, attached as security for the satisfaction of any judgment that may be recovered, unless the defendant gives security to pay such judgment, as provided in Chapter 4 of Title 7 of Part 2 of the Code of Civil Procedure.

New section

SEC 6. Section 2354 1 is added to said code, to read:

Audit by C P A

2354.1. In lieu of making a detailed financial investigation, the State Department of Social Welfare may accept an annual audit of the organization or person made by a certified public accountant.

Stats 1939, p 1822

SEC. 7. Section 2357 of said code is amended to read:

Revocation of certificate

2357. For the failure of any organization or person to establish and maintain reserves as provided in this chapter, the State Department of Social Welfare shall, after due notice, revoke its certificate of authority. The department may request the Department of Insurance to aid in the determination as to whether or not sufficient reserves are established and maintained.

CHAPTER 925

An act to amend Section 454 of the Health and Safety Code, relating to county health officers.

Stats 1939, p 482, amended

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

Stats 1939, p 482

SECTION 1. Section 454 of the Health and Safety Code is amended to read:

Qualifications and compensation

454. The county health officer shall be a graduate of a medical college of good standing and repute. His compensation shall be determined by the board of supervisors.

CHAPTER 926

Stats 1931, p 477, amended

An act to amend Sections 1, 2, 4.5, 9, 10, 11, and 13 and to add Sections 4.1, 9.1, and 9.2 to an act entitled "An act to authorize the counties of the State of California to establish systems for the retirement and pension of certain county and township officers and employees, namely, county peace officers as defined in the act, and to provide certain benefits for their dependents, and empowering county boards of supervisors to levy a special tax" approved May 5, 1931, as amended, relating to county peace officers' retirement systems and providing for the inclusion in such systems of county and district employees engaged in fire prevention and suppression work, including work related thereto.

In effect August 4, 1943

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.]

The people of the State of California do enact as follows:

Stats. 1941, p. 2264

SECTION 1. Section 1 of the act cited in the title hereof is amended to read:

Board of retirement

Section 1. The management of the peace officers' retirement system shall be vested in a board of retirement, consisting of five members, one of whom shall be the county treasurer, acting in an ex officio capacity. The second and third members shall be members of said retirement system elected by the members thereof within 30 days after the date on which the retirement system becomes operative, as hereinafter in this section provided, in a manner to be determined by the county board of supervisors. The fourth and fifth members shall be qualified electors of the county who are not connected with county government in any capacity, appointed by the board of supervisors within 30 days after said date; provided, that one of such members may but need not be a member of that body. The first persons so elected or appointed as the second and fourth members shall serve for two years from said date, and the third and fifth members so elected or appointed shall serve for a term of three years from said date. Thereafter, the term of office of the four elected members shall be three years.

First board

Provided, however, that in any county in which the provisions of this act shall have become effective prior to the effective date of this amendment, the first persons so elected or appointed as the second and fourth members of such board shall be elected or appointed within 30 days after said effective date, and shall serve for two years from said effective date, and the third and fifth members shall be elected or appointed within 30 days after said effective date, and shall serve for a term of three years from said effective date. Said peace officers' retirement board shall exercise the powers and perform the duties hereinafter prescribed.

The provisions of this act shall become effective in any particular county, only upon condition that the provisions of this act are accepted by ordinance passed by four-fifths (4/5) vote of its board of supervisors, in which event the provisions of this act shall become operative in such county on the first day of January, or on the first day of July next following the expiration of three months after the passage of said ordinance. Acceptance by supervisors

In any county in which a retirement system shall have been established as provided for herein, the board of supervisors may upon the adoption of an ordinance passed by a four-fifths (4/5) vote of said board abolish said system in said county; provided, however, that such abolishment of said system shall not impair the right of any person to whom pension rights shall have accrued to continue to receive such pension as provided for herein after the abolishment of said system in said county, and if the fund herein provided for be inadequate to pay such pensions, they shall be paid from and constitute a charge upon the general fund of the county. Abolition of system

In the event that any such system shall have been abolished in any county, each active member as of the date of such abolishment shall be paid a refund of all contributions made by him to said county peace officers' retirement fund, together with all interest which shall have been credited to his contribution as of said date of abolishment of said system. Refund

SEC. 2. Section 2 of said act is hereby amended to read as follows: Stats 1941, p 2264

Sec. 2. (a) They shall organize as such county peace officers' retirement board by choosing from their number a chairman, and thereafter said officers shall be chosen biennially by said board. The members of said board except the fourth and fifth members shall serve without compensation. The fourth and fifth members of the board shall receive compensation at the rate of ten dollars ($10) a meeting for not more than one meeting a month. The members of the board shall be reimbursed out of the funds of the county for any expense or loss of salary or wage which they may have incurred through services on the board and for costs of operation of this retirement system. Organization Compensation

(b) Said board shall meet for the transaction of business at least once every three months in each calendar year and shall meet at such other times as said board or a majority thereof may order. Notice of all meetings shall be given by the secretary at least three days in advance thereof. Meetings

(c) A majority of said members may transact business in lieu of all of the members. Quorum

SEC. 3. Section 4.1 is hereby added to the act cited in the title hereof, to read as follows: New section

Sec. 4.1. In the event that officers or employees of the county or of any district not previously included within the field of membership in the system are brought within the field of membership subsequent to the date upon which the system Credit for prior service

originally became operative in the county, no such employee shall receive credit for service or for prior service unless he elects to pay and does pay into the fund within one year thereafter, and before an application for retirement be filed, an amount equal to the contributions he would have made had he been a member thereof from the date of his entry into the service of the county or district, together with interest thereon at the rate fixed by the board of retirement pursuant to subdivision (f) of Section 4 hereof. If during any part of the period for which prior service credit is claimed the rate of contribution was fixed upon the basis of the member's age at entry into the system, the rate of contributions required by this section shall be the rate applicable to the member upon the date of his entry into the system.

Stats. 1941, p. 2264

SEC. 4. Section 4.5 of said act is amended to read:

Separation from service

Sec. 4.5. In any case where a member of said system shall have separated from the service of the county before retirement, and such separation is for any cause other than for permanent disability, there shall be paid to him, or, in case of his death while in the service but before retirement, from any cause other than injury received during the performance of his duty, or sickness caused by the discharge of such duty, there shall be paid to his legal representative, all the money paid in by him as his contribution to said fund, together with one-half of all interest which shall have been credited to his account as provided for herein.

Stats 1941, p 2264

SEC. 5. Section 9 of the act cited in the title hereof is hereby amended to read as follows:

Definitions

Sec. 9. As used in this act, the term "county peace officers" shall mean all sheriffs, undersheriffs, chief deputy sheriffs, jailers, turnkeys, deputy sheriffs, bailiffs, process servers, constables, deputy constables, motorcycle officers, the heads and assistant heads of all divisions of the sheriff's office, and all their regularly appointed deputies, but does not include clerks, bookkeepers, stenographers and other employees who may have been appointed as deputy sheriffs but who do not perform the duties of any of the peace officers above enumerated and does not include honorary deputy sheriffs or other persons holding appointments as deputy sheriffs but who receive no compensation therefor and who do not regularly perform particular official duties. "Terminal salary" shall mean the average salary earnable by any member during the last three years or the last five years prior to the date of his retirement, whichever average salary is the greater.

New section

SEC. 6. Section 9.1 is hereby added to the act cited in the title hereof, to read as follows:

"County peace officers"

Sec. 9.1. As used in this act the term "county peace officers" shall also mean all county foresters, county fire wardens, deputy or assistant county foresters, deputy or assistant county fire wardens, heads and assistant heads of all divisions of any county forester's or county fire warden's department, together

with all fire apparatus engineers, fire prevention inspectors, forest firemen, fire patrolmen, fire observers and foremen assigned to fire suppression crews and all other personnel not specifically mentioned herein, and not specifically excluded, who are assigned to fire prevention and suppression in any county forester's or county fire warden's department, together with officers, engineers and firemen of any county fire protection district and all other personnel not specifically mentioned herein and not specifically excluded, who are assigned to fire prevention and suppression in any county fire protection district, but shall not include clerks, bookkeepers, stenographers, cooks, laborers, county fire protection district volunteer employees or persons who are not employed for full time duty, or other employees not performing the duties of any of the persons enumerated and shall not include any honorary deputy county fire warden or honorary deputy county forester, or voluntary fire warden holding appointment as such but receiving no compensation therefor and not regularly performing particular official duties.

New section

SEC. 7. Section 9.2 is hereby added to the act cited in the title hereof, to read as follows:

Commencement of membership in retirement system

Sec. 9.2. In any county in which the provisions of this act shall have become operative prior to the effective date of the amendment adding Section 9.1 hereto, the persons employed in positions included in the definition of "county peace officers" by Section 9.1 shall become members of the retirement system on the first day of the calendar month following the expiration of 30 days after the board of supervisors has adopted by a four-fifths ($\frac{4}{5}$) vote a resolution providing for the inclusion of such positions in the retirement system, and thereafter each person employed in any position included in the definition "county peace officers" by Section 9.1 shall become a member on the first day of the calendar month following the expiration of 30 days after he is so employed.

Stats. 1941, p. 2264

SEC. 8. Section 10 of the act cited in the title hereof is hereby amended to read as follows:

Peace officers eligible

Sec. 10. Except as otherwise provided herein, all peace officers shall be eligible for participation under the system provided by this act, and shall be included in and shall be subject to the provisions of said act on the first day of the calendar month following the expiration of 30 days after said act becomes operative in any county, or on the first day of the calendar month following the expiration of 30 days after their entrance into the service; provided, however, that any such peace officer may elect to be excluded from the provisions of this act at any time within 30 days after this act becomes operative in any county as to his position or within 30 days after his entrance into the service, upon his written election to be so excluded, and no employee who has so elected to be excluded, may thereafter be included in or participate in the system herein provided.

Exclusion

Stats. 1941, p. 2264

SEC. 9. Section 11 of the act cited in the title hereof is amended to read as follows:

Retirement for service connected disability

Sec. 11. Any member shall be retired for disability regardless of age or amount of service, if incapacitated for the performance of duty as the result of an injury or disease occurring in and arising out of the course of his employment. Any member incapacitated for the performance of duty by reason of a cause not included in the immediately preceding sentence, shall be retired regardless of age but only after 10 years of service as a county peace officer as defined under Section 9 of this act. Incapacity for performance of duty shall be determined by the board.

Pension

Upon retirement of a member for service connected disability, such member shall receive an annual pension, payable in monthly installments, equal to one-half of his terminal salary; provided, that such pension shall in no case be more than one hundred fifty dollars ($150) per month.

Payments to widow or children

Whenever any member shall be killed, or die, as a result of any injury received during the performance of his duty, or from sickness caused by the discharge of such duty, or after retirement for service connected disability, an annual pension shall be paid in equal monthly installments to his widow in an amount equal to one-half of such member's terminal salary; provided, that such pension shall in no case be more than one hundred fifty dollars ($150) per month. Said pension shall be paid to the widow during her lifetime or until she remarries, and thereafter, or if there is no widow entitled to receive the same, the pension shall be paid to such of his children, through their guardian, as are under 18 years of age, to be equally divided among such children in the following amounts:

For one child	$50
For two children	$75
For three or more children	$100

No widow of a pensioner shall be entitled to a pension unless she shall have been married to such deceased pensioner at least five years prior to the date of his retirement; and provided further, that if such widow, child or children shall marry, then the pension paid to the person so marrying shall cease.

Retirement for non-service connected disability

Upon retirement of a member for nonservice connected disability such member shall receive an annual pension, payable in monthly installments, as follows, dependent upon the aggregate length of his service:

After 10 years but less than 12 years of service, the sum of fifty dollars ($50) per month;

After 12 years but less than 14 years of service, the sum of fifty-five dollars ($55) per month;

After 14 years but less than 16 years of service, the sum of sixty dollars ($60) per month;

After 16 years but less than 18 years of service, the sum of sixty-five dollars ($65) per month;

After 18 years but less than 20 years of service, the sum of seventy dollars ($70) per month;
After 20 years of service, the sum of seventy-five dollars ($75) per month;
provided, that in no case shall any pension for nonservice connected disability exceed an amount equal to one-half of the terminal salary of such member.

Medical examination

The board of retirement may, within its discretion, require any member retired for disability, under the age of 50 years, to undergo medical examination. The examination shall be made by a physician or physicians, appointed by said board, at the place of residence of said retired member or other place mutually agreed upon. Upon the basis of such examination said board shall determine whether such retired member is still incapacitated, physically or mentally, for service in the position held by him at the time of his retirement. If said board determines that such retired member is not so incapacitated, his pension shall be canceled forthwith, and subject to rules and regulations which may have been adopted by the county for the reinstatement or reemployment of personnel he is eligible for reinstatement or reemployment in the county service.

Cancellation

Should the pension of any such retired member be canceled there shall be paid to him immediately out of said fund an amount equal to his accumulated contributions, as of the date of his retirement, together with all interest which shall have been credited to his account as provided for herein, less an amount equal to one-half of the pension payments made to him during the period of his retirement.

Reentry into county service

Should such retired member reenter county service and be eligible for membership in said retirement system, his rate of contribution for future years shall be that established for his age at the time of such reentry. He shall also receive credit for all service rendered by him prior to the time of his disability retirement; provided, that he shall have deposited into said fund within six months after his reinstatement or reemployment an amount equal to the amount paid to him upon the cancellation of his pension.

Stats. 1941, p 2264

SEC. 10. Section 13 of the act cited in the title hereof is amended to read:

Employment restrictions

Sec. 13. No officer or employee who accepts any of the benefits under the provisions of this act shall engage in any public employment, where as a result of such employment the aggregate compensation paid to such pensioner would exceed the compensation paid to him in the position from which he was retired, and any violation of the provisions of this section shall result in the immediate termination of any and all such benefits.

CHAPTER 927

Stats 1939, p 49, amended

An act to amend Section 662 of the Elections Code, relating to election officers.

In effect August 4, 1943

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.]

The people of the State of California do enact as follows:

Stats 1939, p 49

SECTION 1. Section 662 of the Elections Code is amended to read:

Declaration

662. No person is eligible to act as an election officer until he has signed the declaration required in this chapter.

CHAPTER 928

Stats 1937, p. 1229, amended

An act to amend Section 7373 and to amend and renumber Section 7444 of the Business and Professions Code, relating to hairdressers, cosmeticians, cosmetologists and junior electrologists.

In effect August 4, 1943

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.]

The people of the State of California do enact as follows:

Stats 1941, p 1581

SECTION 1. Section 7373 of the Business and Professions Code is amended to read:

Certificates of registration and license

7373. Every applicant for a license as a hairdresser and cosmetician or cosmetologist satisfactorily passing the examination conducted by the board to determine his fitness to engage in the practice of the occupations of a hairdresser and cosmetician or cosmetologist, shall receive from the board a certificate of registration and license as a hairdresser and cosmetician or cosmetologist.

Authority conferred

This license, except for renewal fees, entitles the holder, without additional cost, to engage in the practice of the occupations of a hairdresser and cosmetician or cosmetologist upon the public under the immediate personal supervision of a licensed hairdresser and cosmetician or cosmetologist manager-operator for a period of one year. During this period, the licensee shall not be entitled to manage a cosmetological establishment nor to engage in the practice of cosmetology independent of the supervision of a licensed hairdresser and cosmetician or cosmetologist manager-operator.

Manager-operator's license

Upon receipt of sufficient evidence of completion of one year of actual shop experience in this State, the board shall issue without examination a certificate of registration and license as a hairdresser and cosmetician or cosmetologist and designating the holder as a manager-operator.

Stats. 1939, p 396

SEC. 2. Section 7444 of the Business and Professions Code is amended and renumbered to read:

Junior electrologist

7344. A licensed junior electrologist may engage in the occupation of an electrologist under the immediate supervision of a licensed electrologist.

CHAPTER 929

An act to repeal Sections 9202, 9204, 9205, 9206, 9207, 9208, 9209, 9210, 9212, 9213, 9214, 9215, 9217, of, and to amend Sections 9164, 9200, and 9221, of the Public Resources Code, and to add Section 10058 to the Elections Code, relating to the general district elections held in soil conservation districts.

Stats 1939, p. 1067, amended

Stats 1939, p. 49, amended

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 10058 is added to the Elections Code, to read:

New section

10058. General district elections held in soil conservation districts shall be consolidated with the general election held in November of each even-numbered year, pursuant to the provisions of Article 8 of Chapter 3 of the Public Resources Code.

Consolidation of elections

SEC. 2. Section 9164 of the Public Resources Code is amended to read:

Stats Ex Sess. 1940, p. 45

9164. After all have qualified the directors first elected shall meet and classify themselves by lot into two classes as nearly equal in number as possible. The term of office of those in the class having the least number shall expire at noon on the first Tuesday in December of the next even-numbered year after the year in which the meeting is held. The term of office of those in the other class shall expire at noon on the first Tuesday in December of the second even-numbered year after the year in which the meeting is held.

Terms of first directors

SEC. 3. Section 9200 of said code is amended to read:

Stats Ex. Sess 1940, p. 45

9200. An election to be known as the General Soil Conservation District election shall be held in each district on the first Tuesday after the first Monday in November in each even-numbered year, at which a successor shall be chosen for each director whose term of office expires in December next thereafter.

General district elections

SEC. 4. Sections 9202, 9204, 9205, 9206, 9207, 9208, 9209, 9210, 9212, 9213, 9214, 9215, and 9217 of said code are repealed.

Repeals

SEC. 5. Section 9204 is added to said code, to read:

New section

9204. The election shall be consolidated with the general election held in November of the even-numbered years. The election precincts, polling places and voting booths shall be the same and there shall be only one set of election officers in each of the precincts.

Consolidation of elections

SEC. 6. Section 9205 is added to said code, to read:

New section

9205. The board of supervisors shall canvass the returns of the election. The election shall be held in all respects as if there were only one election. Only one form of ballot shall be used, and the returns of the election need not be canvassed by the directors of the district.

Canvass of votes, etc.

New section

SEC. 7. Section 9206 is added to said code, to read:

Precinct boards and precincts

9206. In the consolidated elections, the board of supervisors shall provide for the appointment of precinct boards and the formation of precincts for such elections, and shall pay the expenses of the election.

Stats Ex Sess 1940, p 45

SEC. 8. Section 9221 of said code is amended to read:

Directors: Term of office

9221. The directors so elected and qualified shall take office at noon on the first Tuesday in December next following their election.

The term of office of the directors elected on the first Tuesday in February of 1941 shall be terminated upon the election and qualification to office of their successors elected on the first Tuesday after the first Monday of November in 1944. The term of office of the directors elected on the first Tuesday in February of 1943 shall be terminated upon the election and qualification to office of their successors elected on the first Tuesday after the first Monday of November in 1946.

CHAPTER 930

Stats 1909, p. 87, amended

An act to amend Section 16c of the Bank Act, relating to the deposit of checks in banks and the return of unpaid items.

In effect August 4, 1943

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.]

The people of the State of California do enact as follows:

Stats 1925, p 510

SECTION 1. Section 16c of the Bank Act is amended to read:

Credit allowed on deposited check provisional only

Sec. 16c. Any credit allowed by any bank organized under the laws of, or doing business in, this State, for any check, note or other instrument providing for the payment of money and drawn on, through or payable at the same bank in which it is deposited, or on, by, through or at any other bank, or on, through or at any other branch of the same bank, or on, by or through any other party, shall be provisional only, subject to final payment and to the receipt by the bank allowing such credit, of the funds in actual money, or in solvent credit on the books of any Federal reserve bank, or on the books of any bank designated as a depositary by the bank allowing such credit; provided, that any check, note or other instrument providing for the payment of money and drawn on or payable at the same bank allowing such credit shall either be found good or else returned unpaid, or notice of dishonor duly sent, at or before the end of the next succeeding business day when such check, note or other instrument has been received during business hours and at or before the end of the second succeeding business day when such check, note or other instrument has been received after business hours; and provided further, that when such check, note or other instrument pro-

Notice of dishonor, etc

Forwarding for collection

viding for the payment of money is drawn on, by, through or payable at any other bank, or on, by, or through any other party, it shall be sent in course of collection by the end of the next succeeding business day when such check, note or other instrument has been received during business hours and at or before the end of the second succeeding business day when such check, note or other instrument has been received after business hours and may be forwarded for the purpose of collection directly to the bank on or by which it is drawn, or at or through which it is made payable, or to any Federal reserve bank, or to any other bank in the usual course of business; and in payment thereof there may be accepted either money or the check or draft of the bank on or by which it is drawn, or at or through which it is made payable, or the check or draft of any bank to or through which it has been forwarded for collection, or credit therefor may be accepted with any Federal reserve bank, or with any bank designated as a depositary by the bank allowing such credit. In forwarding for collection any such check, note or other instrument, or receiving payment therefor, in any manner aforesaid, the bank allowing such credit shall not be liable in the event of the insolvency or other default or for any act or omission, of any other bank employed directly or indirectly in handling the collection of such check, note or other instrument, or of any bank on or by which any draft received in payment is drawn; nor for the payment of any such check, or draft, or credit as may have been accepted in payment therefor; nor for the loss or destruction of, or inability to repossess itself of any such check, note or other instrument in transit or in the possession of others. Until the proceeds of any such check, note or other instrument providing for the payment of money shall have been actually received by the bank allowing such credit, in actual money, or in solvent credit on the books of any Federal reserve bank, or on the books of any bank designated as a depositary by the forwarding bank, such check, note or other instrument may be charged back to, or collected from, the party from whom it was received regardless of whether or not the check, note or other instrument itself can be returned.

Liability of bank allowing credit

Collection from person depositing

Any check, note or other instrument providing for the payment of money and drawn on, by, through or payable at one office or branch of any bank organized under the laws of, or doing business in, this State, and received for deposit or collection or for any other purpose at another office or branch of such bank shall be deemed for all the purposes of this section as drawn on, by, through or payable at another bank.

Transactions involving branch banks

Any provision of this section may be modified or set aside by an agreement in writing between any bank allowing such credit and any party from whom any such check, note or other instrument is received for collection, deposit, or other purpose.

Modification of section

CHAPTER 931

An act to amend Section 79.07 of the Civil Code, relating to destruction of records by county clerks.

In effect Augus 4, 1943

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.]

The people of the State of California do enact as follows:

Stats 1939, p 1716

SECTION 1. Section 79.07 of the Civil Code is amended to read:

Filing and destruction

79.07. The certificate forms and the court orders shall be filed in the office of the county clerk. They shall be preserved for one year from the date of filing after which date they may be destroyed.

CHAPTER 932

Stats. 1939, p. 1274, amended

An act to amend Section 3476 and to postpone and suspend the operation of Sections 3511.3, 3571, 3571.3, 3571.5, 3572, 3573, 3574, 3575, 3576, 3577 and 3578 of the Revenue and Taxation Code, relating to taxation.

In effect August 4, 1943

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.]

The people of the State of California do enact as follows:

Stats 1939, p 1274

SECTION 1. Section 3476 of the Revenue and Taxation Code is hereby amended to read as follows:

Sale at public auction

3476. Not less than 21 nor more than 28 days after the first publication of the notice of sale of tax-sold property and at least five years after the property was sold to the State, the tax collector shall, as prescribed in this chapter, sell at public auction to the highest bidder for cash in lawful money of the United States all tax-sold property which was sold to the State in the fifth preceding calendar year, or any year before that, except that all property sold by the State for which the full purchase price has not been paid shall be deeded to the State and except that all such tax-sold property which is delinquent for the taxes of not more than one year shall not be sold at public auction but shall be deeded to the State and, notwithstanding any other provisions of this code, shall not be resold within the following two years during which time it shall be subject to redemption.

Exceptions

Time and place

The sale shall begin at the time given in the published notice of sale and shall continue from day to day thereafter if additional time is needed to complete the sale. The sale shall be in the tax collector's office.

Operation postponed

SEC. 2. The operation of Sections 3511.3, 3571, 3571.3, 3571.5, 3572, 3573, 3574, 3575, 3576, 3577 and 3578 of the Revenue and Taxation Code shall be postponed and suspended until June 1, 1945.

CHAPTER 933

An act to amend Section 6 of an act entitled "An act to authorize the counties of the State of California to establish systems for the retirement and pension of certain county and township officers and employees, namely county peace officers as defined in the act, and to provide certain benefits for their dependents, and empowering county boards of supervisors to levy a special tax," approved May 5, 1931, relating to county peace officers' retirement system.

Stats 1931, p. 477, amended

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 6 of the act cited in the title hereof is amended to read:

Stats 1941, p. 2264

Sec. 6. The board shall have charge and control of and shall safely keep the funds of the system, and shall invest and reinvest the same, and may from time to time sell any securities held by them and invest and reinvest the proceeds therefrom, and any and all unappropriated income of said funds; provided, however, that all funds received by them not required for current disbursements shall be invested in those securities only which shall be legal for savings bank investments, or in obligations issued pursuant to Title IV of the National Housing Act, approved June 27, 1934, as now or hereafter amended, or in the shares, share accounts, or investment certificates of any building and loan association or savings and loan association which has the protection provided by Title IV of the National Housing Act, approved June 27, 1934, as now or hereafter amended to the extent of such insurance protection, or deposited at interest in any State or National bank doing business with the county in accordance with the provisions of law authorizing and controlling the deposit of public funds in banks; provided, that the credit of the county shall not be given or lent in aid of, or to, any person, association or corporation, whether municipal or otherwise, nor shall it be pledged in any manner whatever for the payment of the liabilities of any individual, association, municipal or other corporation whatever. Whenever securities belonging to or held for said retirement system are sold, the county treasurer shall deliver the securities so sold upon receiving the proceeds thereof, and may execute any and all documents necessary to transfer title thereto. The duties herein imposed upon the county treasurer shall be deemed a part of his official duties, for the faithful performance of which he shall be liable on his official bond.

Investment of funds

CHAPTER 934

An act to add Section 375 to the Civil Code, relating to the award and assessment of expenses and attorneys' fees in actions or proceedings against directors, officers or employees of a corporation, brought by or on behalf of the corporation.

In effect August 4, 1943

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 375 is added to the Civil Code, to read:

Unsuccessful suit against officer, etc Defendant's costs

375. If any person, either alone or with others, is sued in any action or proceeding, by reason of his being or having been a director, officer or employee of a corporation, domestic or foreign, and arising out of his alleged misfeasance or nonfeasance in the performance of his duties or out of any alleged wrongful act against the corporation or by the corporation, whether such action or proceeding is brought by the corporation or by one or more shareholders or creditors or the receiver or trustee of the corporation, any governmental body, any public official or any private person or corporation, the reasonable expenses, including attorneys' fees of any said director, officer or employee, incurred in the successful defense of such action or proceeding, whether now pending or commenced hereafter, may be assessed against the corporation or its representative either by the court in which such action or proceeding is brought or by the court in a separate action or proceeding against the corporation or its representative.

If any director, officer or employee is successful in whole or in part, or if the action or proceeding against him is settled with the approval of the court, and if the court also finds that the conduct of any such party is such as fairly and equitably to merit such indemnity, reasonable expenses, including attorneys' fees, of any or all such parties may be assessed against the corporation in such amount as the court determines and finds to be reasonable, either in the same action or proceeding or in a separate action or proceeding against the corporation or its representative.

Notice

Notice of the application for indemnity for such expenses shall be served upon the corporation or its representative and upon the plaintiff and other parties in the action or proceeding. Notice may be given either personally or by mail or other written communication to the shareholders in the manner provided by Section 314 of the Civil Code with respect to shareholders' meetings, in such form as the court may

Application

direct. Application for indemnity for such expenses may be made either by one of the parties litigant or by the attorney or other person rendering services to him and the court may direct fees and expenses to be paid direct to the attorney or

other person rendering services to the party litigant, although not himself a party to the action.

The awarding of indemnity for expenses, including attorneys' fees, to the parties to any such action or proceeding, whether terminated by trial on the merits or by settlement or dismissal, shall be by order of the court and shall not be governed by any provision in the articles of incorporation or by-laws of the corporation or by resolution or agreement of the corporation, its directors or shareholders, but the rights and remedy given by this section are hereby declared exclusive. Rights and remedies exclusive

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CHAPTER 935

An act to amend Section 1106.2 of the Agricultural Code, relating to eggs. Stats 1933, p 60, amended

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 1106.2 of the Agricultural Code is amended to read: Stats 1937, p 1982

1106.2. (a) Any eggs prepared, packed, stored, delivered for shipment, delivered for sale, loaded, shipped, transported or sold in violation of any of the provisions of this article, together with their containers, are a public nuisance, and such eggs shall be held by the person in whose possession they may be and shall not be moved from the place where they may be, except upon the written permission or upon the specific direction of an enforcement officer. Public nuisance

(b) The enforcement officer may affix a warning tag or notice to such nuisance and may give notice of such violation to the producer, packer or owner, or any person in possession of such eggs. If such person, so notified, refuses or fails within 24 hours to recondition or re-mark the same so as to comply with all provisions of this article, such eggs and their containers may be seized by any enforcement officer. Warning tag; Seizure

(c) The district attorney of the county in which any such nuisance is found, on the relation of the director or of any enforcement officer, shall maintain, in the name of the people of the State of California, a civil action to abate and prevent such nuisance; and upon judgment and by order of the court, such nuisance shall be condemned and destroyed in the manner directed by the court, or reconditioned, re-marked, denatured, or otherwise processed, or released upon such conditions as the court in its discretion may impose to insure that the nuisance will be abated. If the owner fails to comply with the order of the court within the time specified therein the court may order disposal of the eggs and their containers or the sale thereof, under such terms and conditions as the court may Abatement of nuisance; Condemnation, etc

prescribe, by the enforcement officer, or by the sheriff, marshal, or constable; and in the event the court orders the sale of any of the eggs and their containers which can be salvaged, the costs of disposal shall be deducted from the proceeds of sale and the balance paid into court for the owner.

Court jurisdiction

(d) In actions arising under the provisions of this section, municipal courts shall have original jurisdiction where the value of the property seized amounts to two thousand dollars ($2,000) or less; justices' courts of class A shall have original jurisdiction where the value amounts to one thousand dollars ($1,000) or less; and justices' courts of class B shall have jurisdiction where the value amounts to three hundred dollars ($300) or less.

CHAPTER 936

Stats 1935, p 93, amended

An act to amend Section 402 of the Vehicle Code, relating to financial responsibility.

In effect August 4, 1943

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.]

The people of the State of California do enact as follows:

Stats 1937, p 2353

SECTION 1. Section 402 of the Vehicle Code is amended to read:

Imputed liability

402. Liability of Private Owners. (a) Every owner of a motor vehicle is liable and responsible for the death of or injury to person or property resulting from negligence in the operation of such motor vehicle, in the business of such owner or otherwise, by any person using or operating the same with the permission, express or implied, of such owner, and the negligence of such person shall be imputed to the owner for all purposes of civil damages.

Limit

(b) The liability of an owner for imputed negligence imposed by this section and not arising through the relationship of principal and agent or master and servant is limited to the amount of five thousand dollars ($5,000) for the death of or injury to one person in any one accident and subject to said limit as to one person is limited to the amount of ten thousand dollars ($10,000) with respect to the death of or injury to more than one person in any one accident and is limited to the sum of one thousand dollars ($1,000) for damage to property of others in any one accident.

Operator

(c) In any action against an owner on account of imputed negligence as imposed by this section the operator of said vehicle whose negligence is imputed to the owner shall be made a party defendant if personal service of process can be had upon said operator within this State. Upon recovery of judgment, recourse shall first be had against the property of said operator so served.

(d) In the event a recovery is had under the provisions of this section against an owner on account of imputed negligence, such owner is subrogated to all the rights of the person injured or whose property has been injured and may recover from such operator the total amount of any judgment and costs recovered against such owner. If the bailee of an owner with the permission, express or implied, of the owner permits another to operate the motor vehicle of the owner, then such bailee and such driver shall both be deemed operators of the vehicle of the owner within the meaning of subdivisions (c) and (d) of this section. Subrogation. Bailee.

(e) Where two or more persons are injured or killed in one accident, the owner may settle and pay any bona fide claim or claims for damages arising out of personal injuries or death, whether reduced to judgment or not, and such payments shall diminish to the extent thereof the owner's total liability on account of such accident; and payments so made aggregating the full sum of ten thousand dollars ($10,000) shall extinguish all liability of the owner hereunder to said claimants and all other persons on account of such accident, which liability may exist by reason of imputed negligence, pursuant to this section, and not arising through the negligence of the owner nor through the relationship of principal and agent or master and servant. Compromise payments.

(f) If a motor vehicle is sold under a contract of conditional sale whereby the title to such motor vehicle remains in the vendor, such vendor or his assignee shall not be deemed an owner within the provisions of this section, but the vendee, or his assignee shall be deemed the owner notwithstanding the terms of such contract, until the vendor or his assignee retake possession of such motor vehicle. A chattel mortgagee of a motor vehicle out of possession shall not be deemed an owner within the provisions of this section. Conditional sales contracts.

CHAPTER 937

An act authorizing municipal corporations to compromise litigation wherein the United States of America seeks to condemn tide or submerged lands heretofore granted such municipal corporation.

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. The legislative body of any municipal corporation having jurisdiction over any tide, submerged or reclaimed lands heretofore granted such municipal corporation, which lands or any interest therein are sought to be acquired by the United States of America in then pending eminent domain proceedings, hereby is authorized to enter into any compromise with respect thereto which to it may seem just and Authority to compromise.

expedient; provided, that nothing in this act shall be construed to relinquish any reservation that may have been made in favor of the State in any grant of such lands to such municipal corporation with respect to deposits of oil and gas and other hydrocarbon and mineral deposits and rights of way for access to all such deposits as prescribed in Section 6402 of the Public Resources Code.

CHAPTER 938

Stats 1935, p 496, amended

An act to add Section 11730x to, and to amend Sections 11561, 11699 and 11715 of, the Insurance Code, relating to insurance.

In effect August 4, 1943

[Approved by Governor May 31, 1943. Filed with Secretary of State May 31, 1943.]

The people of the State of California do enact as follows:

Stats 1935, p 496

SECTION 1. Section 11561 of said code is amended to read:

Claims under policies less than three years old

11561. For all compensation claims under policies written in the three years immediately preceding the date as of which the statement is made, there shall be charged as part of the reserve under Section 11556 an amount computed by taking 65 per cent of the earned compensation premiums of each of such three years, and deducting all loss and loss expense payments made in connection with such claims under policies written in the corresponding years from such 65 per cent; except that for each year of any such three-year period there shall be charged not less than the present value at 4 per cent interest of the determined and the estimated unpaid compensation claims under policies written during such year.

Stats 1935, p 496

SEC. 2. Section 11699 of the Insurance Code is amended to read:

Bond amount

11699. The bond shall be in an amount:

(a) Not less than the sum of the following amounts computed as of the close of the last preceding December 31st in respect to workmen's compensation insurance written subject to the workmen's compensation laws of this State:

(1) The aggregate of the present values at 4 per cent interest, of the determined and estimated future payments upon claims under compensation policies written more than three years prior to such date.

(2) The aggregate of the amounts computed as follows: For each of the preceding three years take 70 per cent of the earned compensation premiums for that year and deduct all loss and loss expense payments made upon claims under policies written in the corresponding year from such 70 per cent; except that the amount for each such year shall not be less than the present value at 4 per cent interest of the determined and the estimated unpaid claims under compensation policies written in that year.

(b) Not less than one hundred thousand dollars ($100,000).

(c) If the aggregate amount computed under subdivision (a) exceeds fifty thousand dollars ($50,000), not more than double such aggregate amount.

SEC. 3. Section 11715 of said code is amended to read: Stats 1941, p 1066

11715. Any workmen's compensation insurer may, in lieu of and subject to the same conditions as the bond required by Section 11690, deposit with the commissioner cash or approved interest-bearing securities readily convertible into cash. Such deposit shall be made from time to time as demanded by the commissioner. He shall forthwith redeposit such cash and securities as a separate deposit with the State Treasurer. Such deposit shall be maintained at an amount not less than twenty-five thousand dollars ($25,000) nor less than the reserves required of such insurer to be maintained under any of the provisions of Article 1, Chapter 1, Part 3, Division 2 of this code, relating to loss reserves on workmen's compensation business of the insurer in this State nor less than the sum of the amounts specified in subdivision (a) of Section 11699. Deposit in lieu of bond. Amount

SEC. 4. Section 11730x is added to said code, to read: New section

11730x. The commissioner may approve or issue a comprehensive rating plan, for insurance covering projects involved in the prosecution of the war, under this article whenever he finds that the application of such plan is essential, convenient, or advisable in the prosecution of the war, and may, after hearing, modify or change such plan thereafter. War projects rating plan

Such comprehensive rating plan may include insurance other than workmen's compensation insurance and may modify or supersede the classification of risks and premium rates otherwise applicable. As a condition of the application of such plan the commissioner may, with respect to such other insurance, impose such rules and regulations and require the use of such rates or premiums as he finds necessary or advisable to secure and maintain adequate funds for the protection of employees and insurers operating under such plan. Violation of any such rule, regulation, or requirement is a violation of this article.

This section shall remain effective until October 1, 1945, thereafter during the continued existence of the emergency proclaimed by the President of the United States under date of September 8, 1942, and thereafter for such reasonable period, not exceeding one year after the termination of said emergency, as the commissioner finds necessary to avoid unfairness or disruption of business commenced while this section is effective. Any plan or provision approved by the commissioner prior to the date this section takes effect and conforming to the provisions of this section, shall continue in effect subject to this section. Duration. Existing plan

CHAPTER 939

Stats. 1933, p. 394, amended

An act to add Section 842.5 to the Fish and Game Code, relating to the use of nets.

In effect August 4, 1943

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 842.5 is added to the Fish and Game Code, to read:

Use of nets during war

842.5. Notwithstanding any other provision of this code, during the period of the war emergency nets now permitted to be used to take sardines, bonito, tuna or mackerel in any district may be used in such or any other district to take such fish during such times and in such numbers or amounts as such fish may be taken pursuant to the provisions of this code.

Application

This section is applicable only to districts or parts of districts south of a line extended both east and west as continuations of the present boundary line between the counties of Monterey and San Luis Obispo; but is not applicable to that portion of District 20 comprising the waters around Santa Catalina Island easterly from a line extended through Seal Rock on the southerly side of said island and Long Point on the northerly side of said island.

Duration

This section shall remain in effect until the first day of March, 1945, or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first

Existing law

occurs. While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section; but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

CHAPTER 940

An act to provide for the use of property belonging to public agencies for horseback riding.

In effect August 4, 1943

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.]

The people of the State of California do enact as follows:

Bridle paths on public property

SECTION 1. Upon application to the Department of Public Works, or to any flood control district, or to any county, city, or city and county, permission may be granted to any person, equestrian group or riding club, subject to such conditions as such public agency may impose, to enter, traverse and use for the purpose of horseback riding, any trail, right-of-way, easement, river, flood control channel or wash, owned or controlled by the State, or any city, any county, or any city and county.

No fee shall be charged for the use of such bridle paths. The State, city, county, or city and county, shall not be held liable for any damages caused by accidents on such bridle trails. An equestrian group may be granted the right to erect and maintain suitable trail markers for the convenience and guidance of horseback riders; provided that no structure shall be erected on State owned property without the approval of the Division of State Lands. It shall be unlawful for any person to remove, deface or destroy such markers, or to erect fences, barbed wire or other obstructions on such bridle trails. Nothing contained herein shall limit the right of the granting power to extend, terminate or modify such permission at any time.

Public liability

Trail markers

Unlawful acts

CHAPTER 941

An act to amend Sections 423, 450 and 452 of the Probate Code, relating to the administration of estates of decedents.

Stats 1931, p 587, amended

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 423 of the Probate Code is amended to read:

Stats 1931, p 587

423. Administration may be granted to one or more competent persons, although not otherwise entitled to the same, at the written request of the person entitled, filed in court. If the person making the request is a child, grandchild, parent, brother or sister of the decedent, the nominee shall have priority next after those in the class of the person making the request; otherwise the court, in its discretion, may appoint either such nominee or a person of a class subsequent in rank to that of the person making the request; but other persons of the class of the person making the request shall have priority over such nominee.

Nomination

SEC. 2. Section 450 of the said code is amended to read:

Stats 1931, p 587

450. When letters of administration have been granted to any person other than the surviving spouse, child, grandchild, parent, brother or sister of the intestate or the public administrator, any one of them who is competent and had a prior right to letters, or any competent person at the written request of any one of them who is competent and had such prior right, may obtain the revocation of the letters, and be entitled to the administration, by filing a petition praying the revocation, and that letters of administration issue to him.

Prior claimants for letters

SEC. 3. Section 452 of the said code is amended to read:

Stats 1931, p. 587

452. The surviving spouse, when letters of administration have been granted to a child, grandchild, parent, brother or sister of the intestate; or any of such relatives, when letters

Surviving spouse, etc

have been granted to any other of them, may assert his prior right, and obtain letters of administration, and have the letters before granted revoked, in the manner prescribed in the preceding section.

CHAPTER 942

An act to add Section 4101b to the Political Code, relating to deposits by county clerk in county treasury.

In effect August 4, 1943

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 4101b is added to the Political Code, to read:

Deposit of jury and naturalization fees, etc

4101b. The county clerk may deposit in the county treasury any money deposited with the county clerk as and for jury fees, or as a portion of the naturalization fees required by law to be paid by him to the Government of the United States. The treasurer shall accept and keep separate account of such deposits. Such money may be withdrawn at any time by the county clerk upon his written order. For the safekeeping of such moneys the treasurer is liable on his official bond.

CHAPTER 943

An act to amend Section 4803 of, and add Sections 4807.2, 4807.3, 4812.5 and 4814 to, the Penal Code, relating to commutations, pardons, and the Advisory Pardon Board.

In effect August 4, 1943

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.]

The people of the State of California do enact as follows:

Stats 1941, p 1080

SECTION 1. Section 4803 of the Penal Code is amended to read:

Report and recommendations by judge or district attorney

4803. When an application is made to the Governor for pardon or commutation of sentence, or when an application has been referred to the Advisory Pardon Board, he or it may require the judge of the court before which the conviction was had, or the district attorney by whom the action was prosecuted, to furnish him or it, without delay, with a summarized statement of the facts proved on the trial, and of any other facts having reference to the propriety of granting or refusing said application, together with his recommendation for or against the granting of the same and his reason for such recommendation.

SEC. 2. Section 4807.2 is added to said code, to read: New section

4807.2. Every application for pardon or commutation of sentence shall be accompanied by a full statement of any compensation being paid to any person for procuring or assisting in procuring the pardon or commutation or the pardon or commutation shall be denied. Statement of payment for assistance

SEC. 3. Section 4807.3 is added to said code, to read: New section

4807.3. Every person who receives or agrees to receive any compensation or who receives any gift for procuring or assisting in procuring a pardon or commutation of sentence for any applicant must file with the Governor a full statement of the amount and character of such compensation or gift within 10 days of the receipt thereof. Any failure to file a full statement as required by this section is a misdemeanor. Statement of payment received for assisting

SEC. 4. Section 4812.5 is added to said code, to read: New section

4812.5. In the exercise of its powers the board has all the power of a head of a department under Section 353 of the Political Code. Head of department

SEC. 5. Section 4814 is added to said code, to read: New section

4814. The board shall, on or before the first day of December of each even numbered year, report to the Governor upon the status and history of matters under its consideration, together with an account of expenditures and such suggestions pertinent to its duties as may appear to be necessary and expedient. Report to Governor by board

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CHAPTER 944

An act to add Section 1325.5 to the Streets and Highways Code, relating to county bridges and subways. Stats 1935, p 248, amended

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 1325.5 is added to the Streets and Highways Code, to read: New section

1325.5. Except as provided in Sections 1328 to 1332, inclusive, whenever the cost of construction or repair of any bridge will exceed the sum of two thousand dollars, such construction or repair shall be done by contract. Such a contract is void unless it is let as provided in Sections 1326 and 1327. Construction over $2,000

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect it shall supersede the Duration Existing law

provisions of Section 1325 which are in conflict with this section; but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

CHAPTER 945

Stats. 1913, Ch 368, amended

An act to amend Sections 21285 and 21336 of the Water Code, relating to the appointment or election of officers of an irrigation district.

In effect August 4, 1943

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.]

Note.—See Stats. 1943, Ch. 368.

SEC. 3. This act shall take effect only if the sections of the Water Code amended are adopted by the Legislature at its Fifty-fifth Regular Session.

CHAPTER 946

Stats. 1943, Ch. 71, amended

An act to amend Section 2.1431 of the School Code and to amend Section 10002 of the Education Code, relating to the State Curriculum Commission.

In effect August 4, 1943

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.]

The people of the State of California do enact as follows:

Sch C, 1929, p 102

SECTION 1. Section 2.1431 of the School Code is amended to read:

Qualifications of appointive members

2.1431. Among the appointive members of the Curriculum Commission there shall be at least one county superintendent of schools, one city superintendent of schools, one person employed in a junior college in a position requiring certification qualifications, one high school principal, one elementary school principal, one college teacher of education and one classroom teacher.

Note.—See Stats. 1943, Ch. 71.

SEC. 3. Section 2 of this act becomes operative only if the Education Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said code takes effect; at which time Section 2.1431 of the School Code amended by this act is hereby repealed.

CHAPTER 947

An act to amend Sections 10203, 10204, 10209 and 10213 of, and to add Section 10203.6 to, the Insurance Code, relating to insurance.

Stats 1935, p. 496, amended

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 10203 of the Insurance Code is amended to read:

Stats 1943, Ch 909

10203. Life insurance conforming to all the following conditions is another form of group life insurance:

Associated persons in same occupation

(a) Written under a policy covering, when issued, not less than 50 members of any of the following:

(1) Any labor union.

(2) The National Guard.

(3) Any association of governmental or public employees.

(4) Any credit union organized and operating under the Federal Credit Union Act of 1934 or Chapter 36 of the California Statutes of 1927 as amended.

(b) Written under a policy issued to such union, credit union or association.

(c) The premium on the policy to be paid by the union, credit union, or association or by the union or association and the members thereof jointly or by the insured members alone.

(d) Insuring only members of such union who are actively engaged in the same occupation or members of such credit union or association.

(e) Insuring for amounts of insurance based upon some plan which will preclude individual selection.

(f) Insuring for the benefit of persons other than the union, credit union or association or its officials.

(g) Written under a policy insuring, when issued, not less than 75 per cent of all members eligible for insurance under the policy, or 75 per cent of such members of any class thereof reasonably determined by conditions pertaining to employment or of any established unit thereof not formed for the purpose of procuring insurance; provided, that if a group policy is intended to insure several such classes or units it may be issued as respects any such class or unit of which 75 per cent are covered and extended to other such units or classes as 75 per cent thereof express the desire to be covered. In such case, when members apply and pay for additional amounts of insurance, a smaller percentage of members may be insured for such additional amounts of insurance. If any member fails to become insured under an existing policy when he becomes eligible and later wishes to become insured thereunder, the insurer may require satisfactory evidence of insurability before insurance is granted on such member.

New section

SEC. 2. Section 10203.6 is added to said code, to read:

Group credit union life insurance

10203.6. Life insurance conforming to all the following conditions is another form of group life insurance:

(a) Written under a policy issued to a credit union organized and operating under the Federal Credit Union Act of 1934 or Chapter 36 of the California Statutes of 1927 as amended.

(b) Covering the lives of every eligible member of a group of persons who are or become borrowers from one credit union under an agreement to repay the sum borrowed.

(c) The group numbers not less than 50 borrowers yearly.

(d) The amount insured on any one borrower does not exceed the balance of the indebtedness to the credit union and does not exceed three thousand dollars ($3,000) on any one life.

(e) The repayment of the loan is to be made under the agreement of loan in installments over a period not exceeding 10 years.

(f) The policy is issued upon the application of and made payable to the credit union, as beneficiary, and the premiums are paid by the credit union, the borrower, or jointly by the credit union and the borrower.

Exemption

A policy of insurance conforming to the provisions of this section is not subject to the provisions of Section 10209 or 10213.

Stats 1937, p 2031

SEC. 3. Section 10204 of the Insurance Code is amended to read:

Definitions

10204. For the purpose of this chapter, the term "employer" includes the association or union designated by Section 10203, and the institution, vendor, credit union, or creditor designated by Sections 10203.5 and 10203.6, and the term "employee" includes the members of such union, credit union or association and the debtors of or purchasers from such institution, credit union, vendor or creditor.

Stats 1937, p 2031

SEC. 4. Section 10209 of the Insurance Code is amended to read:

Statement for employee

10209. Except as provided by Sections 10203.5 and 10203.6, the policy shall contain a provision that the insurer will issue to the employer for delivery to the insured employee an individual certificate setting forth:

(a) A statement as to the insurance protection to which the employee is entitled and to whom payable.

(b) A provision that if the employment terminates for any reason whatsoever and the employee applies to the insurer within 31 days after such termination, paying the premium applicable to the class of risk to which he belongs and to the form and amount of the policy at his then attained age, he is entitled, without producing evidence of insurability, to the issue by the insurer of an individual life policy in any one of the forms, other than term insurance, customarily issued by the insurer.

(c) A statement that such policy in lieu of group insurance will be in an amount equal to the amount of his protection under such group insurance at the time of such termination.

SEC. 5. Section 10213 of the Insurance Code is amended to read: Stats 1937, p 2031

10213. Except as provided by Sections 10203.5 and 10203.6, a policy of group life insurance or the proceeds thereof paid to the insured employee or the beneficiary thereunder shall not be liable, either before or after payment, to be applied by any legal or equitable process to pay any liability of any person having a right under the policy. The proceeds thereof, when not made payable to a named beneficiary, shall not constitute a part of the estate of the employee for the payment of his debts. Proceeds of policy. Liability

CHAPTER 948

An act to add Section 6346.5 to the Business and Professions Code, relating to the retirement of officers and employees of county law libraries. Stats 1937, p 1229, amended

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 6346.5 is added to the Business and Professions Code, to read: New section

6346.5. A board of law library trustees may contract with the Board of Administration of the State Employees' Retirement System, to make all or any of the officers or employees of the law library members of the system. Affiliation with State Retirement System

CHAPTER 949

An act to add Article 3, comprising Sections 2400 to 2404, inclusive, to Chapter 2 of Title 1 of Part 3 of the Penal Code, relating to parole.

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Article 3 is hereby added to Chapter 2, Title 1 of Part 3 of the Penal Code, to read as follows: New article

Article 3. Bureau of Paroles

2400. There is, and shall continue to be, under the State Board of Prison Directors, a bureau known as the Bureau of Paroles. Bureau of Paroles

Chief officer and employees

2401. The bureau shall be in charge of a Chief State Parole Officer who shall be appointed by the board. All other officers and employees of the bureau shall be selected and appointed by the Chief State Parole Officer according to law.

Organization

2402. The board shall organize the bureau.

Functions and duties

2403. The bureau shall perform such functions and duties as specified from time to time by the State Board of Prison Directors.

Compensation

2404. The board shall fix the compensation of the Chief Parole Officer and such other employees of the bureau whose compensation is not otherwise fixed by law.

CHAPTER 950

An act to add Section 2780.1 to the Penal Code, relating to the prison camps, making an appropriation, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 2780.1 is hereby added to the Penal Code, to read as follows:

Proceeds of prison camp work

2780.1. Money received from the rendering of services under the prison camp work program shall be paid to the State Treasurer monthly and shall be credited to the support appropriation of the prison rendering such services, in augmentation thereof. The appropriation to be credited shall be the appropriation current at the time of rendering the services. Nothing in this section shall apply to prison road camps established under Article 4 of this chapter.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California, and as such shall go into immediate effect.

The following is a statement of facts constituting such necessity:

The United States of America is now at war with certain foreign powers and its manpower is being severely taxed to meet the personnel requirements of the Army and Navy and the National defense plants necessary to supply the Army and Navy with materials, supplies and equipment; that the Federal Government has called upon the State and Federal prisons to turn their inmate manpower and equipment previously done by unskilled workmen, such as the harvesting and planting of crops, the fighting of forest fires and the salvaging of scrap to productive war work and particularly to do work of the unskilled workman; that under the present laws the State prisons can not utilize their inmate manpower and equipment

to the fullest extent for war work and this act is necessary to create a revolving fund to carry out the purposes of other urgency legislation passed at this Session of the Legislature.

CHAPTER 951

An act to amend Section 4828 of the Business and Professions Code, relating to emergency veterinarians.

Stats. 1937, p. 1229, amended

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 4828 of the Business and Professions Code is amended to read:

Stats 1937, p 1229

4828. All veterinarians actually engaged and employed as such by the State, county, city, corporation, firm or individual are practicing veterinary medicine and shall secure a State license issued by the State Board of Veterinary Examiners; provided, however, that veterinarians employed by the California Department of Agriculture with the approval of the State Personnel Board, during a war or other emergency proclaimed by the Governor, and full time veterinary meat inspectors shall not be required to have a license so long as they do not practice any other branch of veterinary medicine.

Public veterinarians

CHAPTER 952

An act to amend Section 4045 of the Business and Professions Code, and to amend Section 1066 of and add Section 1066.5 to the Agricultural Code, relating to economic poisons.

Stats. 1937, p 1229, amended

Stats 1933, p 60, amended

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 4045 of the Business and Professions Code is amended to read:

Stats 1937, p 1229

4045. In addition grocers and dealers generally may sell all economic poisons which are within the terms of Article 3 of Chapter 7 of Division 5 of the Agricultural Code, relating to economic poisons, and which are licensed and registered thereunder, sold in original sealed packages and labeled with the official poison labels, when prepared, packaged, and sold in accordance with rules and regulations authorized by said Article 3, except the following: Arsenate of lead, arsenate of calcium, paris green, london purple and hydrocyanic acid in original sealed packages of less than one pound, any economic poison containing more than two (2) per cent strychnine or

Economic poisons

ten (10) per cent elemental phosphorus, ant poisons containing more than 0.40 per cent by weight of arsenic expressed in terms of metallic arsenic, corrosive sublimate and cyanide of potassium.

Stats 1939, p 1683

SEC. 2. Section 1066 of the Agricultural Code is amended to read:

Unlawful sale

1066. It is unlawful to sell any adulterated or misbranded economic poison.

New section

SEC. 3. Section 1066.5 is added to the Agricultural Code, to read:

"Thallium"

1066.5. As used in this section "thallium" includes any preparation of thallium or of the salts thereof.

Prohibition

It is unlawful for any person to sell or to possess thallium except that:

Exceptions

(a) Federal, State, county, or municipal officers or employees, in their official capacities, or persons under the immediate supervision of such officers or employees, may possess thallium for use for pest control purposes.

(b) Licensed physicians, surgeons, pharmacists, or veterinaries may possess thallium for use in their respective professions.

(c) Persons operating research or chemical laboratories may possess thallium for use for the purposes of such laboratories.

(d) Registered manufacturers of ant poison may manufacture and sell, and registered dealers in ant poison may possess for sale and sell, ant poisons containing not more than 1 per cent of thallium, expressed as metallic, prepared, packaged, and sold in accordance with such rules and regulations as the director may deem necessary to protect the public health.

(e) Wholesalers or jobbers of economic poison may possess for sale or sell thallium to any person included within the above classifications, or for export.

CHAPTER 953

An act to add Section 2715 to the Penal Code to authorize the State Board of Prison Directors to establish a prison farm.

In effect August 4, 1943

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 2715 is hereby added to the Penal Code, to read:

See also Stats. 1943, Ch 46

State prison farm

2715. Land belonging to the State of California may, with the approval of the Department of Finance, be transferred to the jurisdiction of the State Board of Prison Directors for the purpose of establishing thereon a prison farm and prisoners in the State prisons may be transferred to such farm. Products from said farm shall first be used for supplying the State prisons, prison camps, or the prison farm and any surplus may be sold to any other State institution.

Products

CHAPTER 954

An act to amend Section 1463 of the Penal Code, relating to the disposition of fines and forfeitures in municipal courts.

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 1463 of the Penal Code is hereby amended to read as follows: Stats. 1935, p 1204

1463. Except where otherwise specifically provided by law:

(1) All fines and forfeitures collected upon conviction or upon the forfeiture of bail, together with moneys deposited as bail, in any municipal court, shall, as soon as practicable after the receipt thereof, be deposited with the county treasurer of the county in which such court is situated. Disposition of money collected in municipal courts

(2) All fines and forfeitures collected upon conviction or upon the forfeiture of bail in any municipal court following complaints filed therein which were drawn by officers or other persons employed by the State or by the county in which such court is situated, shall be paid or transferred, at least once a month, into the proper funds of the county; and all fines or forfeitures collected in such court upon conviction or upon the forfeiture of bail following complaints filed therein which were drawn by officers or other persons employed by the city for which such court is established shall be paid, at least once a month, to the treasurer of said city, by warrant of the county auditor, which shall be drawn upon the requisition of the clerk of said court.

Any money deposited with such court or with the clerk thereof which, by order of the court or for any other reason, should be returned in whole or in part to any person, or which is by law payable to the State or to any other public agency, shall be paid to such person or to the State or to such other public agency by warrant of the county auditor, which shall be drawn upon the requisition of the clerk of such court.

All money deposited as bail which has not been claimed within one year after the final disposition of the case in which such money was deposited, or within one year after an order made by the court for the return or delivery of such money to any person, shall be apportioned between the city and the county and paid or transferred in the manner hereinabove provided for the apportionment and payment of fines and forfeitures.

CHAPTER 955

Stats 1935, p 496, amended

An act to amend Sections 916 and 986 and repeal Section 10487 of, to add Sections 10150.1, 10478, 10479, 10488, 10489 and 10929 to, and to add Article 3a to Chapter 1 of, and Article 3a to Chapter 5 of, Part 2, Division 2 of the Insurance Code, relating to insurance.

In effect August 4, 1943

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.]

The people of the State of California do enact as follows:

Stats 1935, p 496

SECTION 1. Section 916 of the Insurance Code is hereby amended to read as follows:

Liabilities

916. Third—Such statement shall also show the liabilities of the insurer, as follows:

(1) Claims for death losses and matured endowments due and unpaid.

(2) Claims for death losses and matured endowments in process of adjustment or adjusted and not due.

(3) Claims resisted by the insurer.

(4) Amounts due and unpaid on annuity claims.

(5) Trust funds on deposit or net present value of all outstanding policies computed on the standards provided in Section 986, and Articles 3 and 3a of Chapter 5, Part 2, Division 2, of the Insurance Code.

(6) Additional trust fund on deposit, or net present value of extra and special risks, including those on impaired lives.

(7) Amount of all unpaid dividends of surplus percentage, bonuses, and other description of profits to policyholders, and interest thereon.

(8) Amount of any other liability to policyholders or annuitants not included above.

Stats 1941, p 2453

SEC. 2. Section 986 of the Insurance Code is hereby amended to read as follows:

Life insurer: Insolvency

986. A life insurer issuing policies on a reserve basis is insolvent whenever its assets are exceeded by the amount necessary to provide for its liabilities and for reinsurance of all its outstanding risks at the following rates:

(a) In the case of contracts issued in a foreign country, upon the lives of residents thereof, by a domestic insurer authorized to and doing business in that foreign country, the rates shall be in accordance with the standard of mortality approved by the commissioner, as provided by law.

(b) In the case of group insurance, at the rates required by law for valuation thereof.

(c) In the case of all other outstanding risks written prior to January 1, 1892, at the rates based upon the American Experience Table of Mortality with interest at the rate of 4½ per cent per annum.

(d) In the case of all its other outstanding risks written from and after December 31, 1891, up to and including Decem-

ber 31, 1907, at rates based upon the Combined Experience or Actuaries' Table of Mortality with interest at the rate of 4 per cent per annum.

(e) In the case of all its other outstanding risks written from and after December 31, 1907, and prior to the operative date as to such risks of Article 3a, Chapter 1, Part 2, Division 2, at rates based upon the American Experience Table of Mortality with interest at the rate of $3\frac{1}{2}$ per cent per annum, and, where applicable, in accordance with Section 10486.9.

(f) In the case of all other risks, according to the standards provided in Article 3a, Chapter 5, Part 2, Division 2.

SEC. 3. Section 10150.1 is hereby added to the Insurance Code, to read as follows: New section

10150.1. This article is not applicable to life policies issued on or after the operative date as to such policies of Article 3a, Chapter 1, Part 2, Division 2. Application of article

SEC. 4. Article 3a, comprising Sections 10159.1 to 10167, inclusive, is hereby added to Chapter 1, Part 2, Division 2 of the Insurance Code, to read as follows: New article

Article 3a. Standard Nonforfeiture Law

10159.1. This article is applicable only to policies and contracts issued on or after the operative date as to such policies or contracts of this article. Application of article

10159.2. After December 31, 1943, any insurer may file with the commissioner a written notice of its election to comply with the provisions of this article as to any or all of its policies after a specified date before January 1, 1948. After the filing of such notice, then upon such specified date, this article shall become operative with respect to the policies specified in the notice and which are thereafter issued by such insurer. As to all of its policies with respect to which an insurer makes no such election, the operative date of this article shall be January 1, 1948. Notice of election; Operation of article

10160. Except as provided in Section 10165, no policy of life insurance shall be issued or delivered in this State unless it shall contain in substance the following provisions, or corresponding provisions which are at least as favorable to the defaulting or surrendering policyholder; Required policy provisions

(a) That, in the event of default in any premium payment after premiums have been paid for at least one full year the insurer will grant, upon proper request not later than 60 days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such value as may be hereinafter specified.

(b) That, upon surrender of the policy within 60 days after the due date of any premium payment in default after premiums have been paid for at least three full years in the case of ordinary insurance or five full years in the case of industrial insurance, the insurer will pay, in lieu of any

paid-up nonforfeiture benefit, a cash surrender value of such amount as may be hereinafter specified.

(c) That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than 60 days after the due date of the premium in default.

(d) That, if the policy shall have become paid-up by completion of all premium payments or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, the insurer will pay, upon surrender of the policy within 30 days after any policy anniversary, a cash surrender value of such amount as may be hereinafter specified.

(e) A statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a schedule showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary either during the first 20 policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the insurer on account of or secured by the policy. At the option of the insurer such schedule may also show such values and benefits for any year or years beyond the twentieth policy year.

(f) A brief and general statement of the method to be used in calculating the cash surrender value and the paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy with an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the insurer on account of or secured by the policy.

Omission

Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy.

Cash surrender

The insurer shall reserve the right to defer the payment of any cash surrender value for a period of six months after demand therefor with surrender of the policy.

Cash surrender in event of default

10161. Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary, whether or not required by Section 10160, shall be an amount not less than the excess, if any, of the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions, if there had been no default, over the sum of (a) the then present value of the

adjusted premiums as defined in Section 10163, corresponding to premiums which would have fallen due on and after such anniversary, and (b) the amount of any indebtedness to the company on the policy. Any cash surrender value available within 30 days after any policy anniversary under any policy paid-up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefit, whether or not required by Section 10160, shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the company on the policy. Paid-up policy

10162. Any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy or, if none is provided for, that cash surrender value which would have been required by this article in the absence of the condition that premiums shall have been paid for at least a specified period. Paid-up nonforfeiture benefit in event of default

10163. The adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of (i) the then present value of the future guaranteed benefits provided for by the policy; (ii) two per cent (2%) of the amount of insurance, if the insurance be uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with duration of the policy; (iii) forty per cent (40%) of the adjusted premium for the first policy year; (iv) twenty-five per cent (25%) of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less. In applying the percentages specified in (iii) and (iv) above, no adjusted premium shall be deemed to exceed four per cent (4%) of the amount of insurance or level amount equivalent thereto. Calculation of adjusted premiums

In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent level amount thereof for the purpose of this section shall be deemed to be the level amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the inception of the insurance as the benefits under the policy.

Basis of calculation

All adjusted premiums and present values referred to in this article shall be calculated on the basis of the Commissioners 1941 Standard Ordinary Mortality Table for ordinary insurance and the 1941 Standard Industrial Mortality Table for industrial insurance and the rate of interest, not exceeding three and one-half per cent (3½%) per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits; except that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than one hundred and thirty per cent (130%) of the rates of mortality according to such applicable table; and except that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the commissioner.

Calculation of cash surrender, etc.

10164. Any cash surrender value and any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in Sections 10161, 10162 and 10163 may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the dividends used to provide such additions. Notwithstanding the provisions of Section 10161, additional benefits payable (a) in the event of death or dismemberment by accident or accidental means, (b) in the event of total and permanent disability, (c) as reversionary annuity or deferred reversionary annuity benefits, (d) as decreasing term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this article would not apply, and (e) as other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this article, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

Exceptions

10165. This article shall not apply to any reinsurance, group insurance, pure endowment, annuity or reversionary annuity contract, nor to any term policy of uniform amount, or renewal thereof, of 15 years or less expiring before age 66, for which uniform premiums are payable during the entire term of the policy, nor to any term policy of decreasing amount on which each adjusted premium, calculated as specified in Section 10163, is less than the adjusted premium so calculated, on such 15-year term policy issued at the same age and for the same initial amount of insurance, nor to any policy which

shall be delivered outside this State through an agent or other representative of the company issuing the policy.

Waiver prohibited

10166. No agreement between the insurer and the policyholder or applicant for insurance contrary to this article shall be held to waive any of the provisions of this article.

Omission of paid-up nonforfeiture benefit

10167. Any policy to which this article is applicable which does not contain a paid-up nonforfeiture benefit shall be construed as granting nonparticipating paid-up term insurance as a nonforfeiture benefit under subdivision (a) Section 10160.

New section

SEC. 5. Section 10478 is hereby added to Article 3, Chapter 5, Part 2, Division 2, of the Insurance Code, to read as follows:

Application of article

10478. This article is applicable only to policies and contracts issued prior to the operative date as to such policies or contracts of Article 3a, Chapter 1, Part 2, Division 2.

New section

SEC. 6. Section 10479 is hereby added to the Insurance Code, to read as follows:

Annual valuation of reserves

10479. The commissioner shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and pure endowment contracts of every admitted life insurer, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods (net level premium method or other) used in the calculation of such reserves. In calculating such reserves, he may use group methods and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves herein required of any foreign or alien insurer, he may accept any valuation made, or caused to be made, by the insurance supervisory official of any State or other jurisdiction when such valuation complies with the minimum standard herein provided and if the official of such State or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the commissioner when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that State or jurisdiction.

New section

SEC. 7. Section 10488 is hereby added to Article 3, Chapter 5, Part 2, Division 2 of the Insurance Code, to read as follows:

Standards for calculating reserves

10488. Reserves for all policies and contracts to which this article applies may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by this article.

New section

SEC. 8. Section 10489 is hereby added to Article 3, Chapter 5, Part 2, Division 2 of the Insurance Code, to read as follows:

Adoption of lower standard of valuation

10489. Any insurer which at any time shall have adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum

standard provided in this article or Article 3a of this chapter may, with the approval of the commissioner, adopt any lower standard of valuation, but not lower than the minimum therein provided.

New article

SEC. 9. Article 3a, comprising Sections 10489.1 to 10489.6, inclusive, is hereby added to Chapter 5, Part 2, Division 2 of the Insurance Code, to read as follows:

Article 3a. Standard Valuation Law

Application of article

10489.1. This article and Sections 10479, 10480, 10481, 10483, 10484, 10486 and 10489 shall apply to the valuation of policies and contracts issued on or after the operative date as to such policies or contracts of Article 3a, Chapter 1, Part 2, Division 2.

Minimum standard

10489.2. The minimum standard for the valuation of all such policies and contracts shall be the commissioners reserve valuation method defined in Section 10489.3, three and one-half per cent ($3\frac{1}{2}\%$) interest, and the following tables:

Tables

(a) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies—the Commissioners 1941 Standard Ordinary Mortality Table.

(b) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies—the 1941 Standard Industrial Mortality Table.

(c) For annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies—the 1937 Standard Annuity Mortality Table.

(d) For total and permanent disability benefits in or supplementary to ordinary policies or contracts—Class (3) Disability Table (1926) which, for active lives, shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(e) For accidental death benefits in or supplementary to policies—the Inter-Company Double Indemnity Mortality Table combined with a mortality table permitted for calculating the reserves for life insurance policies.

(f) For group life insurance, life insurance issued on the substandard basis and other special benefits—such tables as may be approved by the commissioner.

Reserves

10489.3. Reserves according to the commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date

Modified net premiums

of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (a) over (b), as follows:

(a) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; except that such net level annual premium shall not exceed the net level annual premium on the 19-year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy.

(b) A net one-year term premium for such benefits provided for in the first policy year.

Reserves according to the commissioners reserve valuation method for (1) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums, (2) annuity and pure endowment contracts, (3) disability and accidental death benefits in all policies and contracts, and (4) all other benefits, except life insurance and endowment benefits in life insurance policies, shall be calculated by a method consistent with the principles of the preceding paragraph.

Minimum aggregate reserves

10489.4. In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, be less than the aggregate reserves calculated in accordance with the method set forth in Section 10489.3 and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

Reserves calculated on higher standards

10489.5. Reserves for any category of policies, contracts or benefits as established by the commissioner may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein; provided, however, reserves for participating life insurance policies may, with the consent of the commissioner, be calculated according to a rate of interest lower than the rate of interest used in calculating the nonforfeiture benefits in such policies, but if such lower rate differs from the rate used in the calculation of the nonforfeiture benefits by more than one-half per cent (½%) the insurer issuing such policies shall file with the commissioner a plan providing for such equitable increases, if any, in the cash surrender values and nonforfeiture benefits in such policies as the commissioner shall approve.

Deficiency reserve

10489.6. If the gross premium charged by any life insurance insurer on any policy or contract is less than the net

premium for the policy or contract according to the mortality table, rate of interest and method used in calculating the reserve thereon, there shall be maintained on such policy or contract a deficiency reserve in addition to all other reserves required by law. For each such policy or contract the deficiency reserve shall be the present value, according to such standard, of an annuity of the difference between such net premium and the premium charged for such policy or contract, running for the remainder of the premium-paying period.

New section

SEC. 10. Section 10929 is added to the Insurance Code, to read as follows:

Operation under chapter

10929. Insurers operating under and pursuant to this chapter shall be governed exclusively by the provisions of this chapter with respect to reserves required to be maintained upon contracts of life insurance issued by them and with respect to provisions required to be contained in such contracts.

Stats 1935, p 496

SEC. 11. Section 10487 of the Insurance Code is hereby repealed.

CHAPTER 956

Stats 1939, p 1274, amended

An act to amend Section 12003 of the Revenue and Taxation Code; to repeal Article 1 of Chapter 3, Part 7, Division 2 of said code; to add a new article, comprising Sections 12251 to 12264 inclusive, to Chapter 3, Part 7, Division 2 of said code, to be known as Article 1; to amend Sections 12402, 12403, 12404, 12405, 12431, 12434, 12438, 12461, 12462, 12464, 12622, 12623, 12626, 12801, 12978, 12996, 12997 and 12999 of said code; and providing that it shall take effect from and after December 31, 1943; all relating to the taxation of insurers.

In effect December 31, 1943

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.]

The people of the State of California do enact as follows:

Stats. 1941, p 1139

SECTION 1. Section 12003 of the Revenue and Taxation Code is hereby amended to read as follows:

"Insurer"

12003. "Insurer" as used in this part includes insurance companies or associations and reciprocal or interinsurance exchanges. As used in this section, "companies" includes persons, partnerships, joint stock associations, companies and corporations.

Repeal

SEC. 2. Article 1, comprising Sections 12251 to 12256, inclusive, of Chapter 3, Part 7, Division 2 of the Revenue and Taxation Code is hereby repealed.

New article

SEC. 3. A new article, comprising Sections 12251 to 12264, inclusive, is hereby added to Chapter 3, Part 7, Division 2 of

the Revenue and Taxation Code, to be known as Article 1 and to read as follows:

Article 1. Tax Base

Annual tax

12251. Every insurer doing business in this State shall annually pay to the State a tax on the bases, at the rates, and subject to the deductions from the tax hereinafter specified.

Basis of tax

12252. In the case of an insurer not transacting title insurance in this State, the basis of the tax is, in respect to each year, the amount of gross premiums, less return premiums, received in such year by such insurer upon its business done in this State. "Gross premiums" do not include premiums received for reinsurance and for ocean marine insurance. Gross premiums of reciprocal or interinsurance exchanges shall be determined as provided in Section 1530 of the Insurance Code.

Insurer transacting title insurance

12253. In the case of an insurer transacting title insurance in this State, the basis of the tax is, in respect to each year, all income upon business done in this State, except:

(1) Interest and dividends.
(2) Rents from real property.
(3) Profits from the sale or other disposition of investments.
(4) Income from investments.

"Investments"

12254. "Investments" as used in Section 12253 includes property acquired by such insurer in the settlement or adjustment of claims against it but excludes investments in title plants and title records. Income derived directly or indirectly from the use of title plants and title records is included in the basis of the tax.

Exclusion from basis of tax

12255. In the case of an insurer transacting title insurance in this State which has a trust department and does a trust business under the banking laws of this State, there shall be excluded from the basis of the tax imposed by this article the income of, and from the assets of, such trust department and such trust business, if such income is taxed by this State or included in the measure of any tax imposed by this State.

Rate of tax

12256. The rate of tax to be applied to the basis of the tax in respect to each of the years set forth below is the percentage set forth below opposite such year:

Year	Percentage
1943	2.55
1944	2.50
1945	2.45
1946	2.40
1947 and each year thereafter	2.35

Deductions

12257. The deductions which may be made from the tax are:
(1) The principal office deduction.
(2) The real estate deduction.

"Principal office deduction"

12258. The "principal office deduction" consists of the right to deduct from the tax imposed by this article upon an insurer in respect to a particular year the amount of real estate taxes paid by it, in that year, on real property owned

by it at the time of payment, and in which was located, in that year, its home office or principal office in this State. Such real property may consist of one building or of two or more adjacent buildings in which such an office is located, the land on which they stand, and so much of the adjacent land as may be required for the convenient use and occupation thereof.

Home or principal office

12259. Where as a result of merger, consolidation, or other method of acquisition of substantially all of the assets of one or more insurers by another insurer, effected prior to January 1, 1939, an insurer owns more than one parcel of real property in this State in which was located a home office or principal office of an insurer immediately prior to such acquisition, the owner shall designate one of such properties as its home or principal office. Real estate taxes paid by it in any of the years 1943 to 1952, inclusive, on such property owned by it at the time of payment and not so designated may also be deducted from the tax imposed by this article in respect to such year and are included within the principal office deduction.

"Real estate deduction"

12260. Subject to the limitations specified in Section 12261, the "real estate deduction" consists of the right to deduct from the tax imposed by this article upon an insurer in respect to any of the years set forth below, the amount of taxes paid by it in that year on real estate owned by it in this State at the time of payment, not in excess of the percentage, set forth below opposite such year, of deductible taxes paid by it in 1939 on real estate owned by it in this State in 1939:

Year	Percentage
1943	75
1944	55
1945	35
1946	15

Limitations

12261. The limitations referred to in Section 12260 are:

(1) The real estate deduction defined by Section 12260 is not applicable to and shall not be allowed on the tax imposed by this article with respect to any year after the year 1946.

(2) In computing the real estate deduction, there shall be excluded from the amount of taxes paid on such real estate the amount of such taxes constituting and included within the principal office deduction, under Sections 12258 and 12259.

(3) In computing the percentage of deductible taxes paid by an insurer in 1939, there shall be excluded from such deductible taxes the amount of taxes, paid by it in 1939, which would, if Sections 12258 and 12259 were applicable to the year 1939, constitute or be included within the principal office deduction.

Payment of taxes

12262. Taxes otherwise conforming to the requirements of Sections 12258, 12259, and 12260 shall not be allowed as deductions unless paid before, or within 30 days after, becoming delinquent. The date of payment of such taxes shall be conclusively established by the time of payment shown on the official tax receipt.

12263. The tax imposed on insurers by this article is in lieu of all other taxes and licenses, State, county, and municipal, upon such insurers and their property, except: In lieu tax

(1) Taxes upon their real estate.

(2) That an insurer transacting title insurance in this State which has a trust department or does a trust business under the banking laws of this State is subject to taxation with respect to such trust department or trust business to the same extent and in the same manner as trust companies and the trust departments of banks doing business in this State.

(3) When by the laws of any other State or country any taxes, fines, penalties, licenses, fees, deposits of money or of securities, or other obligations or prohibitions are imposed upon insurers of this State doing business in that State or country, or upon their agents therein, in excess of the taxes, fines, penalties, licenses, fees, deposits of money or of securities, or other obligations or prohibitions imposed upon insurers of that State or country, or upon their agents therein, so long as the laws continue in force, the same obligations and prohibitions of whatsoever kind are imposed upon insurers of that State or country doing business in this State, or upon their agents herein.

(4) The tax on ocean marine insurance.

12264. The State Compensation Insurance Fund shall annually pay a sum computed on the same bases, at the same rates, and subject to the same deductions specified in this article, which payment is intended to be the equivalent to the taxes imposed upon private insurers. State Fund

SEC. 4. Section 12402 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 1139

12402. Annually, on or before July 1st, the Insurance Commissioner shall make and file with the board a report showing the amount of tax computed by him as payable by each insurer transacting the business of ocean marine insurance in this State. Ocean marine insurance tax report

SEC. 5. Section 12403 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 1139

12403. Annually, on or before July 1st, the Insurance Commissioner shall make and file with the board a report showing: Report on insurers generally

(a) All domestic and foreign insurers engaged in the business of insurance in this State within the preceding year.

(b) In the case of insurers not having transacted title insurance in this State, the total amount of the gross premiums, other than premiums for reinsurance and for ocean marine insurance, received from its business in this State by each such insurer during the preceding year.

(c) In the case of insurers having transacted title insurance in this State, all income upon business done in this State during the preceding year by each such insurer, constituting the basis of the tax imposed by Section 14⅛ of Article XIII of the

Constitution and by Section 12251, subject to the definitions, exceptions and exclusions of Sections 12253, 12254 and 12255.

(d) The amount of return premiums paid during the preceding year on business done in this State by each such insurer.

(e) The amount, conforming to the requirements of Sections 12258, 12259 and 12260 and subject to the limitations in Section 12262, of taxes paid during the preceding year by the insurers on real estate owned by it in this State, and where the real estate is located.

Stats 1941, p 1139

SEC. 6. Section 12404 of the Revenue and Taxation Code is hereby amended to read as follows:

Insurers liable for retaliatory tax

12404. In his report pursuant to Section 12403, the Insurance Commissioner shall list separately all insurers which are subject to a tax on their gross premiums at a rate higher than that specified in Section 12256, or to any additional tax or burden, under the retaliatory provision in Section 14⅘ of Article XIII of the Constitution and under Subdivision (3) of Section 12263. He shall indicate in each case the amount and character of the tax or burden.

Stats 1941, p 1139

SEC. 7. Section 12405 of the Revenue and Taxation Code is hereby amended to read as follows:

Failure to file report

12405. If an insurer does not file with the Insurance Commissioner within the time prescribed the statements required by Article 3 of Chapter 2 and Article 2 of Chapter 3 of this part, the Insurance Commissioner shall note such fact in the reports filed by him with the board. He shall estimate the business done by the insurer and such other pertinent matters as will enable the board to assess the insurer.

Stats 1941, p 1139

SEC. 8. Section 12431 of the Revenue and Taxation Code is hereby amended to read as follows:

Assessment

12431. Annually, on or before August 10th the board shall assess and levy, in respect to the year ended on December 31st then next preceding, the taxes imposed upon insurers as provided in Article XIII of the Constitution and in this part.

Stats 1941, p 1139

SEC. 9. Section 12434 of the Revenue and Taxation Code is hereby amended to read as follows:

Failure to file statement

12434. If an insurer has not filed within the time prescribed the statements required by Article 3 of Chapter 2 and Article 2 of Chapter 3 of this part, the board shall note such fact and shall assess the insurer upon the basis of the Insurance Commissioner's estimate and other available information. The board shall add to the tax a penalty of 5 per cent.

Penalty

Stats 1941, p. 1139

SEC. 10. Section 12438 of the Revenue and Taxation Code is hereby amended to read as follows:

Delivery of record to Controller

12438. On or before October 20th, the board shall deliver the Record of Assessments of Insurance Companies to the Controller.

SEC. 11. Section 12461 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 1139

12461. As used in this article, "assessment" means the assessment made by the board on or before August 10th in the same calendar year. "Assessment"

SEC. 12. Section 12462 of the Revenue and Taxation Code is hereby amended to read as follows: Stats. 1941, p 1139

12462. On or before September 10th any insurer dissatisfied with the assessment may apply to the board to have the assessment corrected in any particular. Correction of assessment: Application

SEC. 13. Section 12464 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 1139

12464. On or before October 15th, the board may increase or decrease any assessment in the Record of Assessments, as well as correct the assessment of a complaining insurer, if in the board's judgment evidence presented or obtained warrants this action. Board action

SEC. 14. Section 12622 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 1139

12622. Taxes are due and payable on August 10th of the year in which they are levied. Due date

SEC. 15. Section 12623 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 1139

12623. Taxes are delinquent after November 15th. Unless paid on or before November 15th, 10 per cent of the amount of the tax shall be added thereto. Delinquent date and penalty

SEC. 15½. Section 12626 of the Revenue and Taxation Code is hereby amended to read as follows: Stats. 1941, p 1139

12626. On or before the fifteenth day of November, the State Compensation Insurance Fund shall pay into the State Treasury to the credit of the General Fund the sum required under the provisions of Section 12264 of this code. State fund payment

SEC. 16. Section 12801 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 1139

12801. Annually, between December 10th and 15th, the Controller shall transmit to the Insurance Commissioner a statement showing the names of all insurers that failed to pay on or before December 10th the whole or any portion of the tax that became delinquent in the preceding November or the whole or any part of the penalties due with respect to the tax. The statement shall show the amount of the tax and penalties due from each insurer. Statement of delinquents

SEC. 17. Section 12978 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 1139

12978. No claim for a credit shall be audited, approved or allowed unless presented within three years after August 10th of the year in which the tax was assessed. Presentation of claim

SEC. 18. Section 12996 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 1139

12996. This article applies to taxes, otherwise properly assessable and collectible, heretofore or hereafter not assessed Application of article

on premiums otherwise subject to assessment and tax, and to taxes heretofore or hereafter overassessed, by reason of:

(a) Error or omission on the part of an insurer.

(b) Failure of an insurer to properly file or execute the statements required in Article 3 of Chapter 2 and Article 2 of Chapter 3 of this part.

(c) Clerical mistake of officers or employees of the board, of the Insurance Commissioner, or of persons in his office.

(d) Computation in a manner contrary to law.

Stats 1941, p 1139

SEC. 19. Section 12997 of the Revenue and Taxation Code is hereby amended to read as follows:

Statement of under-assessed or over-assessed taxes

12997. The Insurance Commissioner, after discovery of the failure to properly assess and after determination of the amount involved, shall include in his next annual reports to the board pursuant to Sections 12402 and 12403 a statement of the amount of premium and tax subject to assessment which was not assessed or was overassessed.

Stats 1941, p 1139

SEC. 20. Section 12999 of the Revenue and Taxation Code is hereby amended to read as follows:

Time for assessing additional tax, etc

12999. The assessment and levy of an additional tax or the allowance of credit for an overpayment of tax may be made by the board only within the later of the following:

(a) Three years after August 10th of the year in which the assessment being corrected was made.

(b) One year after August 10th next succeeding the date when a judgment determining a failure to assess, overassessment, overpayment, or miscomputation becomes final.

Effective date

SEC. 21. This act shall take effect from and after December 31, 1943.

Construction

SEC. 22. The provisions of this act in so far as they are substantially the same as existing statutory provisions relating to the same subject matter shall be construed as reinstatements and continuations thereof, and not as new enactments.

CHAPTER 957

Stats 1935, p 496, amended

An act to amend Sections 10490, 10492, 10493, 10494, 10495, 10497, 10498, 10499, 10500 and 10501 and to add Sections 10494.5 and 10498.5 to, the Insurance Code, relating to insurance.

In effect August 4, 1943

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.]

The people of the State of California do enact as follows:

Stats 1943, Ch 233

SECTION 1. Section 10490 of the Insurance Code is hereby amended to read as follows:

Transaction of life and disability insurance

10490. This article is applicable only to life and disability insurance. Except as otherwise expressly permitted by this code or when transacted pursuant to or expressly exempted by this article, life or disability insurance shall not be transacted

in this State by any person other than a corporation. A person shall not transact life or disability insurance in this State except pursuant to a valid and unrevoked certificate of authority issued by the commissioner or, after registration with the commissioner, under a valid and unrevoked certificate of exemption issued by the commissioner pursuant to this article. Any person subject to or exempted from Chapter 10 of this part is also exempted from this article.

SEC. 2. Section 10492 of the Insurance Code is hereby amended to read as follows: Stats 1941, p 2726

10492. Any incorporated or unincorporated benefit and relief association of nonprofit, charitable or eleemosynary character formed by public schools or officers or employees of public schools or school districts, that confines its privileges and membership to pupils of public or private schools may, if it complies with the requirements of this article, procure a certificate of exemption from the commissioner. Certificate of exemption: School associations

SEC. 3. Section 10493 of the Insurance Code is hereby amended to read as follows: Stats 1941, p. 2726

10493. Any incorporated or unincorporated benefit and relief association of nonprofit, charitable or eleemosynary character formed by a church, lodge or labor union not otherwise exempted by this article, or employees of a common employer that confines its privileges and membership to its own employees and the members of the church, lodge, labor union, employees or officers of such common employer or employees or officers of companies or corporations of which a single employer owns at least one-quarter of the issued capital or voting stock, or to persons who were such corporate officers or employees at the time of becoming members of such association, may, if it complies with the requirements of this article, procure a certificate of exemption from the commissioner. Church, lodge, labor union, etc

SEC. 4. Section 10494 of the Insurance Code is hereby amended to read as follows: Stats 1941, p 2726

10494. Any incorporated or unincorporated domestic order or association of a purely religious, charitable, eleemosynary or benevolent description that insures only the lives or health of its members and does not provide for death benefits of more than two hundred fifty dollars ($250) or for disability benefits of more than two hundred fifty dollars ($250) to any one person in any one year and does not issue to applicants or members, policies, benefit certificates, or any other visual evidence of benefits, except complete copies of the articles of association and by-laws, to be received by members or their beneficiaries, may, if it complies with the requirements of this article, procure a certificate of exemption from the commissioner. Other religious associations

New section

SEC. 5. Section 10494.5 is hereby added to the Insurance Code, to read as follows:

Qualified employer

10494.5. Any employer maintaining a plan for furnishing disability insurance benefits to his employees for nonindustrial and nonoccupational injuries or sickness, under which plan the employer defrays 50 per cent or more of the expense of such benefits, may secure a certificate of exemption from the commissioner under this article if such employer in respect to such plan otherwise complies with and is subject to the requirements of this article. Such compliance with this article need be only with respect to such plan and not in respect to other business of the employer.

Stats. 1941, p. 2726

SEC. 6. Section 10495 of the Insurance Code is hereby amended to read as follows:

Application for certificate of exemption

10495. A certificate of exemption may be procured from the commissioner by filing with him certified copies of the articles of incorporation, association, by-laws, rules and regulations, or other organization or governing documents of the applicant together with certified copies of any evidences of insurance which it may issue and a statement of the operations of the applicant. There shall also be filed with such application a statement of the financial condition and income and disbursement exhibit of the applicant in such form as the commissioner may, in his discretion find necessary in order to determine whether applicant complies with the applicable requirements of this article. The commissioner may, pursuant to Article 4, Chapter 1, Part 2, Division 1, require from any person transacting life or disability insurance, whether or not an applicant for a certificate of exemption, such information as will enable him to determine whether or not such person is transacting life or disability insurance in conformity with or in violation of this code.

Stats 1941, p. 2726

SEC. 7. Section 10497 of the Insurance Code is hereby amended to read as follows:

Issuance of certificate of exemption

10497. If the commissioner finds that an applicant for a certificate of exemption meets the applicable requirements of this article and those requirements of this code, made applicable to such an applicant by this article, and that the applicant is not formed, conducted or operated for profit or as a commercial insurance enterprise for the benefit of any group or person rather than the relatively equal benefit of its members, he shall register the applicant and issue to it a certificate of exemption.

Stats 1941, p 2726

SEC. 8. Section 10498 of the Insurance Code is hereby amended to read as follows:

Compliance with specific provisions

10498. An applicant for a certificate of exemption must comply with, and the possessor of a certificate of exemption is subject to, the following provisions of this code:

Sections 1 to 41, inclusive;
Chapter 1, Part 1, Division 1;
Chapter 2, Part 1, Division 1;
Article 1, Chapter 6, Part 1, Division 1;
Article 3, Chapter 6, Part 1, Division 1;

Chapter 9, Part 1, Division 1;
Sections 10110, 10111, 10112 and 10114;
Article 4, Chapter 1, Part 2, Division 1;
Article 6, Chapter 1, Part 2, Division 1;
Article 8, Chapter 1, Part 2, Division 1;
Article 9, Chapter 1, Part 2, Division 1;
Article 14, Chapter 1, Part 2, Division 1;
Article 15, Chapter 1, Part 2, Division 1;
Article 17, Chapter 1, Part 2, Division 1;
Article 1, Chapter 2, Part 2, Division 1;
Article 2, Chapter 2, Part 2, Division 1;
Article 3, Chapter 2, Part 2, Division 1;
Article 4, Chapter 2, Part 2, Division 1;
Article 7, Chapter 2, Part 2, Division 1;
Article 2, Chapter 1, Part 2, Division 2;
Article 4, Chapter 1, Part 2, Division 2;
Article 5, Chapter 1, Part 2, Division 2;
Chapter 3, Part 2, Division 2;
Article 1, Chapter 5, Part 2, Division 2;
Division 3.

Investment standards for foreign applicants

Applicants for and possessors of certificates of exemption not organized or incorporated under the laws of this State in lieu of meeting the requirements of Article 7, Chapter 2, Part 2, Division 1, and Articles 1, 2, 4, 5, Chapter 1, Part 2, Division 2, shall conform to such reasonable investment standards as the commissioner prescribes.

New section

SEC. 9. Section 10498.5 is hereby added to the Insurance Code, to read as follows:

Maintenance of separate benefit funds

10498.5. If an applicant for or a holder of a certificate of exemption receives or maintains funds for any purpose other than administering and providing the benefits that make it subject to this article, it shall segregate and maintain separately all funds received by it for the purpose of administering and providing such benefits.

Exemption from attachment, etc.

When so segregated and maintained separately such funds shall not be liable to attachment, garnishment, execution, or other process by or on behalf of creditors against the holder of a certificate of exemption, except that such funds shall not be exempt from process issued to enforce a claim for benefits.

Stats 1941, p 2726

SEC. 10. Section 10499 of the Insurance Code is hereby amended to read as follows:

Violations· Notice

10499. The commissioner may at any time notify any person possessing a certificate of exemption that he has grounds to believe that it is violating any of the applicable provisions of this code or is not operating in strict conformity with the documents filed with the commissioner as a basis of its application for the certificate of exemption. The notice shall fix the time and place for hearing at which the person notified may appear and show cause why the commissioner should not revoke its certificate of exemption. The time fixed shall not be less than 15 nor more than 60 days after date of the notice.

Hearing

At the time and place specified in the notice and order to show cause, the commissioner shall hold a hearing at which the possessor of a certificate of exemption may present evidence to show that it is not violating any applicable provision of this code, and that it is operating in conformity with the documents which were filed as a basis for the certificate of exemption. If after such hearing the commissioner finds the evidence shows that the operations of the person are in violation of any of the applicable provisions of this code, or are in violation of the documents upon which its application for certificate of exemption was based, the commissioner shall revoke the certificate of exemption and the person whose certificate of exemption is thus revoked shall cease the transaction of life and disability insurance until it procures a new certificate of exemption or a certificate of authority under other provisions of this code.

Revocat on of certificate

This article does not prevent the commissioner from acting and bringing proceedings under Article 14, Chapter 1, Part 2, Division 1, if grounds exist for the institution of such proceedings with respect to any person transacting life or disability insurance either with or without a certificate of exemption.

Stats. 1943, Ch 233

SEC. 10.5. Section 10500 of the Insurance Code is amended to read:

Transaction of business without certificate

10500. Every person not expressly exempted by or subject to Chapter 10 of this part and any labor union not exempted by this article that transacts life or disability insurance without a valid and unrevoked certificate of authority or without a valid and unrevoked certificate of exemption issued pursuant to this article, is guilty of a misdemeanor. Every employee, officer or agent of any person who knowingly assists any person or union in the transaction of insurance in violation of this article, is guilty of a misdemeanor.

Stats 1941, p 2726

SEC. 11. Section 10501 of the Insurance Code is hereby amended to read as follows:

Persons in business on Jan. 1, 1943

10501. Any person subject to this article who upon January 1, 1943, was paying, allowing, or promising to pay benefits in the event of death or disability, or otherwise transacting life or disability insurance without a valid and unrevoked certificate of authority so to do, may apply for a certificate of exemption under this article.

After filing such application, or if such application has heretofore been filed, such person may continue to transact such insurance until the application is denied or such certificate of exemption is issued. Thereafter, if such certificate is issued, it remains in effect subject to the provisions of Sections 10499 and 10500.

CHAPTER 958

An act making an appropriation to pay the claim of the County of Sacramento against the State of California.

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. The sum of twenty-three thousand one hundred twenty-nine dollars ($23,129) is hereby appropriated out of any money in the State Treasury not otherwise appropriated to pay the claim of the County of Sacramento against the State of California. Appropriation County of Sacramento

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CHAPTER 959

An act making an appropriation of two thousand dollars ($2,000) for the purchase of the files of "American Flag."

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. The sum of two thousand dollars ($2,000) is hereby appropriated out of any money in the State Treasury not otherwise appropriated for apportionment by the Director of Education for the purchase of the files of the early California newspaper, the "American Flag." Appropriation Files of "American Flag"

CHAPTER 960

An act to add Chapter 3, comprising Section 2650, to Division 4 of the Welfare and Institutions Code, and to repeal certain laws and parts of laws therein specified, relating to relief and public assistance due to and caused by unemployment, abolishing the State Relief Administration, the State Relief Commission and the office of State Relief Administrator, providing for the disposition of the properties thereof, and prohibiting the expenditure of money for certain purposes. Stats. 1937, p. 1005, amended

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Chapter 3, comprising Section 2650, is added to Division 4 of the Welfare and Institutions Code, to read: New chapter

CHAPTER 3. STATE RELIEF ADMINISTRATION

2650. (a) Pursuant to the authorization provided by Section 11 of Article XVI of the Constitution, the State Relief Abolition

Administration, the State Relief Commission and the office of State Relief Administrator are abolished.

Prohibition on expenditures

(b) Unless expressly authorized by law, no money (including money from any emergency fund) shall be expended under Section 10 of Article XVI of the Constitution.

Succession to books etc.

SEC. 2. The Department of Finance shall succeed to and have possession of all records, books, papers, equipment, supplies, moneys, funds, and all other property both real and personal belonging to, or held by or for the benefit of, the State Relief Administration, the State Relief Commission, and the State Relief Administrator, for the purpose of winding up the affairs of the State Relief Administration, the State Relief Commission, and the office of State Relief Administrator.

Donation and sale of property

The Director of Finance is hereby expressly authorized, upon request, to donate any such property to any State institution, department, or other State agency, upon such terms and conditions as the Director of Finance deems appropriate. All other such property shall be sold, and the proceeds deposited in the General Fund in State Treasury.

Repeals

SEC. 3. The following acts and parts of acts are repealed:

General Laws

Year	Chapter	Page
1933	208	686
1933	615	1574
1935	14	71
1935	25	91
1935	31	354
1935	35	358
1935	675	1850
1937	47	117
1937	234	530
1938 ex. sess.	10	65
1939	1	1
1939	3	2
1939	160	1386
1939	668	2141
1940 1st ex. sess.	5	13
1940 1st ex. sess.	12	30
1940 1st ex. sess.	45	122
1941	13	424
1941	315	1462

Labor Code

Chapter 2, comprising Sections 2050 to 2056, inclusive, of Part 8, Division 2.

Penal Code

Section 530a

CHAPTER 961

An act to add Section 36c to the Alcoholic Beverage Control Act, relating to the destruction and use of emptied distilled spirits bottles.

Stats 1935, p 1123, amended

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 36c is added to the Alcoholic Beverage Control Act, to read:

New section

Sec. 36c. The provisions and each of them of Section 36b hereof shall be suspended and compliance with the provisions thereof shall not be required for and during the time when this section shall remain in effect.

Suspension of Sec 36b

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section; but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

Duration

Existing law

CHAPTER 962

An act to add Section 444.2 to the Political Code, relating to temporary transfers of money from the general to special funds.

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 444.2 is added to the Political Code, to read:

New section

444.2. The Controller must, when any special fund of the State Treasury is exhausted, and there is money in the General Fund not required to meet any demand which has accrued or may accrue against it, report such fact to the Governor and the Treasurer If they find that the money is not needed in the General Fund, the Governor may order the Controller to direct the transfer of such money, or any part thereof, to the special fund in need. All money so transferred must be returned to the General Fund as soon as there is sufficient money in the fund to which the transfer was made to return it. If such a sufficiency does not accumulate within one year, the amount of the money transferred or whatever portion of such amount is in the fund at that time shall be then returned, and

Temporary transfers of money from general to special funds

Return

Failure to return

Exemption

the balance, if any, shall be returned thereafter in monthly installments as it accumulates. Any fund which fails to return the full amount of any transfer within one year from and after the transfer shall be ineligible to receive further transfers until such time as it shall have returned the full amount. When there is any money in a special fund transferred thereto pursuant to this section, the provisions of Section 661 of the Political Code shall not apply to such special fund.

CHAPTER 963

An act amending Section 4300a of the Political Code, relating to fees of the county clerk.

In effect August 4, 1943

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.]

The people of the State of California do enact as follows:

Stats 1939, p 2311

SECTION 1. Section 4300a of the Political Code is hereby amended to read as follows:

Fees of county clerk

4300a. In addition to the charges otherwise provided for by law, the county clerk shall charge and collect the following fees:

For the filing of the first paper in a civil action or in a special proceeding, except a probate proceeding or an adoption proceeding, six dollars ($6); provided, that in every special proceeding in which more than seven applicants or petitioners join, one dollar ($1) shall be collected for each additional applicant or petitioner above seven.

For filing the papers transmitted from another court, on the transfer of a civil action or a special proceeding, except a probate proceeding or an adoption proceeding, six dollars ($6).

When the venue in a case in a superior court is changed, for making up and transmission of transcript and papers, one dollar ($1), and a further sum equal to the fee for filing in the court to which the case is transferred. The clerk shall transmit such filing fee, with the papers in the case, to the clerk or justice of the court to which the case is transferred.

For filing the papers transmitted on appeal from a justice's court in a civil action or a special proceeding, six dollars ($6).

On the appearance of any defendant, intervenor, respondent, co-respondent or adverse party, whether separately or jointly, except for the purpose of making disclaimer, to be paid upon filing the first paper in the action on his behalf, one dollar ($1).

For filing the first petition for letters of administration, a petition for special letters of administration, a petition for letters testamentary or a petition for letters of guardianship, six dollars ($6); for filing a second or any subsequent petition for letters of administration, special letters of administration, letters testamentary, or letters of guardianship, in the same

proceeding, or a petition to contest any will or codicil, three dollars ($3); provided, that when such subsequent petition is filed to amend a previously filed petition, but where the petitioner is the same person named in the original petition, no fee shall be charged; also, provided, that when the public administrator or the Secretary of the State Commission in Lunacy, in his official capacity is the petitioner, he shall be required to pay said fee only out of the assets of the estate coming into his possession.

For issuing a writ of execution, a writ of restitution, a writ of possession, a writ of prohibition, or any writ for the enforcement of any order or judgment, one dollar ($1).

For issuing an order of sale, one dollar ($1).

For filing any notice of intention to move for a new trial of any civil action or special proceeding, two dollars ($2).

For preparing a first copy, other than a carbon copy, of any record, proceeding, or paper on file in his office, per folio, twelve cents ($0.12).

For preparing a carbon copy of any record, proceeding, or paper on file in his office, made at the time of preparing a first copy thereof, per folio, five cents ($0.05).

For certifying to a copy of any paper, record or proceeding on file in his office, fifty cents ($0.50).

For preparing an abstract of a judgment, twenty-five cents, ($0.25).

For issuing an abstract of a judgment, fifty cents, ($0.50).

For every certificate the fee for which is not otherwise provided for, fifty cents ($0.50).

For comparing with the original on file in his office, the copy of any paper, record or proceeding prepared by another and presented for his certificate, two cents ($0.02) per folio.

For certificate required by courts of appeal or Supreme Court on the dismissal of an appeal, one dollar ($1).

For exemplification of record or other paper on file besides the charges allowed for copying or comparing, one dollar ($1).

The foregoing fees shall be in full for all services rendered by the county clerk in any civil action or special proceeding.

No fee shall be charged by the clerk for service rendered in any criminal action or adoption proceeding, nor for any service to the State of California. No fee shall be charged by the clerk for service rendered to any municipality or county in said State, or to the National Government, nor for any service relating thereto, except for making or certifying to a copy of a filed paper, record or proceeding, when not otherwise provided by law.

For issuing a marriage license, one-half to be paid to the county recorder, two dollars ($2), to be collected at the time the notice of intention to marry is filed; provided, that in counties where the salary of the county recorder is the sole compensation allowed by law this fee shall be paid to the county treasurer, who shall credit one-half to the county recorder. Said fee shall be in full for all services of the clerk

and recorder in connection with the issuance of a marriage license and the recording of a marriage certificate.

For filing and indexing articles of incorporation, amended articles of incorporation or a certified copy of articles of incorporation, one dollar ($1).

For filing a certificate of increase of the capital stock of a corporation, one dollar ($1).

For filing a certificate of decrease of the capital stock of a corporation, one dollar ($1).

For filing a certificate of increase of the number of directors of a corporation, one dollar ($1).

For filing a certificate of decrease of the number of directors of a corporation, one dollar ($1).

For filing a certificate of notice of removal of the principal place of business of a corporation, one dollar ($1).

For filing a certificate of creation of bonded indebtedness of a corporation, one dollar ($1).

For filing a certificate of increase of bonded indebtedness of a corporation, one dollar ($1).

For filing any charter, by-laws, or any other certificate, etc., of any corporation, granting powers to do business in this State, one dollar ($1).

For filing and indexing a certificate of fictitious name, including affidavit of publication, one dollar ($1).

For filing and indexing an auctioneer's bond, one dollar ($1).

For filing and indexing all papers for which a charge is not elsewhere provided, other than papers filed in actions or special proceedings, official bonds, or certificates of appointment, one dollar ($1).

For either recording or registering any license or certificate or issuing any certificate, or both, in connection with a license, required by law, for which a charge is not otherwise prescribed, one dollar ($1).

For making a record of a certificate of revivor, one dollar ($1).

For each certificate to the official capacity of any public official, twenty-five cents ($0.25).

For taking an affidavit, except in criminal cases, or adoption proceedings, fifty cents ($0.50).

For searching records or files, for each year, fifty cents ($0.50).

For taking acknowledgment of any deed or other instrument, including the certificate, for each signature, fifty cents ($0.50).

CHAPTER 964

An act to amend Sections 318, 473 and 613.2 of, and to add Section 614 to, and to repeal Section 653 of, the Streets and Highways Code, relating to the State highway routes and adding a new route.

Stats 1935, p. 248, amended

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 318 of the Streets and Highways Code is amended to read as follows:

Stats 1935, p 248

318. Route 18 is from Merced to Yosemite National Park near El Portal via Mariposa.

Route 18

SEC. 2. Section 473 of the Streets and Highways Code is amended to read as follows:

Stats 1935, p 248

473. Route 173 is from Route 60 in Santa Monica to Route 166 near Downey Road.

Route 173

SEC. 3. Section 613.2 of the Streets and Highways Code is amended to read as follows:

Stats. 1939, p 2325

613.2. Route 209 is from Route 3, near Station 398, according to the survey of said Route 3, Section B, to Shasta Summit near Summit City.

Route 209

SEC. 4. Section 614 is hereby added to the Streets and Highways Code, to read:

New section

614. Route 210 is from Route 28 near Canby to the Oregon line near Merrill.

Route 210

SEC. 5. Section 653 of the Streets and Highways Code is repealed.

Stats 1939, p 1676

CHAPTER 965

An act to amend Section 675a of, and to add Section 675b to, the Political Code, relating to approval of contracts by the Department of Finance.

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 675a of the Political Code is hereby amended to read as follows:

Stats 1935, p 404

675a. All contracts entered into by any State officer, board, commission, department, or bureau for the hiring or purchase of equipment, supplies, materials, textbooks for use in the day and evening elementary schools of the State, or for services, shall before the same become effective be transmitted with all papers, estimates and recommendations concerning the same to the State Department of Finance for consideration. If such department approve the same, the contract shall, from the date of such approval, be in force and effect.

State departmental contracts Submission for approval

Permission to purchase

No State officer, board, commission, department or bureau shall purchase equipment, supplies and materials, or either, in open market, unless permission has been given, upon a presentation of the necessity therefor, by the State Department of Finance; provided, that to meet an emergency, supplies and materials of a perishable nature, in an amount not exceeding one hundred dollars ($100) in value, may be purchased by such State officer, board, commission, department, or bureau without the permission of the said Department of Finance.

Emergency purchases

Reporting officer or employee

Every State office, board, commission, or department to whom is given by law the authority to make purchases of equipment, materials or supplies must upon the request of the Department of Finance designate some certain officer or employee in such office, board, commission, or department whose duty it shall be to make such reports at such time and in such manner to the Department of Finance as such department shall from time to time require.

New section

SEC. 2. Section 675b is added to the Political Code, to read:

Excepted contracts

675b. With reference to the contracts mentioned in Section 675a of this code, the Department of Finance may except from the operation of said section certain classes or types of contracts of any particular State officer, board, commission, department or bureau, and may thereupon authorize such State agency to enter into such contracts without submitting the same for approval by notifying such State agency and the State Controller in writing.

CHAPTER 966

Stats 1929, p 1489, amended

An act to amend Sections 3, 9, and 9½ of the California Toll Bridge Authority Act, relating to the employment of legal counsel.

In effect August 4, 1943

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.]

The people of the State of California do enact as follows:

Stats 1931, p 916

SECTION 1. Section 3 of said act is hereby amended to read as follows:

California Toll Bridge Authority

Sec. 3. There is hereby created a board to be known as California Toll Bridge Authority, composed of the Governor, Lieutenant Governor, the Director of the Department of Public Works of the State of California, Director of the Department of Finance of the State of California, the Chairman of the California Highway Commission, or in the event the office of Director of the Department of Public Works of the State of California, Director of the Department of Finance of the State of California, the office of Chairman of the California Highway Commission or any of them hereafter be discontinued or abolished by law, then the Governor shall appoint any person or officer of the State of California to fill any vacancy

resulting from the abolition or discontinuance of such office. All of said members shall serve thereon without compensation, and a majority of them shall be empowered to act for said authority. The members shall receive their necessary actual traveling expenses incurred in the discharge of their duties. The authority shall maintain an office in the City of Sacramento. The California Toll Bridge Authority may employ a secretary and such other persons as may be necessary to enable it to properly perform the duties imposed upon it by this act.

Chief engineer

The State Highway Engineer may be appointed by the California Toll Bridge Authority to serve as its chief engineer in addition to his regular duties as State Highway Engineer, with such additional duties and at such additional salary as such chief engineer as may be fixed by the California Toll Bridge Authority.

Legal counsel

The Attorney General shall be the legal counsel of the California Toll Bridge Authority; provided, that subject to the approval and under the supervision of the Attorney General attorneys of the Division of Contracts and Rights of Way of the Department of Public Works may likewise act as such counsel and as counsel for the Department of Public Works in matters arising under this act.

The California Toll Bridge Authority may sue and be sued in the name of the California Toll Bridge Authority.

Stats 1935, p 890

SEC. 2. Section 9 of said act is hereby amended to read as follows:

Condemnation of bridge crossing or approach

Sec. 9. The Department of Public Works is hereby authorized and empowered to condemn and take, in fee or otherwise, as the California Toll Bridge Authority may determine, in the name of the State of California any bridge or highway crossing or approach thereto acquired or constructed or to be acquired or constructed under the provisions of this act, and any real estate, personal property, franchises, rights, privileges or easements, whether publicly or privately owned and whether or not already devoted to a public use or purpose, deemed necessary for any such bridge or bridges or highway crossing or approach thereto, under the provisions of the Constitution and laws of this State relating to eminent domain proceedings. Said department shall not have power to commence any such proceedings in eminent domain unless and until the California Toll Bridge Authority shall first have passed a resolution declaring that public interest and necessity require the acquisition, construction or completion by the State acting through the said Department of Public Works of any such bridge or highway crossing, or the acquisition of any particular real estate, personal property, franchises, rights, privileges or easements, and that such bridge or highway crossing, real estate, personal property, franchises, rights, privileges or easements are necessary therefor. Such resolution shall be conclusive evidence (a) of the public necessity of such acquisition, construction or completion; (b) that such property and said franchises, rights, privileges or

Resolution of public interest and necessity

Resolution conclusive evidence

easements are, and that the acquisition of the fee or other interest therein is, necessary therefor and, (c) that such proposed acquisition, construction or completion is planned or located in a manner which will be most compatible with the greatest public good and the least private injury.

Condemnation of private, etc., toll bridge

In eminent domain proceedings to acquire property for any of the purposes of this act, any toll bridge or other toll highway crossing, real property, personal property, franchises, rights, easements or other property or privileges appurtenant thereto appropriated or dedicated to a public use or purpose by any person, firm, private, public or municipal corporation, county, city and county, city, town, district or any political subdivision of the State, may be condemned and taken, and the acquisition and use thereof as herein provided for the same public use or purpose to which such property has been so appropriated or dedicated, or for any other public use or purpose, shall be deemed a superior and permanent right and necessity, and a more necessary use and purpose than the public use or purpose to which such property has already been appropriated or dedicated. It shall not be necessary in any eminent domain proceedings hereunder to plead or prove any acts or proceedings preliminary or prior to the adoption of the resolution hereinbefore referred to describing the property sought to be taken and directing such proceedings. When the State or any department or governmental agency thereof acquires any existing toll bridge or the real or personal property used in connection therewith, said property and toll bridge shall continue to be subject to taxation by the county, city and county, political subdivision and municipal corporation wherein the same is located, and the State shall pay to the county or city and county granting the franchise for said bridge such amounts as may become due to such county or city and county for the franchise for the construction of such toll bridge.

Property subject to taxation

Stats. 1935, p 890

SEC. 3. Section 9½ of said act is hereby amended to read as follows:

Condemnation of transportation facilities

Sec. 9½. The Department of Public Works is hereby authorized and empowered to condemn and take, in fee or otherwise as the California Toll Bridge Authority may determine, in the name of the State of California, any transportation facilities authorized to be constructed or acquired pursuant to Section 5½ hereof, of any toll bridge or bridges or other highway crossing acquired or constructed or to be acquired or constructed under the provisions of this act, and any real estate, personal property, franchises, rights, privileges or easements, whether publicly or privately owned and whether or not already devoted to a public use or purpose, deemed necessary for the transportation facilities of any such toll bridge or bridges or other highway crossing, under the provisions of the Constitution and laws of this State relating to eminent domain proceedings. Said department shall not have power to commence any such proceedings in eminent

Resolution of public interest and necessity

domain unless and until the California Toll Bridge Authority shall first have passed a resolution declaring that public interest and necessity require the acquisition, construction or completion by the State acting through the said Department of Public Works, of the transportation facilities of any such bridge or bridges or other highway crossing, or the acquisition of any particular real estate, personal property, franchises, rights, privileges or easements and that such transportation facilities, real estate, personal property, franchises, rights, privileges or easements are necessary therefor. Such resolution shall be conclusive evidence (a) of the public necessity of such acquisition, construction or completion; (b) that such transportation facilities and such property and said franchises, rights, privileges or easements are, and the acquisition of the fee or other interest therein is, necessary therefor; and, (c) that such proposed acquisition, construction or completion is planned or located in a manner which will be most compatible with the greatest public good and the least private injury.

Resolution conclusive evidence

In eminent domain proceedings to acquire property for any of the purposes of this act, any such transportation facilities, real property, personal property, franchises, rights, easements or other property or privileges appurtenant thereto appropriated or dedicated to a public use or purpose by any person, firm, private, public or municipal corporation, county, city and county, city, town, district or any political subdivision of the State may be condemned and taken and the acquisition and use thereof as herein provided for the same public use or purpose to which such property has been so appropriated or dedicated, or for any other public use or purpose shall be deemed a superior and permanent right and necessity, and a more necessary use and purpose than the public use or purpose to which such property has already been appropriated or dedicated, except as to real estate, personal property, franchises, rights, privileges or easements actively used by or necessary for the operation of a common carrier by railroad other than those used primarily by such railroad for the transportation of persons or property by interurban operation to and from an area within 50 miles from either end of such toll bridge or bridges. And except for such prior railroad use, it shall not be necessary in any eminent domain proceedings hereunder to plead or prove any acts or proceedings preliminary or prior to the adoption of the resolution hereinbefore referred to describing the property sought to be taken and directing such proceedings.

Condemnation of private, etc., transportation facilities

Exception

CHAPTER 967

Stats 1939, p 1067, amended

An act to amend Sections 5014 and 6816 and to repeal Section 6817 of the Public Resources Code, relating to the disposition of moneys credited to the State Lands Act Fund, creating the State Beach Fund, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.]

The people of the State of California do enact as follows:

Stats 1941, p 3217

SECTION 1. Section 6816 of the Public Resources Code is amended to read:

State Lands Act Fund

6816. All moneys and remittances received by the State pursuant to this chapter, except rents, bonuses, royalties and profits accruing from the use of State school land, shall be deposited in the State treasury to the credit of the State Lands Act Fund, which fund is continued in existence. In addition thereto, such other moneys shall be deposited in such fund as may be provided by law. The moneys in the fund are hereby appropriated as follows:

Appropriation

(a) For the payment of refunds, as authorized by the commission and approved by the State Board of Control.

(b) The remainder of the moneys shall be used by the commission, with the approval of the Director of Finance and the consent of the Governor, to carry out the provisions of this chapter, including the acquisition of real property or interests therein, the purchase of materials and supplies, and the conducting of operations by the State as provided herein, the payment by the State of such sums as may be provided pursuant to agreements or contracts authorized herein, and the payment of the necessary expenses of the commission.

(c) Thirty per cent of the remaining balance shall be transferred to the General Fund on order of the commission; $23\frac{1}{3}$ per cent of the remaining balance shall be transferred to the State Beach Fund; and $46\frac{2}{3}$ per cent thereof shall be transferred to the State Park Fund.

Stats. 1941, p 2076

SEC. 2. Section 6817 of the Public Resources Code is hereby repealed.

Stats. 1941, p 2076

SEC. 3. Section 5014 of the Public Resources Code is hereby amended to read:

State Beach Fund

5014. There is hereby created in the State treasury the State Beach Fund for the acquisition, improvement, and maintenance of State beaches.

Transfers of moneys

The State Controller shall transfer to the State Beach Fund the following sums:

(a) The sums appropriated to the fund pursuant to Section 6816;

(b) The balances of all appropriations made to the State Park Maintenance and Acquisition Fund which are available

specifically for the acquisition, improvement and maintenance of State beaches;

(c) One-third of the unappropriated cash surplus in the State Park Maintenance and Acquisition Fund.

Any appropriations heretofore or hereafter made out of the moneys deposited in the State Park Maintenance and Acquisition Fund for the acquisition, improvement and maintenance of State beaches shall be payable from the State Beach Fund. Payments

SEC. 4. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect to become operative July 1, 1943. A statement of the facts constituting such necessity is as follows: Urgency Operative date

Much money is expended biennially in the maintenance and acquisition of State parks and State beaches, thereby preserving to the State many valuable scenic places of healthful recreation. This act will facilitate the most economical expenditure of such money, by better enabling the department to control the expenditure of such sums and to apply the sums in such manner as will best serve the recreational and health needs of the people of the State. If this act does not take effect immediately, the disbursement of the money to these ends will be difficult, uneconomical, wasteful and slow.

SEC. 5. This act shall not take effect unless Senate Bill No. 731 of this session is enacted. Stats 1943, Ch 969

CHAPTER 968

An act to add Section 3515.5 to the Revenue and Taxation Code, relating to transfer to the Veterans' Welfare Board of tax-deeded property. Stats. 1939, p 1274, amended

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 3515.5 is added to the Revenue and Taxation Code, to read: New section

3515.5. The Veterans' Welfare Board may certify to the State Controller or to the State Lands Commission, whichever has received the deed, that the property is property held by it on behalf of the State under the provisions of Division 4 of the Military and Veterans Code. Thereupon the State Controller or the State Lands Commission, as the case may be, shall execute in duplicate a deed of the lands in the name of the State to the Veterans' Welfare Board, and shall forward one duplicate of the deed to the county recorder to be recorded. The other duplicate shall be retained by the Veterans' Welfare Board. Certification Deed

CHAPTER 969

Stats 1939, p 1067 amended

An act to amend Section 5003.5, and to add Section 5014.1 to, the Public Resources Code, abolishing the State Park Maintenance and Acquisition Fund and creating the State Park Fund, relating to State parks, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.]

The people of the State of California do enact as follows:

Stats 1941, p 2076

SECTION 1. Section 5003.5 of the Public Resources Code is amended to read:

State park ingress and egress· Contracts

5003.5. The State Park Commission is authorized to provide means of ingress to and egress from all State parks in order to provide ready access thereto by the public and to provide means of ingress and egress to highways and roads across State parks from lands separated from such highways and roads by State parks, and for that purpose may enter into contracts or agreements with cities, counties, and other political subdivisions of the State and with other State agencies or with persons, firms or corporations for the acquisition, construction, and maintenance of suitable roads, trails, and pathways.

New section

SEC. 2. Section 5014.1 is added to the Public Resources Code, to read:

State Park Fund

5014.1. There is hereby created in the State treasury the State Park Fund, which is hereby appropriated for improvements and maintenance of State parks, State monuments, roads, trails, and pathways, and when specifically appropriated by the Legislature for construction and acquisition of State parks, State monuments, roads, trails, and pathways providing access to State parks.

Transfer of moneys

The State Controller shall transfer to the State Park Fund the following sums:

(a) The sums appropriated to the fund pursuant to Section 6816;

(b) The balances of all appropriations made to the State Park Maintenance and Acquisition Fund which are available specifically for the acquisition, improvement and maintenance of State parks and State monuments, including the cost of acquisition, construction and maintenance of roads, trails and pathways providing access to and across State parks;

(c) Two-thirds of the unappropriated cash surplus in the State Maintenance and Acquisition Fund.

Payments

Any appropriations heretofore and hereafter made out of the moneys deposited in the State Park Maintenance and Acquisition Fund for the acquisition, improvement and maintenance of State parks and State monuments, including the cost of acquisition, construction and maintenance of roads, trails and pathways providing access to and across State parks, shall be payable from the State Park Fund.

SEC. 3. The State Controller shall transfer from the State Park Maintenance and Acquisition Fund to the State Park Maintenance Fund the balances remaining and available in the following appropriations, which shall be available for expenditure out of said fund for the same purposes for which the appropriations were originally made: Transfer

(a) Support, Division of Parks, Department of Natural Resources, Chapter 600, Statutes of 1941.

(b) Support, Division of State Parks, Department of Natural Resources, Chapter 63, Statutes of 1940.

(c) Support, Division of Beaches and Parks, Department of Natural Resources, Chapter 62, Statutes of 1943.

(d) Support, Division of Beaches and Parks, Department of Natural Resources, Chapter 306, Statutes of 1943.

SEC. 4. The State Park Maintenance and Acquisition Fund is hereby abolished. Fund abolished

SEC. 5. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect and to become operative July 1, 1943. A statement of the facts constituting such necessity is as follows: Urgency

Much money is expended biennially in the maintenance and acquisition of State parks and State beaches, thereby preserving to the State many valuable scenic places of healthful recreation. This act will facilitate the most economical expenditure of such money, by better enabling the department to control the expenditure of such sums and to apply the sums in such manner as will best serve the recreational and health needs of the people of the State. If this act does not take effect immediately, the disbursement of the money to these ends will be difficult, uneconomical, wasteful and slow.

SEC. 6. This act shall not take effect unless Senate Bill No. 656 of this session is enacted. Stats 1943, Ch 967

CHAPTER 970

An act to add Section 5015 to Article 1 of Chapter 1 of Division 5 of the Public Resources Code, relating to investigations, reports, plans and cooperative projects for the acquisition, development, improvement and maintenance of ocean beaches for public use and the control and correction of beach and cliff erosion. Stats 1939, p 1067, amended

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 5015 is added to the Public Resources Code, to read: New section

5015. The State Park Commission is the agency of the State designated to supervise and charged with, the acquisition, Supervision of ocean beach development, etc

development, maintenance and protection of ocean beaches for public recreational purposes and control and correction of beach and cliff erosion, and when the State shall provide for the expenditure of any money for the development and protection of public beaches owned by counties or municipalities, the State Park Commission is the agency of the State designated to supervise such expenditure.

Cooperation with United States

In the performance of its powers and duties under this section the State Park Commission may cooperate with the United States, the Beach Erosion Board of the United States or with any other Federal agency or with any county or municipality, or with the State Lands Commission, or with any other State office, or with any or all such agencies and upon such terms and conditions and in such manner as will be for the best interests of the State. Insofar as matching funds required by this section are to be supplied by the United States or any agency thereof, such funds need not be deposited in the State treasury or otherwise made available for expenditure by the State but may be retained by the Federal agency for expenditure by it in carrying out the purpose of the appropriation as may be provided for by agreement therewith.

Master plan

No acquisition, development or protection of any beaches for public use or control and correction of beach or cliff erosion shall be accomplished in any county which has not adopted a master plan of beaches for that county, which plan shall provide for the acquisition, development, and control of ocean beaches in such county nor shall any portion of an appropriation made by this State be expended for acquisition, development, improvement or protection of any ocean beach owned by a county or municipality or control and correction of beach or cliff erosion on beaches or cliffs owned by a county or municipality unless moneys equal to or in excess of the amount to be expended from the appropriation for that purpose shall have been made available (by any person, corporation, political subdivision, public district or public subdivision other than the State, or by the Federal Government or its agencies) for expenditure by the State for that purpose, to the end that any sums expended for such development and protection and control shall be matched by like or greater amounts from sources other than the State.

Appropriation

Local expenditures

It is not intended that the provisions of this act shall prevent or restrict any county, city, county and city or political subdivision from appropriating and spending its own funds to acquire, develop or protect any beach or cliff erosion within its jurisdiction even though said county has not yet adopted a master plan of beaches for that county.

CHAPTER 971

An act to provide for the formation of districts within municipalities for the acquisition, construction, maintenance and operation of parking places, garages and other improvements for the parking of motor vehicles; the levy and collection of assessments upon property in said districts; the issuance, sale and payment of bonds secured by such assessments; the collection of rentals, fees, and charges for the use of such parking places, garages or other improvements; the administration thereof; the levy of taxes; and the powers and duties of cities relating thereto.

"Vehicle Parking District Act of 1943"

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

PART 1

SECTION 1. Any portion of a municipality incorporated under the laws of this State may be formed into a vehicle parking district for the purpose of acquiring, constructing, maintaining and operating parking lots, garages and other improvements for the parking of motor vehicles. The words "parking places," as used in this act, include parking lots, garages, and buildings for the parking of motor vehicles. The things authorized to be done under this act, in addition to any things specified elsewhere in this act, include the following:

Formation authority

"Parking places"

Acts authorized

1. The formation of districts.

2. The acquisition of lands, property, and rights of way necessary or convenient for use as parking places.

3. The acquisition of lands, property, and rights of way necessary or convenient for the opening, widening, straightening or extending of streets or alleys necessary or convenient for ingress to or egress from any parking place.

4. Any acquisition herein authorized may be by condemnation, purchase, or gift of property or any interest therein. Any lands or property necessary or convenient for parking places may be acquired in fee simple by condemnation or otherwise.

5. The improvement of any lands acquired by the construction thereon of garages or other buildings or improvements necessary or convenient for parking purposes.

6. The improvement by grading, paving, draining, lighting, or otherwise improving any parking places and any streets or alleys necessary or convenient for ingress to or egress from parking places.

7 The levy and collection of assessments to pay the cost and expenses of any acquisition or improvement herein authorized, and the issuance, sale and payment of bonds representing and secured by such assessments.

8. The administration, maintenance, operation and repair of parking places acquired under this act.

9. The collection of fees or charges to pay all or any part of the cost of improving, repairing, maintaining and operating parking places.

10. The levy of taxes to pay all or any part of the cost of improving, repairing, maintaining and operating parking places.

11. The employment of engineers, attorneys and any other persons necessary or convenient for the doing of any of the acts authorized by this act.

12 The doing of all acts and things necessary or convenient for the accomplishment of any of the purposes of this act. The enumeration of specific authority in this act shall not be deemed to limit in any way the general authority granted by this paragraph.

Petition

SEC. 2. The formation of a vehicle parking district hereunder may be proposed by petition signed by owners of land in the proposed district, as shown by the last equalized assessment roll of the county in which the proposed district lies, owning lands of an assessed value not less than twenty per cent (20%) of the total assessed value of all lands in said district as shown by said assessment roll.

Contents of petition

SEC. 3. The petition shall contain (1) a general description of the exterior boundaries of the proposed district, (2) a general description of the lands to be acquired for parking places, which lands may lie wholly or partially outside or inside the boundaries of the proposed district, (3) a general description of any lands or rights of way to be acquired as streets or alleys for ingress to or egress from the parking places, or any thereof, (4) a general description of the improvements proposed to be made or constructed, (5) a request that bonds be issued under this act and the term of and interest rate or maximum interest rate to be paid on such bonds, and (6) a statement that it is filed under this act. No defect or informality in the petition shall invalidate any proceedings hereunder.

Filing of petition, etc

SEC. 4. The petition may consist of any number of separate instruments. It shall be filed in the office of the clerk of the legislative body of the city in which the proposed district lies. When said petition has been filed, said clerk shall check the petition, or cause it to be checked. If the petition is signed by the requisite number of qualified signers, the clerk shall make his certificate to that effect and present the petition and said certificate to the legislative body. No defect in the certificate shall invalidate any proceeding hereunder.

Ordinance of intention to form

SEC. 5. After the certificate and petition have been presented to the legislative body, said legislative body, if it finds and declares in the ordinance of intention that the public interest and necessity require the acquisition and improvement described in the petition and that the property to be acquired as described in the petition is necessary therefor, may adopt an ordinance declaring its intention to form the vehicle parking district and to acquire the lands and rights of way,

if any, and construct the improvements proposed in the petition.

Said ordinance shall also contain (1) the number of the proposed vehicle parking district and a general description of the exterior boundaries thereof, (2) a general description of the lands to be acquired for parking places, which lands may lie wholly or partially outside or inside the boundaries of the proposed district, (3) a general description of any lands or rights of way to be acquired as streets or alleys for ingress to or egress from the parking places, or any thereof, (4) a general description of the improvements proposed to be made or constructed, (5) an estimate of the cost and expense of the proposed acquisition and improvement, (6) a statement that an assessment will be levied as provided in this act to pay the costs and expenses of the acquisition and improvement, (7) if bonds are to be issued, a statement that bonds to represent unpaid assessments will be issued under this act and the interest rate or maximum interest rate, and term of any such bonds, and (8) a date, hour and place for the hearing of protests and objections. Contents of ordinance

SEC. 6. Said ordinance shall be published once a week, for two successive weeks, in some newspaper published in such municipality. The first publication of said ordinance shall be not less than thirty (30) days prior to the date fixed for the hearing of protests. Such ordinance, unless otherwise provided by charter of the municipality, shall take effect upon the completion of said publication. In municipalities where no such newspaper is published, copies of said ordinance shall be posted in three public places in the proposed district at least thirty (30) days before the date of hearing and said ordinance shall take effect two (2) weeks after the date the copies are posted. No defect in said publication shall invalidate any proceeding hereunder, provided the notice actually given thereby is not invalid under the Constitutions of the United States of America or the State of California. Copies of said ordinance headed "Notice of Formation of Vehicle Parking District," in letters at least one (1) inch in height, shall be posted upon all open streets within the proposed district. Said notices shall be not more than three hundred (300) feet apart and shall be posted at least thirty (30) days prior to the hearing. No defect, error or mistake in the posting of said notices shall affect the validity of any proceedings hereunder. A copy of the ordinance shall be mailed, postage prepaid, by the clerk of the legislative body to each person to whom land in the assessment district is assessed, as shown on the last equalized assessment roll of the county, at his address as shown upon such roll, and to any person, whether owner in fee or having a lien upon or legal or equitable interest in any land within said district, whose name and address and a designation of the land in which he is interested, is on file in the office of said clerk. No error, failure or mistake in the mailing of such notices or any thereof and no failure of any Publication of ordinance Posting copies Mailing copies

owner or person interested in any land within the district to receive such mailed notice shall in any way affect the validity of any proceeding hereunder.

Filing objections

SEC. 7. At any time not later than the hour set for hearing protests or objections, any owner of or person interested in any land within the boundaries of the proposed district as described in said ordinance may severally, or with other such owners, file with the clerk of the legislative body conducting the proceedings written objection to the thing or things proposed to be done or to the extent of the proposed district or to any or all of the foregoing. At such hearing all objections and protests shall be heard and considered. If upon said hearing it appears that the owners of more than one-half of the number of parcels or the area of the taxable land included within the proposed district have made objection in writing to the doing of the thing or things proposed to be done the legislative body, by a resolution to be entered upon its minutes, shall so find and thereupon such legislative body shall have no power to proceed further under said ordinance of intention, and the said proceeding shall be thereby terminated.

Hearing: Terminat on of proceedings

Change of boundaries

If the owners of more than one-half of the number of parcels or of the area of the property included within the district have not made written objections or protests to the thing or things proposed to be done as an entirety, the legislative body may so find orally, or otherwise, and proceed with the hearing. At such hearing the legislative body may modify the boundaries of the district and may exclude from the district described in the ordinance of intention any land which it may find will not be benefited by the doing of the thing or things proposed to be done. Said hearing may be continued from time to time by order entered on the minutes.

Intention to change boundaries Notice

The legislative body shall not change the boundaries except after notice of intention so to do given by one insertion by the clerk thereof in the newspaper in which the ordinance of intention was published, describing the proposed change and specifying the time for hearing objections thereto, which time shall be at least 15 days after publication of such notice. If the change proposed is to include additional land in the district, the clerk also shall mail a copy of the notice to each person to whom land in the area proposed to be added is assessed as shown on said last equalized assessment roll, at his address as shown upon such roll, at least 15 days prior to the time set for hearing objections, but no error, failure, or mistake in the mailing of such notices or any thereof shall invalidate the proceeding.

Land excluded

No land shall be included in the district which in the judgment of the legislative body will not be benefited.

New proceedings after termination

In the event the proceedings are terminated by a majority protest, no proceeding under this act for the same or substantially the same acquisition and improvement shall be commenced within a period of one year thereafter except upon

petition signed by the owners of a majority in area of the taxable land in the district.

Objections deemed waived

SEC. 8. Any objections or protests not made at the time and in the manner hereinbefore provided shall be deemed to be waived voluntarily by any person who might have made such objection or protest and, except in the case of a majority protest, the legislative body may sustain or deny any or all objections and protests, and its determination thereon shall be final and conclusive. Said determination shall be entered upon the minutes. No proceeding hereunder may be attacked after the hearing hereinabove provided upon any ground not stated in an objection or protest filed as hereinbefore provided, and any landowner or person interested in any lands within said district shall be estopped to attack the proceedings upon any ground not stated in a protest filed by him in accordance with the foregoing provisions of this act.

Determination

Estoppel, etc

Ordinance declaring formation

SEC. 9. Unless the power to proceed has been terminated as hereinbefore provided, the legislative body at the conclusion of the hearing may find and determine that the public interest and necessity require and may order the acquisition and improvement described in the ordinance of intention. If said acquisition and improvement are ordered, the legislative body shall fix and establish the boundaries of the district and shall declare that the same has been duly formed under the provisions of this act. Such determination and order shall be by ordinance. Each vehicle parking district formed hereunder shall be numbered and the designation of such district shall be substantially (using appropriate number) "Vehicle Parking District No._____of the City of_____."

Designation of district

Limitation on assessments

The total amount of assessments levied or bond indebtedness created for any acquisition and improvement hereunder shall not exceed twenty per cent (20%) of the assessed value of all lands in the district, as shown by the assessment roll of the county last equalized at the date of the levy of the assessment or creation of the indebtedness.

PART 2

Condemnation proceeding

SEC. 10. The legislative body in its ordinance ordering the things proposed to be done and forming said district shall direct an action to be brought by the city attorney, or other attorney directed by it, in the proper superior court in the name of the municipality for the condemnation of the property necessary and proposed to be acquired as described in said ordinance of intention. The fee simple title of any lands to be acquired for parking places may be condemned.

Contract to purchase

The legislative body may contract for the purchase of any of said lands. Any part of said lands acquired by purchase or by gift need not be included in the condemnation action or, if included therein, need not be condemned.

Applicable law

SEC. 11. Except as herein otherwise provided, the condemnation action shall be filed and the condemnation proceedings taken substantially as provided in the Street Opening

Act of 1903 and particularly in Chapters 7, 8, 9, and 10 thereof, and the provisions of Chapters 7, 8, 9, and 10 of said Street Opening Act of 1903 relating to the condemnation of property and the fixing of compensation and damages therefor are hereby adopted as the procedure to be followed under this act; provided, however, that failure to fully comply with the provisions of said chapters shall not invalidate any proceeding under this act.

PART 3

Diagram

SEC. 12. Upon the entry of the interlocutory judgment or upon the purchase price of the property to be acquired being fixed by contract, the legislative body shall order the engineer to make and deliver to the street superintendent a diagram of the acquisition and improvement and of the property within the vehicle parking district as finally established. The diagram shall show the land and any rights of way to be acquired, the proposed improvement, and also each separate lot or parcel of land within the vehicle parking district, the dimensions of each such lot or parcel of land and its relative location to the proposed acquisition and improvement. Said diagram shall be delivered to the street superintendent who shall endorse thereon the date of such delivery.

Delivery to street superintendent

Assessment of cost and expense

SEC. 13. The street superintendent upon receiving the diagram shall proceed to assess the total cost and expense of the proposed acquisition and improvement against the lands within the vehicle parking district, subject to assessment as provided in Section 14 hereof. The total cost and expense shall include the following:

Items included

(1) The amounts awarded the defendants in the condemnation action, together with their costs.

(2) Any amounts fixed by contract for the purchase of any lands or rights of way to be acquired.

(3) All costs and expenses of plaintiff in the condemnation action, attorneys' fees, fees of expert witnesses, service of process, and any other costs or expenses.

(4) The expenses of making the diagram and assessment.

(5) The estimated expense of issuing and selling bonds.

(6) The estimated costs and expenses of the proposed improvement.

(7) All expenses of the proceedings under this act, including engineers' and attorneys' fees, title searches, certificates of title, publication and posting of ordinances or notices, maps, plans, and the estimated expenses of the proceedings thereafter to be taken and all expenses of the proceedings taken under the Special Assessment Investigation, Limitation and Majority Protest Act of 1931.

Assessable land

Exemptions

SEC. 14. Except as provided in this section, all lands within the vehicle parking district shall be assessed to pay the costs and expenses of the acquisition and improvement. No lands owned by the United States and no streets, alleys or

highways and no property to be acquired for parking places under this act shall be assessed.

Inclusion of publicly owned property

Any lot or parcel of land in any other public use belonging to the State or to any county, city, district or other public corporation, public agent, mandatory of the government, school board, educational, penal or reform institution, or institution for the feeble-minded or insane, in use in the performance of a public function and lying within the boundaries of a parking district as described in the petition, may with the consent of the governing body thereof filed at or prior to the date of filing the petition be included in the district and if included therein shall be subject to assessment in the same manner as other lands therein.

Payment of assessment on public property

Any assessment upon public property shall be paid by the officer or board having charge of the disbursement of the funds of such owner and said assessment shall be an enforceable obligation against the owner of or the governing body controlling said property.

Insufficient funds. Levy of taxes

If for any reason there are no moneys available for the payment of said assessment, then the board or officer whose duty it is to levy taxes for the owner of said public property shall include in the next tax levy an amount, in addition to moneys for all other purposes, sufficient to pay said assessment and the interest thereon from the date the assessment is recorded at the rate established for the bonds, and when the moneys received from said tax levy are available said assessment and interest thereon shall be paid by the officer or board having charge of the disbursement of the funds of the owner of such land.

Any duty imposed by this section may be enforced by action, mandamus or other proceeding.

Procedure governing assessment

SEC. 15. The assessment shall be made, notice given, hearing held, and the assessment confirmed and recorded substantially in the manner provided in Chapter 11 of the Street Opening Act of 1903, and the provisions of Chapter 11 of the Street Opening Act of 1903, relating to the method of making or spreading the assessment, the giving of notice, the holding of the hearing, and the confirmation and recordation thereof, are hereby adopted as the procedure to be followed under this act, and, except as provided by this act, all of the powers and authority granted in Chapter 11 of said Street Opening Act of 1903 shall be applicable to any assessment to be levied hereunder, except that the property to be assessed shall be as defined in Section 14 hereof and assessments upon public property shall be enforced as provided in said Section 14.

Notice of assessment

Lien

SEC. 16. From the date of such recording, all persons shall be deemed to have notice of the contents of such assessment roll. Immediately upon such recording, the several assessments contained in such assessment roll shall become due and payable, and each of such assessments shall be a lien upon

the property against which it is made. Said lien shall continue until the assessment and all interest and penalties thereon are paid or until it is discharged of record.

Priority of lien

SEC. 17. Said lien shall be superior to and have priority over all special assessment liens created against the same property subsequent to the date of such recordation. Any deed issued in the foreclosure of said assessment lien or sale of property for said lien shall convey the said property to the purchaser free and clear of all encumbrances, except taxes, and such special assessment liens as are, at the date of creation of said lien, equal or superior to said assessment lien.

Limitation of proceedings

SEC. 18. No action or proceeding to set aside, cancel, avoid, annul or correct any assessment or reassessment, or to review any of the proceedings, acts, or determinations therein, or to question the validity of, or to enjoin the collection of any assessment or reassessment, or to enjoin the issuance of bonds to represent any assessment or reassessment, shall be maintained by any person unless such action or proceeding is commenced within thirty (30) days after the recording of the diagram and assessment or reassessment, and thereafter all persons shall be barred from any such action or proceeding or any defense of invalidity of the assessment or of bonds issued thereon or of any reassessment and of bonds issued thereon.

Publication of notice of recordation of assessments, etc

SEC. 19. The officer with whom said assessment is recorded shall give notice by publication twice in a daily or weekly newspaper of general circulation printed and published in the county in which the lands assessed lie that said assessment has been recorded in his office and that all sums assessed therein became due and payable upon the recordation of said assessment, stating the date of such recordation and that the payment of the said sums is to be made to him within thirty (30) days after the date of such recordation. Said notice shall also contain a statement that bonds to represent assessments remaining unpaid after said thirty (30) days will issue in the manner and form provided in Part _____ (designating the part as fixed by the ordinance of intention) of this act and shall state the period over which said bonds shall extend and the rate or rates of interest which shall be payable thereon.

Statement re bonds

Mailing post card to owners

SEC. 20. Notice shall also be given by mailing a post card to the owner of each lot, piece or parcel of land assessed according to the name and address appearing on the last equalized assessment roll for county taxes prior thereto or as known to the officer giving such notice; provided, that a failure of the officer with whom the assessment is recorded to give such notice by mailing or of the person addressed to receive the same shall not affect the validity of the proceedings or the validity of the lien of any assessment or of any bond issued thereon.

Failure to mail or receive

Procedure when assessment paid

SEC. 21. When any assessment is paid, the street superintendent shall mark opposite such assessment the word

"Paid," the date of payment, and the name of the person by or for whom the assessment is paid, and shall, if so requested, give receipt therefor.

List of unpaid assessments

SEC. 22. After the full expiration of thirty (30) days from the date of recording said assessment, the superintendent of streets shall make a complete list of all assessments unpaid and the amounts thereof unpaid, excepting therefrom unpaid assessments upon public property. All unpaid assessments upon public property shall be collected as provided in Section 14 hereof, but if the property is not in use in the performance of a public function the lien of the assessment may be foreclosed in the mode provided for foreclosure of assessments in Part 5, Chapter 11 of the Improvement Act of 1911.

Collection

PART 4

Unpaid assessment bonds

SEC. 23. Bonds shall be issued as provided in this part. The list of unpaid assessments shall be certified and filed with the city treasurer. The city treasurer, upon the filing of the list, shall make out and sign a separate bond representing upon each lot or parcel of land on the list the total amount of the unpaid assessment against the same, as shown on said list.

Sale

SEC. 24. The legislative body shall sell said bonds for cash for not less than the amount of the assessments represented by said bonds. At any time after the assessment is recorded, said legislative body may call for sealed bids on the bonds proposed to be issued. Notice inviting bids shall be given by two publications in a newspaper published in the city, the first publication to be at least ten (10) days before the bids are to be opened. The bonds shall be sold for cash to the best responsible bidder. The bonds may be sold at any rate of interest not exceeding that stated in the ordinance of intention.

Interest and term

The maximum interest rate shall not exceed 6 per cent per annum. The bonds shall extend over a period not to exceed 19 years from the second day of January next succeeding the next October 15th following their date.

Issuance and delivery

SEC. 25. Upon the award of the bonds to a purchaser or purchasers, the treasurer shall issue bonds representing the liens of the unpaid assessments as shown on the list filed under Section 23 hereof and bearing interest at the rate fixed by the legislative body. The treasurer shall deliver the bonds to the purchaser or purchasers thereof upon receiving the purchase price bid therefor. The purchase price shall be deposited in the improvement fund of the district.

Disposition of proceeds

Applicable provisions

SEC. 26. Except as otherwise provided in this part, the bonds to be issued under this part shall be issued under the provisions of Part 5 of the Improvement Act of 1911 and, except as herein modified, the provisions of said Part 5 are hereby adopted for the issuance, collection and enforcement

of bonds issued under this part, and, except as herein otherwise provided, all of the provisions of said Part 5 shall apply to bonds issued under this part.

Date, interest and form

SEC. 27. Said bonds shall be dated and bear interest from the date of recordation of the assessment, and shall be substantially in the following form:

VEHICLE PARKING DISTRICT NO. _____
(Number of District)
OF THE CITY OF _____

IMPROVEMENT BOND

$_____ No._____

Under and by virtue of the Vehicle Parking District Act of 1943, I, out of the fund for the above designated Vehicle Parking District No. ____ of the City of _____ bonds, will pay to _____, or order, the sum of $_____, with interest at the rate of _____ per cent per annum, all as is hereinafter specified, and at the office of the treasurer of the City of _____, State of California.

This bond is issued to pay the cost of the acquisition and improvement of certain parking places in the City of _____ as the same is more fully described in assessment number ____ issued by the street superintendent of said city and recorded in his office. Its amount is the amount assessed in said assessment against the lot or parcel of land numbered therein, and in the diagram attached thereto, as number _____, and which now remains unpaid, but until paid, with accrued interest, is a lien upon the property affected thereby, as the same is described herein, and in said recorded assessment with its diagram, to wit: The lot or parcel of land in said City of _____, County of _____, State of California, described as follows: _____.

This bond is payable exclusively from said fund, and neither the city nor any officer thereof is to be holden for payment otherwise of its principal or interest. The term of this bond is _____ years from the second day of January next succeeding the next October 15th following its date, and at the expiration of said time the whole sum then unpaid shall be due and payable; but on the second day of January of each year, following the next October 15th after its date, an even annual proportion of its whole amount is due and payable, upon presentation of the coupon therefor, until the whole is paid, with all accrued interest at the rate of _____ per centum per annum.

The interest is payable semiannually, to wit: On the second days of January and of July in each year hereafter, upon presentation of the coupons therefor, hereto attached, the first of which is for the interest from date to the next second day of _____, and thereafter the interest coupons are for semiannual interest.

This bond may be redeemed by the owner or any person interested in any lot or parcel of land described herein, in the manner provided in said act, at any time before maturity, and before commencement of proceedings for sale, upon payment to the treasurer, for the holder of this bond, of the amount then unpaid on the principal thereof, with interest thereon calculated up to the due date of the next maturing interest coupon, and all penalties accrued and unpaid.

Should default be made in the annual payment upon the principal, or in any payment of interest from the owner of said lot or parcel of land, or any one in his behalf, the holder of this bond is entitled to declare the whole unpaid amount to be due and payable, and to have said lot or parcel of land advertised and sold forthwith, in the manner provided by law; provided, however, that any bond may be reinstated after such default in the manner provided in said act. In case of such default there shall be immediately added to such defaulted amount 1 per cent of the amount thereof, and on the first day of each month following such default there shall be added a further penalty of 1 per cent of such defaulted amount. The 1 per cent penalty first imposed and all subsequent penalties shall be paid to the holder of the bond along with and as a part of such defaulted payment.

At said City of _____, this _____ day of _____, in the year one thousand, nine hundred and _____.

_____

Treasurer of the City of _____.

PART 5. ACQUISITION AND IMPROVEMENT

Disposition of money

SEC. 28. The street superintendent, from time to time, shall pay over to the treasurer all moneys collected by him on account of any assessment levied under this act. The treasurer, on receipt thereof, shall place said moneys in a special fund, designated the improvement fund of the vehicle parking district for which the assessments were levied. All proceeds of any bonds issued hereunder likewise shall be placed in said special fund. In the event any of the parking lots acquired by the district has any building or other improvement thereon which needs to be removed any moneys derived from the sale of such building or improvement shall be apportioned to the various lots or parcels of land in the district in proportion to the amounts of the assessments levied thereon, and the amount apportioned to each parcel shall be credited against the unpaid assessment thereon, or if the assessment has been paid, shall be paid to the person who paid the assessment.

Credit

Payment for condemned property

SEC. 29. As soon as there is sufficient money in the special fund devoted to the proposed acquisition and improvement to pay the amounts awarded to the defendants by the interlocutory judgment in the condemnation action, said amounts shall be paid to the parties entitled thereto or into court for their benefit.

Payment for purchased property

If any property is being acquired by private purchase, the amounts fixed by the contract of purchase shall be paid to the parties entitled thereto upon the delivery to the city of a good and sufficient deed conveying to the city the property or the interest in property to be so acquired.

Final judgment of condemnation

SEC. 30. When satisfactory proof is made to the court of payment of the amounts awarded by the interlocutory judgment to the respective parties entitled thereto, or into court for their benefit, the court shall direct the interlocutory judgment to be satisfied and shall make and enter a final judgment condemning the lands described in the complaint to the use of the plaintiff for the purposes specified in the complaint.

Contracts for construction of improvements

SEC. 31. If the proceedings provided for any improvements to be constructed, contracts for the construction of said improvements shall be let by the legislative body of the city in the same manner and with the same faithful performance or labor and material bonds as provided by law for contracts payable from the general funds of said city. The contractor shall be paid from the special improvement fund.

Deficiency in special fund

SEC. 32. In case of a deficiency in the special fund for such improvement, the legislative body in its discretion may provide for such deficiency by an appropriation out of the general fund of the treasury, or by ordering a supplementary assessment to be made by the street superintendent upon the property in the vehicle parking district in the same manner and form, and subject to the same procedure as provided in Part 3 hereof for the original assessment. In order to avoid delay in event of a supplementary assessment, the legislative body may advance such deficiency out of the treasury and reimburse the treasury from the collections under the supplementary assessment. In case of a surplus in the special fund for the improvement, such surplus shall be used for the repair of the improvements constructed.

Surplus

PART 6. REASSESSMENT

When issuable

SEC. 33. A reassessment shall be issued in any of the following events:

Whenever any assessment heretofore or hereafter made, issued or filed in the office of the clerk, or whenever any bonds issued to represent the amounts of any such assessments in accordance with this act have been set aside by any court of competent jurisdiction or such court has refused to enforce any assessment or has decreed any such bonds issued under this act not to constitute or represent valid and subsisting liens against the lots or parcels of land upon which the assessments represented by them have been levied; or if for any reason such assessments or bonds, or both, are not effective through the curative and waiver provisions of this act or any curative act now or hereafter passed by the Legislature in relation thereto to make them valid and enforceable.

Intent and meaning

SEC. 34. The true intent and meaning of this part is to make the cost and expense of the acquisition and improvement

made or attempted to be made through an attempted compliance with this act payable by the real property benefited by such acquisition and improvement by making a reassessment therefor. Such power of reassessment embraces both a full and partial reassessment and is not exhausted by a single attempted exercise thereof.

When reassessment required

SEC. 35. A reassessment shall be ordered under any one of the following circumstances:

(a) Whenever the owner or holder of any bonds issued to represent or be secured by assessments requests the legislative body to order a reassessment and the legislative body is of the opinion that the bonds in question are not enforceable, it shall order the making and issuing of a reassessment covering only the assessments represented by or securing the bonds owned or held by the petitioner.

(b) Whenever any court of competent jurisdiction in any suit involving the validity of the obligation of any bond or assessment has for any reason held the lien of the assessment or bond to be unenforceable, then it shall in and by its decree direct the making of a reassessment to cover the assessments involved in such suit.

(c) Whenever any court of competent jurisdiction, in any suit to set aside the lien of any assessment or of any bond representing any assessment or in any suit to quiet title against the lien of any such assessment or bond or in any suit to enjoin the making, filing, confirmation or issuance of any assessment or bond to pay for the cost and expenses of any acquisition and improvement under this act, shall in its judgment decree such assessments or bonds to be void or unenforceable or shall enjoin the making, filing or issuance or confirmation of any such assessment or bond, then it shall in and by its decree direct the making of a reassessment to cover the assessments involved in such suit.

(d) Whenever the lien of any assessment or bond is foreclosed or attempted to be foreclosed by sale as provided in this act, and thereafter any court of competent jurisdiction in any suit contesting the validity and legal force and effect of such sale decrees such sale to be void or unenforceable for any reason, then it shall in and by its decree direct the making of a reassessment to cover the assessments involved in such suit.

Duties of street superintendent

SEC. 36. Upon the entering of a decree of court directing a reassessment or upon the making of an order by the legislative body directing a reassessment, the street superintendent shall proceed to make a reassessment in the following manner:

If the reassessment is a partial one only, then it shall not be necessary for the diagram to show any lots other than the ones covered by such partial reassessment. If it is a full reassessment, then the street superintendent shall prepare and file with the reassessment a diagram showing the lots or parcels of land deemed by him to have been benefited by the improvement.

Amount and basis

SEC. 37. The reassessment shall assess upon and against each of the lots or parcels of land contained therein an amount arrived at as follows: The benefits derived, or to be derived, by each of the lots or parcels of land from the acquisition and improvement estimated as of the date of the filing in the clerk's office of the original assessment shall first be listed. Then there shall be added thereto interest thereon from the date of recording of the original assessment at the rate of seven per cent (7%) per annum, and the total sum shall constitute and be the amount of the proposed several assessments in such reassessment. The total of such reassessment, however, exclusive of interest, shall not exceed the cost and expenses of the acquisition and improvement.

Form and references

SEC. 38. Such reassessment need not be in any prescribed form, but shall refer to the original assessment filed, giving the date of filing of the original assessment, and state that it is made pursuant to the order of the legislative body or decree of the court, as the case may be, and shall be accompanied by a diagram showing the lots or parcels of land to be reassessed and their relation to the improvement.

Presentation

SEC. 39. The reassessment shall then be presented to the legislative body, which shall fix a time for hearing before it, which shall be at least twenty (20) days after the reassessment is so presented. The clerk shall then advertise the time of such hearing by publishing a notice in the newspaper in which the ordinance of intention for the acquisition and improvement was published unless the legislative body directs publication in some other newspaper. If the reassessment is to be against the property in a district, then this fact shall be set forth and the reassessment diagram referred to for particulars. Such notice shall be published for five (5) insertions, if the newspaper is a daily, or by two (2) insertions if the newspaper is published less frequently.

Notice of hearing

Hearing

SEC. 40. At the time fixed for the hearing, or at any time to which the hearing is adjourned, the legislative body shall consider the objections to the reassessment and in its discretion informally direct the revision, correction and modification of such reassessment in such manner as is most equitable to apportion to each lot or parcel of land thereby benefited the amount of the actual benefits derived from the acquisition and improvement. When the reassessment is revised or corrected or modified to comply with the judgment of the legislative body, it shall pass a resolution confirming the reassessment.

Confirmation

Recordation, etc

SEC. 41. The street superintendent shall thereupon record the reassessment with a certificate at the end thereof by the clerk that it is the reassessment approved by the legislative body. He shall also note opposite the several assessments in the original assessment that have been displaced by the reassessment the fact that the reassessment has been made, giving its date, and shall credit upon such reassessment all payments theretofore made upon the original assessment, or upon the

bonds issued to represent the original assessment, together with interest on such payments at the rate of seven per cent (7%) per annum from and after the date of such payments.

Collection

SEC. 42. The reassessment shall be collectible and payable in the same manner as an original assessment and shall be enforceable in the same manner provided for enforcing an original assessment, and shall have the same weight in evidence. If bonds were issued under or upon the security of the original assessment, they shall also issue upon the reassessment for such sum as may be reassessed against the lots or parcel of land covered thereby.

Bonds

Cancellation of original assessment and bonds

SEC. 43. When the reassessment is recorded, the original assessment shall be canceled by the street superintendent so far as it affects the particular assessments involved. New bonds shall not be issued until the original bonds are delivered up to the treasurer who shall cancel them. The lien of the reassessment shall hold its relative rank as to other special assessment liens as of the date of filing of the original assessment.

Lien

PART 7

Commission

SEC. 44. Whenever in any city a vehicle parking district is created under this act, the legislative body of the city, immediately upon the acquisition of the parking places to be acquired pursuant to the petition for the formation of the district, shall appoint a commission which shall have charge of all of the parking places theretofore or thereafter acquired and constructed and to be paid for by taxes or assessments upon lands in that vehicle parking district. The commission shall consist of three members. Each commissioner shall be a resident and qualified elector of the city. Members of the commission shall serve without compensation.

Terms of commissioners

The commissioners shall hold office for the term of three years from the date of their appointment and qualification and until their successors are appointed and qualified, except that members of the first board appointed shall classify themselves by lot so that one member holds office for one year, one for two years, and one for three years, and, in each instance, until a successor has been appointed and qualified; provided, however, that by a four-fifths vote a commissioner may be removed by the legislative body at any time.

Commissioners' powers

SEC. 45. The board of parking place commissioners appointed to manage the parking places acquired or constructed under proceedings for a vehicle parking district shall have possession and control of all parking places acquired and constructed and paid for or to be paid for by taxes or assessments upon lands in the district, and the said board shall operate, manage and control all of said parking places and shall make and enforce all necessary rules and regulations for the use thereof. It shall fix, regulate and collect rentals, fees or charges for the parking of vehicles therein and may provide different rates for different classes of customers or users. Such

rentals, fees and charges shall be fixed after public hearing following such notice as the board of parking place commissioners may prescribe. It shall appoint such employees, said employees to be selected as other city employees are selected, as it deems necessary and shall have complete charge, supervision and control of all parking places acquired and constructed through taxation or assessment upon lands in such district.

Annual estimate of expenditures

SEC. 46. On or before June 30th of each year the board shall prepare an annual estimate of the expenditures required for the maintenance, operation, repair and improvement of the parking places under its charge for the ensuing fiscal year and shall estimate the amount of revenues to be derived from rentals, fees or charges for the use of said parking places and the amount, if any, to be raised by taxation. This estimate shall be filed with the legislative body of the city, and said legislative body at the time and in the manner for levying general municipal taxes shall levy and collect upon and against all of the taxable land and improvements within the vehicle parking district a special ad valorem tax sufficient to raise the sum of money estimated as required to be raised by taxation; provided, however, that the tax levy for maintenance and operation of said parking places in any year shall not exceed five cents ($0.05) on each one hundred dollars ($100) assessed value of taxable land and improvements within the district. Said special tax shall be levied and collected at the same time and in the same manner and by the same officers and with the same interest and penalties as general city taxes levied by the legislative body. The proceeds of said tax shall be placed in the district maintenance and operation fund and expended only for the maintenance, operation, repair and improvement of parking places acquired and constructed from taxes or assessments upon land in said district.

Filing

Special ad valorem tax

Limitation on amount

Levy and collection

Disposition of proceeds

Disposition of fees, etc

All revenues from fees, charges or rentals for the use of any parking place acquired and constructed by taxes or assessments upon lands in any vehicle parking district shall be turned over to the city treasurer and by him placed in the proper district maintenance and operation fund from which payment shall be made, upon order of the board of parking place commissioners, for the maintenance, operation, repair and improvement of said parking places.

PART 8

Sale of property acquired

SEC. 47. Whenever any property acquired for parking places is not needed for that public use, the legislative body of the city is authorized to sell the same. Any moneys received from the sale of such property shall be placed in the maintenance and operation fund of the district taxed or assessed for the acquisition of the land sold and may be used for the improvement or repair of any parking places acquired by assessments or taxes upon the property in said district.

Title to property

SEC. 48. All real property shall be acquired or condemned in the name of the city and title to such property shall be in the city. All contracts for the purchase of real property hereunder shall be made by the legislative body of the city.

Acquisition of additional space

SEC. 49. Whenever the commission in charge of the parking places acquired or constructed by taxes or assessments upon land in a vehicle parking district determines by resolution that additional parking places should be acquired by taxation or by assessment upon lands in said district, a certified copy of the resolution shall be filed with the legislative body of the city, and said legislative body may thereafter proceed to acquire such additional parking places and to provide for the payment therefor by an ad valorem tax levied upon all lands in the vehicle parking district or by a special assessment upon the lands therein levied in accordance with benefits. The legislative body may use any procedure in this act or in the Street Opening Act of 1903 for the levy of said special assessments and the collection thereof, and may issue bonds under this act to represent unpaid assessments.

Further improvements

SEC. 50. After the improvements to be made under the initial proceeding inaugurated by petition have been completed, any further improvement of any parking place shall be made by the board of parking place commissioners in charge thereof.

Alternative method of administration

SEC. 51. As an alternative method of administration, upon request made to the legislative body of the city by the owners of fifty per cent (50%) of the assessed value of taxable land in each vehicle parking district created in such city, as shown by the last equalized assessment roll of the county, the parking places acquired and constructed by taxes or assessments upon land in such district or districts shall be managed, operated and controlled by a commission appointed by the legislative body of the city to have charge thereafter of all parking places in such city acquired under this act.

Powers of legislative body of city

SEC. 52. Except as otherwise provided herein, all legislative authority and jurisdiction hereunder shall be exercised by the legislative body of the city in which the district or proposed district lies. Whenever any notice is to be given or posted under this act and the officer to give or post said notice is not designated, such notice shall be given or posted by the clerk of the legislative body. No notice or posting shall be invalidated because given or done by an officer other than the one whose duty it is to give such notice or perform such posting.

Validity of proceedings, etc.

SEC. 53. No proceedings taken, assessment levied, or bond issued under this act shall be held invalid for failure to comply with the provisions hereof; provided, the acts done and proceedings taken are not invalid under the provisions of the State and Federal Constitutions. Any procedure not herein expressly set forth but deemed necessary or convenient to carry out any of the purposes of this act is hereby authorized.

Remedies not exclusive

The remedies herein provided for the enforcement of any assessment levied or bond issued under the provisions of this act are not exclusive and additional remedies may be provided at any time. The curative clauses of this act are cumulative and each of them is to be given full force and effect.

Curative clauses cumulative

Abandonment of proceedings

SEC. 54. Any proceeding for the creation of a vehicle parking district and the acquisition and improvement of parking places under this act may be abandoned by the legislative body of the city prior to the issuance of bonds for the acquisition and construction of such parking places.

Short title

SEC. 55. This act shall be known as and, whenever cited, referred to or amended, may be designated as the "Vehicle Parking District Act of 1943."

Majority protest

Following the filing of any petition under Part 1 of this act the proceedings required under the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 shall be taken prior to the adoption of the ordinance of intention hereunder and all of the provisions of said act shall apply to any such proceedings. A majority protest filed any time prior to the adoption of the ordinance ordering any acquisition and improvement hereunder shall terminate the proceeding.

Construction

SEC. 56. This act shall be liberally construed. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this act. The Legislature declares that it would have passed this act irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases thereof be declared unconstitutional.

Constitutionality

Other laws

SEC. 57. This act shall in nowise affect any other act or acts now existing or which may hereafter be passed relating to the same or any similar subject, but is intended to provide an alternative authority and procedure for the subject to which it relates. When proceeding under the authority of this act, its provisions and none other need be followed.

Chartered city

SEC. 58. Whenever any official or board designated in this act is not and can not be provided for by a charter city using this act, then all acts hereunder to be done by such official or board shall be done and performed by, and all jurisdiction and authority given herein to such official or board shall be vested in, the official, board or other body of such charter city empowered by the charter to perform said acts and exercise said jurisdiction and authority.

CHAPTER 972

An act to amend Section 3714 of the Political Code, relating to annual financial estimates of counties.

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 3714 of the Political Code is hereby amended to read as follows: Stats 1941, p. 2131

3714. On or before the tenth day of July in each year, at such time as the county board of supervisors may direct, each county official elective or appointive, or person in charge of any office, department, service, institution or district of the county, excepting irrigation and reclamation and any other district where a tax levy for such district is not carried on the regular county, or city and county assessment roll including township officers and the judges of any court of record, and the executive head of each special district whose affairs and funds are under the supervision and control of the county board of supervisors or for which the county board of supervisors is ex officio the governing body, shall file with the county auditor of such county, an itemized estimate showing both the probable revenues from sources other than taxation that will accrue to his department, office, service, institution, or district, during the fiscal year, to which the budget is intended to apply, and all expenditures required by such department, office, service, institution or district, for the same period, together with a brief explanatory statement of the requested increases in expenditures over the current fiscal year, or if such estimate is not presented before the first day of July, such statement should show the increases in expenditures over the last completed fiscal year. The county board of supervisors shall submit to the county auditor a statement showing all new road and bridge construction and grade separation, classified by funds from which the same are to be financed, for the fiscal year to which the budget is intended to apply, together with the estimated cost thereof. The county board of supervisors shall also submit a similar statement showing their road and bridge maintenance or betterment program, as nearly as can be estimated, as well as an estimate of all expenditures for construction or improvement purposes proposed to be made from the proceeds of bonds or other income not yet authorized; provided, that not to exceed 20 per cent of the moneys belonging to any road district may be carried in an "unappropriated reserve," and shall be available for the use of said district to cover expenditures that may have been insufficiently provided for or for unforeseen requirements as they may arise. Annual financial estimates

School district estimates shall be submitted on the twentieth day of July through the county superintendent of schools in the manner heretofore prescribed by law, on forms prescribed by the State Department of Education, all other estimates required in this section shall be submitted on forms School district estimates

prescribed by the State Controller, and may only be varied or departed from with the approval of said department; provided, however, that any county may without disturbing the uniformity of the forms and data prescribed, add to the information required or show the same in more detail. The county auditor is hereby directed to provide such forms, and it is made his duty to prepare the estimates for interest and debt redemption requirements and any other estimates, the preparation of which properly falls within the duties of his office; provided, that in the absence, failure, or disability of any official, or person, required to furnish estimates hereunder, such estimates shall be furnished by the official or employee in charge of such office, department, service, institution, or district, during such absence or disability, or such estimates may be prepared and furnished by the county board of supervisors.

Auditor's tabulation of proposed expenditures and revenues

2 From such estimates, the county auditor shall prepare a tabulation showing the complete expenditure program of the county, school districts and special districts for the fiscal year to which the budget is intended to apply, and the sources of revenue by which it is to be financed. Such tabulation shall set forth the estimated revenue from sources other than taxation for each office, department, service, institution, or district, for the fiscal year to which the budget is intended to apply, compared with the corresponding figures of the last completed fiscal year, the estimated unencumbered surplus, after allowing for outstanding orders, contracts or other commitments, at the close of the current fiscal year, if such estimate is presented before July 1st, or the actual unencumbered surplus at the close of the last completed fiscal year, if such estimate is presented after July 1st, and the amount proposed to be raised by taxation; the estimated expenditures for each office, department, service, institution, or district, for the fiscal year to which the budget is intended to apply, the actual expenditures for the last completed fiscal year, together with the actual expenditures that have accrued for the current fiscal year and an estimate of the expenditures that will accrue for the remainder of such current fiscal year, if such estimate is presented before July 1st, and the sums necessary to be provided as "general reserves," or a general reserve as hereinafter provided.

Classification of expenditures

Such estimates of expenditures shall be classified to set forth the data by funds, organization units, character and objects of expenditure; the organization units may be subclassified by functions and activities at the discretion of the county board of supervisors, but the expenditures for each organization unit shall be classified under the general classes of (1) salaries and wages; (2) maintenance and operation; (3) capital outlay; (4) interest and debt redemption; and, (5) expenditures proposed to be made from bonds or other income not yet authorized.

Within the general class of "salaries and wages" each salary shall be set forth separately, together with the title or designation of the recipient; provided and excepted, that in counties empowered by charter to increase or decrease the number of deputies and assistants in any office an unitemized estimate may be made to cover the salaries and wages of such deputies and assistants. Wages for day labor may be given in totals by designating the general purpose or object for which the expenditure is to be made Expenditures coming under the general classification of "maintenance and operation" shall show the major subdivisions and objects for which such expenditure is to be made. Expenditures coming under the general classification of "capital outlay" shall show the major subdivisions and objects for which such expenditure is to be made, except that expenditures for structural or nonstructural improvements shall be listed separately as to each project. Under the general class of "interest and debt redemption" shall be set forth separately each series or issue of bonds, together with its individual requirements for interest and redemption. The total amount of emergency appropriations made during the last completed fiscal year shall be set forth separately together with a statement showing the amount issued for each emergency, a list of appropriations canceled showing the amount of each and a list showing each appropriation made from the unappropriated reserves and the amount thereof.

Consideration by supervisors

3. The said tabulation shall be submitted by the county auditor to the clerk of the county board of supervisors on or before the thirtieth day of July of each year, at such time as the county board of supervisors may direct. Said county board of supervisors shall, upon receipt thereof, consider the same in detail, and shall on or before the tenth day of August of each year at such time as the county board of supervisors may direct, make, except as otherwise provided in this section, any revisions, reductions or additions therein, that it may deem advisable, setting forth thereon such changes as have been made to make said budget conform to the judgment and conclusion of the county board of supervisors as to a proper financial program for the county for the fiscal year to which the budget is intended to apply; provided, however, that the estimate submitted by any official, or person, as designated herein shall not be increased or reduced until such official or person shall have first had a hearing thereon before said county board of supervisors; it is further provided, that no school district budget shall be revised, reduced or added to except by the board of school district trustees, except to bring it within the maximum tax limits provided by law. In counties empowered by charter to increase or decrease the compensation and number of deputies and assistants in any office, the county board of supervisors shall, on or before the thirtieth day of May of each year adopt a salary ordinance.

Unappropriated reserves

The county board of supervisors may, if it deem advisable, set aside a portion of each fund, other than school funds, to be known as "unappropriated reserves" which shall not exceed 10 per cent of the total amount of said fund exclusive of surplus; provided, that in any fund from which expenditures are to be made wholly from surplus 10 per cent of the estimated expenditures may be so reserved, or in lieu thereof a general unappropriated reserve which shall not exceed 10 per cent of the total budget exclusive of all items for bond interest and redemption. The money in such unappropriated reserves shall be available for appropriation by a four-fifths vote of the members of the county board of supervisors present at any meeting of which all members shall have had reasonable notice, to cover expenditures that have not been provided for or that may have been insufficiently provided for or for unforeseen requirements as they may arise.

General reserves

Said budget shall contain an amount or amounts to be known as a general reserve or "general reserves," if carried in separate funds, in such sum or sums as the county boards of supervisors shall deem sufficient, for the fiscal year for which the budget is intended to apply, to meet the cash requirements of any fund to which the county's credit may be legally extended for that portion of such fiscal year prior to the receipt of taxes therein. Sums withdrawn from such "reserves" shall be returned thereto out of the respective appropriations in favor of which they were so withdrawn, and the amount thereof if found excessive, may, at the end of the fiscal year, be reduced by the county board of supervisors by applying such excess to the reduction of the tax levy. It shall be the duty of the county auditor or a deputy designated by him to attend the board's hearings on the matter contained in his tabulation and the preliminary budget, and to furnish said county board of supervisors with any additional data or information it may require.

Preliminary budget

Said tabulation with such revisions, additions, or changes as have been made therein as herein provided, shall constitute the preliminary county budget for the fiscal year to which the budget is intended to apply. Said budget in which shall be set forth the auditor's tabulation and each individual estimate required as per Subdivisions 1 and 2 hereof, shall, on or before the tenth day of August of each year at such time as the county board of supervisors may direct, be printed or mimeographed in full in pamphlet form in quantities sufficient to supply one copy to each taxpayer requesting same, and said county board of supervisors shall on or before such date cause to be published once in a newspaper of general circulation throughout the county, notice that said budget has been prepared and is available for distribution to the taxpayers desiring a copy thereof. Such printed or mimeographed budget shall show such tabulation and fiscal information as the State Controller may prescribe in order to provide for uniform reports as between various counties; provided, however, that any county

may without disturbing the uniformity of data prescribed add to the information required or show the same in more detail. Such notice shall also set forth that on a date named therein, which date shall be not less than 10 days subsequent to date that said budget is available to taxpayers desiring a copy thereof, the county board of supervisors will meet for the purpose of fixing the final budget designating the time and place of such meeting, and setting forth that any taxpayer may appear thereat and be heard for or against any part of said budget.

Hearing on preliminary budget

4. On or before the twentieth day of August of each year at such time as the county board of supervisors may direct, said board, shall meet at the time and place designated in the notice, provided in Subdivision 3 hereof, at which time and place any taxpayer may appear and be heard for or against any part of such budget. Such hearing shall be continued from day to day until concluded, but not to exceed a total of 10 days; provided, however, that such hearing shall be concluded before the expiration of 10 days if there are no requests or applications on file with the board for further hearing. The county board of supervisors shall have power to call in the official or person in charge of any office, department, service, institution, or district, other than school districts at the time the estimates for their respective offices are under consideration, for examination concerning such estimates, and such official or person shall be called by said county board of supervisors upon the request of any taxpayer for questioning upon such estimates.

The board of supervisors shall set aside at least one day of the period within which a hearing on the budget may be had, at which any authorized officer of any city within the county may appear and be heard on matters pertaining to the financing of streets, roads and highways both within and without the incorporated areas of the county.

Adoption of budget

Upon the conclusion of such hearing but not later than the thirtieth day of August of each year at such time as the county board of supervisors may direct, said board shall by resolution, adopt the budget as so finally determined, which resolution may specify appropriations by general classes for "salaries and wages," "maintenance and operation," and "interest and debt redemption," and shall specify by items all appropriations for "capital outlays" and shall file in their offices a copy of the completed budget. The several amounts specified in the resolution as finally enacted, shall be and become appropriated for the several offices, departments, services, institutions or districts, for the fiscal year to which the budget is intended to apply; provided, however, that if the budget as adopted, for any fund, special or school district, requires a tax levy greater than the legal limit as determined by the equalized valuations as shown on the assessment roll, such budget shall be decreased so as to come within the legal requirements, and this revised amount shall be the amount

deemed to be appropriated for such purposes for such fiscal year. Nothing in this section shall be construed as removing or in any way affecting any tax limit heretofore fixed by law.

Tax rate and levy

5. The county board of supervisors shall, not later than the first day of September, fix the rates of county and district taxes designating the number of cents levied for each fund upon each one hundred dollars ($100) of assessed value of the county for the current fiscal year to raise the amount of the estimated expenditures as finally determined, less the total of the estimated revenues from sources other than taxation, including available surplus, and such expenditures as are to be made from bond sources, and must levy the State, county and district taxes. All taxes shall be levied, upon the taxable property in the county, as provided by law, in specific sums, and the tax for county and local purposes shall not exceed the amount specified in the budget, after allowing for delinquency as provided by law; provided, that it shall not be lawful for any board of supervisors of any county in the State to levy, nor shall any tax greater than seventy-five cents ($0.75) on each hundred dollars ($100) of property be levied and collected in any one year, to pay the bonded indebtedness or judgments arising therefrom, of this State, or of any county or municipality in this State.

Copy of budget and tax levies to Controller

The clerk of the county board of supervisors shall immediately forward a copy of the completed budget and tax levies to the State Controller.

Estimate adopted constitutes appropriation

The estimates of expenditures, classified as required in Subdivision 2 hereof, and as finally fixed and adopted by said county board of supervisors, shall constitute the appropriations for the county for the fiscal year to which the budget is intended to apply and the county board of supervisors and every other county official, or person, including township officers and judges of any court of record, shall be limited in the making of expenditures or the incurring of liabilities to the amount of such appropriations and classifications respectively; provided, that upon a resolution, formally adopted by the county board of supervisors at a regular or special meeting, and entered upon its minutes, transfers or revisions within the general classes of "salaries and wages," "maintenance and operation," and "capital outlay" may be made. Transfers between the general classes provided in Subdivision 2 hereof, shall not be permitted; provided, that in the case of road and bridge maintenance appropriations, any lawful transfer, deemed necessary, may be made; and it is further provided, that the county board of supervisors may by a four-fifths vote of the members present at any meeting of which all members have had reasonable notice cancel any appropriation in whole or in part that is not needed, and return such amount to the "unappropriated reserve" of the fund from which such appropriation was originally made.

Bond issue

Where any budget shall contain an expenditure program to be financed from a bond issue to be authorized thereafter, no

such expenditure shall be made or obligations therefor incurred, except such preliminary expenditures as may be now provided by law, until such bonds have been duly authorized and sold. Expenditures made, liabilities incurred, or warrants issued in excess of any of the budget appropriations as originally determined, or as thereafter increased from the "unappropriated reserves" or as thereafter revised by transfer, as herein provided, shall not be a liability of the county, but the official making or incurring such expenditure in an amount known by him to be in excess of the available balance of the appropriation against which it is drawn, shall be liable therefor personally and upon his official bond. The county board of supervisors shall approve no claim, and the county auditor shall issue no warrant for any expenditure in excess of said budget appropriations, as finally adopted or as thereafter increased from the "unappropriated reserves" or by a transfer as herein provided by said county board of supervisors, or as revised under the provisions herein except upon an order of a court of competent jurisdiction, or for an emergency, as hereinafter provided. Limitations

Nothing herein contained shall be construed as affecting any authority now granted the county board of supervisors to enter into any contract for governmental services for a period exceeding one year; provided, that such contract shall only be considered an encumbrance of the fund from which it is to be liquidated in the amount of indebtedness accruing to June 30th of each fiscal year covered by such contract. Construction

It is expressly provided that school districts are included herein for the sole purpose of making possible the printing or mimeographing of a proposed expenditure program of moneys collected through county and district tax levies, in order to make possible a ready analysis of such tax levies by the taxpayers and county officials of the county, and it is further expressly provided that nothing in this section shall be construed as requiring any greater detail in school district budgets, nor as allowing any control, alteration or revision thereof or expenditure thereunder not heretofore provided by law, nor as placing any penalty upon any action of any school district board or officer not so heretofore provided. School districts included

6. Upon the happening of any emergency caused by fire, flood, explosion, storm, earthquake, epidemic, riot, or insurrection, or for the immediate preservation of order or of public health, or for the restoration to a condition of usefulness of any public property, the usefulness of which has been destroyed by accident, or for the relief of a stricken community, overtaken by calamity, or the settlement of approved claims for personal injuries, or for property damages, exclusive of claims arising from the operation of any public utilities, owned by the county, or to meet mandatory expenditures required by law, the county board of supervisors may upon the adoption, by a four-fifths vote of the members present at any meeting, of the time and place of which all the members Emergency expenditures

of such board shall have had reasonable notice, of a resolution stating the facts constituting the emergency and entering the same upon the minutes, make the expenditure necessary to meet such emergency.

All emergency expenditures shall be paid by warrant from any moneys on hand in the county treasury, in any fund properly chargeable with such expenditure, and the county treasurer is hereby authorized and directed to pay such warrants out of any moneys in the treasury in such fund. If, at any time, there shall be insufficient moneys on hand in the treasury to pay any of such warrants, then such warrant shall be registered, bear interest, and be called in the manner provided by law for other county warrants.

Unencumbered balances

The unencumbered balance remaining in any fund at the end of the fiscal year shall be carried over to the credit of such fund for the next fiscal year, and shall be deducted from the amount finally determined as necessary to be expended by that fund, for such fiscal year; provided, however, that nothing in this act shall be construed as affecting the right of a county to levy, budget, and expend for highway purposes, the maximum tax provided in Sections 2653 and 4041 of the Political Code in addition to such unencumbered balance; provided, that all balances remaining to the credit of any fund which is not to be continued in the succeeding fiscal year, shall revert to the general fund, except as to such funds as belong to special districts and are not a part of general county finances.

All contractual services rendered or deliveries made prior to the first day of July of each fiscal year, shall be taken into account as expenditures of the year in progress.

Reappropriation

If at the beginning of any fiscal year the appropriations necessary for the support of the various county officers, departments, services, institutions or districts for such fiscal year shall not have been made, the several amounts appropriated in the budget of the preceding year for the objects and purposes therein specified, so far as the same shall relate to the operation and maintenance expenses, shall be deemed to be reappropriated for the several objects and purposes specified in said previous year budget until the county board of supervisors shall complete the budget for the current fiscal year and the county auditor shall approve the payments necessary for the support of the various county offices, departments, services, institutions, or districts on the basis of the appropriations of the preceding fiscal year.

Monthly statement by county auditor

7. On or before the tenth day of each month, or such other date in any month as the county board of supervisors may direct, the county auditor shall submit to the county board of supervisors a statement showing such information with respect to the condition of each separate budget appropriation as the county board of supervisors may require.

8. It is hereby made the duty of the State Controller to prescribe forms, to initiate or approve changes therein whenever in his judgment same are advisable, and to promulgate such rules, regulations and classifications as may be necessary to carry out the provisions of this act. Duty of State Controller

9. Nothing in this section shall be deemed or construed to apply to, control, or affect the powers, operation, taxes or taxing power of any district in the county whose affairs and funds are not under the supervision and control of the county board of supervisors. Exemption

10. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases, be declared unconstitutional. Constitutionality

11. All acts and parts of acts in conflict with this act are hereby repealed. Repeal

12. Inasmuch as this act provides the method by which the appropriations for the usual current expenses of the various counties and districts of the State are to be prepared and submitted and inasmuch as this information and data must be compiled before the beginning of the next fiscal year, it is hereby declared an urgency measure and shall under the provisions of Section 1 of Article IV of the Constitution of the State of California take effect immediately. Urgency

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CHAPTER 973

An act to amend Section 162 of the Welfare and Institutions Code, relating to the expenses of deporting nonresident persons who were committed to State institutions. Stats 1937, p 1005, amended

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 162 of the Welfare and Institutions Code is amended to read: Stats 1937, p 1005

162. All expenses incurred in returning such persons to other States shall be paid by this State, the person or his relatives, but the expense of returning residents of this State shall be borne by the States making the returns. Expense of return

The cost and expense incurred in effecting the transportation of such nonresident persons to the States in which they

have residence shall be advanced from the funds appropriated for that purpose, or, if necessary, from the money appropriated for the care of the delinquent, or the insane or incompetent upon vouchers approved by the State Board of Control.

CHAPTER 974

Stats 1937, p 1005, amended

An act to amend Section 1713 of the Welfare and Institutions Code, relating to the Advisory Panel created by the Youth Correction Authority Act.

In effect August 4, 1943

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.]

The people of the State of California do enact as follows:

Stats. 1941, p 2522

SECTION 1. Section 1713 of the Welfare and Institutions Code is amended to read:

Advisory panel

1713. The following persons are hereby constituted the Advisory Panel: The President of the California Conference of Social Work, the President of the California Probation and Parole Officers Association, the President of the State Bar of California, the President of the California Medical Association, the President of the California Teachers' Association and the President of the Prison Association of California.

CHAPTER 975

Stats 1935, p 248, amended

An act to amend Section 5362 of the Streets and Highways Code, relating to notices of filing of and hearings on assessments under the Improvement Act of 1911.

In effect August 4, 1943

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.]

The people of the State of California do enact as follows:

Stats 1941, p 751

SECTION 1. Section 5362 of the Streets and Highways Code is amended to read:

Notice of filing

5362. The assessment shall be filed with the clerk. The clerk shall give notice of the filing of the assessment and of a time to be therein fixed by the clerk when all persons interested in the work done or in the assessment will be heard by the legislative body. The notice shall be posted and in addition be published. The first publication shall be not less than 15 days before the time fixed for the hearing.

First publication

CHAPTER 976

An act to amend Sections 5.129, 5.344 and 5.534 of the School Code and to add Sections 12009.1, 12894.1 and 13204.1 to the Education Code, relating to persons in the military service, including service in uniformed auxiliaries thereof or thereto, of the United States of America or of the State of California, declaring the urgency thereof, to take effect immediately.

Stats 1943, Ch 71, amended

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.]

In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Section 5.129 of the School Code is amended to read:

Stats 1941, p 2512

5.129. Whenever the date of expiration of any credential occurs while the person holding the credential is in the active military service of the United States of America or of the State of California, including active service in any uniformed auxiliary of, or to, any branch of such military service created or authorized as such auxiliary by the Congress of the United States of America or by the Legislature of the State of California, or in the full time paid service of the American Red Cross, during any National emergency declared by the President of the United States of America, or during a war in which the United States of America is engaged, such credential is hereby continued in force until six months after such person honorably leaves such service or has been placed on inactive duty.

Credentials expiring during military service

The holder of a credential so extended shall be entitled to a renewal of the credential prior to its date of expiration as herein fixed, subject to the provisions of this code relating to the renewal of credentials.

SEC. 2. Section 5.344 of the School Code is amended to read:

Stats 1941, p 2512

5.344. Whenever the date of expiration of any certificate occurs while the person holding the certificate is in the active military service of the United States of America or of the State of California, including active service in any uniformed auxiliary of, or to, any branch of such military service created or authorized as such auxiliary by the Congress of the United States of America or by the Legislature of the State of California, or in the full time paid service of the American Red Cross, during any National emergency declared by the President of the United States of America, or during a war in which the United States of America is engaged, such certificate is hereby continued in force until six months after such person honorably leaves such service or has been placed on inactive duty.

Certificates expiring during military service

The holder of a certificate so extended shall be entitled to a renewal of the certificate prior to its date of expiration as herein fixed, subject to the provisions of this code relating to the renewal of certificates.

Stats 1941, p 2510

SEC. 3. Section 5.534 of the School Code is amended to read:

Leave of absence for military service

5.534. Every person employed by a school district as a probationary or permanent employee in a position requiring certification qualifications who enters the active military service of the United States of America or of the State of California, including active service in any uniformed auxiliary of, or to, any branch of such military service created or authorized as such auxiliary by the Congress of the United States of America or by the Legislature of the State of California, or in the full time paid service of the American Red Cross, during any period of National emergency declared by the President of the United States of America or during any war in which the United States of America is engaged, shall be entitled to absent himself from his duties as an employee of the district.

Such absence shall not affect, in any way, the classification of such employee. In the case of a probationary employee the period of such absence shall not count as part of the service required as a condition precedent to the classification of such employee as a permanent employee of the district, but such absence shall not be construed as a break in the continuity of the service of such employee for any purpose.

Within 90 days after such employee honorably leaves such service or has been placed on inactive duty he shall, subject to the provisions of this section, be entitled to return to the position held by him at the time of his entrance into such military service, at the salary to which he would have been entitled had he not absented himself from the service of the school district under this section.

Right of returning employee to finish contract term

If such employee was employed under a lawful contract for a period in excess of one year in a position in which he had not become a permanent employee of the district, he shall be entitled to return to such position for the period his contract of employment had to run at the time he entered such military service. Notwithstanding any provision of this code to the contrary, a person employed to take the place of any such employee shall not have any right to such position following the return of such employee to the position.

Note.—See Stats. 1943, Ch. 71.

Effect: Stats 1943, Ch 71

SEC. 7. Sections 4, 5 and 6 of this act become operative only if the Education Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said code takes effect; at which time Sections 5.129, 5.344 and 5.534 of the School Code amended by this act are hereby repealed.

Repeal

SEC. 8. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows: Urgency

Many persons holding credentials and certificates authorizing service in the public schools of California are or soon will be in the military service of the United States or of the State of California. The protections properly afforded many such persons by this act were originally provided by legislation enacted in 1941 which will by the terms of such legislation expire July 2, 1943. Unless this act takes effect prior to that date such protections will expire and for that reason this act should take effect immediately.

CHAPTER 977

An act to amend Sections 1, 4, 5 and 5a of an act entitled "An act to regulate the sale and use of poisons in the State of California and providing a penalty for the violation thereof," approved March 6, 1907, as amended, relating to poisons. Stats 1907, p. 124, amended

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 1 of the act cited in the title is amended to read: Stats. 1933, p. 750

Section 1. It shall be unlawful for any person to vend, sell, give away or furnish, either directly or indirectly, any poisons enumerated in schedules "A" and "B" in Section 5a of this act as hereinafter set forth, without labeling the package, box, bottle or paper in which said poison is contained, with the name of the article, the word "poison," and the name and place of business of the person furnishing the same. Said label shall be substantially in the form hereinafter provided. It shall be unlawful to sell or deliver any of the poisons named in schedule "A" or any other poison, which may from time to time be designated by the State Board of Pharmacy of California, unless on inquiry it is found that the person desiring the same is aware of its poisonous character, and it satisfactorily appears that it is to be used for a legitimate purpose. It shall be unlawful for any person to give a fictitious name or make any false representations to the seller or dealer when buying any of the poisons thus enumerated; provided, that this prohibition shall not apply to an officer or inspector of the State Board of Pharmacy in the performance of the duties enjoined by law upon said board, or to any person acting under authority of said board in the performance of Sale without labeling

said duties. Printed notice of all such additions to the schedule of poisons named and provided for in this section, and the antidote adopted by the Board of Pharmacy for such poisons shall be given to all registered pharmacists with the next following renewal of their certificates. It shall be unlawful to sell or deliver any poison included in schedule "A" or the additions thereto, without making or causing to be made, at the time of said sale, an entry in a book kept solely for that purpose, stating the date and hour of sale, and the name, address and signature of the purchaser, the name and quantity of the poison sold, the statement by the purchaser of the purpose for which it is required, and the name of the dispenser, who must be a duly registered pharmacist; provided, however, that said entry shall be made out in full, in ink before said signature of the purchaser is made thereto, and that said entry shall be made by said dispenser himself, and not by any person who is not a duly registered pharmacist.

Entries of sales in poison register

Said book shall be in form substantially as follows:

Form of poison register

Date and hour	Name of purchaser	Residence	Kind and quantity	Purpose of use	Signature of pharmacist	Signature of purchaser

This book shall always be open for inspection by the proper authorities, and shall be preserved for at least five years after the date of the last entry therein.

Stats 1913, p 692

SEC. 2. Section 4 of said act is amended to read:

Further restrictions on sales

Sec. 4. When in the opinion of the State Board of Pharmacy, it is in the interest of the public health, they are hereby empowered to further restrict, or prohibit the retail sale of any poison by rules, not inconsistent with the provisions of this act, by them to be adopted, and which rules must be applicable to all persons alike. For this purpose the board may establish an additional schedule which may be designated schedule "C" or such other designation as it may deem appropriate.

Additional schedule

Notice of rules

Notice of the adoption of such rules shall be given to the public in such manner as the board deems necessary. No person shall be subject to prosecution for violating the rule until the board has given due public notice of its rule. In addition to the public notice of the adoption of such rules, the board shall give written notice of the adoption of such rules within 30 days after the adoption thereof by sending written notice thereof to all drug stores licensed under Chapter 9 of Division 2 of the Business and Professions Code. It shall be the duty of the board, upon request, to furnish any dealer with a copy of the laws relating to articles, preparations and compounds, the sale of which is prohibited or regulated by this act or the rules of the board. No schedule adopted by or under the provisions of this act shall apply, except as herein specifically provided, to any economic poison as defined in Section 1061 of the Agricultural Code.

Copy of law

Exemption

SEC. 3. Section 5 of said act is amended to read:

Stats 1937, p. 1947

Sec. 5. Wholesale dealers and pharmacists shall affix or cause to be affixed to every bottle, box, parcel or other inclosure of an original package containing any of the articles named in schedule "A" the additions thereto, in Section 9 of this act, or in Section 1 of the State Narcotic Act, a suitable label, or brand with the word "poison" but they are hereby exempted from the registration of the sale of such articles when sold at wholesale to a registered pharmacist, physician and surgeon, dentist, chiropodist or veterinary surgeon duly licensed to practice in the State; provided, that the provisions of this act shall not apply to the sale of such upon the prescriptions of practicing physicians and surgeons, dentists, chiropodists or veterinary surgeons who are duly licensed to practice in this State.

Duties of wholesale dealers

SEC. 4. Section 5a of said act is amended to read:

Stats 1943, Ch. 348

Sec. 5a. The following is schedule "A" referred to in Section 1, viz.: Schedule "A," arsenic, its compounds and preparations, antimony and potassium tartrate, its compounds and preparations, poisonous salts of barium, cantharides, cowhage, digitalis, corrosive sublimate and other poisonous derivatives of mercury, cyanide, its compounds and preparations, fluorides, nitroglycerin, strychnine, hydrocyanic acid, oils of croton, rue, savin, and tansy, phosphorus and its poisonous derivatives and compounds, santonin, strophanthus or its preparations, aconite, belladonna, nux vomica, veratrum viride, their preparations, alkaloids or derivatives, ant poisons containing any of the poisons enumerated in this schedule except ant poisons which contain not to exceed four-tenths ($\frac{4}{10}$) of 1 per cent (1%) by weight of arsenic expressed in terms of metallic arsenic; provided, however, that the following shall not be included in this schedule, pills, or tablets of aloin belladonna and strychnine, plasters composed of aconite or belladonna, or elixir of iron quinine and strychnine or ethyl alcohol denatured in accordance with any formula approved by the Internal Revenue Department of the Federal Government for external use and all economic poisons, as that term is defined in Article 3 of Chapter 7 of Division 5 of the Agricultural Code, and licensed and registered thereunder and sold in original sealed packages and labeled with the official poison labels, except the following: Arsenate of lead, arsenate of calcium, paris green, london purple and hydrocyanic acid in original sealed packages of less than one pound and labeled with the official poison labels, any economic poison containing more than two (2) per cent strychnine or ten (10) per cent elemental phosphorus, ant poisons containing more than four-tenths ($\frac{4}{10}$) of 1 per cent (1%) by weight of arsenic expressed in terms of metallic arsenic, corrosive sublimate and cyanide of potassium; all of which economic poisons, with the above exceptions, may be sold by dealers generally, when prepared, packaged, and sold in accordance with rules and regulations authorized by the provisions of said article of the Agricultural

Schedule "A"

Code, anything in this or any other act to the contrary notwithstanding.

Schedule "B" The following is schedule "B": Hydrochloric or muriatic acid, nitric acid, oxalic acid, sulphuric acid, oil of bitter almond, bromine, chlorcform, creosote, conium, cotton root, cresolic acid, ether, solution of formaldehyde or formalin, cocculus indicus, all of their preparations; iodine or its tinctures, gelsemium, hyoscyamus, oil of pennyroyal, sugar of lead, sulphate of zinc, wood alcohol, lysol and compound solution of creosol, potassium permanganate, poisonous salts of silver and yellow jasmine.

Schedule "C1" The following is schedule "C1": Acetylurea, Sulphonated Methanes, Paraldehyde, Sulfanilamide, except in tablets of thirty (30) grains or more designed for stock purposes only and so labeled, preparations containing 5 per cent or less of sulfa salts for topical application, Sobisminol, Amidopyrine, Cincophen, Ergot, Diethyl-Stilbestrol, or any of their salts, derivatives, or compounds, or any preparation or compound containing any of the foregoing substances, may be sold at retail only on order or prescription of a physician and surgeon, dentist, chiropodist, or veterinary surgeon duly licensed to practice in the State of California, and shall not be refilled without order of the prescriber.

Schedule "C2" The following is schedule "C2": Amphetamine, Thyroid, Phenylhydantoin, or any of their salts, derivatives, or compounds, or any preparation or compound containing any of the foregoing substances or their salts, or derivatives, or compounds may be sold at retail only on the order or prescription of a physician and surgeon, dentist, chiropodist, or veterinary surgeon duly licensed to practice in the State of California. Such prescription may, however, be refilled only for the person for whom originally written.

CHAPTER 978

Stats 1901, p 576, amended *An act to amend Section 12 of "An act to establish police courts in cities of the second class, to fix their jurisdiction and provide for officers of said courts, and fix the compensation of certain officers thereof," approved March 23, 1901, relating to imprisonment of persons convicted in the courts.*

In effect August 4, 1943 [Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.]

The people of the State of California do enact as follows:

Stats 1901, p 576 SECTION 1. Section 12 of the act cited in the title hereof is amended to read:

Place of imprisonment Sec. 12. In all cases of imprisonment of persons convicted in said police court of any offense committed in the city,

the person so to be imprisoned shall be imprisoned in the city or county jail, provided that imprisonment shall be in the county jail only where the term is 60 days or longer.

CHAPTER 979

An act to add Section 21155.1 to the Education Code, relating to the State Nautical School.

Stats 1943, Ch 71, amended

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.]

In effect August 4, 1943

Note.—See Stats. 1943, Ch. 71.

CHAPTER 980

An act to amend Sections 6301, 6321, 6834, and 6502, to amend and renumber Sections 6443 and 6444 of and to add Section 6443 to, the Public Resources Code, relating to leases or exchanges of land by the State Lands Commission.

Stats 1939, p 1067, amended

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 6301 of the Public Resources Code is amended to read:

Stats 1941, p 1875

6301. The commission has exclusive jurisdiction over all ungranted tidelands and submerged lands owned by the State, and of the beds of navigable rivers, streams, lakes, bays, estuaries, inlets, and straits. All jurisdiction and authority remaining in the State as to tidelands and submerged lands as to which grants have been or may be made is vested in the commission.

Tidelands, etc.

The commission shall exclusively administer and control all such lands, and may lease or otherwise dispose of such lands, as provided by law, upon such terms and for such consideration, if any, as are determined by it.

SEC. 2. Section 6321 of said code is amended to read:

Stats 1941, p 1875

6321. The commission may, upon written application of the littoral owner, grant authority to any such owner to construct, alter or maintain, groins, jetties, sea walls, breakwaters, and bulkheads, or any one or more such structures, upon, across or over any of the swamp, overflowed, marsh, tide or submerged lands of this State bordering upon such littoral lands if, at the time of construction or alteration, such structures do not unreasonably interfere with the uses and purposes reserved to the people of the State. The commission shall make reasonable rules with reference to such applications and the location, type, character, design, size, and manner

Groins, jetties, etc Construction, etc.

Rules

under which such structures may be constructed, altered or maintained, and shall take suitable measures to enforce such rules. It shall fix and collect reasonable fees, not exceeding the actual cost, for the filing and examination of each such application, and for the performance of such other duties as may be required under the provisions of this chapter.

Fees

Notwithstanding anything in this article, no such fees for the filing and examination of applications shall be required of, nor collected from the United States or any agency thereof, or from the State, its agencies or political subdivisions.

Exemption

Stats 1941, p 1875

SEC. 3. Section 6834 of said code is amended to read:

6834. Whenever the commission determines that lands shall be leased as provided in Articles 3 and 4 of this chapter and when the form of lease therefor has been prepared by the commission, the commission shall give notice of intention to lease such lands. The notice shall be published in a newspaper of general circulation in the county in which the lands or the greater portion thereof are situated and shall state the time (which shall not be less than 14 days after the last date of publication of the notice) and place for receiving and opening bids, a description of the lands, either as a tract or by parcels, and that the form of lease for the purpose of bidding may be procured at the designated office of the commission.

Notice of intention to lease

If the notice is published in a weekly newspaper, it must appear therein on at least two different days of publication and if in a newspaper published oftener, there must be at least five days from the first to the last day of publication, both days included.

Period of publication

Stats 1941, p 1875

SEC. 4. Section 6443 of said code is renumbered and amended to read:

6444. Whenever in the judgment of the commission it is to the advantage of the State to exchange any of its public lands, as provided in Sections 6441, 6442 and 6443, the commission shall so certify to the Governor, who shall thereupon execute, on behalf of the State, any instruments of conveyance necessary to effect the exchange.

Execution of conveyances

New section

SEC. 5. Section 6443 is added to said code, to read:

6443. The commission may cooperate with the Secretary of the Interior, may select the lands of this State to be exchanged with the United States under Section 8 of an act of Congress entitled "An act to stop injury to the public grazing lands by preventing overgrazing and soil deterioration, to provide for their orderly use, improvement and development, to stabilize the livestock industry dependent upon the public range, and for other purposes," approved June 28, 1934, and may arrange with the proper officials of the United States for such exchange.

Cooperation with Secretary of Interior

Title 43, U S C Sec 315g

Stats 1941, p 1875

SEC. 6. Section 6444 is renumbered and amended to read:

6445. No lands shall be accepted in exchange under this article without the approval of the commission. All lands so acquired shall be subject to the laws governing State lands of the class from which the exchange was made.

Approval of commission

SEC. 7. Section 6502 of said code is amended to read: Stats 1941, p 1875

6502. Any person, firm or corporation desiring to lease any of the unsold public land owned by the State, for any purpose not prohibited or otherwise provided for by law, may make application therefor to the commission, describing the lands sought to be leased by legal subdivisions. The application shall be accompanied by a filing fee of five dollars ($5). No filing fee shall be required of the United States or any agency thereof, or of this State, its agencies or political subdivisions. Application to lease land / Fee / Exemption

All applications to lease lands under this chapter shall be approved or rejected by the commission within 90 days after the receipt thereof. Approval or rejection

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CHAPTER 981

An act to add Section 2 to an act entitled "An act making an additional appropriation for construction, improvements, and equipment at the University of California," approved July 8, 1941, relative to the period of time during which the moneys thereby appropriated are available for expenditure. Stats 1941, p 2534, amended

[Approved by Governor June 1, 1943. Filed with Secretary of State June 1, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 2 is added to the act cited in the title hereof to read: New section

Sec. 2. Section 435 of the Political Code does not apply to this act or the moneys appropriated by it. Exemption

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CHAPTER 982

An act to add Section 256.5 to the Revenue and Taxation Code, relating to exemptions from real property taxation, declaring the urgency thereof, to take effect immediately. Stats 1939, p 1274, amended

[Approved by Governor May 31, 1943. Filed with Secretary of State June 1, 1943.] In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Section 256.5 is added to the Revenue and Taxation Code, to read: New section

256.5. In any form of affidavit prescribed by the board to carry into effect the church exemption, the term "religious worship" shall be deemed to include the making use of property exempt from taxation under Section 1½ of Article XIII of the Constitution for the temporary lodging of members of "Religious worship"

the armed forces of the United States or any auxiliary branch thereof, whether or not any charge is made to cover any portion of the cost of furnishing such lodging and in such affidavit no specific mention need be made thereof. This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs.

Duration

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

During these times of war, hundreds of persons in the armed forces of the United States find themselves at night far from camp and unable to find a place to sleep in the overpopulated cities and towns. Unless some provision is made for the temporary lodging of these persons, they will be forced to wander in the streets all night. Therefore, it is imperative for the public health and safety that the churches be permitted to open their doors to these persons, in furtherance of their religious activities.

CHAPTER 983

Stats 1935, p 496, amended

An act to amend Section 706.7 of the Insurance Code, relating to insurance.

In effect August 4, 1943

[Approved by Governor June 2, 1943. Filed with Secretary of State June 2, 1943.]

The people of the State of California do enact as follows:

Stats 1941, p 1662

SECTION 1. Section 706.7 of the Insurance Code is hereby amended to read as follows:

"Reciprocal State"

706.7. As used in this section, the term "reciprocal State" means a State the laws of which prohibit an insurer domiciled therein from insuring the lives or persons of residents of, or property or operations located in, the State of California unless it then holds a valid and subsisting certificate of authority issued by the Insurance Commissioner of this State. Such prohibition may be subject to the exceptions herein set forth.

Contracts re reciprocal States

Subject to the exceptions herein set forth, a domestic insurer shall not enter into a contract of insurance upon the life or person of a resident of, or property or operations located in, a reciprocal State unless it is authorized pursuant to the laws of that State to transact such insurance therein. The commissioner shall, annually, mail notice to every domestic insurer, specifying the reciprocal States.

Notice

The exceptions to the provisions of this section are the following: Exceptions

(a) Contracts entered into where the prospective insurant is personally present in the State in which the insurer is authorized to transact insurance when he signs the application.

(b) The issuance of certificates under a lawfully transacted group life or group disability policy, where the master policy was entered into in a State in which the insurer was then authorized to transact insurance.

(c) The renewal or continuance in force, with or without modification, of contracts otherwise lawful and which were not originally executed in violation of this section.

CHAPTER 984

An act to amend Section 4 of the Bank and Corporation Franchise Tax Act, relating to bank and corporation taxes. Stats 1929, p 19, amended

[Approved by Governor June 2, 1943. Filed with Secretary of State June 2, 1943.] In effect *immediately*

The people of the State of California do enact as follows:

SECTION 1. Section 4 of the Bank and Corporation Franchise Tax Act is hereby amended to read as follows: Stats 1943, Ch 352

Sec. 4. (1) Every financial corporation doing business within the limits of this State, taxable under the provisions of Section 16 of Article XIII of the Constitution of this State, shall annually pay to the State for the privilege of exercising its corporate franchises within this State, a tax according to or measured by its net income, to be computed, in the manner hereinafter provided, upon the basis of its net income for the next preceding fiscal or calendar year at the rate provided for in Section 4a hereof. Tax on financial corporations

(2) Each such financial corporation shall be entitled to an offset against said franchise tax, in the manner hereinafter provided, in the amount of personal property taxes and license fees for the privilege of operating as personal property brokers, or brokers as defined in Chapter 634, Statutes of 1909, as amended, paid to this State or to any county, city and county, city, town or other political subdivision of the State, and licenses for the privilege of operating motor vehicles paid to this State under Chapter 362, Statutes of 1935, as amended; provided, however, that the tax on such financial corporation after the allowance of offset shall not be less than 4 per centum of its net income for the preceding fiscal or calendar year or less than twenty-five dollars ($25). Offset

(3) With the exception of financial corporations, every corporation doing business within the limits of this State and not expressly exempted from taxation by the provisions of the Tax on corporations other than financial

Constitution of this State or by this act, shall annually pay to the State, for the privilege of exercising its corporate franchises within this State, a tax according to or measured by its net income, to be computed, in the manner hereinafter provided, at the rate of 4 per centum upon the basis of its net income for the next preceding fiscal or calendar year. In any event, each such corporation shall pay annually to the State, for the said privilege, a minimum tax of twenty-five dollars ($25).

Minimum tax

Holding corporations

(4) Any corporation organized to hold the stock or bonds of any other corporation or corporations, and not trading in such stock or bonds or other securities held, and engaging in no other activities than the receipt and disbursement of dividends from such stock or interest from such bonds, shall not be considered a corporation doing business in this State for the purposes of this act.

Tax on corporations not otherwise taxed

(5) Every corporation not otherwise taxed in pursuance of this section and not expressly exempted by the provisions of this act or the Constitution of this State shall pay annually to the State a tax of twenty-five dollars ($25).

Exempt corporations

(6) The following corporations shall be exempt from taxation under this act:

(a) Labor organizations.

(b) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this act, shall not be taxed under this act.

(c) Corporations classified as diversified management companies under Section 5 of the Federal Investment Company Act of 1940, and registered as provided in that act, shall not be taxed under this act.

(d) Cemetery companies owned and operated exclusively for the benefit of their members; or which are not operated for profit; or any corporation chartered for cemetery purposes and permitted by its charter to engage in any business related to that purpose, no part of the net earnings of which inures to the benefit of any shareholder or member thereof.

(e) Corporations organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation.

(f) Business leagues, chambers of commerce, real estate boards, or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(g) Clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder.

(h) Religious or apostolic corporations, if such corporations have a common treasury or community treasury, even if such corporations engage in business for the common benefit of the members, but only if the members thereof include (at the time of filing their returns) in their gross income their entire pro rata shares, whether distributed or not, of the net income of the corporation for such year. Any amount so included in the gross income of a member shall be treated as a dividend received.

(7) Taxes under this section and under Sections 1 and 2 of this act shall accrue on the last day of the "income year," as defined in Section 11 hereof. Accrual of taxes

Taxes under this section shall be in lieu of all ad valorem taxes and assessments of every kind and nature upon the general corporate franchises of the corporations taxable hereunder but shall not be in lieu of any taxes or assessments upon special franchises owned, held or used by said corporations. All such special franchises shall be assessed annually by the State Board of Equalization (at their actual value) in the same manner as is provided for the assessment of other property to be assessed by said board under Section 14 of Article XIII of the Constitution of this State, and shall be subject to taxation to the same extent and in the same manner as other property so assessed by said board. Said board is hereby authorized and directed to assess said special franchises as of the first Monday in March of 1935 and annually thereafter. Ad valorem taxes. Special franchises

SEC. 2. This act, inasmuch as it provides for a tax levy for the usual current expenses of the State shall under the provisions of Section 1 of Article IV of the Constitution take effect immediately. However the provisions of this act shall only be applicable to income years ending after the effective date of this act. Tax levy. Application

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CHAPTER 985

An act to amend Sections 3 and 626 of, and add a new Section 633 to the District Organization Act (Statutes of 1933, page 2280), relating to the improvement district acts made applicable to the provisions for the dissolution of such districts in the manner provided in said District Organization Act. Stats 1933, p 2280, amended

[Approved by Governor June 2, 1943. Filed with Secretary of State June 2, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 3 of the District Organization Act is hereby amended to read as follows: Stats 1933, p 2280

Sec. 3. Except as provided in Section 633 of this act, this act does not repeal or otherwise affect any existing statutes, nor does it affect any district now existing. Its provisions Application and effect

shall apply and become operative only as and when and to the extent that they are adopted or incorporated by reference in an act providing for a particular district or type of district, except as provided by Section 633 of this act.

Stats 1933, p 2280

SEC. 2. Section 626 of the District Organization Act is hereby amended to read as follows:

Election on dissolution

Sec. 626. Upon the filing of a petition with the governing body signed by twenty (20) qualified electors of a district, the governing body may submit the question of dissolution of the district to the electors thereof.

New section

SEC. 3. Section 633 is hereby added to the District Organization Act, to read as follows:

Districts affected

Sec. 633. The provisions of this chapter shall apply to all districts the formation of which is authorized by the following acts or any codification or reenactment thereof, reference being had to the printed statute showing same:

Year	Chapter	Page	Type of Districts
1909	335	551	Highway Lighting
1909	480	815	Library
1915	584	1011	Mosquito Abatement
1919	480	942	Sanitary
1923	171	393	Sanitary
1923	191	431	County Fire Protection
1927	213	380	Garbage Disposal
1927	706	1229	Park Recreation and Parkway

Stats 1939, p. 1208

Article 4, of Chapter 3, of Division 5, of the Public Resources Code, Park Recreation and Parkway.

CHAPTER 986

An act to amend Section 456 of the Political Code, relating to the salaries of State officers and employees in the State Treasurer's office.

In effect August 4, 1943

[Approved by Governor June 2, 1943 Filed with Secretary of State June 2, 1943.]

The people of the State of California do enact as follows:

Stats 1933, p 1551

SECTION 1. Section 456 of the Political Code is hereby amended to read as follows:

Employees in State Treasurer's office

456. The State Treasurer may appoint one Deputy State Treasurer at an annual salary of five thousand dollars ($5,000), and one cashier at an annual salary of four thousand dollars ($4,000), both salaries to be paid at the same time and in the same manner as the salaries of other State officers. He may also appoint and fix the salaries of one bond officer, one deposit officer, one vault officer, one bookkeeper, one secretary-stenographer, all of whom shall be civil executive officers. He may also appoint and fix the salaries of four clerk watchmen

and one watchman porter, and such other clerical help as may be necessary for the proper conduct of his office. He may also appoint and fix the salaries, with the approval of the Board of Control, of such expert assistants as may be necessary for the proper conduct of his office.

CHAPTER 987

An act granting to the City and County of San Francisco certain tidelands and submerged lands belonging to the State of California and situated in the County of San Mateo for development and use in connection with the San Francisco Airport in San Mateo County and as a part of the public airport being used, operated and maintained by the City and County of San Francisco, regulating the management, use and control thereof and authorizing the reclamation and improvement thereof all in conjunction with the use, operation and maintenance of the San Francisco Airport in San Mateo County.

[Approved by Governor June 2, 1943. Filed with Secretary of State June 2, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. There is hereby granted to the City and County of San Francisco, a municipal corporation of the State of California, and to its successors, all of the right, title and interest of the State of California held by said State by virtue of its sovereignty in and to all those tidelands and submerged lands in the County of San Mateo and adjacent to the lands used, owned and occupied by the said City and County of San Francisco as a public airport, which said land or lands are bounded and described as follows, to wit: Grant

All of the land or lands in Sec. 2, T. 4 S., R. 5 W., M. D. B. & M., San Mateo County, California, lying west of Tide Land Survey No. 12, as recorded in Volume entitled, "Tide Lands Survey 1868-1878," page 169, Official Records of San Mateo, and lying east of the easterly boundary of Swamp and Overflowed Lands Surveys Nos. 11, 57 and 110, as recorded in "School Swamp Land, San Mateo County," pages 24, 60 and 122, respectively, Official Record of San Mateo County. Description

SEC. 2. The said lands when acquired by the City and County of San Francisco will be used by said city and county and its successors only for airport uses in connection with the lands at present owned or hereafter acquired by said City and County of San Francisco for airport purposes in San Mateo County and as a part of the public airport now being used, operated and maintained by said City and County of San Francisco in the said County of San Mateo. All of said real property shall be forever held by the City and County of San Francisco for the purpose of a public airport and the Use Prohibitions

City and County of San Francisco shall not at any time grant, convey, lease, give or alien said real property or any part thereof to any individual, firm, or corporation whatever. The said City and County of San Francisco shall, and it is hereby authorized to, reclaim, fill and raise any part of the aforesaid lands as the same may be necessary, convenient or appropriate for airport uses and to surround the same with adequate bulkheads or retaining walls and to construct thereon such structures, appliances and facilities as may be necessary in order to make the most efficient use of said lands in conjunction with the use of the adjoining lands which it may now own or hereafter acquire for airport purposes.

Power to reclaim, fill, etc

Power to dredge

SEC. 3. That for the purpose of obtaining material to reclaim and fill the lands hereby granted to the City and County of San Francisco, the said city and county may dredge said lands and adjacent submerged lands.

Reservations to State

SEC. 4. There is hereby excepted and reserved to the State of California all deposits of minerals including oil and gas in the lands granted by this act and there is reserved to the State of California, or persons authorized by the State of California, the right to prospect for, mine, and remove such deposits from the real property granted and to occupy and use so much of the surface as may be required therefor.

Reversion

SEC. 5. Upon the cessation by the City and County of San Francisco of use of the property herein granted, under the terms and conditions outlined in Section 2 hereof, or upon use of the property for purposes other than for which the property is herein granted, unless such other use is merely incidental to the use for which the property is herein granted, the properties herein granted shall immediately revert to the State, and control of the same by the City and County of San Francisco shall cease.

CHAPTER 988

Stats 1937, p 1229, amended

An act to amend Section 1675 of the Business and Professions Code, relating to the powers of the Board of Dental Examiners.

In effect August 4, 1943

[Approved by Governor June 2, 1943. Filed with Secretary of State June 2, 1943.]

The people of the State of California do enact as follows:

Stats 1937, p 1229

SECTION 1. Section 1675 of the Business and Professions Code is hereby amended to read as follows:

Complainant's oath

Witnesses

1675. Any member of the board, or the secretary, may take the oath on the affidavit of a complainant on an accusation. The board and the accused may have the benefit of counsel. The board may administer oaths, and take the deposition of witnesses, in the manner provided by law in civil cases. It may compel the attendance of witnesses and the production of

books, papers and documents pertaining to the matter of the hearing as in civil cases, by subpena issued over the signature of the secretary and the seal of the board and in the name of the people of the State of California.

CHAPTER 989

An act to add Section 1.5 to an act entitled "An act to provide for the retirement with retirement allowance, of Justices of the Supreme Court and of the district courts of appeal, and of judges of the superior courts and municipal courts," approved July 1, 1937, relating to retirement of judges.

Stats 1937, p 2204, amended

[Approved by Governor June 2, 1943. Filed with Secretary of State June 2, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 1.5 is added to the act cited in the title hereof, to read:

New section

Sec. 1.5. In computing the number of years a person has been a justice or judge for the purposes of retirement under Section 1 of this act, there shall be included such number of years as the justice or judge shall have presided as a justice of a court which was superseded by a municipal court, if such person became a judge of such municipal court upon its creation.

Computation of service

CHAPTER 990

An act to add Section 5806 to the Education Code, relating to the Vocational Rehabilitation Fund.

Stats 1943, Ch 71, amended

[Approved by Governor June 2, 1943. Filed with Secretary of State June 2, 1943.]

In effect August 4, 1943

Note.—See Stats. 1943, Ch. 71.

CHAPTER 991

An act relating to review of decisions of administrative boards, commissions and officers, providing for a thorough study and report thereon and the formulation of a comprehensive and detailed plan in respect thereto and defining the powers and duties of the Judicial Council in relation thereto.

[Approved by Governor June 2, 1943. Filed with Secretary of State June 2, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. The increasing complexity of economic relationships has resulted in a rapid extension of the field of administrative law, and a growing need for the development

Need for plan

of an administrative procedure, particularly including the review of administrative decisions, that assuredly will afford adequate protection to the citizen without impairment of expedition in the transaction of the public business. Much research in relation to the method and manner of the review of such decisions has been done by the State Bar of California, the American Bar Association, the American Law Institute, the National Conference of Commissioners on Uniform State Laws, and other agencies and groups. It is timely that the results of this research be correlated and applied to the problem as it exists in California and an adequate and comprehensive plan formulated for submission to the Legislature for its consideration and action.

Study and report by Judicial Council

SEC. 2. The Judicial Council is authorized and directed to make a thorough study of the subject, in all its aspects, of review of decisions of administrative boards, commissions and officers in this and other jurisdictions, formulate a comprehensive and detailed plan by the council found suitable to the needs of this State, and report thereon with its recommendations not later than the tenth legislative day of the Fifty-sixth Regular Session of the Legislature, to the Governor and the Legislature, the report to include drafts of such legislative measures as may be calculated to carry out and effectuate the plan. The council may include in its report recommendations as to changes in administrative procedure which may not require legislation as well as those which will require legislation for their effectuation.

Cooperation by State departments, etc

SEC. 3. All departments, commissions, boards, agencies, officers and employees of the State shall give the Judicial Council ready access to their records and full information and reasonable assistance in any matter of research requiring recourse to them or to data within their knowledge or control.

CHAPTER 992

Stats. 1937, p 1229, amended

An act to amend Sections 7618, 7630, to add Section 7632 to, and to amend Sections 7640, 7641, 7643, 7647, 7662, 7665, 7666, 7667, 7668, 7669, 7680, 7702, 7726 and 7729 of the Business and Professions Code, relating to funeral directors, embalmers and apprentice embalmers, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor June 2, 1943. Filed with Secretary of State June 2, 1943.]

The people of the State of California do enact as follows:

Stats 1939, p 412

SECTION 1. Section 7618 of the Business and Professions Code is hereby amended to read as follows:

Application for license

7618. An application for a funeral director's license shall be written on a form provided by the board, verified by the

applicant, or in case the applicant is an association, partnership or corporation, the president or other officer appearing therefor, accompanied by the fee fixed by this chapter and filed at its Sacramento office.

SEC. 2. Section 7630 of the Business and Professions Code is hereby amended to read as follows: Stats. 1939, p. 412

7630. A funeral director's license may be assigned upon payment of the fee fixed by this chapter and, if the assignee does not already possess a license as a funeral director, upon his meeting the qualifications for a funeral director as prescribed by this code. Assignment of license

The assignee has the right to renew the license.

SEC. 3. Section 7632 is hereby added to the Business and Professions Code, to read as follows: New section

7632. Every funeral director shall cause all dead human bodies embalmed in his funeral establishment to be embalmed by a regularly licensed embalmer, or by an apprentice embalmer under the supervision of a regularly licensed embalmer. Who may embalm

SEC. 4. Section 7640 of the Business and Professions Code is hereby amended to read as follows: Stats. 1939, p. 412

7640. An embalmer is a person duly licensed as such under the laws of the State of California. "Embalmer" defined

SEC. 5. Section 7641 of the Business and Professions Code is hereby amended to read as follows: Stats. 1939, p. 1233

7641. No person shall engage in, or hold himself out as engaged in practice as an embalmer, unless he is licensed by the board; provided, however, that this section shall have no effect on students and instructors of embalming in embalming colleges approved by the board. License required; Exception

SEC. 6. Section 7643 of the Business and Professions Code is hereby amended to read as follows: Stats. 1941, p. 2363

7643. In order to qualify for a license as an embalmer, the applicant shall comply with all of the following requirements: Qualifications

(a) Be over 19 years of age.

(b) Be of good character.

(c) Furnish proof showing completion of a high school course or instead he may furnish the board with evidence that he has been licensed and has practiced as an embalmer for a minimum of three years within the seven years preceding his application in any other State or country and that such license has never been suspended or revoked for unethical conduct.

(d) Have completed at least one year of apprenticeship under an embalmer license and engaged in practice as an embalmer in this State in a funeral establishment which shall have been approved for apprentices by the board and while so apprenticed shall have assisted in embalming or otherwise preparing for disposition not less than 25 human dead bodies.

(e) Have completed a course of instruction of not less than nine months which embraces the subjects specified in Section 7646 of this code, in an embalming school approved by the board.

Stats 1939, p 412

SEC. 7. Section 7647 of the Business and Professions Code is hereby amended to read as follows:

Meeting for examination of applicants

7647. The board shall hold at least one meeting annually, for the purpose of examining applicants for embalmers' licenses.

Examinations shall be held at such times and places as may be determined by the board.

Notice of the time and place of such examinations shall be given as determined by the board.

Stats 1941, p 2363

SEC. 8. Section 7662 of the Business and Professions Code is hereby amended to read as follows:

Qualifications

7662. In order to qualify as an embalmer's apprentice, an applicant shall comply with all of the following requirements:

(a) Be over 17 years of age.

(b) Be of good moral character.

(c) Furnish proof showing completion of a high school course or instead he may furnish the board with evidence that he has been licensed and has practiced as an embalmer for a minimum of three years within the seven years preceding his application in any other State or country and that such license has never been suspended or revoked for unethical conduct

Stats 1941, p 2363

SEC. 9. Section 7665 of the Business and Professions Code is hereby amended to read as follows:

Supervision of apprentices Report

7665. The board shall supervise and control all registered apprentices and shall require them to report annually during the month of January and at the completion of their apprenticeship, upon forms provided by the board, showing the work which they have performed during the annual period preceding the first day of the month on which the report is made. The report shall include the number of hours served and the number of bodies the apprentice has assisted in embalming or otherwise preparing for disposition during the period; provided, that whenever an apprentice changes his employment from one funeral establishment to another he shall forthwith notify the board of such change, state the name of the funeral director to whose establishment he has changed and the name of the embalmer under whom he is thereafter to serve and shall at the same time report to the board, upon forms provided by the board, showing the work which he shall have performed during his apprenticeship previous to such change.

Change of employment

The information contained in the report shall be certified to as correct by the funeral director in whose establishment the apprentice has been employed during the period, and by the embalmer under whom he has served during the period.

Stats 1941, p 2363

SEC. 10. Section 7666 of the Business and Professions Code is hereby amended to read as follows:

Term of apprenticeship, etc

7666. The term of apprenticeship shall be one year; provided, a registrant who has completed his one apprenticeship may re-serve his apprenticeship by reregistration for not more than two additional one-year periods. An apprentice shall be entitled to two weeks' vacation during the apprenticeship period without leave of absence from the board.

The board shall have power to grant leaves of absence and approve absences during the term of apprenticeship, however, leaves of absence for such time as the apprentice is serving in the armed forces of the United States shall be automatic. Leaves of absence

No credit shall be given to an apprentice upon his apprenticeship for the period during which he is absent from duty on leave. Absence

SEC. 11. Section 7667 of the Business and Professions Code is hereby amended to read as follows: Stats 1939, p 412

7667. Application for leave of absence and for an extension thereof shall be made by the apprentice upon a form provided by the board. Leaves of absence

Upon the termination of a leave of absence or any extension thereof, the apprentice shall report to the board the fact that he has resumed his duties as an apprentice and shall submit to the board affidavits subscribed by the funeral director in whose establishment he has resumed his duties and by the embalmer under whom he is apprenticed, confirming this fact.

Failure to so report within 10 days after the expiration date of any leave of absence or approved absence or extension of either thereof shall be cause for cancellation of the registration of an apprentice.

SEC. 12. Section 7668 of the Business and Professions Code is hereby amended to read as follows: Stats 1941, p 2363

7668. The board may suspend or revoke a certificate of apprenticeship, after notice and upon complaint and hearing in accordance with the provisions of Article 6, where the apprentice is guilty of any of the following acts or omissions: Suspension or revocation of certificate

(a) Failure to devote not less than an average of 15 hours per week, to the duties of his apprenticeship.

(b) Failure to make any report required by law to the board.

(c) Absence from duty except as provided in this code.

(d) Gross immorality.

(e) Being on duty as an apprentice while under the influence of liquor.

(f) Disobedience of proper orders or instructions of his superior.

(g) Violation of any provision of this chapter or any rule or regulation of the board.

(h) Soliciting business for a funeral director or for an embalmer in violation of this chapter.

(i) Fraud or misrepresentation in obtaining a certificate of registration as an apprentice.

(j) Failure to pay any fee required by law.

SEC. 13. Section 7669 of the Business and Professions Code is hereby amended to read as follows: Stats 1939, p 1233

7669. An apprentice who has allowed his certificate of apprenticeship to lapse or who has had his certificate of apprenticeship suspended or revoked may, within one year after such suspension, revocation or lapse, apply for reregistration upon compliance with existing laws. No reregistration Reinstatement

shall be permitted so as to continue an apprenticeship beyond the period of three years from the date of the original reregistration.

The board may, when the circumstances warrant, allow an apprentice credit under a reregistration for time actually served under a previous registration, but if the previous registration has been suspended or revoked, not more than 75 per cent of the time previously served shall be credited on the reregistration.

Stats 1939, p. 412

SEC. 14. Section 7680 of the Business and Professions Code is hereby amended to read as follows:

Licenses

7680. Every license issued shall:

(a) Specify the name of the licensee.

(b) Be signed by the licensee.

(c) Be displayed conspicuously in the place of business or employment of the licensee.

(d) Be registered by name and number with the board of health of the city or county in which the licensee proposes to conduct a funeral establishment or to practice as an embalmer. A certificate upon a form provided by the State Board of Funeral Directors and Embalmers, showing compliance with this section, shall be signed and delivered to the registrant by the registrar of such board of health upon such registration.

Stats 1939, p 412

SEC. 15. Section 7702 of the Business and Professions Code is hereby amended to read as follows:

Caskets

7702. Using any casket or part of a casket which has previously been used as a receptacle for, or in connection with the burial or other disposition of, a dead human body constitutes a ground for disciplinary action; provided, however, this section shall not apply to exterior casket hardware which is not sold to the purchaser, or where same is reserved by contract.

Exceptions

Stats 1939, p 412

SEC. 16. Section 7726 of the Business and Professions Code is hereby amended to read as follows:

Reinstatement

7726. When a funeral director or embalmer has had his or its license suspended, canceled or revoked by the board, or has allowed the same to lapse for nonpayment of fees, the board, upon written application by the licensee affected, upon not less than 10 days' notice to all parties of record in the particular case and after hearing all evidence offered in support of and in opposition to such application, may, in its discretion, and upon such terms as it may deem just reinstate the applicant, provided the application, in case of lapse, is accompanied by all fees, including penalties not exceeding twenty-five dollars ($25), from the time of the lapse to the date of reinstatement.

Stats 1939, p 1233

SEC. 17. Section 7729 of the Business and Professions Code is hereby amended to read as follows:

Fee schedule

7729. The amount of the fees and penalties prescribed by this chapter is that fixed by the following schedule:

(a) The application fee for a funeral director's license is twenty-five dollars ($25).

(b) The fee for change of location is ten dollars ($10).

(c) The fee for permission to assign a funeral director's license is ten dollars ($10).

(d) The application fee for an embalmer's license is twenty-five dollars ($25).

(e) The application fee for a certificate of registration as an apprentice is one dollar ($1).

(f) The renewal fee payable by a licensed funeral director is fifteen dollars ($15) but the board may increase the fee to not more than twenty-five dollars ($25) in one or more years or may reduce the fee to not less than seven dollars and fifty cents ($7.50) in one or more years.

(g) The renewal fee payable by a licensed embalmer is five dollars ($5) but the board may increase the fee to not more than seven dollars and fifty cents ($7.50) in one or more years or may reduce the fee to not less than two dollars and fifty cents ($2.50) in one or more years.

(h) The annual renewal fee payable by a registered apprentice shall be one dollar ($1).

(i) The penalty for failure to pay a funeral director's renewal fee is ten dollars ($10).

(j) The penalty for failure to pay an embalmer's renewal fee is ten dollars ($10).

(k) The penalty for failure to pay an apprentice's renewal fee is five dollars ($5).

(*l*) The fee for permission to change the name appearing on the license is ten dollars ($10).

Urgency

SEC. 18. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution, and shall, therefore, go into immediate effect. A statement of the facts constituting such necessity is as follows:

The proper, scientific and prompt care, preservation and disposal of the human dead is essential to the public health and welfare. This fact has been recognized by the War Manpower Commission in the placing of embalmers on the list of critical occupations within an essential industry. The inroads made by the armed forces and the war production industries on manpower have seriously affected and threaten to disrupt the facilities for the care of the dead in California. In order to combat these inroads, this act, in changing some of the legal requirements for the qualifications for apprentice embalmers and embalmers, will enable the funeral service industry to more adequately meet an existing manpower shortage and will better enable the funeral service industry to more efficiently perform its work in the preservation of the public health and welfare through the proper care of the dead.

CHAPTER 993

Stats 1933, p 60, amended

An act to add Section 343.5 to the Agricultural Code, relating to inspection of cattle.

In effect August 4 1943

[Approved by Governor June 2, 1943. Filed with Secretary of State June 2, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 343.5 is added to the Agricultural Code, to read:

Inspection of imported cattle

343.5. Cattle originating in other States and shipped to California, consigned to a public stockyard which is posted by the Secretary of Agriculture of the United States, or to a public sales yard located in California, shall be inspected before being released from such stockyard or market, and the fee shall be five cents ($0.05) for each animal.

CHAPTER 994

Stats 1939, p 1274, amended

An act to add Section 209.5 to the Revenue and Taxation Code, relating to exemptions from taxation.

In effect August 4, 1943

[Approved by Governor June 2, 1943. Filed with Secretary of State June 2, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 209.5 is added to the Revenue and Taxation Code, to read:

Vessels exempt from taxation

209.5. Vessels owned and maintained by private individuals which have been offered to and accepted by the United States Coast Guard Auxiliary for use in case of emergency and for which no consideration is paid as rental, are exempt from taxation, while under the jurisdiction of the United States Coast Guard.

Duration

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs.

CHAPTER 995

An act to amend Section 4029 of the Political Code, relating to supervisorial districts.

In effect August 4, 1943

[Approved by Governor June 2, 1943. Filed with Secretary of State June 2, 1943.]

The people of the State of California do enact as follows:

Stats 1907, p 354

SECTION 1. Section 4029 of the Political Code is amended to read:

Supervisor districts

4029. The board of supervisors may, by a two-thirds vote of the members of said board, change the boundaries of any

or all of the supervisor districts of a county. Said districts shall be as nearly equal in population as may be; provided, that in establishing the boundaries of the supervisorial districts the members of said board may give consideration to the following factors: (1) topography, (2) geography, (3) cohesiveness, contiguity, integrity and compactness of territory, and (4) the community of interests of such districts.

The boundaries of no supervisor district shall at any time be changed in such manner as to affect the term of office of any supervisor who has been elected, and whose term of office has not expired. No change in the boundaries of any supervisor district shall be made within 90 days next preceding a general election.

CHAPTER 996

An act making an appropriation for the contingent expenses of the Assembly and declaring that this act shall take effect immediately.

[Approved by Governor June 2, 1943. Filed with Secretary of State June 2, 1943.] In effect immediately

The people of the State of California do enact as follows:

SECTION 1. The sum of fifty thousand dollars ($50,000) or so much thereof as may be necessary, is hereby appropriated out of any money in the State treasury not otherwise appropriated, for contingent expenses of the Assembly to be expended for such purposes and in such manner as the Assembly shall by resolution direct, including expenses of committees, whether to meet and act during the session or after final adjournment. Appropriation Contingent expenses of Assembly

SEC. 2. This appropriation shall be available for the purposes for which it is appropriated without regard to fiscal years. Availability

SEC. 3. Inasmuch as this act makes an appropriation for the usual current expenses of the State it shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately. Current expense

CHAPTER 997

An act to add Section 689.7 to the Political Code, relating to Department of Finance membership in building management associations.

[Approved by Governor June 3, 1943. Filed with Secretary of State June 3, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 689.7 is added to the Political Code, to read: New section

689.7. To enable it better to perform its powers and duties relating to public buildings, the Department of Finance may become a member and participate in the activities of any building management association. The department may pay any Department of Finance membership in building management associations

fee or charge incident to membership in such an association or for services furnished thereby out of any money available for expenditure by the department. Such membership and participation shall not render the department nor the State liable to the payment of any dues, fees or other considerations after withdrawal of the department from membership and participation and such membership and participation shall be subject to the right of the department to withdraw at any time and terminate any obligations that such membership or participation may entail.

CHAPTER 998

Stats. 1931, p. 537, amended

An act to amend Section 255 of the Probate Code, relating to inheritance by illegitimate children.

In effect August 4, 1943

[Approved by Governor June 1, 1943. Filed with Secretary of State June 3, 1943.]

The people of the State of California do enact as follows:

Stats 1931, p 587

SECTION 1. Section 255 of the Probate Code is amended to read:

Illegitimate child

255. Every illegitimate child is an heir of his mother, and also of the person who, in writing, signed in the presence of a competent witness, acknowledges himself to be the father, and inherits his or her estate, in whole or in part, as the case may be, in the same manner as if he had been born in lawful wedlock; but he does not represent his father by inheriting any part of the estate of the father's kindred, either lineal or collateral, unless, before his death, his parents shall have intermarried, and his father, after such marriage, acknowledges him as his child, or adopts him into his family; in which case such child is deemed legitimate for all purposes of succession. An illegitimate child may represent his mother and may inherit any part of the estate of the mother's kindred, either lineal or collateral.

CHAPTER 999

Stats 1939, p 482, amended

An act to amend Sections 10036 and 10551 of the Health and Safety Code, relating to vital statistics certificates.

In effect August 4, 1943

[Approved by Governor June 3, 1943. Filed with Secretary of State June 3, 1943.]

The people of the State of California do enact as follows:

Stats 1939, p 482

SECTION 1. Section 10036 of the Health and Safety Code is hereby amended to read as follows:

Index

10036. The State Registrar shall arrange, and permanently preserve the certificates in a systematic manner and shall prepare and maintain a comprehensive and continuous index of

all births, deaths, and marriages registered. The index shall be arranged, in the case of deaths, by the names of decedents; in the case of births, by the names of fathers and maiden names of mothers; and in case of marriages by the names of both grooms and brides.

SEC. 2. Section 10551 of the Health and Safety Code is hereby amended to read as follows: Stats 1941, p 2101

10551. Any photostatic copy of the record of a birth, death, or marriage, or a copy, properly certified by the State or local registrar to have been registered within a period of one year from the date of the event is prima facie evidence in all courts and places of the facts stated in it. Prima facie evidence

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CHAPTER 1000

An act to amend Sections 12700, 12701, 12703, 12704, 12706 and 12709 of, and to add Section 12700.1 to, the Business and Professions Code, relating to public weighmasters. Stats 1937, p 1229, amended

[Approved by Governor June 3, 1943. Filed with Secretary of State June 3, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 12700 of the Business and Professions Code is amended to read: Stats 1941, p 2439

12700. A public weighmaster is: Public weighmaster defined

(a) Any person who weighs, measures or counts any commodity and issues therefor a signed or initialed statement or memorandum of the weight, measure, or count accepted as the accurate weight or measure or count upon which the purchase or sale of the commodity is based.

(b) Any person engaged in the business of public weighing for hire.

SEC. 1.5. Section 12700.1 is added to the Business and Professions Code, to read: New section

12700.1. The following shall not be construed to be public weighmasters: Persons not included

(a) Retailers weighing or measuring commodities for sale by them at retail directly to consumers;

(b) Producers of agricultural commodities or livestock weighing commodities produced or purchased by them or by their producer neighbors, when no charge is made for such weighing, and no signed or initialed statement or memorandum is issued of the weight upon which a purchase or sale of the commodity is based;

(c) Common carriers issuing waybills or bills of lading on which are recorded, for the purpose of computing transportation charges, the weights of commodities offered for transportation;

(d) Weighers licensed under the provisions of Section 676 of the Agricultural Code when performing the duties for which they are licensed;

(e) Employees of the department authorized to weigh agricultural products under the provisions of Chapter 8 of Division 5 of this code, when performing the duties authorized thereby.

Stats 1941, p 2326

SEC. 2. Section 12701 of the Business and Professions Code is amended to read:

License fee

12701. Each public weighmaster shall pay a license fee of ten dollars ($10) for the fiscal year or any part thereof to the department for the locality of the place of principal business and an additional license fee of two dollars and fifty cents ($2.50) for each additional locality where service as a public weighmaster is rendered.

An additional license fee of one dollar ($1) for each fiscal year or part thereof shall be paid for each deputy public weighmaster and for each additional license fee the department shall issue a deputy's certificate.

Renewal

Persons previously licensed to be public weighmasters shall, between May 1st and July 1st of each year pay each required license fee for the fiscal year commencing with July 1st of such year, which shall be for all or any part of such year. Failure of a person previously licensed to renew his license on or before July 1st of any one year shall ipso facto forfeit his right to serve as a public weighmaster. No license shall be issued to a person who has so failed to renew his license and forfeited his right to serve as a public weighmaster until written application shall have been made by him to the department and accompanied by a restoration fee in an amount twice that required as the regular license fee or fees.

Bond

Before any license is issued to any public weighmaster, the applicant shall execute and deliver to the director a surety bond in the sum of one thousand dollars ($1,000) executed by the applicant as principal and by a corporate surety company qualified and authorized to do business in this State as surety. Said bond shall be conditioned upon the faithful and honest compliance with the provisions of this chapter. Said bond shall be to the State in favor of every person availing himself of the services and certifications issued by a public weighmaster.

Refusal or revocation after hearing

The department, after a hearing, may refuse to issue or may revoke a public weighmaster license issued to any person who can not capably or reliably perform the duties of a public weighmaster, and it may, after a hearing, refuse to renew a public weighmaster license to any person who has not capably or reliably performed the duties of a public weighmaster.

Refusal or revocation of certificate

The department may refuse to issue or may revoke a deputy public weighmaster certificate issued to any person who can not capably or reliably perform the duties of a deputy public weighmaster.

SEC. 3. Section 12703 of the Business and Professions Code is amended to read: Stats 1939, p 445

12703. Each public weighmaster shall obtain a public weighmaster seal for applying an impression upon or stamping weight or measure certificates. The public weighmaster seals shall be the property of the State and shall be forfeited and returned to the department upon termination of the performance of the duties as public weighmaster. Seal

The public weighmaster seal shall be of a form and design prescribed by the department and furnished at the expense of the public weighmaster. The public weighmaster seal shall be a recognized authority of accuracy and the stamp or impression thereof shall be applied to all weight or measure certificates at the time of issuance.

SEC. 4. Section 12704 of the Business and Professions Code is amended to read: Stats 1939, p 445

12704. The department shall prescribe a form of weight and measure certificates to be used by public weighmasters. Such certificate shall be known as the "State certificate of weights and measures." The certificate shall state thereon: Weight and measure certificate

(a) The kind of product or article.

(b) The number of units of the product or article.

(c) The date on which the product or article was weighed, measured or counted.

(d) The owner, agent or consignee.

(e) Either the gross weight of the product and the vehicle or container thereof, or the tare weight of the unladen vehicle or container, or both such gross and tare weights; or the true net weight, measure, or count of the product.

(f) The vessel, railroad or other means by which the product was received.

(g) Any trade or other mark thereon.

(h) Such other information as may be necessary to distinguish or identify the product from a like kind. No other form of certificate shall be used by public weighmasters. Exclusive form

SEC. 5. Section 12706 of the Business and Professions Code is amended to read: Stats 1939, p 445

12706. State certificates of weights and measures shall contain the accurate and correct weight or measure or count of any and all commodities or products weighed or measured or counted. Certificate giving false weight, etc

Any public weighmaster who issues a State certificate of weights and measures giving a false weight or measure or count of any article or commodity weighed or measured or counted by him, or his representative, to any person and any public weighmaster or any recipient of a State certificate of weights and measures who alters such certificate is guilty of a misdemeanor.

The department may direct and compel the return of the State seal, or declare the bond of any public weighmaster forfeited, or both, where such public weighmaster has been guilty of a violation of this section.

Stats. 1939, p 445

SEC. 6. Section 12709 of the Business and Professions Code is amended to read:

Separation of weighed commodities

12709. All amounts, lots, shipments, or consignments of commodities, except fungibles, after having been weighed, shall be piled or stored separately, as near as can be, or in some manner marked in order that they may be distinguished from others of a like kind.

CHAPTER 1001

An act to add Section 337g to the Penal Code, relating to the possession, use, and transportation of drugs at race tracks.

In effect August 4, 1943

[Approved by Governor June 3, 1943. Filed with Secretary of State June 3, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 337g is added to the Penal Code, to read:

Drugs within race track

337g. The possession, transport or use of any local anaesthetic of the cocaine group, including but not limited to natural or synthetic drugs of this group, such as allocaine, apothesine, alypine, benzyl carbinol, butyn, procaine, nupercaine, beta-eucaine, novol or anestubes, within the racing inclosure is prohibited, except upon a bona fide veterinarian's prescription with complete statement of uses and purposes of same on the container. A copy of such prescription shall be filed with the stewards, and such substances may be used only with approval of the stewards and under the supervision of the veterinarian representing the board.

CHAPTER 1002

Stats 1935, p. 1338, amended

An act to add 160.5 to the Military and Veterans Code, relating to the powers and duties of The Adjutant General, and providing for supervision and direction by him of the members of the California Highway Patrol and of fish and game wardens and other enforcing officers employed by the Division of Fish and Game.

In effect August 4, 1943

[Approved by Governor June 3, 1943. Filed with Secretary of State June 3, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 130 5 is added to the Military and Veterans Code, to read:

Emergency jurisdiction over Highway Patrol

160.5. During such period as the Governor proclaims a state of extreme emergency to exist or during any period the State is under martial law provided The Adjutant General shall so order, the California Highway Patrol and each member thereof and all wardens and other enforcing officers employed by the Division of Fish and Game to enforce the provisions of the Fish and Game Code shall be under the supervision, direction, and control of The Adjutant General. The

Adjutant General shall supervise and direct the activities of such persons in such manner as to permit them to perform the duties of their ordinary employment under their usual supervision except that when an extreme emergency exists such persons shall perform such other duties and functions as The Adjutant General may prescribe.

When performing duties other than those of their regular and ordinary employment such persons shall be considered as temporarily reassigned pursuant to Section 356 of the Political Code and shall be considered as serving in the same class and grade as that of their regular and ordinary employment and shall be compensated accordingly out of the money appropriated for the support of The Adjutant General. No service outside of their regular and ordinary employment shall affect any rights and privileges of such persons with respect to civil service status, retirement rights, or any other privilege incident to such regular and ordinary employment, nor shall it operate to confer a military, rather than civilian, status upon such persons. Temporary reassignment. Civil service rights, etc.

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section; but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted. Duration. Existing law.

CHAPTER 1003

An act to amend an act entitled "An act relating to the rights, powers and disabilities of aliens and of certain companies, associations and corporations with respect to property in this State, providing for escheats in certain cases, prescribing the procedure therein, requiring reports of certain property holders to facilitate the enforcement of this act, prescribing penalties for violation of the provisions hereof, and repealing all acts or parts of acts inconsistent or in conflict herewith," submitted by the initiative and adopted and approved by the electors of the State of California, November 2, 1920, as amended, by adding Section 7.5, relating to sales of real property by the State. Stats 1921, p. lxxxiii, amended.

[Approved by Governor June 3, 1943. Filed with Secretary of State June 3, 1943.] In effect August 4, 1943.

The people of the State of California do enact as follows:

SECTION 1. Section 7.5 is added to the act cited in the title hereof, to read: New section.

Sec. 7.5. Whenever any real property is acquired by the State by reason of the violation of this act, either by escheat or by other method, the State Controller is authorized, upon Sale of violation acquired property.

such terms and subject to such conditions as in his judgment is for the best interests of the State, to sell the real property for cash or on deferred payments. The sale may be at public auction or at private sale. If the sale is made at public auction, it shall be made to the highest bidder, after notice thereof, stating the terms of sale, given in the manner and for the time prescribed in Section 1274 of the Code of Civil Procedure. If the real property is sold at private sale, the sale and all the terms thereof shall be subject to the approval of the Director of Finance.

Rental, etc., pending sale

Whenever, in the judgment of the State Controller, he can not immediately sell such real property to the best interests of the State, he may take possession of the real property, and rent or lease for cash rental or share rental, manage, repair, insure against fire, and otherwise operate and control the property until such time as an advantageous sale can be made.

CHAPTER 1004

Stats. 1939, p 1274, amended

An act to amend Sections 6051 and 6201 of the Revenue and Taxation Code, relating to the sales and use taxes, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor June 1, 1943. Filed with Secretary of State June 3, 1943.]

The people of the State of California do enact as follows:

Stats 1943, Ch 357

SECTION 1. Section 6051 of the Revenue and Taxation Code is amended to read:

Levy of sales tax. Rate

6051. For the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of 2½ per cent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this State on or after August 1, 1933, and to and including June 30, 1935, and at the rate of 3 per cent thereafter, and at the rate of 2½ per cent on and after July 1, 1943, and to and including June 30, 1945, and at the rate of 3 per cent thereafter.

Postwar employment reserve

After payment of refunds, one-fifth the proceeds of such tax which are deposited in the Retail Sales Tax Fund on and after July 1, 1943, and to and including June 30, 1945, shall be transferred by the Controller to the General Fund and set aside as a postwar employment reserve, which shall be available for expenditure only when appropriated by the Legislature for public projects and improvements that will provide postwar employment for citizens released from the armed forces and private enterprise following relaxation of the war effort.

Exclusion

The money in the postwar employment reserve shall be excluded in determining surplus, excess, deficit or deficiency

in the General Fund in any balance sheet or other statement of the financial condition of the State of California.

The money in the postwar employment reserve may be invested and reinvested by the Director of Finance in bonds or other obligations of the United States, or for which the full faith and credit of the United States are pledged, and such securities may be sold or exchanged by the Director of Finance if, in his discretion, such sale or exchange appears to be in the best interest of the State in effectuating the purposes of this section. The increment from such investment shall accrue to the General Fund. Investment, etc

SEC. 2. Section 6201 of said code is amended to read: Stats 1943, Ch 357

6201. An excise tax is hereby imposed on the storage, use, or other consumption in this State of tangible personal property purchased from any retailer on or after July 1, 1935, for storage, use, or other consumption in this State at the rate of 3 per cent of the sales price of the property, and at the rate of 2½ per cent on and after July 1, 1943, and to and including June 30, 1945, and at the rate of 3 per cent thereafter. Levy of use tax Rate

After payment of refunds, one-fifth the proceeds of such tax which are deposited in the Retail Sales Tax Fund on and after July 1, 1943, and to and including June 30, 1945, shall be transferred by the Controller to the General Fund and set aside as a postwar employment reserve, which shall be available for expenditure only when appropriated by the Legislature for public projects and improvements that will provide postwar employment for citizens released from the armed forces and private enterprise following relaxation of the war effort. Postwar employment reserve

The money in the postwar employment reserve shall be excluded in determining surplus, excess, deficit or deficiency in the General Fund in any balance sheet or other statement of the financial condition of the State of California. Exclusion

The money in the postwar employment reserve may be invested and reinvested by the Director of Finance in bonds or other obligations of the United States, or for which the full faith and credit of the United States are pledged, and such securities may be sold or exchanged by the Director of Finance if, in his discretion, such sale or exchange appears to be in the best interests of the State in effectuating the purposes of this section. The increment from such investment shall accrue to the General Fund. Investment, etc

SEC. 4. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows: Urgency

The necessity of high taxation for war purposes requires that all nonessential taxes be abolished or reduced. With the high cost of living at the present time, it is essential that articles

of necessity, such as those subject to the sales and use taxes, be relieved of so high a rate of taxation so that people will not be unduly curtailed in securing the necessities of life, by reason of their inability to meet the taxes thereon.

CHAPTER 1005

An act to amend Section 4077 of the Political Code, relating to the allowance or rejection of claims against counties.

In effect August 4, 1943

[Approved by Governor June 3, 1943. Filed with Secretary of State June 3, 1943.]

The people of the State of California do enact as follows:

Stats 1907, p. 354

SECTION 1. Section 4077 of the Political Code is amended to read:

Rejection of claims

4077. When the board finds that any claim presented is not payable by the county, or is not a proper county charge, it must be rejected; and said rejection shall be plainly indorsed on said claim; if they find it to be a proper county charge, but greater in amount than is justly due, the board may allow the claim in part, and cause a warrant to be drawn for the portion allowed on the claimant filing a receipt in full for his account. If the claimant is unwilling to receive such amount in full payment, the claim may again be considered at any meeting of the board held within 90 days thereafter, but not afterward.

CHAPTER 1006

Stats 1937, p 185, amended

An act to add Section 100.5 to the Labor Code, relating to preferred claims for work performed or personal services rendered.

In effect August 4, 1943

[Approved by Governor June 3, 1943. Filed with Secretary of State June 3, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 100.5 is added to the Labor Code, to read:

Preferred claims

100.5. Preferred claims for work performed or personal services rendered are provided for in Sections 1204, 1206, 1207, and 1208 of the Code of Civil Procedure, and Subdivision (6) of Section 950 of the Probate Code.

CHAPTER 1007

An act to amend Section 359b of the Political Code, relating to the Governor's Council.

[Approved by Governor June 3, 1943. Filed with Secretary of State June 3, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 359b of the Political Code is amended to read: Stats 1929, p. 694

359b. A council to be known as the Governor's Council is hereby created to consist of the Director of Finance, Director of Education, Director of Public Works, Director of Motor Vehicles, Director of Public Health, Director of Institutions, Director of Agriculture, Director of Industrial Relations, Director of Social Welfare, Director of Natural Resources, Director of Investment, Director of Professional and Vocational Standards, Director of Military and Veterans' Affairs, and Director of Penology. At least once each month the council shall meet in Sacramento at such time and place as may be designated by the Governor. It shall be the duty of each of the members of the council to report to the Governor at the time of such monthly meeting, and at such other times as the Governor may desire, the facts regarding the administration of the functions of his department and to perform such other duties, as a member of the council as may be required of him by the Governor. Governor's Council

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CHAPTER 1008

An act to amend Section 7302 of, and to add Section 7310 to, the Welfare and Institutions Code, relating to the Langley Porter Clinic. Stats 1937, p 1005, amended

[Approved by Governor June 3, 1943 Filed with Secretary of State June 3, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 7302 of the Welfare and Institutions Code is hereby amended to read as follows: Stats 1941, p 2576

7302. The Langley Porter Clinic shall be conducted and maintained for the purpose of treating incipient and acute mental and nervous cases. Admissions may be either on a voluntary basis after approval by the medical superintendent, or on transfer from another institution under the jurisdiction of the department after approval by the Director of Institutions. All admissions shall be for temporary observation, research, diagnosis and treatment purposes as determined by the medical superintendent; in the cases of transfer from Conduct Admissions

another institution the patients so transferred may be returned upon the completion of the study, diagnosis or treatment to an institution of the type from which they came. The charges for the care, treatment or services rendered to all persons admitted to the hospital shall not be limited by any provision of this code but shall be based on the average cost per day as determined by the Director of Institutions. The liability for the charges so determined shall be governed by the provisions of Article 5 of Chapter 1, Part 4 of this division.

Charges

Out-patient clinic

There shall be conducted and maintained in conjunction with the hospital unit an out-patient clinic. The charges for service in the out-patient clinic shall be determined by the Director of Institutions in accordance with schedules for such charges as set forth in the rules and regulations of the department.

Rules and regulations

The department shall establish such rules and regulations as are necessary properly to carry out the provisions of this chapter.

New section

SEC. 2. Section 7310 is added to Chapter 7, Part 4, Division 6, of said code, to read:

Administration of oaths

7310. The secretary to the superintendent of the Langley Porter Clinic shall have power, for official State business only, to administer and certify oaths.

CHAPTER 1009

Stats 1939, p 1416, revised

An act to revise an act entitled "An act to authorize the counties of the State of California to establish systems for the retirement and pension of certain county and county fire protection district officers and employees, namely county foresters, firewardens and county fire protection district firemen as defined in the act, and to provide certain benefits for their dependents, and empowering county boards of supervisors to levy a special tax," approved May 19, 1939, Statutes 1939, Chapter 174, relating to the county foresters, firewardens and firemen's pension system.

In effect August 4, 1943

[Approved by Governor June 3, 1943. Filed with Secretary of State June 3, 1943.]

The people of the State of California do enact as follows:

Stats 1939, p 1416

SECTION 1. The act cited in the title hereof is hereby revised to read as follows:

Retirement board: Qualifications

Section 1. The management of the county foresters, firewardens and fire protection district firemen's retirement system shall be vested in a board of retirement, consisting of five members, one of whom shall be the county treasurer, acting in an ex officio capacity. The second member shall be a member of the county forester and firewarden department and a member of the retirement system. He shall be elected by the

members of that department who are members of the retirement system, within 30 days after the date on which the retirement system becomes operative, as hereinafter in this section provided, in a manner to be determined by the county board of supervisors.

The third member shall be a member of the county fire protection districts personnel and a member of the retirement system. He shall be elected by the members of the county fire protection districts who are members of the retirement system, within 30 days after the date on which the retirement system becomes operative, as hereinafter in this section provided, in a manner to be determined by the county board of supervisors.

Provided, however, that in the event any county taking advantage of the provisions of this act shall have all of its fire protective personnel under the jurisdiction of a single fire protection district or a series of fire protection districts, and shall have no fire protective personnel under the jurisdiction of a general county forester and/or firewarden, then and in that event, the second and third members shall be elected from the members of said fire protection district from such members thereof as are members of the retirement system in the manner prescribed above.

And further provided that in the event any county taking advantage of the provisions of this act shall have all of its fire protective personnel under the jurisdiction of a general county forester and/or firewarden and shall have no fire protective personnel under the jurisdiction of a fire protection district or districts, then and in that event the second and third members shall be elected from such members of said general county forester and/or firewarden department, as are members of the retirement system, in the manner prescribed above. The fourth and fifth members shall be qualified electors of the county who are not connected with county government in any capacity, appointed by the board of supervisors within 30 days after said date; provided, that one of such members may but need not be a member of that body. The first persons so elected or appointed as the second and fourth members shall serve for two years from said date, and the third and fifth members so elected or appointed shall serve for a term of three years from said date. Thereafter, the term of office of the four elected members shall be three years.

Compensation

Each of the fourth and fifth members of said board, as designated above, shall receive as compensation for his services thereon the sum of ten dollars ($10) for each meeting of said board at which he is in attendance; provided, however, that in no event shall he receive compensation for more than 12 board meetings in any one calendar year.

Provided, however, that in any county in which the provisions of this act shall have become effective prior to the effective date of this revision, the first persons so elected or appointed as the second and fourth members of such board

shall be elected or appointed within 30 days after said effective date, and shall serve for two years from said effective date, and the third and fifth members shall be elected or appointed within 30 days after said effective date, and shall serve for a term of three years from said effective date. Said county foresters, firewardens and fire protection district firemen's retirement board shall exercise the powers and perform the duties hereinafter prescribed; provided, however, that the provisions of this act shall become effective in any particular county, only upon condition that the provisions of this act are accepted by ordinance passed by four-fifths ($\frac{4}{5}$) vote of its board of supervisors, in which event the provisions of this act shall become operative in such county on the first day of January, or on the first day of July next following the expiration of three months after the passage of said ordinance.

When act operative

Abolition of system

In any county in which a retirement system shall have been established as provided for herein, the board of supervisors may upon the adoption of ordinance passed by a $\frac{4}{5}$ vote of said board abolish said system in said county; provided, however, that such abolishment of said system shall not impair the right of any person to whom pension rights shall have accrued to continue to receive such pension as provided for herein after the abolishment of said system in said county, and if the fund herein provided for be inadequate to pay such pensions, they shall be paid from and constitute a charge upon the general fund of the county.

Accrued rights

Refund

In the event that any such system shall have been abolished in any county, each active member as of the date of such abolishment shall be paid a refund of all contributions made by him to said county forester, firewardens and county fire protection district firemen's retirement fund, together with all interest which shall have been credited to his contributions as of said date of abolishment of said system.

Organization of board

SEC. 2. (a) They shall organize as such county foresters, firewardens and county fire protection district firemen's retirement board by choosing from their number a chairman, and thereafter said officers shall be chosen biennially by said board. The first, second and third members of said board shall serve without compensation, but they shall be reimbursed out of the funds of the county for any expense or loss of salary or wage which they may have incurred through services on the board and for costs of operation of this retirement system.

Meetings

(b) Said board shall meet for the transaction of business at least once every three months in each calendar year and shall meet at such other times as said board or a majority thereof may order. Notice of all meetings shall be given by the secretary at least three days in advance thereof.

Quorum

(c) A majority of said members may transact business in lieu of all of the members provided that said majority has in attendance the second and third members. In the event said second and third members, or either of them are not in attendance no business shall be transacted.

SEC. 3. In addition to the other powers herein granted, said board shall be vested with the following powers and duties: Powers and duties

(a) To compel witnesses to attend and testify before it, upon all matters connected with the operation of this act, in the same manner as is or may be provided by law for the taking of testimony before notaries public; and its chairman, or any member of said board, may administer oaths to such witnesses. Attendance of witnesses

(b) To appoint a secretary, and to provide for the payment from said fund of all its necessary expenses, including secretary hire and printing. Secretary

(c) To make by-laws and regulations not inconsistent with the provisions of this act and such by-laws and regulations shall become effective when approved by the board of supervisors. By-laws and regulations

(d) It shall be the duty of said board to report annually in the month of January to the board of supervisors, or other governing authority of the county, or city and county, or county fire protection district, the condition of the county foresters, firewardens and county fire protection district firemen's retirement fund and the receipts and disbursements on account of the same with a full and complete list of the beneficiaries of said fund and the amounts paid them, for the preceding calendar year. Report

(e) The said board shall annually prepare a budget of the cost of maintaining the pension fund and for this purpose may employ an actuary to assist the board in preparing its budget and report to the end that said system may be scientifically financed and administered. Budget

(f) Said board of retirement shall cause to be made an actuarial investigation and valuation of such system immediately after the first year of operation and thereafter at not to exceed five-year intervals. Such investigation shall be conducted under the supervision of an actuary and shall cover the mortality, service and salary experience of the members and beneficiaries, and shall evaluate the assets and liabilities of said retirement fund. Upon the basis of any or all of such determination, investigation and valuation, and upon the recommendation of the actuary said board of retirement shall recommend to the board of supervisors such changes in the rate of interest, in the rates of contributions of members, as well as such changes in county appropriations as may be deemed necessary. No adjustment shall be included in the new rates for time prior to the effective date of such revision. Actuarial investigations and valuations

Said board of supervisors shall promptly thereafter adjust the rate of interest, the rates of contributions of members, and county appropriations, as deemed advisable, but in no event shall said board of supervisors fix the rate of interest, the rates of contributions of members or county appropriations that will have the effect of reducing the amount of individual benefits as provided for herein. Adjustments

Funds

(g) Said board shall have charge and control of said fund or funds and shall administer the same and shall have power to order payments therefrom in accordance with the provisions of this act.

Retiremen fund

SEC. 4. For the purpose of providing and maintaining a fund to meet the payments of demands drawn for the payment of pensions and the expenses of said retirement board, a fund is hereby created to be known as the "County foresters, firewardens and county fire protection district firemen's retirement fund." There shall be paid into said fund the following moneys, to wit:

Employee contributions

(a) The normal rates of contribution of members which shall be based on the age at the nearest birthday at the time of entrance into the retirement system. The normal rates of contribution shall be such as will provide an average annuity at the lowest age at which the respective members shall be eligible for service retirement equal to one-half of terminal salary, according to the tables adopted by said board, subject to adjustment as provided for in subsection (f) of Section 3 hereof.

Contribution schedule

(b) Until revised as a result of the actuarial investigation and valuation provided for in subsection (f) of Section 3 hereof, the rate of contribution of each member shall be that percentage of the salary actually paid to him, disregarding any portion thereof in excess of three hundred dollars ($300) per month, shown in the following table according to age at the time of entry into said retirement system:

Age at entry into system	Contribution, percentage of salary
21	4.31
22	4.48
23	4.66
24	4.85
25	5.05
26	5.26
27	5.49
28	5.73
29	5.98
30	6.25
31	6.54
32	6.85
33	7.18
34	7.54
35	7.93
36	8.34
37	8.80
38	9.30
39	9.86
40	10.47

The normal rate of contribution established for age 40 shall be the rate for any member who has attained a greater age before entrance into said retirement system. In like manner the normal rate of contribution established for age 21 shall be the rate for any member who enters said retirement system at a lesser age. Normal rate

(c) The rate of contribution of members shall apply to so much of the salary actually paid to them, plus the monetary value as determined by the board of retirement of board, lodging, fuel, laundry and other advantages of any nature furnished to him made in payment for his services as does not exceed three hundred dollars ($300) per month, and shall be deducted by the county auditor or other officer charged with the duty of drawing salary or wage warrants from the first salary or wage warrant drawn in each month in favor of each member of said retirement system which shall be paid by such auditor or other officer to the county treasurer and placed to the credit of each individual member's account. Payment of salaries and wages less such contribution shall be full and complete discharge and acquittance of all claims and demands whatsoever for service rendered by such members during the period covered by such payment except their claims to the benefits to which they may be entitled as members of such retirement system. Deductions, etc

(d) Upon election by any said qualified person to come within the provisions of this act said person shall automatically be excluded from any other retirement system established under the laws of this State or any city, county or city and county therein, and any sums due such person under such other system shall be paid to him as in the case of separation from the service, it being the intention that the retirement system provided by this act shall be exclusive and that the persons entitled thereto shall not participate in any other system now or hereafter provided by law for county and/or county fire protection district officers or employees; provided, however, that where said person elects to come within the provisions of this act and elects to secure credit for prior service as a forester, firewarden or fireman under this act, and where such person has to his credit in any other pension system a sum exceeding that necessary to entitle said person to credit for said prior service as a forester, firewarden or fireman, there shall be refunded to said person so electing to come within this system only such sum due said person under said other pension system as exceeds the amount necessary to entitle said person to credit claimed for prior service as a forester, firewarden or fireman, said sum to be determined on a 2 per cent basis applied to the aggregate salary and/or wage paid during the period of prior service claimed as a forester, firewarden or fireman; provided, however, where said person electing to secure credit for prior service as a forester, firewarden or fireman under this act has to his credit in any other pension system a sum less than that necessary to entitle him Exclusion from existing system

Credit for prior service

Deposit for credit

to credit for said prior service as a forester, firewarden or fireman, there shall be deposited in the retirement fund by said person so electing to come within this system a sum equal to the amount necessary to entitle said person to credit claimed for prior service as a forester, firewarden or fireman, and said amount said person has to his credit in any other pension system shall be transferred from such other system to the retirement fund of this system, to the credit of said person electing to secure credit for prior service as a forester, firewarden or fireman, said sum to be determined on a 2 per cent basis applied to the aggregate salary and/or wage paid during the period of prior service claimed as a forester, firewarden or fireman; and provided, also, where said person electing to secure credit for prior service as a forester, firewarden or fireman under this act, may further elect not to claim full credit for said prior service as a forester, firewarden or fireman, but only a fractional part of such prior service, in the event of such election to claim but a fractional part of said prior service as a forester, firewarden or fireman, said person will receive a refund or make deposit based on the amount to his credit in any other pension system as against the fractional part of said prior service claimed, said sum to be determined on a 2 per cent basis applied to the aggregate salary and/or wage paid during the period of prior service claimed as a forester, firewarden or fireman.

Fractional part of credit

County and district contributions

(e) An amount to be determined and appropriated each year by the board of supervisors, said amount to be sufficient, together with the contribution of county forester, firewardens and county fire protection district firemen to meet all of the current demands, including interest, against said pension fund. The board shall monthly deposit all contributions received in the county treasury to the credit of said fund.

Appropriations

From and after the date any system created by this act becomes operative, the board of supervisors shall in the preparation and adoption of the county or county fire protection districts budget, add to the appropriation for salaries and wages and include therein an appropriation equal in amount to the contributions to be made by the members of said retirement system during the period for which said budget is being prepared.

Certification

The county auditor shall certify to said board of supervisors at the end of each month the total amount of contributions paid by members to said retirement fund, and said board of supervisors shall thereupon transfer a like amount for such appropriation to said retirement fund.

Interest

(f) All contributions and deposits shall bear simple interest at a rate to be fixed by said board of retirement with the approval of said board of supervisors but said rate shall in no event be greater than 4 per cent per annum.

Interest shall be credited semiannually on June 30th and December 31st to all contributions in said retirement fund to

the credit of each member which have been on deposit for six months immediately prior to such date.

Separation from service

(g) In any case where a member of said system shall have separated from the service of the county before retirement, and such separation is for any cause other than for permanent disability, there shall be paid to him, or, in case of his death while in the service, but before retirement, for any cause other than an injury received during the performance of his duty, or sickness caused by the discharge of such duty, there shall be paid to his legal representative, all the money paid in by him as his contribution to said fund, together with interest which shall have been credited to his account as provided for herein.

Reentrance into service

(h) Any member may redeposit in the retirement fund, within one year after his reentrance into the service, an amount equal to that which he withdrew therefrom at the last termination of his membership, plus a sum equal to that he would have deposited had his service been unbroken by such last termination, to be based on the salary received at the time of such last termination. Said redeposit shall constitute reinstatement in full in the foresters, firewardens and fire protection district firemen's retirement system and said person making said redeposit shall thereupon be entitled to all of the privileges and benefits of said system.

Title to property

SEC. 5. The title to all property acquired under the provisions of this act shall be taken in the name of the county. The title to any moneys which may become due to any forester, firewarden or fireman shall not pass from the county or county fire protection districts to such forester, firewarden or fireman until such forester, firewarden or fireman is entitled thereto under the provisions of this act. That portion of the wage of any forester, firewarden or fireman deducted or to be deducted under this act, the right of a forester, firewarden or fireman or other person to an annuity or pension and all of their rights in the fund herein provided, shall be exempt from taxation and from the operation of any law relating to bankruptcy or insolvency, and shall not be attached or taken upon execution or other process of any court. No assignment of any right in or to said funds, nor in or to any pension or annuity shall be valid.

Exemption from taxation, etc

Assignments

Investments

SEC. 6. The board shall have charge and control of and shall safely keep the funds of the system and shall invest and reinvest the same, and may from time to time sell any securities held by them and invest and reinvest the proceeds therefrom, and any and all unappropriated income of said funds; provided, however, that all funds received by them not required for current disbursements shall be invested in those securities only which shall be legal for savings bank investments or deposited at interest in any State or National bank doing business with the county in accordance with the provisions of law authorizing and controlling the deposit of public funds in banks; provided, that the credit of the county shall not be

given or lent in aid of, or to, any person, association or corporation, whether municipal or otherwise, nor shall it be pledged in any manner whatever for the payment of the liabilities of any individual, association, municipal or other corporation whatever. Whenever securities belonging to or held for said retirement system are sold, the county treasurer shall deliver the securities so sold upon receiving the proceeds thereof, and may execute any and all documents necessary to transfer title thereto. The duties herein imposed upon the county treasurer shall be deemed a part of his official duties, for the faithful performance of which he shall be liable on his official bond.

Trust fund

SEC. 7. A trust fund account to be known as "County foresters, firewardens and firemen's retirement fund" is hereby created to be opened upon the books of the auditor and treasurer of the counties adopting a retirement system under the provisions of this act. All transfers or payments to the retirement fund and all withdrawals and other cash transactions, shall be accounted upon the books of the auditor and treasurer in and out of this fund account, in the manner they would be accounted if they were county transactions.

Warrants

SEC. 8. All warrants drawn on the county foresters, firewardens and fire protection district firemen's retirement fund shall be signed by the treasurer and at least one other member of the board of retirement, who shall be designated by such board, but no warrant so drawn shall be valid until it has been countersigned and numbered by the county auditor and a record made of it by him. Payments provided for in this act shall be made monthly upon proper vouchers.

"County foresters, firewardens and firemen"

SEC. 9. As used in this act, the term "county foresters, firewardens and firemen" shall mean all county foresters, county firewardens, deputy or assistant county foresters, deputy or assistant county firewardens, heads and assistant heads of all divisions of any county forester's or county firewarden's department, together with all fire apparatus engineers, fire prevention inspectors, forest firemen, fire patrolmen, fire observers and foremen assigned to fire suppression crews and all other personnel not specifically mentioned herein, and not specifically excluded, who are assigned to fire prevention and suppression in any county forester's or county firewarden's department, together with officers, engineers and firemen of any county fire protection district and all other personnel not specifically mentioned herein and not specifically excluded, who are assigned to fire prevention and suppression in any county fire protection district, but shall not include clerks, bookkeepers, stenographers, cooks, laborers, county fire protection district volunteer employees or persons who are not employed for full time duty, or other employees not performing the duties of any of the persons enumerated and shall not include any honorary deputy county firewarden or honorary deputy county forester, or voluntary firewarden holding appointment as such but receiving no compensation therefor

and not regularly performing particular official duties. "Terminal salary" shall mean the average salary earnable by any member during the last three years or the last five years prior to the date of his retirement, whichever average salary is the greater. "Terminal salary"

SEC. 10. Except as otherwise provided herein, all foresters, firewardens and firemen eligible for participation under the system provided by this act, shall be included in and shall be subject to the provisions of said act 30 days after said act becomes operative in any county, or 30 days after their entrance into the service; provided, however, that any forester, firewarden or fireman may elect to be excluded from the provisions of this act at any time within 30 days after said act becomes operative in any county or within 30 days after their entrance into the service, upon his written election to be so excluded, and no employee who has so elected to be excluded, may thereafter be included in or participate in the system herein provided. Inclusion in system

In the event that any member shall enter the armed forces of the United States during war or National emergency proclaimed by the President or act of Congress providing for peacetime induction or conscription, and thereafter shall have returned to active service as a forester, firewarden or fireman within 90 days after the termination of such service during such war or emergency, he shall be deemed to have been in continuous service as a forester, firewarden or fireman during the time he was in such armed forces of the United States; provided, that he shall have during the period of his absence from active duty, or shall have within six months after his return from active duty, paid into said retirement fund an amount equal to the amount of contributions which he would have made had he remained on active duty. Members in armed forces

SEC. 11. Any member shall be retired for disability regardless of age or amount of service, if incapacitated for the performance of duty as the result of an injury or disease occurring in and arising out of the course of his employment. Incapacity for performance of duty shall be determined by the board. Any member incapacitated for the performance of duty by reason of a cause not included in the immediately preceding sentence, shall be retired regardless of age but only after 10 years of service for which contribution provided for in this act has been made as a forester, firewarden or fireman as defined under Section 9 of this act. Service connected disability retirement

Upon retirement of a member for service connected disability, such member shall receive an annual pension, payable in equal monthly installments, equal to one-half of his terminal salary; provided, that such pension shall in no case be more than one hundred fifty dollars ($150) per month. Pension

Whenever any member shall be killed, or die, as a result of any injury received during the performance of his duty, or from sickness caused by the discharge of such duty, or after retirement for service connected disability, an annual pension Family pension

shall be paid in equal monthly installments to his widow, or child, or children, in an amount equal to one-half of such member's terminal salary; provided, that such pension shall in no case be more than one hundred fifty dollars ($150) per month. Said pension shall be paid to the widow, during her lifetime or until she remarries, and thereafter such pension shall be paid to the legally appointed guardian of the child or children of such deceased member until such child or children shall have attained the age of 18 years, or, should there be no widow, or widow qualified to receive such pension, then to such guardian of his child or children, until such child or children shall have attained the age of 18 years; provided, however, that no widow of a pensioner shall be entitled to a pension unless she shall have been married to such deceased pensioner at least five years prior to the date of his retirement; and provided further, that if such widow, child or children shall marry, then the pension paid to the person so marrying shall cease.

Nonservice connected disability retirement

Upon retirement of a member for nonservice connected disability such member shall receive an annual pension, payable in monthly installments, as follows, dependent upon the aggregate length of his service:

After 10 years but less than 12 years of service, the sum of fifty dollars ($50) per month;

After 12 years but less than 14 years of service, the sum of fifty-five dollars ($55) per month;

After 14 years but less than 16 years of service, the sum of sixty dollars ($60) per month;

After 16 years but less than 18 years of service, the sum of sixty-five dollars ($65) per month;

After 18 years but less than 20 years of service, the sum of seventy dollars ($70) per month;

After 20 years of service, the sum of seventy-five dollars ($75) per month; provided, that in no case shall any pension for nonservice connected disability exceed an amount equal to one-half of the terminal salary of such member.

Medical examinations

The board of retirement may, within its discretion, require any member retired for disability, under the age of 50 years, to undergo medical examination. The examination shall be made by a physician or physicians, appointed by said board, at the place of residence of said retired member or other place mutually agreed upon. Upon the basis of such examination said board shall determine whether such retired member is still incapacitated, physically or mentally, for service in the position held by him at the time of his retirement. If said board determines that such retired member is not so incapacitated, his pension shall be canceled forthwith, and subject to rules and regulations which may have been adopted by the county for the reinstatement or reemployment of personnel, he shall be eligible for reinstatement to a position in the class in which he was employed at time of retirement.

Cancellation of pension

Should the pension of any such retired member be canceled, there shall be paid to him immediately out of said fund, an amount equal to his accumulated contributions, as of the date of his retirement, together with all interest which shall have been credited to his account as provided for herein, less an amount equal to one-half of the pension payments made to him during the period of his retirement. Reimbursement

Should such retired member reenter county service and be eligible for membership in said retirement system, his rate of contribution for future years shall be that established for his age at the time of such reentry. He shall also receive credit for all service rendered by him prior to the time of his disability retirement; provided, that he shall have deposited into said fund within six months after his reinstatement or reemployment an amount equal to the amount paid to him upon cancellation of his pension. Reinstatement

At any time before the first payment on account of any pension is made, a member or beneficiary may elect to receive the actuarial equivalent at that time of his pension in a lesser pension payable throughout his life and that of his widow, if she survives him, in accordance with one or the other of the following options: Payment options

Option 1: Upon his death, such lesser pension shall be continued throughout the life of and paid to his widow.

Option 2: Upon his death one-half of such lesser pension shall be continued throughout the life of and paid to his widow.

SEC. 12. Whenever any person at the time this act becomes effective or thereafter shall have been duly appointed, selected, or elected and qualified and shall have served for 20 years or more in the aggregate, as a forester, firewarden or fireman, and who shall have reached the age of 60 years, said board shall upon its own motion, or upon the application of such person, order and direct that such person be retired and such person shall thereafter receive a pension payable in equal monthly installments during his lifetime, equal to one-half of his terminal salary; provided, however, that the amount of such pension shall in no case be more than one hundred fifty dollars ($150) per month. Retirement for age

SEC. 13. No employee who accepts any of the benefits under the provisions of this act shall engage in any public employment, where as a result of such employment the aggregate compensation paid to such pensioner would exceed the compensation paid to him in the position from which he was retired, and any violation of the provisions of this section shall result in the immediate termination of any and all such benefits. Public employment following retirement

SEC. 14. No county forester, firewarden or county fire protection district fireman who receives compensation from the Workman's compensation

county for disability under any workman's compensation act or by virtue of any judgment obtained against the county for disability, shall receive any of the benefits provided by this act, nor in the event of his death, shall any such benefits inure to his dependents as here provided; provided, however, that where such person is retired under the provisions of this act, and would be entitled to a pension thereunder, such person may receive such portion of the pension authorized as is represented by the difference between workmen's compensation and the full amount of the pension to which he might otherwise be entitled, it being the intention that the pension allowed for injury incurred in line of duty, shall not be cumulative with the benefits under workmen's compensation which may be awarded for the same injury or disability.

Tax levy

SEC. 15. The boards of supervisors, in their respective counties, shall have jurisdiction and power, under such limitations and restrictions as are prescribed by law, to levy a special tax to be used for the payment of pensions and annuities to county and county fire protection district employees under such pension, retirement and benefit systems or associations as may have been established by law for county and county fire protection district employees.

Purpose of act

SEC. 16. The purpose of this act is to recognize a public obligation to employees in the public service whose duties expose them to more than ordinary risks and at the same time provide a means whereby such public employees who may be incapacitated in the performance of their duties, or by age, may be replaced by more capable employees to the betterment of the public service and without prejudice and without inflicting a hardship upon the employees removed, and the retirement pension and benefits herein provided are granted as an additional element of compensation for future services.

This act, therefore, shall be given a liberal interpretation with a view of carrying out such purpose and it shall not be construed as a local measure or one intended as a benefit to particular persons or places.

Constitutionality

SEC. 17. In case any section, or sections, or part of any section, of this act, shall be found to be unconstitutional or invalid for any reason, the remainder of the act shall not thereby be invalidated but shall remain in full force and effect.

CHAPTER 1010

An act to amend Sections 8212 and 8213 of the Government Code, relating to qualification of notaries public.

Stats 1943 Ch 134, amended

[Approved by Governor June 3, 1943. Filed with Secretary of State June 3, 1943.]

Note.—See Stats. 1943, Ch. 134

CHAPTER 1011

An act to amend the Building and Loan Association Act by adding thereto a new article to be numbered 16, relating to building and loan associations, the Building and Loan Commissioner, plans for the rehabilitation, readjustment, reorganization or liquidation of such an association or of all or of any part of the business, properties and assets of such association or the readjustment, modification or reorganization of the rights or interests of any or all investors and creditors of such association and the rights of investors and creditors of any such association in the possession of the commissioner to obtain assets of such association in exchange for investment certificates or unsecured creditor's claims, providing for the organization of a corporation or corporations to acquire such assets or a portion thereof; providing for the kinds of securities issuable in connection therewith; authorizing executors, administrators, guardians, receivers, trustees, insurance companies and cemetery associations to consent to or dissent from a plan as defined in said Article 16, and to exchange shares, stock, investment certificates or other rights or claims for securities issued pursuant to such Article 16 or for property and to continue to hold as a legal investment any securities or properties so received, and exempting the proposer or proposers of a plan and the investors and creditors petitioning for withdrawal of assets from the provisions of an act approved July 1, 1937, being Chapter 784 of the Statutes of 1937.

Stats 1931, p 483, amended

[Approved by Governor June 1, 1943. Filed with Secretary of State June 3, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. The act cited in the title hereof is hereby amended by adding thereto a new article to be numbered 16, to read as follows:

New article

Article 16. Reorganization

Sec. 16.01. Definitions. The terms "plan" and "plan of reorganization," as used in this article, are hereby defined to mean a plan for the rehabilitation, readjustment, reorganization or liquidation of an association, or of all or of any part of

"Plan" and "plan of reorganization"

Provisions of plan

the business, properties and assets of an association, or for the readjustment, modification or reorganization of the rights or interests of any or all of the investors and creditors of an association, or for any or more of the foregoing purposes. Without limiting the generality of the foregoing, a plan may provide with respect to all or any part of the business, properties and assets of an association for any one or more of the following: (1) The return thereof to such association; (2) the retention thereof by the commissioner; (3) the transfer thereof to another corporation or to two or more other corporations (which corporation or corporations or any of them may but need not be an association or associations or a Federal savings and loan association or associations); (4) the transfer thereof to a trustee or trustees named in or appointed pursuant to the provisions of such plan; (5) the issuance of new securities in lieu of outstanding investment certificates, shares, stock or other obligations of such association.

Additional or alternative provision

In addition or as an alternative to the foregoing, the plan may provide that such association shall cease to be an association but shall continue to exist as the same corporate entity, and in the event such plan becomes operative, such association shall become a corporation subject to the general corporation law of this State, and thereafter its rights, duties and privileges and all questions relating to such corporation shall be governed and determined by such general corporation law and not by this act, except that this article shall continue to apply to such corporation in all matters relating to such plan or the consummation of such plan, and except that such corporation's name shall be changed so that it shall no longer include any of the following: "Building and loan," "building-loan," "association," "saving" or "savings." Any new association formed, pursuant to a plan, to continue the building and loan business of an existing association, may adopt and continue to use the name of such existing association or any part of such name.

"Creditor" and "creditors"

The terms "creditor" or "creditors," as used in this article, shall include the holder or holders of claims of whatever character against an association or its property, whether secured or unsecured, liquidated or unliquidated, fixed or contingent, except shares, stock or investment certificates.

"Shares," etc.

As used in this article, (a) the terms "investment certificates," "shares" and "stock" shall include claims filed under Section 13.16 of this act in respect of investment certificates, shares and stock, respectively; (b) the term "investors" shall include holders of such claims; and (c) the terms "certificate holder," "shareholder" and "stockholder" shall include holders of such claims in respect of investment certificates, shares and stock, respectively.

"Securities"

The term "securities," as used in this article, shall include not only shares, stock and investment certificates issuable by associations under other provisions of this act but also shares of Federal savings and loan associations and stock of one or more classes, issuable by corporations generally, and also

bonds, notes, debentures, warrants, or evidences of indebtedness or of beneficial interest or of any other claims or rights. An association may issue, pursuant to a plan approved under this article, and for any consideration specified in such plan, any one or more of the above mentioned kinds of securities, regardless of any provisions of this act to the contrary.

Plan of reorganization

Sec. 16.02. Reorganization by Commissioner. As a condition to restoration of possession and resumption of business pursuant to Section 13.11 of this act, the commissioner may require an association, the business, property and assets of which are in his possession, to adopt and agree to carry out a plan of reorganization proposed by the commissioner.

Hearing Notice

A. Proposal of Plan. The commissioner, upon proposing a plan of reorganization pursuant to this Section 16.02, shall file such plan in each of his offices and shall fix a time and place for a hearing before him on such plan, and shall give at least 30 days' notice to investors and creditors of such hearing, which notice shall include a copy or summary of such plan. Such hearing shall be held in the county in which such association maintains its principal office.

Place

Evidence

B. Hearing. At the time and place fixed for such hearing, or at the time and place to which such hearing may be continued by the commissioner, the commissioner shall hear the parties interested therein and, if he deems it necessary, may take testimony and/or may receive depositions relative thereto. If at the time fixed for such hearing written dissents from such plan (other than dissents, if any, withdrawn after the filing thereof) shall have been filed by holders of more than one-third in value of the investment certificates of such association then outstanding, or by holders of more than one-third in value of the shares of such association then outstanding, or by holders of more than one-half of the stock of such association then outstanding, then such hearing shall not be held, such plan shall not be approved by the commissioner, and no further proceedings shall be taken in respect of such plan.

Dissents

Approval or disapproval

After the completion of such hearing the commissioner shall approve or disapprove such plan, and if he disapproves such plan he may modify such plan and propose it as modified or propose a different plan. If he proposes such plan as modified or a different plan, the provisions of this Section 16.02 (including among other provisions, the provisions of Subsections A and B thereof) shall apply to such modified or different plan in the same manner and with the same effect as if it had been the original plan proposed by the commissioner.

Dissents not effective

Notwithstanding anything to the contrary contained in this Subsection B, dissents of shareholders shall have no effect if the value of the assets of such association shall be less than the liabilities of such association, including the value of its investment certificates but not including the value of its shares; and dissents of stockholders shall have no effect if the value of the

assets of such association shall be less than the liabilities thereof, including the value of all outstanding shares and investment certificates.

Fairness of plan

C. Conditions of Approval. No plan shall be approved by the commissioner unless he is satisfied that the plan is fair and equitable, and feasible.

Effect of approval

D. Effect of Approval. When any plan under this Section 16.02 shall have been approved by the commissioner, such plan shall be binding upon the commissioner, such association and all of the investors and creditors of such association, other than investors and creditors who shall have filed with the commissioner written dissents from such plan within the time specified in Subsection B of this Section 16.02 and shall not have withdrawn such dissents. Thereupon such steps shall be taken by the commissioner, such association and all other persons affected by such plan, and all acts shall be done, all instruments executed and all securities issued, as may be required by such plan so approved and as may be necessary or desirable for the consummation of such plan. The commissioner shall supervise and direct the consummation of such plan.

Consummation

Withdrawal of dissent

E. Rights of Dissenters. No investor or creditor who shall have filed with the commissioner his written dissent from such plan within the time specified in Subsection B of this Section 16.02 shall be entitled to receive any securities or other participation under such plan (except from payments to the commissioner pursuant to provisions of the plan referred to in the next paragraph) unless such dissent shall be withdrawn, but the commissioner shall set apart and shall thereafter liquidate for such dissenters that part of the assets of such association which in value shall bear the same proportion to all of the assets of such association (due provision being made for any liens, charges, liabilities and expenses entitled to payment in preference to certificate holders and unsecured creditors) as the value of investment certificates in respect of which dissents have been duly filed plus the amount of claims of unsecured creditors in respect of which dissents shall have been duly filed bears to the total sum of the value of all investment certificates of such association plus the amount of all unsecured creditors' claims against such association (such proportion being hereinafter referred to as the "proportion of dissenting certificate holders and unsecured creditors"); provided, that in all cases the assets so set apart for liquidation shall be of such amount and value that the probable result of the liquidation of such assets for the benefit of the dissenting investors and creditors and of any payments to the commissioner pursuant to the provisions of the plan referred to in the next paragraph shall be not less favorable to the dissenting investors and creditors than the probable result of a liquidation, in the absence of a plan, of all of the assets for the benefit of all investors and creditors.

Setting aside of assets

Additional distribution to stockholders, etc.

It is recognized that the proportion of dissenting certificate holders and unsecured creditors may not be the same as the proportion which the value of shares in respect of which dissents have been duly filed bears to the total value of all shares of such association (hereinafter referred to as the "proportion of dissenting shareholders") or as the proportion which the value of stock in respect of which dissents have been duly filed bears to the total stock of such association (hereinafter referred to as the "proportion of dissenting stockholders"). Accordingly, any plan approved under this Section 16.02 shall provide that if the liquidation of assets set apart pursuant to this Subsection E shall result in the distribution to dissenting certificate holders and unsecured creditors of the full amounts to which they are entitled and leave additional amounts available for distribution to shareholders or stockholders, such additional amounts shall be either (a) increased (in the event the proportion of dissenting shareholders or the proportion of dissenting stockholders shall be greater than the proportion of dissenting certificate holders and unsecured creditors) by payments from the association, or from a corporation or trustee to whom assets of such association are to be transferred pursuant to such plan to the commissioner for distribution to dissenting shareholders or dissenting stockholders or (b) decreased (in the event the proportion of dissenting shareholders or the proportion of dissenting stockholders shall be less than the proportion of dissenting certificate holders and unsecured creditors) by payments from the commissioner to the association, or to a corporation or trustee to whom assets of such association are to be transferred pursuant to such plan. In either case the amounts to be so paid shall be determined by the amounts available for distribution to shareholders or stockholders, respectively, as the result of liquidation by the commissioner of the assets set apart pursuant to this Subsection E and shall be such as to overcome any inequity which would exist in the absence of such payment by reason of the differences between the proportion of dissenting certificate holders and unsecured creditors, the proportion of dissenting shareholders, and the proportion of dissenting stockholders.

Statement of assets set apart

Upon approving a plan of reorganization the commissioner shall determine what assets shall be set apart pursuant to this Subsection E and shall cause a written statement of such determination, including a description of the properties to be so set apart, to be filed in each of his offices. Thereupon the commissioner shall cause notice of the fact that he has made such determination (which notice shall include in general terms a statement of the properties to be so set apart) to be given as follows: Such notice shall be posted in three public places in the county in which such association maintains its office, shall be published at least once in a newspaper of general circulation in said county, and shall be mailed to all

Notice

investors and creditors whose respective addresses appear on the books of such association.

Application for court hearing

F. Action in Superior Court. Within 30 days after such notice shall have been posted, published and mailed as aforesaid any investor or creditor may apply to the superior court of the county in which such association maintains its office for a determination as to whether the assets set apart pursuant to Subsection E of this Section 16.02 are sufficient in amount and value to conform to the requirements of such subsection.

Notice of hearing

Thereafter such application or applications shall be set for hearing. At least 30 days' notice of such hearing shall be given by posting in three public places in said county, and, if the court shall so require, notice shall also be given by publication and/or mailing at such time or times and in such manner as the court shall prescribe.

Evidence

At such hearing the written statement of the commissioner of his determination as to the assets to be set apart shall be received and shall be prima facie evidence of the correctness of such determination, but the commissioner, the association and any investor or creditor (whether or not dissenting) may introduce evidence in support of or in opposition to the commissioner's determination.

Order

After the conclusion of such hearing the court shall make its order either approving or disapproving such determination by the commissioner, and if the court shall disapprove such determination, the court shall determine and specify in such order the assets to be set apart pursuant to Subsection E of this Section 16.02.

Postponement of plan

G. Appeals. No appeal from such order of court shall stay or postpone the consummation of the plan, unless such court shall deem it necessary to delay such consummation for the proper protection of the appellant or appellants, but in lieu of requiring the consummation of the plan to be delayed such

Restraint on sale

court may restrain the sale, transfer or other disposition by the commissioner, the association or a corporation or trustee to whom assets are to be transferred, of any assets specified by the court, if the retention of such assets is found by the court necessary or advisable to protect the rights of the appellant or appellants.

Proposal of plan

Sec. 16.03. Reorganization by Court. A plan of reorganization may be proposed in court pursuant to this Section 16.03 for an association of which the property, business and assets are in the possession of the commissioner. A plan of reorganization of such association may be proposed pursuant to this Section 16.03 (1) by the commissioner, or (2) by the holders of 25 per cent in value of the outstanding investment certificates of the association, or (3) if there are no investment certificates outstanding, by the holders of 25 per cent in value of the outstanding free shares of the association.

Invitation to join

Upon the petition of the holders of 15 per cent in value of the certificates, or, if there are no certificates outstanding, of the holders of 15 per cent in value of the free shares, the court shall order the commissioner to send to all certificate holders,

or, if there are no certificates outstanding, to all holders of free shares, an invitation to join in proposing to the court a plan of reorganization, together with any arguments in favor of such proposal prepared by such petitioners. Provided, the form and contents of such invitation and arguments shall be subject to approval by the court as fair and reasonable; and provided further, that the expense of preparation and distribution shall be borne by such petitioners.

Time limit

Provided, however, that no plan may be presented to the court by certificate holders or holders of free shares as provided above, unless it is so presented within nine months after the commissioner has taken possession of the property, business and assets of the association, or, in the case of an association the property, business and assets of which now are in the possession of the commissioner, within nine months after this act shall take effect.

Petition

A. Procedure. Such plan shall be presented by the proposer or proposers to the superior court of the county in which such association maintained or maintains its principal office, with a petition that the court determine the fairness of such plan and what consents are requisite to such plan becoming operative, which petition shall set forth such plan and the fact that it is proposed by a person or persons authorized under this Section 16.03 to propose it and any other facts which such proposer or proposers shall deem material to a consideration of the fairness of such plan. If the commissioner is not the proposer of the plan, the court shall refer the plan to the commissioner and direct him to analyze the plan and the condition of the association. Within 30 days or such additional time as the court may grant, the commissioner shall return the plan to the court with his findings and recommendations, and may propose to the court his own plan. Thereupon the court shall fix the time and place for hearing on the plan presented by petition and on the plan presented by the commissioner, if any, and shall direct that notice of such hearing be given as hereafter provided and shall direct the commissioner to deliver to the clerk of the court, a list of the names and addresses of the investors and creditors of such association as shown by the records of such association, and such other information as the court may deem necessary or proper, whereupon the commissioner shall comply with such direction. Thereafter the clerk of the court shall give at least 30 days' notice of such hearing to the investors and creditors of such association (and to such association, if not the proposer or proposers of such plan), which notice shall include either a copy of such plan or plans or a summary thereof, and a statement that any interested stockholder, shareholder, certificate holder or creditor shall have the right, without the necessity of formal intervention, to appear either in support of a plan or in opposition thereto or may propose a modification or modifications. Such notice shall be approved by the court. The above mentioned list of names and addresses of the investors and creditors

Reference to commissioner

Findings and recommendations

Notice of hearing, etc

delivered to the clerk of the court shall be impounded by him and shall not be subject to inspection except upon order of the court and upon such terms and conditions as the court may prescribe.

Hearing

B. Hearing. At the time and place fixed for such hearing, or at the time and place to which such hearing may be continued by the court, the court shall hear the parties interested therein and, if it deems it necessary, may take testimony relative thereto and/or may receive depositions relative thereto. Such hearing shall be given the same preference as a hearing upon an application for an injunction. At such hearing any interested stockholder, shareholder, certificate holder or creditor may propose a modification or modifications of any plan then before the court or a different plan.

Approval or disapproval

No plan shall be approved by the court unless the court is satisfied that the plan is fair and equitable, and feasible. After the completion of such hearing the court forthwith shall approve, modify and approve, or disapprove such plan or plans. No such plan shall become operative unless and until it shall have been approved, in its original form or if modified, in its modified form, by such court, nor unless and until such plan shall have been consented to, after the approval of such plan

Consents

by the court, by the following persons: (a) if such association shall have stock outstanding, then by the holders of a majority in amount of the stock of such association; (b) if such association shall have shares outstanding, then by the holders of a majority in value of the shares of such association; (c) if such association shall have investment certificates outstanding, then by the holders of two-thirds in value of the investment certificates of such association; and (d) if such association shall have creditors, then by two-thirds in amount of each class of creditors of such association; provided, however, that such consents shall not be required in the case of any certificate holder, shareholder or creditor, or of any class of certificate holders, shareholders or creditors, if (1) the rights of such person or persons shall not be materially and adversely affected by such plan or (2) if such plan shall provide for the payment in cash of the value of the investment certificates, shares or claims held by such person or persons either promptly upon such plan becoming operative or, if the amount or validity of such investment certificates, shares or claims shall not have been finally determined, promptly upon such final determination with further provision in such plan for reserving adequate funds to make such payment upon such final determination; provided further, that such consents shall not be required from the shareholders of any association if the value of the assets of such association shall be less than the liabilities of such association including the value of its investment certificates but not including the value of its shares, nor from the stockholders of

When consents not required

any association if the value of the assets of such association shall be less than the liabilities thereof including the value of all outstanding shares and investment certificates; and provided further, that if any plan is modified with the approval of the court and (1) if the court shall find that such modification does not materially and adversely affect the interests of any particular class or classes of persons whose consent to the plan is required, then the consent of such particular class or classes of persons shall not be required to such modification and all persons of such class or classes who shall have consented to the plan prior to the court's approval of its modification shall be deemed to have consented to the modification and to the plan as modified and (2) if the court shall find that such modification materially and adversely affects the interests of any particular class or classes of persons whose consent to the plan is required, notice of such modification may be given to such class or classes of persons in such manner as the court shall prescribe and any person who shall have consented to the plan prior to the court's approval of its modification and who shall not file a written dissent to such modification within the time fixed by the court shall be deemed to have consented to the modification and to the plan as modified unless such persons' previous consent to the plan shall have provided otherwise. The approval by the court of the plan shall be in writing. The court shall make an order fixing a time and place for a further hearing to determine what consents have been given, and directing the clerk of the court to mail, or cause to be mailed, to each of the stockholders, shareholders, investment certificate holders and creditors of such association, a notice of the time and place fixed for said hearing, a copy or summary of such plan, a statement setting forth the consents necessary to such plan becoming operative and a notice that all parties desiring to consent or dissent may file written consents or dissents with the clerk of the court before the time fixed for said hearing or to which said hearing may be continued. At the time and place so fixed, or any continuance thereof ordered by the court, the court shall take evidence on that subject and upon satisfactory proof at such time of the fact that the requisite number of consents have been given, a further order may be entered providing that such plan shall become operative, which further order shall be binding upon the commissioner, such association, and all its investors and creditors.

Order of further hearing

Notice

Hearing and order

During the pendency of a proceeding under this Section 16.03 the court shall not stay by reason of the pendency of such proceeding further proceedings in liquidation by the commissioner, but hearing upon any application under Section 13.12 may be stayed, in the discretion of the court; and the court in which the petition under this Section 16.03 is pending is hereby given jurisdiction, if a plan is approved and by the court declared operative, to enjoin thereafter, the commencement or

Stay of proceedings

Injunction

continuance of any action or proceeding against such association or any act, action or proceeding to enforce a lien or charge upon, or to obtain possession of, or to sell or otherwise dispose of (except in conformity with such plan), any property of such association, and to determine all questions required to be determined pursuant to this Section 16.03 including, without limiting the generality of the foregoing, the following: Whether the association subject to such plan is included in the class specified in this section as subject to reorganization; whether any plan, either in its original or modified form is fair and equitable; whether it is feasible; whether the plan is more advantageous than liquidation from the standpoint of each class of investors and creditors affected thereby; the liabilities of such association and the value of the assets thereof; the consents requisite under this Section 16.03 to such plan becoming operative, including jurisdiction to determine, for the purposes of the plan and the consents or dissents thereto, the division of the investors and creditors into classes according to the nature of their respective rights and interests. If, pursuant to Section 16.05, provision has been made in any plan for the payment in cash in full of all certificate holders, shareholders and creditors each of whose investment certificates, shares or claims is of such value, not to exceed twenty-five dollars ($25), as shall be specified in such plan, all investment certificates, shares and claims to be paid in cash pursuant to such provision shall be excluded in computing the consents required or given under this Subsection B.

Compensation and reimbursement for costs, etc.

If the court shall approve a plan of reorganization, either in its original form or in modified form, the court may allow reasonable compensation for services rendered, and reimbursements for proper costs and expenses incurred by the persons who were the proposer or proposers of such plan and their attorneys. In fixing such allowance the court shall give consideration only to the services which contributed to the plan approved by the court, or to the refusal of the court's approval of a different plan or plans, or which were beneficial in the proceedings under this Section 16.03, and to the proper costs and expenses incidental thereto.

Payment

All expenses of and charges against the clerk of the court in connection with the mailing, posting and publication referred to in this Section 16.03 shall be paid from the assets of the association in question by the commissioner.

Delivery of plan

C. Building and Loan Commissioner. The proposer or proposers of a plan shall deliver a copy thereof to the commissioner or to one of his deputies either before the petition referred to in Subsection A of this Section 16.03 shall have been filed in court or within two days thereafter. A copy of said plan shall be kept by the commissioner available for public inspection at each of his offices in this State. In the case of any plan pursuant to this Section 16.03 under which all or any part of the business, properties or assets of such association is to be

Consent

retained by, returned to or transferred to any association (other than a Federal savings and loan association or an association which, pursuant to the plan, is to cease being an association), such plan shall not be approved by the court unless it shall have been first consented to by the commissioner.

Notice of appearance

In any proceeding under this Section 16.03 the commissioner shall if requested by the court, and may upon his own motion, file a notice of his appearance in such proceeding. Upon the filing of such a notice the commissioner shall be deemed to be a party in interest, with the right to be heard on all matters arising in such proceeding, and shall be deemed to have intervened in respect of all matters in such proceeding with the same force and effect as if a petition for that purpose had been allowed by the court.

Binding effect on approval

D. Effect of Approval and Consents. When any plan under this Section 16.03 shall have been so approved by the court and shall have been consented to by or on behalf of the respective required proportions of the investors and creditors, such plan shall be binding upon the commissioner, such association, and all of the investors and creditors of such association. Thereupon such steps shall be taken by the commissioner, such association and all other persons affected by such plan, and all acts shall be done, all instruments executed and all securities issued, as may be required by such plan so approved and as may be necessary or desirable for the consummation of such plan. The association, the commissioner, or such person as the court shall appoint, shall supervise and direct the consummation of the plan subject to the orders of the court.

Consummation of plan

Withdrawal of assets

Sec. 16.04. Withdrawal of Assets. When the property, business and assets of an association are in the possession of the commissioner, unless he is enjoined from proceeding with liquidation under the provisions of this act, investment certificate holders and unsecured creditors of such association may withdraw to themselves or to a corporation nominated by them assets of such association upon the approval of the superior court after notice given and hearing held in the manner hereafter provided in this section.

Petition

A. Procedure. The holders of at least 25 per cent in value of the aggregate outstanding investment certificates of an association, the business, property and assets of which are in the possession of the commissioner, together with any unsecured creditors of such association then desiring to join with them, may themselves, or through a corporation nominated by and representing them, petition the superior court of the county in which the principal office of such association is situated to exchange their investment certificates and unsecured creditors' claims for their proportionate share of the assets of such association. Such petition, among other things, shall set forth, in general terms, the method by which the withdrawal of assets is to be accomplished, the interests to be acquired by investors and unsecured creditors should said petition be

granted, and whether a corporation is to acquire such assets, and if so, such petition shall also set forth the kind or kinds of securities to be issued by such corporation and the classes of persons to whom such securities are proposed to be issued. A copy of said petition shall be served upon the commissioner or one of his deputies prior to the filing thereof or within three days after the filing thereof. Upon the filing of said petition the court shall fix the time and place for the hearing of such petition and shall direct that the commissioner shall give at least 30 days' notice to investors and creditors of such hearing. The form of such notice shall be approved by order of the court, which order may be made without notice; and the commissioner shall cause such notice to be given. The petitioner or petitioners or their nominee may request other investors and unsecured creditors of such association to join in said petition.

Service

Notice of hearing

Joinder in petition

B. Investors and Creditors Joining in Petition. At any time prior to such hearing investors and unsecured creditors of such association not represented by the petitioner or petitioners at the time of the filing of such petition may join with and be represented by the petitioner or petitioners by filing with the court, either directly or through the petitioner or petitioners, a written consent to join in said petition, and thereupon such investors and unsecured creditors shall be deemed to have joined in said petition.

Appraiser

C. Hearing. At least 10 days before such hearing the commissioner shall serve upon the petitioner or petitioners and shall file with the court an appraisal by the commissioner or by appraisers employed by him of each asset of such association (or of each group of assets which are operated as a unit), and such appraisal shall be received in evidence at such hearing and shall be deemed prima facie correct. In such appraisal the various assets shall be classified by the commissioner according to the character of such assets and their operation. At the hearing the court shall determine the total amount of investment certificates and unsecured creditors' claims represented by the petitioner or petitioners, and what ratio such total bears to the total amount of investment certificates and unsecured creditors' claims outstanding. At the hearing, the commissioner, the petitioner or petitioners, or any other certificate holder or unsecured creditor, may recommend to the court the assets to be segregated, and the court shall determine such segregation and shall allot to the withdrawing certificate holders and unsecured creditors their proportionate share of the assets, and the commissioner shall retain the remainder for liquidation for the benefit of the nonwithdrawing investors and unsecured creditors. Such segregation shall be made so far as practicable by designating for withdrawal approximately the same proportion of each class of assets, the intent being so far as practicable to secure for the withdrawing certificate holders and unsecured creditors a

Court determinations

fair and equitable cross-section of the assets, and to retain for the nonwithdrawing certificate holders and unsecured creditors a fair and equitable cross-section of the assets.

Granting of petition

The court shall determine whether such proposed withdrawal is fair both to the withdrawing and to the nonwithdrawing certificate holders and creditors, and if the court shall determine that such withdrawal is fair as aforesaid, shall grant such petition. No petition for withdrawal of assets shall be granted by the court unless the court is satisfied that the proposed withdrawal of assets in exchange for investment certificates and unsecured creditors' claims is fair both to the withdrawing and to the nonwithdrawing certificate holders and creditors, nor unless the court determines that the ratio which the value of the assets to be withdrawn bears to the value of all of the assets is substantially the same as the ratio which the value of the investment certificates and the amount of unsecured creditors' claims owned by the petitioner or petitioners bears to the total of the value of all investment certificates and the amount of all unsecured creditors' claims. In such determination the court shall give due consideration to liabilities and encumbrances affecting particular assets or groups of assets. If such association has shares outstanding, no petition for withdrawal of assets shall be granted by the court unless either such withdrawal is consented to by the holders of the majority in amount of the shares of such association or the value of the assets of such association shall be less than the liabilities of such association, including the value of its investment certificates but not including the value of its shares; and if such association has stock outstanding, no petition for withdrawal of assets shall be granted by the court unless either such petition is consented to by the holders of the majority in amount of the stock of such association or the value of the assets of such association shall be less than the liabilities thereof, including the value of all outstanding shares and investment certificates.

Exchange of securities

D. Stockholders. Any corporation which is to acquire any assets of such association may, subject to the provisions of this Subsection D, issue securities to the shareholders and/or stockholders of such association in exchange for their outstanding shares, stock, claims or property interests, or partly in such exchange and partly for cash; provided, the issuance of such securities is approved by the court and by the petitioner or petitioners; and provided further, that such securities shall contain express provision that no interest, dividends or other distribution shall be paid or made thereon unless and until such corporation shall have retired all securities issued in exchange for claims of investment certificate holders and claims of unsecured creditors; and provided further, that unless the court finds that the shareholders have an existing equity in the assets of the association, the securities issued to the shareholders shall contain express provision that such securities shall have no voting power until such corporation shall have retired

Conditions

all securities issued in exchange for claims of certificate holders and unsecured creditors, and, that unless the court finds that the stockholders have an existing equity in the assets, the securities issued to the stockholders shall contain express provision that such securities shall have no voting power until such corporation shall have retired all securities issued in exchange for claims of shareholders, certificate holders and unsecured creditors.

Approval or disapproval of petition

E. Effect of Order. After the completion of such hearing the court shall have jurisdiction to approve such petition or to disapprove such petition, or may approve such petition as amended, and shall have authority to approve or disapprove the terms and conditions of the issuance of securities in exchange for outstanding securities, claims, or property interests, or partly in such exchange and partly for cash. If such petition or amended petition is approved, the court shall order the commissioner to transfer and deliver to the petitioner or petitioners or to a corporation nominated by them the assets selected by the petitioner or petitioners and approved by the court; and upon the transfer and delivery of said assets to the petitioner or petitioners or to such corporation in exchange for investment certificates and/or unsecured creditors' claims in compliance with the order of court, the powers of the commissioner with respect to said assets shall terminate and such association and the State of California shall be forthwith released from all further liability with respect to the assets thus withdrawn. The order of court approving such petition, amended petition or supplemental petition, shall be binding upon the commissioner, such association and all investors and creditors of such association. The powers and duties of the commissioner and the rights of all investors and unsecured creditors as to the assets of such association not withdrawn hereunder shall not be affected by this section.

Effect

Supplemental petition for asset withdrawal

F. Supplemental Petitions. After the approval of such petition and the withdrawal of assets thereunder, the petitioner or petitioners or the corporation to which the assets are withdrawn from time to time may file a supplemental petition in said court for the withdrawal of additional assets in exchange for additional investment certificates and/or unsecured creditors' claims aggregating not less than 10 per cent of the total investment certificates and unsecured creditors' claims outstanding at the time of the first withdrawal of assets. Thereupon such supplemental petition shall be set for hearing and notice of such hearing shall be given as provided in Subsection A of this Section 16.04 and in Section 16.07. At the hearing on such supplemental petition the court shall order additional assets withdrawn if it determines that such withdrawal is fair both to the petitioner or petitioners or said corporation on the one hand and to the nonwithdrawing certificate holders and creditors on the other hand.

Notice of hearing

Hearing

G. Section 13.16a Not Repealed. Nothing in this Section 16.04 nor in this Article 16 is intended or shall be construed to repeal Section 13.16a of this act. Construction

Sec. 16.05. Priorities and Value. In any plan proposed pursuant to Section 16.02 or Section 16.03 due consideration shall be given to the rights and interests of all persons affected thereby (with due regard to the feasibility of such plan and the condition of such association), in the following order of priorities: First, secured creditors and other persons, if any, entitled to preference over investment certificate holders and unsecured creditors in the event of liquidation; second, investment certificate holders and unsecured creditors, without preference to one over the other; third, shareholders; and fourth, stockholders; provided, however, that provision may be made in any such plan for the payment in full of all taxes, assessments, insurance, alterations, repairs and other operating expenses, for the payment of expenses of the commissioner in connection with such association or its property, business or assets or in connection with any application of such association under Section 13.12 of this act, and for the payment of expenses in connection with such plan as authorized by this article; and provided further, that provision may be made in any such plan for the payment in cash in full of all certificate holders, shareholders and creditors each of whose investment certificates, shares or claims is of such value, not to exceed twenty-five dollars ($25), as shall be specified in such plan. Priorities. Payment of expenses, etc.

No plan which provides for the issuance of securities to holders of stock shall be approved unless such securities contain express provision that no interest, dividends or other distribution shall be paid or made thereon unless and until all securities issued in exchange for claims of investment certificate holders, claims of unsecured creditors, and claims of shareholders, if any, have been retired; it being the intent that under such plan each investment certificate holder and unsecured creditor (except those who shall sell or otherwise dispose of their new securities) shall receive the full amount of their original investment, with interest, dividends, or other return thereon before any interest, dividends or other distribution is paid or made on securities issued to shareholders or stockholders, or both, as aforesaid. A plan may provide, however, for the issuance of such securities to the stockholders that after all creditors, certificate holders and shareholders (except those who shall sell or otherwise dispose of their new securities) shall receive the full amount of their original investments or claims, with interest, dividends or other return thereon, the stockholders or their assigns shall own in effect, through their ownership of such securities issued to the stockholders, the remaining assets. Unless the court finds that the shareholders have an existing equity in the assets of the association, the securities issued to the shareholders shall contain express provision that such securities shall have no voting power until such corporation shall have retired all securities Retirement of securities. Intent. Voting powers.

issued in exchange for claims of certificate holders and unsecured creditors, and, unless the court finds that the stockholders have an existing equity in the assets, the securities issued to the stockholders shall contain express provision that such securities shall have no voting power until such corporation shall have retired all securities issued in exchange for claims of shareholders, certificate holders and unsecured creditors.

Asset valuation

For the purposes of this article, real property, contracts for the sale of real property, loans, and all other assets (whether like or unlike the foregoing) shall be valued at fair market value, and any assets subject to encumbrance shall be valued with due allowance for the amount of such encumbrance. In determining such fair market value, the court or the commissioner, as the case may be, shall give due consideration to the earning power of the property, past, present, and prospective.

Appearance

Sec. 16.06. Hearing. At any hearing before the commissioner pursuant to Section 16.02 or before the court pursuant to Section 16.03 or Section 16.04 any interested certificate holder, shareholder, stockholder or creditor shall have the right to appear either in support of the plan or plans or petition or in opposition thereto; and any such hearing shall be, among other things, upon the fairness of the terms and conditions of the issuance of all securities to be issued pursuant to such plan or plans or petition and of the exchange thereof for outstanding securities, claims or property interests, or partly in such exchange and partly for cash, and all persons to whom it is proposed to issue securities in such exchange shall have the right to appear at such hearing; and the commissioner or court (as the case may be) is hereby authorized to determine whether the terms and conditions of such proposed issuance and exchange of securities are fair and, if so, to grant approval of such terms and conditions.

Subjects of hearing

Contents

Sec. 16.07. Notices. Wherever provision is made in this article for at least a specified number of days' notice to investors and creditors of a hearing, such notice shall state the time and place of such hearing and shall be (a) mailed by first-class mail in sealed envelopes, postage prepaid, to each investor and creditor at his address as shown by the books of such association, or, if no address be there shown, at the city or town in which such association has or last had its principal place of business; (b) posted in three public places in the county in which such city or town is located; and (c) published once in a newspaper of general circulation published in said county. Such mailing, posting and publication shall be made at least the specified number of days before the date fixed for such hearing. Section 8.08 of this act shall not apply to such notices.

Methods

General powers and jurisdiction

Sec. 16.08. Building and Loan Commissioner. The commissioner shall have and may exercise the same jurisdiction, authority and powers with respect to any business, properties or assets retained by or delivered to the commissioner pursuant to any plan as the commissioner shall have with respect to

the business, properties and assets of any association of which the commissioner has taken possession; and the commissioner shall have and may exercise the same jurisdiction, authority and powers with respect to any association (excepting a Federal savings and loan association) formed pursuant to any plan or by or to which any business, properties or assets may be retained or returned or transferred pursuant to any plan (excepting a Federal savings and loan association or an association which, pursuant to the plan, is to cease being an association) as the commissioner would have of such association if it had been formed or had acquired its business, properties and assets by means other than a plan.

Continuing supervision

If any part of the business, properties and assets are to be retained by or transferred to a corporation which is not to be an association or a Federal savings and loan association, the plan may provide for the continuing examination or supervision of such corporation by the commissioner and may provide for the right of the commissioner to appoint some or all of the directors of such corporation (including appointments to fill vacancies), and the commissioner shall have and may exercise any and all powers of such continuing examination, supervision or appointment conferred upon him by a plan which has been approved and become operative.

Payment of expenses

There shall be paid from the assets of the association directly affected by a proposed plan or by a petition under this article, all expenses incurred by the commissioner in connection therewith; provided, such expenses shall be reasonable and proper and in the case of proceedings under Section 16.03 or Section 16.04 shall be approved by the court.

Stock issue permit

Sec. 16.09. Commissioner of Corporations. None of the provisions of this article is intended or shall be construed to eliminate the requirement that a permit be obtained from the Commissioner of Corporations authorizing the sale or issue of securities in any case in which, pursuant to the provisions of the Corporate Securities Act, such permit would be required in the absence of this article. None of the provisions of an act entitled "An act requiring individuals, as in said act defined, to obtain a certificate from the Commissioner of Corporations prior to soliciting, receiving or collecting contributions, fees or funds from security owners or holders for the purpose of protecting, enforcing or representing the rights of such security owners or holders; authorizing the Commissioner of Corporations to regulate and supervise the solicitation, collection and application of such funds; and providing for the enforcement of said act and penalties for the violation thereof," approved July 1, 1937, shall apply to the proposer or proposers of a plan which has been duly presented to the court pursuant to Section 16.03 or to the petitioner or petitioners of a petition which has been duly filed with the court pursuant to Section 16.04, but before such presentation or filing said act shall be applicable to such proposer, proposers, petitioner or petitioners, and after

Stats 1937, p. 2232

When not applicable

When applicable

such presentation or filing no funds shall be solicited or collected by such proposer, proposers, petitioner or petitioners from investors except with the approval of the court.

Court approval not required

Sec. 16.10. Authority of Fiduciaries. Any executor, administrator, guardian or receiver, and any trustee of any kind or nature, and any insurance company, cemetery association or other corporation, public or private, may, without the necessity of obtaining any specific court approval: (a) dissent from any plan proposed pursuant to Section 16.02; (b) consent to any plan which has been approved by the court pursuant to Section 16.03; (c) file or join in a petition or supplemental petition under Section 16.04; (d) exchange any shares, stock, investment certificates or other rights or claims for securities issued pursuant to any plan or petition which has been approved pursuant to this article; and (e) continue to hold as a legal investment any securities received in any such exchange.

Appeals bond

Sec. 16.11. Appeals. No appeal from an order of court referred to in this article shall be effectual for any purpose unless the appellant or appellants, within 30 days after the entry of the order appealed from, shall file with the clerk of such court a bond executed on the part of the appellant or appellants by at least two sureties to the effect that the appellant or appellants, in the event such order is affirmed on appeal, will pay all of the respondents' costs and expenses arising from such appeal, not including, however, respondents' attorneys fees. The form and amount of such bond and the sureties

Stay

thereon shall be approved by the superior court. No appeal from an order disapproving a plan of reorganization or a petition for the withdrawal of assets shall operate as a stay of further proceedings in liquidation by the commissioner.

Preference

Appeals from such orders shall be given preference in hearing on appeal over all other appeals, except contested election cases and cases in which the people of the State are parties.

C C P

Except as otherwise provided by this article, the provisions of Part 2 of the Code of Civil Procedure are applicable to and constitute the rules of practice in the proceedings mentioned in this article with regard to appeals.

Legislative declaration

SEC. 2. The Legislature hereby declares that this act is enacted in the exercise of the police powers of this State, for the following reasons: There are now in the possession of the commissioner assets worth many millions of dollars, representing the savings of many thousands of persons in this State. In the absence of this act, the law provides no adequate machinery for the reorganization of associations. The Legislature further declares that this act is enacted in the exercise of the bankruptcy powers of this State, for the foregoing reasons.

CHAPTER 1012

An act to repeal the article heading of Article 6, Chapter 2, Title 1, Part 3 of, and to add Article 6 consisting of Sections 280 to 284, inclusive, to Chapter 2, Title 1, Part 3 to, the Political Code and to add Article 4, comprising Sections 9100 to 9104, inclusive, to Chapter 1, Part 1, Division 2, Title 2, of the Government Code, relating to offices for the Legislature and the members thereof.

Stats 1943, Ch 134, amended

[Approved by Governor June 4, 1943. Filed with Secretary of State June 4, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. The article heading of Article 6, Chapter 2, Title 1, Part 3 of the Political Code is hereby repealed. 1872 Code

SEC. 2. Article 6, consisting of Sections 280 to 284, inclusive, is hereby added to Chapter 2, Title 1, Part 3 of the Political Code, to read as follows: New article

Article 6. Legislative Offices

280. Legislative offices for the use of the members of the Legislature in the performance of their legislative duties, shall be maintained at all times, and without regard to whether the Legislature is or is not in session, in the State Building in Los Angeles, in the State Building in San Francisco and in a State building in Alameda County. Maintenance

281. The legislative office in Los Angeles shall be under the management and control of the Senator elected from the County of Los Angeles and the legislative office in San Francisco shall be under the management and control of the Senator elected from the City and County of San Francisco and the legislative office in Alameda County shall be under the management and control of the Senator elected from the County of Alameda. Management and control

282. The Senator having the management and control of a legislative office shall have the authority to employ in such office one person holding a confidential position to such Senator, at a compensation of one hundred fifty dollars ($150) per month and there shall be no other employees. Employees Compensation

Said salary of the employee of the same, shall be paid in the same way as the expenses incurred by other State officers are paid.

283. The Department of Finance shall provide suitable office space in the State Building in Los Angeles and in the State Building in San Francisco and in a State building in Alameda County for the offices provided for in this article, and shall provide for the maintenance and upkeep of the same. Office space

284. Appropriations for the support of the offices provided for in this article shall be included in the Budget Bill. Appropriations

Note.—See Stats. 1943, Ch. 134.

Effect
Stats 1943, Ch 134
Repeal

SEC. 4. Section 3 of this act shall take effect only if the Government Code is enacted by the Legislature at its Fifty-fifth Session, and in such case, at the same time as the Government Code takes effect, at which time Article 6, comprising Sections 280 to 284, inclusive, of Chapter 2, Title 1, Part 3, of the Political Code as added by this act is hereby repealed.

CHAPTER 1013

Stats 1917, p 673, amended

An act to amend Section 15 of the Corporate Securities Act, relating to review of orders, decisions, permits or evidences of other official acts of the Commissioner of Corporations by courts of competent jurisdiction.

In effect August 4, 1943

[Approved by Governor June 4, 1943. Filed with Secretary of State June 4, 1943.]

The people of the State of California do enact as follows:

Stats 1941, p 3136

SECTION 1. Section 15 of the act cited in the title hereof is amended to read:

Review of orders

Sec. 15. Every order, decision, permit or other official act of the commissioner shall be subject to review, mandamus or prohibition in accordance with the provisions of Chapters 1, 2, 3 and 4 of Title I of Part 3 of the Code of Civil Procedure.

Petition

Within 60 days after the issue of any order, decision, permit or evidence of other official act of the commissioner or after completion of application to the commissioner and failure or refusal of the commissioner to act upon said application, a written petition praying that the order, decision, permit or evidence of other official act be issued, modified or set aside in whole or in part, may be filed in the superior, appellate or Supreme Court of the State of California.

Service and filing of transcript

A copy of such petition shall be forthwith served on the commissioner and thereupon the commissioner shall certify and file with the court a transcript of the record upon which the order, decision, permit or evidence of other official act complained of was issued or a transcript of the record upon which the commissioner failed or refused to issue the order, decision, permit or evidence of other official act applied for.

Jurisdiction

Upon the filing of such transcript such court shall have jurisdiction to affirm, modify or set aside such order, decision, permit or evidence of other official act in whole or in part.

Objection

No objection to the order of the commissioner shall be considered by the court unless such objection shall have been urged before the commissioner or unless there were reasonable grounds for failure so to do.

Additional evidence

If application is made to the court for leave to adduce additional evidence and it is shown to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceeding before the commissioner or that the commissioner improperly refused to receive such evidence, then the court

may order such additional evidence to be taken before the commissioner and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commissioner may modify his findings as to the facts by reason of the additional evidence so taken and he shall file with the court such modified or new findings. The judgment and decree of the court affirming, modifying or setting aside in whole or in part any such order, decision, permit or evidence of other official act of the commissioner shall be final, subject to review by the appellate or Supreme Courts of the State of California.

Modification of findings

CHAPTER 1014

An act to amend Section 692 of the Political Code, relating to the approval of real property contracts by the Director of Finance.

[Approved by Governor June 4, 1943. Filed with Secretary of State June 4, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 692 of the Political Code is hereby amended to read as follows:

Stats 1941, p 1965

692. Unless the Legislature specifically provides that approval by the Director of Finance shall not be required, every contract for the acquisition or hiring of real property in fee or in any lesser estate or interest by the State, entered into by any State department, board, commission, officer or any other State agency whatsoever, on behalf of the State, shall be approved by the Director of Finance. Any contract entered into in violation of the provisions of this section is void. This section shall not apply to the acquisition or hiring by the Department of Public Works of real property in fee or in any lesser estate or interest for highway purposes but shall apply to the hiring by said department of office space in any office building.

Approval of contracts

Exception

CHAPTER 1015

An act to add Chapter 9.5 to Part 1 of Division 6 of the Health and Safety Code, relating to consolidation of sanitary districts without an election.

Stats 1939, p 482, amended

[Approved by Governor June 4, 1943. Filed with Secretary of State June 4, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Chapter 9.5 is added to Part 1 of Division 6 of the Health and Safety Code, to read:

New chapter

CHAPTER 9.5. CONSOLIDATION WITHOUT AN ELECTION

6890. Two or more contiguous sanitary districts may be consolidated as hereinafter provided for.

Contiguous districts

Petition

6891. Whenever a petition signed by 55 per cent of the owners of real property in a district is presented to the board requesting that the district be consolidated with another district the board, after notice, shall hold a hearing on the question of such consolidation.

Notice

6891.5. The board shall give notice of such hearing by publication in at least one issue of a newspaper of general circulation printed and published in the district, or if no such newspaper is printed and published therein in some newspaper circulated within the district.

Contents of notice

6892. The notice shall specify the time and place of hearing and that the hearing shall be on the question of consolidation with the other district, which shall be designated by name or otherwise identified in the notice.

Hearing and determination

6892.5. At the time and place of hearing, as stated in the notice, the board shall hear the evidence for and against the proposal, and if the board determines that the consolidation would not be for the best interests of the district the proceedings shall terminate.

Joint determinations, etc.

6893. If the boards of two districts each determine after such hearing that the consolidation of the districts would be for the best interests of the respective districts the boards shall in joint meeting declare their respective determinations and each shall make an order that thereafter the land within its district shall be and become a part of the consolidated district under such name as the boards shall jointly determine. Thereafter the consolidated district shall constitute a district under such name.

Governing board

6894. Upon the consolidation of such districts the consolidated district shall be governed by the joint boards until the next ensuing election at which election a new board for the consolidated district shall be elected and the terms of office of the members of each of the two boards shall terminate upon the taking of office by the new directors.

Outstanding debts

6894 5. If at the time of a consolidation there is outstanding any indebtedness of any former district included in the consolidated district, the indebtedness shall be paid in the manner provided for the payment of indebtedness upon a dissolution of a district.

Nonliability

6895. A consolidated district shall not be liable for any indebtedness of any former districts included in it which was outstanding at the time of consolidation.

Prohibited tax

6895.5. No property in the name of the former districts shall be taxed to pay any indebtedness of any other former district existing at the date of consolidation.

CHAPTER 1016

An act to amend Section 675.1 of the Political Code, relating to the approval of salaries by the Department of Finance.

[Approved by Governor June 4, 1943. Filed with Secretary of State June 4, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 675.1 of the Political Code is hereby amended to read as follows: Stats 1935, p 404

675.1. Unless the Legislature specifically provides that approval of the State Department of Finance shall not be required, whenever any State department, board, commission, court or officer fixes the salary or compensation of an employee or officer, which salary is payable in whole or in part out of State funds, the salary shall be subject to the approval of the State Department of Finance before it becomes effective and payable. Approval of salaries

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CHAPTER 1017

An act to amend Section 953e of the Code of Civil Procedure, relating to appeals in civil actions and proceedings.

[Approved by Governor June 4, 1943. Filed with Secretary of State June 4, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 953e of the Code of Civil Procedure is hereby amended to read as follows: Stats 1931, p 410

953e. When it shall be impossible to have a phonographic report of the trial transcribed by a stenographic reporter as provided by law or by rule, because of the death or disability of a reporter who participated as a stenographic reporter at the trial, or because of the loss or destruction, in whole or in substantial part, of the notes of such reporter, the court or a judge thereof shall have power to set aside and vacate the judgment, order or decree from which an appeal has been taken or is to be taken and to order a new trial of the action or proceeding. New trial on death of reporter, etc

CHAPTER 1018

Stats 1935, p 1905, amended

An act to amend Sections 1 and 4 of an act entitled "An act creating the California Farm Debt Adjustment Commission, defining its powers and duties and making an appropriation therefor," approved July 16, 1935, relating to the California Farm Debt Adjustment Commission, including extension of the period of existence of and membership upon the commission.

In effect August 4, 1943

[Approved by Governor June 4, 1943. Filed with Secretary of State June 4, 1943.]

The people of the State of California do enact as follows:

Stats 1941, p 1969

SECTION 1. Section 1 of the act cited in the title hereof is amended to read:

Farm Debt Adjustment Commission

Section 1. A commission is hereby created, to be known as the California Farm Debt Adjustment Commission. The commission shall consist of nine members to be appointed by the Governor subject to confirmation by the Senate, to hold office at the pleasure of the Governor. The action of the Senate shall be expressed by a single house resolution passed by a majority vote of all members elected to the Senate and filed in the office of the Secretary of State.

The members of the commission shall serve without compensation but shall be allowed reasonable expenses incurred in attending commission meetings.

Stats 1941, p 1969

SEC. 2. Section 4 of said act is amended to read:

Term of existence

Sec. 4. The commission shall cease to exist and shall be abolished and shall have no powers and duties on and after September 15, 1945.

Terms of incumbents

SEC. 3. The terms of the members of the California Farm Debt Adjustment Commission in office on the effective date of this act shall expire on said date.

CHAPTER 1019

Stats 1943, Ch 134, amended

An act to amend Section 8202 of the Government Code, relating to eligibility to and performing the duties of the office of notary public.

In effect August 4, 1943

[Approved by Governor June 4, 1943. Filed with Secretary of State June 4, 1943.]

Note.—See Stats. 1943, Ch. 134.

CHAPTER 1020

An act to amend Section 4237.9 of the Political Code, relating to grand jurors and trial jurors fees and mileage in counties of the eighth class.

[Approved by Governor June 4, 1943. Filed with Secretary of State June 4, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 4237.9 of the Political Code is amended to read as follows:

Stats. 1935, p. 1565

4237.9. In counties of the eighth class jurors shall receive the following fees and mileage, notwithstanding any other provision of law: For attending as a grand juror, for each day's attendance, including each day's attendance at grand jury committee meetings and investigations upon the order of the grand jury, per day three dollars ($3); as a juror in the superior court, for each day's attendance, per day, three dollars ($3). For each mile actually traveled in attending court as a juror in going, only, per mile, ten cents ($0.10); for each mile actually traveled in attending meetings of the grand jury, grand jury committee meetings, and in making investigations upon the order of the grand jury, in going, only, per mile, ten cents ($0.10). The grand jury is hereby empowered to order members to act as committees thereof and to conduct investigations on is behalf.

Jury fees and mileage San Bernardino County

Power of grand jury

CHAPTER 1021

An act authorizing suit against the State of California to quiet title to lands in San Mateo County devised to the City and County of San Francisco, and to the State of California in the alternative, by the will of James M. Huddart, deceased, and regulating the procedure therein.

[Approved by Governor June 4, 1943. Filed with Secretary of State June 4, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Any person, firm or corporation interested therein, is hereby authorized to bring suit against the State of California, in any court of competent jurisdiction of said State, to quiet title to lands, or any part thereof, in San Mateo County devised to the City and County of San Francisco, and the State of California in the alternative, for park purposes, by the terms of the will of James M. Huddart, deceased, now in process of probate in San Mateo County, and to prosecute the same to final judgment.

Authority to sue

Law applicable

Costs

Limitation

Service

SEC. 2. All the provisions and rules of law relating to suits to quiet title and appeals therein shall apply to such suits under this act. If judgment be given against the State in any such suit, no costs shall be allowed against the State.

SEC. 3. Any such suits to quiet title shall be commenced within one year after this act takes effect.

SEC. 4. Service of summons on the State in such suit or suits shall be made on the Secretary of the State Park Commission and on the Attorney General.

CHAPTER 1022

Stats 1939, p 482, amended

An act to amend Section 14230 of the Health and Safety Code, relating to fire protection districts in unincorporated areas.

In effect August 4, 1943

[Approved by Governor June 4, 1943. Filed with Secretary of State June 4, 1943.]

The people of the State of California do enact as follows:

Stats 1939, p 482

SECTION 1. Section 14230 of the Health and Safety Code is amended to read:

Petition and notice

14230. The petition shall be verified by the affidavit of one of the petitioners, and notice of its filing, together with the names of owners and a general description sufficient for identification of the real property proposed to be included in the district, and a statement of the time fixed for hearing the petition, and a statement that all persons interested may appear and be heard, shall be published at least two weeks preceding the hearing, by the board of supervisors, in a newspaper of general circulation published in the county in which the district is located.

CHAPTER 1023

An act to amend Sections 607 and 607f of the Civil Code, relating to the formation of corporations for the prevention of cruelty to animals and children and to the appointment of humane officers by the corporations.

In effect August 4, 1943

[Approved by Governor June 4, 1943. Filed with Secretary of State June 4, 1943.]

The people of the State of California do enact as follows:

Stats 1905, p 590

SECTION 1. Section 607 of the Civil Code is amended to read:

Formation

607. Corporations may be formed by any number of persons not less than 20, who must be citizens and residents of this State, under the general provisions of this code, for the purpose of the prevention of cruelty to children or animals,

or both. All applications for formation of such corporations filed with the Secretary of State must carry the indorsement of the Chief of the Division of Criminal Identification and Investigation as evidence of necessity; provided, however, that if such indorsement be withheld for more than 90 days, or refused, appeal may be made to the judge of the superior court in and for the county or city and county in which it is desired to form the corporation, and if, after giving due consideration to the necessity of such corporation and assuring himself that the incorporators are acting in good faith, the said judge so desires, he may substitute his indorsement for that of the Chief of the Division of Criminal Identification and Investigation. The indorsement of a judge of the superior court shall not be granted, however, unless the indorsement of the Chief of the Division of Criminal Identification and Investigation has been first refused or withheld as hereinbefore mentioned.

Indorsement of applications

Substitute indorsement

SEC. 2. Section 607f of the Civil Code is amended to read:

Stats 1913, p 311

607f. Any such corporation incorporated for the purpose of the prevention of cruelty to animals may by resolution of its board of directors or trustees duly entered on its minutes appoint any number of its members, who shall be citizens of the State of California, as humane officers. Each appointment of a humane officer shall be by separate resolution. Such resolution shall state the full name and place of residence and the business or occupation of the person so appointed and the fact that he is a citizen of the State of California and shall also designate the number of the badge to be allotted to such officer. Every person so appointed must within 10 days after his appointment present to the judge of the superior court in and for the county or city and county in which the corporation appointing such officer has its principal place of business a copy of such resolution duly certified to be correct by the president and secretary of such corporation and attested by its seal, together with the fingerprints of said appointee taken on standard 8 x 8 inch cards.

Appointment of humane officers

Presentation of resolution

The judge shall send the certified copy of the resolution, together with the fingerprints of the appointee, to the Chief of the Division of Criminal Identification and Investigation, who shall thereupon submit to the judge, in writing, a report of the record in his possession, if any, of the appointee. If the Chief of the Division of Criminal Identification and Investigation has no record of the appointee, he shall so report to the judge in writing. But in all cases, the Chief of the Division of Criminal Identification and Investigation shall retain the fingerprints submitted by the appointee as a part of his records, and he shall return to the judge the certified copy of the resolution at the time he submits his report on the appointee.

Report

Upon receipt of the report and the certified copy of the resolution from the Chief of the Division of Criminal Identification and Investigation the judge shall examine the appointee

Approval of appointment

as to his qualifications and fitness to act as a humane officer and, if he approves such appointment, shall indorse his approval on said certified copy of said resolution. Said appointee shall thereupon file said certified copy with the judge's approval indorsed thereon in the office of the county clerk of said county or city and county and shall at the same time take and subscribe the oath of office prescribed for constables or other peace officers.

Filing

Entry of filing

The county clerk shall thereupon immediately enter in a book to be kept in his office and designated "Record of Humane Officers" the name of such officer, the number of his badge, the name of the corporation appointing him and the date of such filing. At the time of such filing the county clerk shall collect from such officer a fee of fifty cents ($0.50), which shall be in full for all services to be performed by the county clerk under the provisions of this section.

Fee

Term of appointment

All such appointments of humane officers shall automatically expire within three years from the date on which the said certified copy of such appointment was filed with the county clerk, except that all such appointments now in effect shall expire within one year from the date that this act becomes effective. Officers whose appointments are about to expire may only be reappointed in the same manner as hereinbefore provided for new appointments.

Reappointment

Revocation of appointment

The corporation appointing such officer may revoke such appointment at any time by resolution of its board of directors or trustees, a duly certified copy of which resolution must within five days after its adoption be filed in the office of the county clerk in which the appointment of such officer is recorded and upon such filing the county clerk shall enter the fact of such revocation and the date of the filing thereof opposite the name of such officer in such record of humane officers.

Authority

Such humane officers after qualifying as above provided shall have power at all places within the State lawfully to interfere to prevent the perpetration of any act of cruelty upon any dumb animal and may use such force as may be necessary to prevent the same and to that end may summon to their aid any bystander. They may make arrests for the violation of any penal law of this State relating to or affecting animals in the same manner as a constable or other peace officer and may carry such weapons as peace officers are authorized to carry; except that in cities and counties and cities of the first and first and one-half classes no such humane officer shall carry any such weapon unless permission in writing so to do has first been granted to him by the board of police commissioners of such city or city and county.

Assets

Every humane officer must when making such arrest exhibit and expose a suitable badge to be adopted by the corporation appointing him which shall bear its name and a number. Any person resisting a humane officer in the performance of his

duty as provided in this section, shall be guilty of a misdemeanor. Any person who has not been appointed and qualified as a humane officer as provided in this section, or whose appointment has been revoked as provided in this section, or whose appointment, having expired, has not been renewed as provided in this section, who shall represent himself to be or shall attempt to act as such officer shall be guilty of a misdemeanor. Misrepresentation

Any officer of such corporation who shall knowingly or wilfully sign or issue any certificate provided for in this section, which shall be in any material respect false or untrue, shall be guilty of a misdemeanor. False certificate

CHAPTER 1024

An act to amend Section 974 of the Labor Code, relating to penalties for violation of provisions concerning advertisements for employees during labor trouble. Stats 1937, p 185, amended

[Approved by Governor June 4, 1943. Filed with Secretary of State June 4, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 974 of the Labor Code is amended to read: Stats 1937, p 185

974. Any person, or agent or officer thereof, who violates Section 973 is guilty of a misdemeanor. Misdemeanor

CHAPTER 1025

An act to amend Section 338 of the Code of Civil Procedure, relating to limitation of actions.

[Approved by Governor June 4, 1943. Filed with Secretary of State June 4, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 338 of the Code of Civil Procedure is amended to read: Stats 1935, p 1673

338. Within three years:

1. An action upon a liability created by statute, other than a penalty or forfeiture. Limitation of actions Three years

2. An action for trespass upon or injury to real property.

3. An action for taking, detaining, or injuring any goods, or chattels, including actions for the specific recovery of personal property.

4. An action for relief on the ground of fraud or mistake. The cause of action in such case not to be deemed to have accrued until the discovery, by the aggrieved party, of the facts constituting the fraud or mistake.

5. An action upon a bond of a public official except any cause of action based on fraud or embezzlement is not to be deemed to have accrued until the discovery, by the aggrieved party or his agent, of the facts constituting said cause of action upon the bond.

CHAPTER 1026

Stats 1935, p 93, amended

An act to add Section 515.6 to the Vehicle Code, relating to driving speed of motor vehicles, declaring the urgency thereof, and providing that this act shall take effect immediately.

In effect immediately

[Approved by Governor June 7, 1943. Filed with Secretary of State June 7, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 515.6 is added to the Vehicle Code, to read:

Passenger vehicle drawing trailer coach Speed and brakes

515.6. Whenever a passenger vehicle is drawing a trailer coach having a weight of 1,500 pounds or more equipped for the road but exclusive of passengers and such trailer coach is not equipped with brakes which can be controlled by the driver of the towing vehicle as provided in Section 670.5 the maximum speed shall not exceed 25 miles per hour and the brakes on said towing vehicle shall be such as will enable said combination of vehicles to comply with the requirements of Section 670 (a). Trailer coaches drawn pursuant to the provisions of this section shall be exempt from the provisions of 670.5.

Duration

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section; but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

Existing law

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

As a result of war conditions it is not possible to secure brakes for trailer coaches. Because of a lack of adequate housing facilities in defense areas a great number of people are living in trailer coaches. It is necessary that restrictions prohibiting the operation of trailer coaches without brakes be immediately removed so as to allow free and legal movement of population into and within the State.

CHAPTER 1027

An act to add Section 226 to the Labor Code, relating to wages.

Stats 1937, p. 185, amended

[Approved by Governor June 7, 1943. Filed with Secretary of State June 7, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 226 is added to the Labor Code, to read:

New section

226. Every employer shall semimonthly or at the time of each payment of wages furnish each of his employees either as a part of the check, draft, or voucher paying the employee's wages, or separately, an itemized statement in writing showing all deductions made from such wages; provided, all deductions made on written orders of the employee may be aggregated and shown as one item.

Itemized statement of wage deductions

CHAPTER 1028

An act to amend Section 5196 of the Public Resources Code, relating to investment of funds.

Stats 1939, p 1067 amended

[Approved by Governor June 7, 1943. Filed with Secretary of State June 7, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 5196 of the Public Resources Code is amended to read:

Stats 1939, p 1067

5196. If the money derived from gifts, bequests, or legacies at any time exceeds the sum necessary for immediate expenditure on the parks and grounds, or if it is advisable to invest all or a part of such funds in an interest-bearing or productive investment, the board may invest such money in interest-bearing bonds of the Government of the United States, or the State of California, or in obligations issued pursuant to the provisions of the Federal Home Loan Bank Act, approved July 22, 1932, as now or hereafter amended, or in obligations issued pursuant to Title 4 of the National Housing Act, approved June 27, 1934, as now or hereafter amended. Thereafter the board may sell and dispose of these securities, or change the form of the investment.

Investment of funds

U S C, Title 12, Ch 11

U S C, Title 12, Sec 1701

CHAPTER 1029

Stats 1937, p 1229, amended

An act to amend Section 151 of the Business and Professions Code, relating to the salary of the Director of Professional and Vocational Standards.

In effect August 4, 1943

[Approved by Governor June 7, 1943. Filed with Secretary of State June 7, 1943.]

The people of the State of California do enact as follows:

Stats 1937, p 1229

SECTION 1. Section 151 of the Business and Professions Code is amended to read:

Director

151. The director is appointed by the Governor and holds office at the Governor's pleasure. He shall receive a salary of seven thousand five hundred dollars ($7,500) per annum, and his necessary traveling expenses. He shall execute and furnish to the State of California an official bond in the sum of twenty-five thousand dollars ($25,000) conditioned upon the faithful performance of his duties.

CHAPTER 1030

Stats 1927, p 51, amended

An act to amend Section 23 of "An act defining credit unions, providing for their incorporation, powers, management and supervision," approved March 31, 1927, relating to the deposit of fees in the General Fund and support from the General Fund, and the payment of costs of administration.

In effect August 4, 1943

[Approved by Governor June 7, 1943. Filed with Secretary of State June 7, 1943.]

The people of the State of California do enact as follows:

Stats 1939, p 2713

SECTION 1. Section 23 of the act cited in the title hereof is amended to read:

Supervision by Commissioner of Corporations. Examinations

Sec. 23. The powers of supervision and examination of all credit unions organized under the provisions of this act shall be vested in the Commissioner of Corporations of the State of California. It shall be the duty of the commissioner in person, or by one of his employees at least once in each year, to visit and examine into the affairs of every credit union, and on such occasions he shall have free access to all the books, records, securities and papers of every such credit union and shall examine the books, property, transactions and affairs, and ascertain the financial condition and solvency of every such credit union.

The commissioner upon the written request of any credit union may make the examination of said credit union as herein provided in any regularly established office of the said commissioner.

Notice to cease practices

If the commissioner upon any examination, or from any report made to him, shall find any credit union to be violating the provisions of this act, or to be insolvent, or to be conducting its business in an unsafe or unauthorized manner, he may notify such credit union to, and such credit union shall forthwith cease such practices in the conduct of its business as the Commissioner of Corporations shall find to be unsafe or shall find is being conducted in an unauthorized manner. The commissioner may notify such credit union to, and such credit union shall forthwith, temporarily suspend or entirely cease the transaction of any new business or such portion thereof as shall be ordered by the commissioner.

Cost of administration, etc

To defray the costs of administration of this act, including examinations and supervision, the commissioner shall require every credit union licensed by him or coming under his supervision to pay in advance to him, its pro rata amount of all such salaries and expenses as estimated by the commissioner for the ensuing year and it is hereby made the duty of every such credit union to pay the same. Such pro rata shall be the proportion which its assets bear to the aggregate assets of all such credit unions licensed by the commissioner as shown by the latest annual reports of such credit unions to the commissioner.

Notification of amount assessed

On or before the thirtieth day of November in each year, the commissioner shall notify each such credit union by mail of the amount assessed and levied against it and the same must be paid within 20 days thereafter; and should payment not be made to him within said 20 days, the certificate then in effect authorizing such credit union to act as a credit union shall expire as of the thirty-first day of December of said year, and said credit union shall have no right or authority after said day to act as a credit union as set forth in this act.

Penalty for nonpayment

Minimum assessment

Provided, however, that in the levy and collection of such assessment, no credit union shall be assessed for nor be permitted to pay less than ten dollars ($10) per annum and any such credit union hereafter formed shall be required to pay not less than one dollar ($1) per month for the unexpired term ending December 31st succeeding its application for a license to operate as a credit union.

Disposition of fees

All fees charged and collected under this act shall be paid at least once each week, accompanied by a detailed statement thereof, into the Treasury of the State to the credit of the General Fund.

CHAPTER 1031

An act to add Section 261b to the Code of Civil Procedure, relating to phonographic reporters for superior courts in counties, or cities and counties, having a population of 900,000 or more, providing for the compensation and fees of such reporters, requiring the payment to the county clerk of such counties, or cities and counties, of certain filing and appearance fees, in addition to any other fees now required by law, requiring that such fees be deposited in the salary fund of such counties, or cities and counties.

In effect August 4, 1943

[Approved by Governor June 7, 1943. Filed with Secretary of State June 7, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 261b is added to the Code of Civil Procedure, to read:

Appointment of phonographic reporters

261b. In each county, or city and county, having a population of 900,000 inhabitants or over, the judges of the superior court in and for such county, or city and county, a majority concurring, to assist the court in the transaction of the judicial business of said court, by having performed the duties of phonographic reporters as elsewhere in this code defined, may appoint as many regular official phonographic reporters as may be necessary to report the proceedings in said court and to perform such duties, except that the number of reporters so appointed shall not exceed at any one time the number of offices of judge provided by law for said court, said reporters to hold office during the pleasure of the judges of said court, a majority concurring.

Limitation

Pro tempore reporter

When needed in order that the judicial business of the superior court in such county, or city and county, may be diligently carried on and a particular matter or matters may proceed to trial or hearing without delay, a pro tempore official reporter may be appointed to perform the duties of a phonographic reporter in such matter or matters, or until a regular official reporter becomes available for such service. A pro tempore official reporter for such service may be appointed by the presiding judge of the court and the judge presiding in the department where such reporter will serve, but when such appointment is made for service in a contested matter, it shall be made only pursuant to a written stipulation of the parties appearing at the trial or hearing or other proceeding to be reported by such pro tempore reporter.

Compensation

Each of said regular official reporters shall be paid a salary of four thousand eight hundred dollars ($4,800) per annum, and each of said pro tempore official reporters shall be paid twenty dollars ($20) per day for the days he actually is on duty under order of the court.

Fee from party prohibited

No further fee than that hereinabove provided shall be collected from, or assessed against, any party to any proceeding

for the services of a phonographic reporter in taking down in shorthand the testimony and other proceedings in the trial or hearing of any matter as required by law or by order of the court; but a phonographic reporter shall be allowed, and shall receive, unless waived by him, the fees now, or that may hereafter be, allowed by law for transcribing his shorthand notes of the testimony and proceedings reported by him, and such fees for transcriptions shall be paid as provided by Section 274 of the Code of Civil Procedure and by any other law of this State pertinent to the case. Exception Transcribing fee

The salaries in this section provided shall be paid in monthly installments out of the salary fund of the county, or city and county, and shall be allowed and audited in the same manner as other salary demands against the county, or city and county, are required by law to be allowed and audited. Payment of salaries

In addition to the fee or fees required by any other law or laws, a fee of three dollars and fifty cents ($3.50) shall be paid to the county clerk of such a county, or city and county, by a party in each of the following instances: County clerk fees

(1) Where Section 4300a of the Political Code requires such party to pay said clerk a fee for the filing of the first paper in a civil action or in a special proceeding, except in an appeal from an inferior court.

(2) Where Section 4300a of the Political Code requires such party to pay said clerk a fee for filing papers transmitted from another court on the transfer of a civil action or special proceeding from another court, except in an appeal from an inferior court.

(3) Where Section 4300a of the Political Code requires such party to pay said clerk a fee on the appearance in a civil action or special proceeding of a defendant, intervenor, respondent, correspondent or adverse party, except in an appeal from an inferior court

(4) Where Section 4300a of the Political Code requires such party to pay said clerk a fee for the filing of a petition or other paper in a probate or guardianship matter.

The fee so required shall be taxed as costs in favor of any party paying the same and to whom costs are awarded by the judgment of the court. Such fee shall not be subject to the provisions of Section 6103 of the Government Code. Taxing as costs

The county clerk shall, on or before the first day of each calendar month, transmit to the county treasurer, or city and county treasurer, all moneys paid to him under the provisions of this section during the preceding calendar month, or up to the day immediately preceding the day on which he transmits such moneys, and such moneys shall be deposited in the salary fund of said county, or city and county. Disposition of moneys

CHAPTER 1032

Stats 1913, Ch 71, amended

An act to add Article 3.5 to Chapter 2 of the Education Code, relating to the dismissal of employees of State colleges not in State civil service.

In effect August 1, 1943

[Approved by Governor June 7, 1943. Filed with Secretary of State June 7, 1943.]

Note.—See Stats. 1943, Ch. 71.

CHAPTER 1033

Stats 1937, p 1005, amended

An act to add Section 7501.5 to the Welfare and Institutions Code, relating to mentally ill persons and persons alleged to be mentally ill.

In effect August 4, 1943

[Approved by Governor June 7, 1943. Filed with Secretary of State June 7, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 7501.5 is added to the Welfare and Institutions Code, to read:

Access to copies of Division 6

7501.5. In every place in which persons alleged to be mentally ill are detained pending inquiry into the state of their mental health, and in each State hospital, and in each licensed private psychopathic institution, the persons confined therein shall be permitted access to and examination or inspection of copies of Division 6 of the Welfare and Institutions Code.

CHAPTER 1034

Stats 1937, p 1229, amended

An act to amend the Dental Practice Act by amending Section 1674 of the Business and Professions Code.

In effect August 4, 1943

[Approved by Governor June 7, 1943. Filed with Secretary of State June 7, 1943.]

The people of the State of California do enact as follows:

Stats 1937, p 1229

SECTION 1. Section 1674 of the Business and Professions Code is hereby amended to read as follows:

Judgment or order

1674. If the accused pleads guilty or refuses to answer the charges, or upon the hearing of them the board finds them or any of them true, it may proceed to a judgment, or may make an order reprimanding the accused, or placing him on probation, or revoking his license, or suspending it.

CHAPTER 1035

An act to add Section 108.5 to the Business and Professions Code, relating to fees and expenses of witnesses.

Stats 1937, p 1229, amended

[Approved by Governor June 7, 1943. Filed with Secretary of State June 7, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 108.5 is added to the Business and Professions Code, to read:

New section

108.5. In any investigation, proceeding or hearing which any board, commission or officer in the department is empowered to institute, conduct, or hold, any witness appearing at such investigation, proceeding or hearing whether upon a subpena or voluntarily, may be paid the sum of three dollars ($3) per day for every day in actual attendance at such investigation, proceeding or hearing and for his actual, necessary and reasonable expenses and such sums shall be a legal charge against the funds of the respective board, commission or officer; provided further, that no witness appearing other than at the instance of the board, commission or officer may be compensated out of such funds.

Witness fees

The board, commission or officer will determine the sums due any such witness and enter the amount on its minutes.

CHAPTER 1036

An act to add Section 57.1 to the State Civil Service Act, relating to the position of Associate Forestry Engineer.

Stats 1937, p 2085, amended

[Approved by Governor June 7, 1943. Filed with Secretary of State June 7, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 57.1 is added to the State Civil Service Act, to read:

New section

Sec. 57.1. The provisions of Article XXIV of the State Constitution and of this act shall apply to, and the term "State civil service" shall include any person or group of persons holding the position or positions of Associate Forestry Engineer in the Department of Natural Resources who are either employees of the Federal Government or whose selection is subject to the rules or requirements of the Federal Government, engaged in work done by cooperation between the State and Federal Government or engaged in work financed in whole or in part with Federal funds.

Inclusion of Associate Forestry Engineer

CHAPTER 1037

Stats 1931, p 1442 amended

An act to add Section 78b to the State Employees' Retirement Act, relating to a retirement system for public officers and employees, providing for the employment of retired employees upon conditions specified therein, and declaring the urgency of this act, to take effect immediately.

In effect immediately

[Approved by Governor June 7, 1943. Filed with Secretary of State June 7, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 78b is added to the State Employees' Retirement Act, to read:

Duration reemployment of retired employees

Sec. 78b. Notwithstanding any other provision of this act, until October 1, 1945, or the termination of the war in which the United States is now engaged, whichever is earlier, any person (other than a person who retired for service while a member of the California Highway Patrol) who has been retired for service (as distinguished from disability) under the provisions of this act may be employed in State service in accordance with the laws governing such service, in the same manner as a person who has not been so retired, upon the determination of the Board of Administration, by medical examination, that he is not incapacitated for the duties proposed to be assigned to him.

Effect

Any person so employed shall be considered as reinstated from retirement and his retirement allowance shall be canceled forthwith. His individual account shall be credited with an amount which is the actuarial equivalent of his annuity at the time of such reinstatement, and his rate of contribution for future years shall be the same as if he had continued in State service during the period of his retirement. Such person shall receive credit for prior service in the same manner as if he had never been retired.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

The prosecution of the war in which the United States is now engaged has, by reason of the induction of millions of men into the armed forces and the employment of additional millions in war industries, resulted in an acute shortage of manpower throughout the Nation. This shortage makes difficult or impossible the recruitment of qualified persons to fill essential positions in State service. Although recent legislation has made possible the temporary retention in State service of persons who would otherwise be retired upon reaching the age of 70 years, existing provisions of law prevent the reemployment of persons already retired, who constitute a

reservoir of trained and experienced personnel. To make possible the immediate use of these persons to meet the shortage of qualified workers in the public service, and so to prevent the breakdown of the administration of the essential services of the State Government, it is necessary that this act take effect immediately.

CHAPTER 1038

An act to amend Section 3493 of the Political Code, relating to reclamation districts.

[Approved by Governor June 7, 1943. Filed with Secretary of State June 7, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 3493 of the Political Code is amended to read:

Stats. 1937, p. 2421

3493. An action may be brought by the Attorney General in the name of the people of this State, upon his own information or upon the complaint of a private party for the dissolution of a swamp land or reclamation district for a nonuser of its corporate powers. In such action the complaint and summons may be served personally upon a majority of the trustees of such district, or upon the president of the board of trustees. If two or more districts have been formed to include all or a portion of the same lands, they may all be joined in the same action.

Dissolution action for nonuser of corporate powers

In any such action, when service of summons has been made upon the defendant or defendants, and the defendant or defendants have appeared or default been entered, the court, upon the application of any of the parties, shall thereupon enter an order fixing a day for hearing, which shall not be less than 25 days from the date of the order, and shall, also, enter an order directing notice by publication, to be given by the clerk to all persons interested in said district or districts, either as owner or owners of land in said district or districts, or creditors of said district or districts, or otherwise, requiring them to be and appear on the day fixed for the hearing of said cause, if any they have, why the district or districts named in the complaint, as defendant or defendants, should not be dissolved. The court shall order the notice to be served by publication in some newspaper of general circulation published in the county where the district or districts are situated, for a period of not less than 20 days. On the day fixed for a hearing or some later date to which the cause may be continued, the court may proceed with the hearing, due proof having been first made of the service of the notice by publication for the length of time required by the order. Any person interested in the district or districts that is defendant or defendants shall upon showing his interest be allowed to file an answer

Notice

Hearing

Answer or objections

or objections to the dissolutions of the defendant or defendants, and shall from the filing of said answer or objections become a party defendant, and be entitled to all the rights of a defendant in any civil action. Any vacancy in the board of trustees heretofore or hereafter caused by resignation, death, removal from the State, or otherwise, may be filled by the board of supervisors of the county in which the district is situated upon the application of any person or persons owning land in the district. The appointment of a trustee or trustees to fill a vacancy or vacancies shall not operate to destroy or remove any cause of action existing before such appointment or appointments were made, against the corporation or district for nonuser of its corporate powers; provided, suit be commenced within one year after the passage of this act. If upon the trial of any such action it be determined by the court:

Board vacancies

Court determination

1. That trustees have not been elected for said corporation within five years prior to the passage of this act.

2. That the trustees have not within five years, prior to the passage of this act, exercised any of the powers of a corporation, or performed any of the duties of trustees.

3. That the corporation is not in debt, or if in debt, that all claims are barred by the statute of limitations, the court shall then enter a decree dissolving the corporation, or make such further order as may be deemed necessary to protect the rights of all parties interested.

Alternative method of dissolution

A reclamation district may also be dissolved in the following manner:

Petition and election

Whenever a petition signed by landowners representing not less than 50 per cent of the lands of the district as shown by the last county assessment rolls praying for the dissolution of the district is presented to and filed with the board of trustees of the district, the said board of trustees shall submit the question of the dissolution of said district to the qualified voters of the said district at the next biennial election of the said district; provided, however, the board of trustees shall not be required to accept a petition for the dissolution of the district within 10 days preceding any biennial election of such district. If, at said election, 60 per cent of the votes cast thereat are in favor of the dissolution of the district, then the trustees of said district must, within 60 days thereafter, file for record in the office of the county recorder of the county a certified copy of an order declaring said district to be dissolved, and cease all activities, and shall proceed immediately to wind up the affairs of the district; provided, that within said period of 60 days after an election for dissolution has carried, the board of trustees shall have the right to dispose of any of the physical properties, consisting of ditches, canals, laterals and other reclamation works, of said district to any irrigation district or districts within its boundaries for the use and benefit of the lands of the reclamation district. At the expiration of 90 days after said election, the board of trustees shall

Favorable vote

Filing order

Disposal of property

deliver all property and assets in their possession belonging to said district to the clerk of the board of supervisors of the county to be held and used by him as in his judgment shall be for the best interest of the district. Any funds which may be in the hands of the county treasurer to the credit of the district or to which the district may thereafter become entitled, shall be transferred to the credit of the county in which said district is located and shall be expended by the board of supervisors for the benefit of the district. All claims and accounts against said district which have not been settled by the board of trustees within 90 days after the election authorizing the dissolution of the district shall be presented to the board of supervisors of the county in which said district was located and shall be passed and approved by them in the same manner as county claims and shall be paid out of the funds of the dissolved district. In the event there are insufficient funds to discharge all claims and accounts then the board of supervisors shall, at the time of levying the next general county taxes, make a levy upon the property of said dissolved district sufficient in amount to discharge all outstanding claims and accounts against said district.

Transfer of property and funds

Unsettled claims and accounts

Tax levy

CHAPTER 1039

An act to amend Section 204c of and to add Section 261b to the Code of Civil Procedure, relating to the duties, powers, and expenses of superior court commissioners and their assistants.

[Approved by Governor June 7, 1943. Filed with Secretary of State June 7, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 204c of the Code of Civil Procedure is amended to read:

Stats. 1941, p. 2611

204c. It shall be the duty of the jury commissioner diligently to inquire and inform himself in respect to the qualifications of persons resident in his county or city and county who may be liable under the provisions of the laws of this State to be summoned for jury duty. He may require any person to answer, under oath to be administered by him, all such questions as he may address to such person, touching his name, age, residence, occupation and qualifications as a juror, and also all questions as to similar matters concerning other persons of whose qualifications for jury duty he has knowledge. The commissioner and his assistants as provided under Section 204e shall have power to administer oaths. He and his assistants as provided for in Section 204e shall

Duties of jury commissioner

be allowed actual traveling expenses incurred in the performance of their duties, such traveling expenses to be audited, allowed and paid out of the general fund of the county.

New section

SEC. 2. Section 261b is added to the Code of Civil Procedure, to read:

Traveling expenses of court commissioners

261b. The court commissioners as provided for in Section 261 shall be allowed actual traveling expenses incurred in the performance of their duties, such expenses to be audited, allowed and paid out of the general fund of the county.

CHAPTER 1040

Stats 1929, p 307, amended

An act to add Section 12.5 to the Water Conservation Act of 1929, relating to the offices of the directors of water conservation districts.

In effect August 4, 1943

[Approved by Governor June 7, 1943. Filed with Secretary of State June 7, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 12.5 is added to the Water Conservation Act of 1929, to read:

Holding office

Sec. 12.5. All directors shall hold office respectively until their successors are elected and qualified.

CHAPTER 1041

Stats 1937, p 2085, amended

An act relating to office and working hours and the payment of overtime compensation, to add Sections 73 and 73.5 to the State Civil Service Act in connection therewith and declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor June 7, 1943. Filed with Secretary of State June 7, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 73 is hereby added to the State Civil Service Act, to read as follows:

Overtime compensation

Sec. 73. Every State employee compensated on a monthly basis required and ordered to work in excess of a normal work week as established by the State Personnel Board for the class of his position, shall receive overtime compensation based on his regular rate of pay for all such overtime; provided, that no overtime compensation shall be paid on any portion of an employee's regular rate of pay in excess of two hundred fifty dollars ($250) per month.

Restriction

Normal work week

Within 90 days of the effective date of this section, the State Personnel Board shall for each class in the State service for which a monthly salary range is fixed determine and establish

the normal work week for the class. For purposes of determining eligibility for overtime compensation, the State Personnel Board shall allocate, and reallocate as the needs of the service require, each State civil service class for which a monthly salary range is fixed into one of the following groups: Group allocation

(1) Classes with a normal work week of 40 hours;

(2) Classes with a normal work week of 44 hours;

(3) Classes with a normal work week of 48 hours;

(4) Classes which can not be included in any plan of payment for overtime because:

(a) While requiring at least 40 hours per week, the duties and responsibilities are such that they do not adapt themselves to a maximum number of hours per week;

(b) The performance of duties is required on a part-time or intermittent basis and does not amount to a maximum of 40 hours per week.

Nothing in this act shall be construed as prohibiting the granting of compensating time off in lieu of overtime worked where such compensating time off can be granted within 30 days of the date worked and where it can be granted without impairing the services rendered by the agency. The State Personnel Board shall adopt rules and regulations governing overtime compensation as herein provided. Compensating time off; Rules and regulations

SEC. 2. Section 73.5 is added to said act, to read: New section

Sec. 73.5. Within 30 days of the effective date of Section 73 of this act, every department, bureau, board, commission, or office in which there are employees not subject to State civil service shall submit to the State Personnel Board all information necessary for a determination of the normal work week for each such employee. The State Personnel Board shall within the time limits herein designated determine and establish the normal work week for exempt employees in the same manner as that prescribed for civil service employees. All such employees shall be entitled to overtime compensation on the same basis as provided for civil service employees under Section 73 of the State Civil Service Act. Noncivil service employees; Normal work week; Overtime compensation

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health, and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting said necessity is as follows: Urgency

During the present emergency, lack of manpower has demonstrated the necessity of immediately making some provision for the payment of overtime to State employees in order that their services may be utilized over and above the presently established normal work week. Unless their services can be used, it will be necessary to attempt to obtain much less experienced help from other sources, with the result that the cost of services rendered will be greatly increased. It is for the best interests of the State service that this act therefore go into effect immediately.

CHAPTER 1042

An act to convey the Solano Monument Lands, whose use for a monument has been abandoned, to the contributors of the purchase price.

In effect August 4, 1943

[Approved by Governor June 7, 1943. Filed with Secretary of State June 7, 1943.]

Preamble

WHEREAS, The Independent Order of Redmen, Massasoit Tribe No. 262, did contribute to the State of California the sum of six hundred dollars ($600) for the purchase by the State Park Commission of the Solano Monument Lands for the placement of a statue of Chief Solano; and

WHEREAS, The statue, which was duly placed on the site and there stood for several years, has now been removed, in protection from acts of vandalism, to the court house grounds in the City of Fairfield; and

WHEREAS, It thus appears that the purpose for which the site was acquired has lapsed and that the property should in right be transferred to the contributors of its purchase price; now, therefore,

The people of the State of California do enact as follows:

Conveyance by State Park Commission

SECTION 1. The State Park Commission shall immediately convey to the Independent Order of Redmen, Massasoit Tribe No. 262, the Solano Monument Lands, consisting of the parcels described following with reference to the deeds by which they were conveyed to the State.

(1) Description in deed to State of California from Jennie Neitzel dated September 14, 1933, and recorded December 7, 1933 in Book 112, page 245, Records of Solano County.

PARCEL ONE: Beginning at a point which is N. 79° 45′ E. 8.37 chains from the southwest corner of the 52.24 acre tract of land described in deed from Jennie M. Neitzel to Wm. A. Neitzel dated February 25, 1926 and recorded in Book 280 of Deeds, page 24; thence along the division line between land of Wm. A. Neitzel and land of Jennie M. Neitzel N. 79° 45′ E. 5.39 chains, thence S. 64° E. 1.39 chains, S. 8° 30′ W. 96 links, S. 30° W. 3.92 chains, S. 82° 30′ W. 2.99 chains, N. 21° W. 4.04 chains, N. 5° 15′ W. 61 links to the place of beginning, containing 2.38 acres.

PARCEL TWO: A right of way described as follows: Beginning at a point opposite Station 266 plus 18 on the northerly side of the State Highway of Route 7 and 8 in Solano County Section ABC, thence N. 14° 00′ W. 1.08 chains to the land above described, thence along the boundary of said land, N. 82° 30′ E. 14 links, N. 30° E. 47 links, thence leave said tract S. 14° E. 1.29 chains to the said State Highway, thence along same S. 59° 30′ W. 30 feet to the place of beginning.

Valuation of Parcel------$468.00
Acres ----------2.38

Gift of Massasoit Tribe No. 262, I. O. O. R. M.

(2) Description in deed to State of California from Wm. and Myrtle Neitzel dated September 14, 1933 and recorded Dec. 7, 1933 in Book 112, page 243, Records of Solano County.

Beginning at a point which is N. 79° 45′ E. 8.37 chains from the southwest corner of the 52.25 acre tract of land described in deed from Jennie M. Neitzel to Wm. A. Neitzel dated February 25, 1926 and recorded in Book 280 of Deeds, page 24, thence along the division line between land of Wm. A. Neitzel and land of Jennie M. Neitzel N. 79° 45′ E. 5.39 chains, thence N. 63° 15′ W. 3.29 chains, S. 80° W. 1.05 chains. S. 33° 15′ W. 2.40 chains, S. 12° W. 32 links to the place of beginning, containing 0.66 acre.

Valuation of Parcel_____$132.00
Acres _____0.66

Gift of Massasoit Tribe No. 262, I. O. O. R. M.

CHAPTER 1043

An act to add Section 395.1 to the Code of Civil Procedure, relating to the venue of actions.

[Approved by Governor June 7, 1943 Filed with Secretary of State June 7, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 395.1 is added to the Code of Civil Procedure, to read: New section

395.1. When a defendant is sued in his official capacity as executor, administrator, guardian or trustee, on a claim for the payment of money or for the recovery of personal property, the county which has jurisdiction of the estate which he represents shall be the proper county for the trial of the action. Venue

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CHAPTER 1044

An act to amend Section 8 of the County Civil Service Enabling Act, relating to dismissals, suspensions and reduction in pay or rank. Stats 1939, p. 2734, amended

[Approved by Governor June 7, 1943 Filed with Secretary of State June 7, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 8 of the County Civil Service Enabling Act is amended to read: Stats 1939, p. 2734

Sec. 8. Any ordinance adopted under the provisions of this act shall include provisions to the following effect: Required provisions on dismissal, etc.

Any officer or employee in the classified civil service may be dismissed, suspended, or reduced in rank or compensation by

the appointing authority, after appointment or promotion is complete, by an order in writing, stating specifically the reasons therefor. Said order shall be filed with the clerk of the board of supervisors and a copy thereof shall be furnished to the person to be dismissed, suspended, or reduced. Such officer or employee may reply in writing to said order within 10 days from the date of filing said order with the clerk of the board of supervisors. Such officer or employee dismissed, suspended, or reduced in rank or compensation, may, within five days after presentation to him of the order of dismissal, suspension or reduction as hereinbefore provided, appeal through the clerk of the board of supervisors to the civil service commission from such order. Upon the filing of said appeal within said time, the clerk of the board of supervisors shall forthwith transmit said order and said appeal to the civil service commission for hearing. Said commission shall within 20 days from the filing of said appeal, commence the hearing thereof, and either affirm, modify or revoke such order. The appellant shall be entitled to appear personally, produce evidence, and to have counsel and a public hearing. The findings and decision of said commission shall be certified to the department head or officer whose action was the subject of the hearing, and shall forthwith be enforced and followed by him.

CHAPTER 1045

Stats 1937, p 2085, amended

An act to add a new section to the State Civil Service Act, to be numbered 57.1, relating to the officers and employees of the Railroad Commission of the State of California.

In effect August 4, 1943

[Approved by Governor June 7, 1943. Filed with Secretary of State June 7, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 57.1 is hereby added to the State Civil Service Act, to read as follows:

Inclusion of Railroad Commission employees

Sec. 57.1. The provisions of Article XXIV of the State Constitution and of this act shall apply to, and the term "State civil service" shall include, State officers and employees directly appointed or employed by the Railroad Commission of the State of California, except the phonographic reporters and transcribers of its proceedings. Persons who left the employment of the commission, or who hereafter may leave to enter military service of the United States but who, had they remained in such employment, would have been entitled to permanent or probationary status under this act shall be accorded the full protection of Section 152.5 of this act.

CHAPTER 1046

An act to add Article 3, comprising Sections 985 to 988.3, inclusive, to Chapter 6 of Division 4 of the Military and Veterans Code, relating to farm and home aid for veterans and defining the powers and duties of the Veterans' Welfare Board in respect thereto, and making an appropriation therefor.

Stats 1935, p 1338, amended

[Approved by Governor June 7, 1943. Filed with Secretary of State June 7, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Article 3, comprising Sections 985 to 988.2, inclusive, is hereby added to Chapter 6 of Division 4 of the Military and Veterans Code, to read:

New article

Article 3. Farm and Home Purchase

985. Definitions.

Definitions

(a) "Board" means the Veterans' Welfare Board.

(b) "Farm" means a tract of land, which, in the opinion of the board, is capable of producing sufficient to provide a living for the purchaser and his dependents.

(c) "Home" means a parcel of real estate upon which there is a dwelling house and such other buildings as will, in the opinion of the board, suit the needs of the purchaser and his dependents as a place of abode.

(d) "Purchaser" means a veteran or any person who has entered into a contract of purchase of a farm or home from the board.

(e) "Purchase price" means the price which the board pays for any farm or home.

(f) "Selling price" means the price for which the board sells any farm or home.

(g) "Initial payment" means the first payment to be made by a purchaser to the board for a farm or home.

985.1. This article may be cited as the Veterans' Farm and Home Purchase Act of 1943.

Short title

985.2. The object of this article is to provide veterans with the opportunity to acquire farms and homes.

Object

985.3. The administration of the provisions of this article is vested in the Veterans' Welfare Board.

Administration

985.4. No veteran who has taken advantage of the benefits provided by the provisions of Article 2 of this chapter may take advantage of the opportunities offered under this article.

Ineligibility

985.5. No veteran shall receive the benefits hereof who, in the case of the purchase of a farm would thereby become the holder of real estate exceeding in value fifteen thousand dollars ($15,000) or who in the case of the purchase of a home would thereby become the holder of real estate exceeding in value ten thousand dollars ($10,000).

Property holding limitation

Eligibility

986. The board shall prescribe and determine the qualifications of all veterans. Any person deeming himself a veteran and desiring to benefit hereunder, shall submit to the board information, in such form as the board prescribes, which will enable the board to determine his eligibility and qualifications. The board may make further inquiries and investigations in order to determine such eligibility and qualifications. Veterans who are otherwise qualified and who were wounded or disabled as a result of their service shall be given preference in the benefits conferred by this article. The board shall determine, in each case, whether or not the veteran was wounded or disabled as a result of service.

Rights of widow

986.1. If a veteran dies after filing his application for a farm or a home, and his application setting forth his eligibility and qualifications is subsequently approved, his widow may, in the discretion of the board, succeed to his rights under the application, and may be entitled to the rights, privileges, and benefits under this article that would have been his, but for his death. The contract of purchase which the board otherwise would have made with such veteran may be made with his widow.

Selection

986.2. When a veteran has been authorized by the board to select a farm or home, he shall submit his selection in such form as the board prescribes.

Board purchase

986.3. The board may purchase such farm or home from the owner thereof upon the terms agreed if:

(a) The board is satisfied of the desirability of the property submitted.

(b) The veteran has agreed with the board actually to reside on the property within 60 days from the date of purchase by the board.

(c) The purchase price of the property does not exceed the sum of seven thousand five hundred dollars ($7,500) in the case of a farm, or five thousand dollars ($5,000) in the case of a home.

Maximum value of property acquired

986.4. The board may acquire in any manner for sale to a veteran a home in this State, the value of which does not exceed the sum of ten thousand dollars ($10,000), or a farm in this State the value of which does not exceed the sum of fifteen thousand dollars ($15,000).

Maximum cost to board and veteran

986.5. The cost of a home to the board shall not exceed the sum of five thousand dollars ($5,000), and a veteran purchasing the home may advance not to exceed five thousand dollars ($5,000) on the purchase price of the home so that the total purchase price thereof does not exceed ten thousand dollars ($10,000). The cost of a farm to the board shall not exceed seven thousand five hundred dollars ($7,500), and a veteran purchasing the farm may advance not to exceed seven thousand five hundred dollars ($7,500) on the purchase price of the farm so that the total price thereof does not exceed fifteen thousand dollars ($15,000).

986.6. The board may acquire a farm or home in which the veteran to whom such farm or home is to be sold has theretofore acquired an interest. Prior interest

986.7. Before the purchase of any property by the board there shall be filed with the board an appraisement of the market value of the property by a member or an authorized agent of the board, and by an officer or an authorized appraiser of a banking corporation formed under the laws of this State, or by the manager of a branch bank of such banking corporation, or by an officer or cashier of a National banking association, having a place of business in the county in which the property or some portion thereof is situated. If there is no such banking corporation or National banking association having a place of business in the county in which the property or some portion thereof is situated, then such appraisement shall be filed by an officer or an authorized appraiser, or the manager of a branch bank of such a banking corporation, or by an officer or cashier of a National banking association, having a place of business in a county adjacent thereto. Each appraisement shall be verified by the maker thereof. The verification shall state that it is made in good faith, and that the valuation is honestly determined and represents the bona fide opinion of the maker. Appraisal

986.8. The board, before consummating a purchase under the provisions of this article, shall cause the title of the property sought to be purchased to be examined and may require for that purpose an abstract, an unlimited certificate of title, or a policy of title insurance, and may refer the same to the Attorney General for his opinion. Title search

986.9. The board shall then enter into a contract with the veteran for the sale of the property to the veteran. The board shall fix the selling price of the property by adding to the purchase price thereof, or to the value of such property as determined by the board when such property is acquired by the board in a manner other than by purchase, all expenses incurred and estimated to be incurred by the board in relation thereto, inclusive of interest, administration, appraisals, examination of title, incidental expenses, and the sum deemed necessary to meet unforeseen contingencies. Contract with veteran

987. The purchaser shall make an initial payment of at least 10 per cent of the selling price of the property, in case of a farm, and 5 per cent in the case of a home. The balance of the selling price may be amortized over a period fixed by the board, not exceeding 40 years, together with interest thereon at the rate of 5 per cent per annum compounded at periods fixed by the board. The purchaser on any installment date may pay any or all installments still remaining unpaid. In any individual case the board may for good cause postpone from time to time, upon terms as the board deems proper, the payment of the whole or any part of any installment of the selling price or interest thereon. Payments

Subsequent sale

987.1. The board in each individual case may specify the terms of the contract entered into with the purchaser, but no property sold under the provisions of this article shall, voluntarily or involuntarily, by operation of law or otherwise, be transferred, assigned, encumbered, leased, let or sublet, in whole or in part, without the written consent of the board, until the purchaser has paid therefor in full and has complied with all the terms and conditions of this contract of purchase.

Obligations of purchaser

987.2. The contract made between the board and purchaser shall provide that the purchaser maintain the farm or home as his place of residence and keep in good order and repair all buildings, fences, and other permanent improvements situate thereon and that the purchaser, if required, insure and keep insured against fire or other hazards, all buildings, fences, other permanent improvements, or crops on the property, loss, if any, under the policies therefor to be made payable to the board as its interest appears. Insurance shall be in the amount, with the insurance companies, and under the conditions specified by the board.

Default in taxes, etc

987.3. If the purchaser fails or neglects to pay, satisfy, and discharge at maturity all taxes and assessments, and all other charges and encumbrances which are a lien upon the property being purchased from the board, or any part thereof, and also all taxes and assessments levied or assessed upon the interest created by the contract of purchase of such property; or to keep the buildings, fences, other permanent improvements upon such property insured and in good order and repair, or to keep the crops upon such property insured; or to keep in good order and repair all buildings, fences, and other permanent improvements situated upon such property; then, in such event, the board may pay, satisfy, discharge, settle, or compromise the taxes, assessments, charges, or encumbrances, or insure the buildings, fences, permanent improvements, or crops, or do the work and supply the materials necessary to keep the buildings, fences, and other improvements in good order and repair. All moneys so expended by the board shall be added to the selling price of the property and bear interest at the rate of 7 per cent per annum compounded semiannually from the date of expending the same, and shall be repaid by the purchaser to the board on demand. The board may amortize the repayment of such expenditures or permit repayment in installments upon the terms and conditions which it deems proper.

Payment by board

Addition to sales price

Board sole judge of amounts due

987.4. The board shall be the sole judge of:

(a) The legality or validity of taxes, assessments, charges, or encumbrances, and the amount necessary to be paid in satisfaction or discharge thereof.

(b) The amount of insurance to be placed upon the buildings, fences, other permanent improvements, and crops and the amount necessary to be paid for the premiums for such insurance.

(c) The necessity and nature of the work necessary to keep the buildings, fences, and other improvements in good order and repair, and the amount necessary to be paid therefor.

Cancellation of contract

987.5. In the event of a failure of a purchaser to comply with any of the terms of his contract of purchase, the board may cancel such contract, and thereupon be released from all obligations, at law or in equity, to convey the property, and the purchaser shall forfeit all right thereto. All payments theretofore made shall be deemed to be rental paid for occupancy. Upon such forfeiture, the board shall take possession of the property covered by such contract, and shall remove all persons and personal property therefrom without any liability whatsoever on the part of the board or of any official or employee thereof for any damage or injury caused by or incident to the entry or removal. The failure of the board to exercise any option to cancel or to exercise any other privilege under such contract for any default shall not constitute a waiver of the right to exercise such option or privilege for any other default on the part of the purchaser.

Sale after forfeiture

987.6. In the event of a forfeiture of a contract of purchase under the provisions of this article, the board may sell or otherwise dispose of the property covered by the forfeited contract to such person and upon such terms and conditions as it deems proper.

Payment of net gain

987.7. The board may, in the contract of purchase with a veteran, provide that, in the event of default by the veteran and forfeiture of his rights under the contract and subsequent sale of the property by the board, it may pay to him any net gain realized by the board upon the sale. The board is the sole judge of the net gain.

Insurance of reverted property

987.8. The board may insure and keep insured against fire or other hazards all buildings, fences, other permanent improvements, or crops situated upon any property which has reverted to and is under the control of the board, or may do the work and supply the materials necessary to keep the buildings, fences, and other improvements situated upon the property in good order and repair. The board may lease or let the property, in whole or in part, upon such terms as it deems proper. In the case of a farm, the board may cultivate the farm or harvest the crop.

Lease or cultivation

Operation by board

987.9. If illness or accident prevents a purchaser of a farm from cultivating his farm or harvesting any crop, the board may enter and cultivate the farm or harvest the crop. In such event the board has a first lien upon the crop for all moneys expended and may sell the harvested crop. Out of the proceeds of the sale the board may reimburse itself for any expense which it has incurred in the cultivation of the farm, the harvesting of crops and the sale thereof, and retain any moneys due to the board from the purchaser. Any balance shall be paid by the board to the purchaser.

Succession

987.10. When a purchaser dies, indebted to the board under contract of purchase, his rights acquired under this article and such contract shall devolve upon his heirs, devisees, or personal representatives, but subject to al rights, claims, and charges of the board. Default on the part of an heir, devisee, or personal representative, with respect to any right, claim, or charge of the board shall have the same effect as would default on the part of the purchaser but for his death.

Article 3. Funds

Revolving fund

988. There is in the State treasury a revolving fund known as the Veterans' Farm and Home Building Fund of 1943. All moneys deposited in such fund shall be subject to the provisions of this article. Money may be withdrawn from such fund in accordance with law upon requisition of the board.

Deposit of money

988.1. The money paid by purchasers shall be deposited in the Veterans' Farm and Home Building Fund of 1943 and be available for the purpose of carrying out the provisions of this article.

Advances for repairs, etc

988.2. Out of any money available in the Veterans' Farm and Home Building Fund of 1943, the board may advance to any purchaser upon his application, and under such regulations as the board may, from time to time, prescribe, sums for the purpose of keeping in good order or repair, or for painting, redecorating or remodeling, all buildings, fences or other permanent improvements on, or the insuring against fire or other hazards, any building, fence or other permanent improvements or crops on the property being purchased from the board, or the board may advance to any such purchaser moneys actually expended in so doing.

Addition to deferred principal

All the money advanced to a purchaser by the board shall be added to the deferred principal of the purchaser's account and bear interest at the same rate and shall be repaid by the purchaser to the board under such conditions as it may prescribe.

The moneys advanced may, in the discretion of the board, be in addition to the maximum purchase price of a farm or home as limited by the provisions of Sections 986 4 and 986.5 of this code.

The board shall be the sole judge of the need and desirability of making such advances.

Advances for contingent expenses, etc

988.3. The State Department of Finance is hereby authorized to provide for advances of money to the board, needed to meet contingent expenses, to such an amount not exceeding twenty-five thousand dollars ($25,000), as the said Department of Finance shall deem necessary, and to provide for advances of money to the board, needed to facilitate the purchase of farms and homes to such an amount not exceeding seven hundred fifty thousand dollars ($750,000), as the said Department of Finance may deem necessary, such advances to be administered as revolving funds. The State Controller is hereby authorized and directed to draw his warrants upon the

Veterans' Farm and Home Building Fund for such advances, and the State Treasurer is hereby authorized and directed to pay the same.

Appropriation

SEC. 2. For the purposes of carrying out the provisions of this act the sum of two million dollars ($2,000,000) is hereby appropriated out of any money in the State treasury not otherwise appropriated. Of this amount the sum of one million nine hundred fifty thousand dollars ($1,950,000) shall constitute a revolving fund to be known as the Veterans' Farm and Home Building Fund of 1943 which is calculated to be returned to the State within a period of 50 years from the effective date of this act with interest at the rate of 4 per cent per annum on so much thereof as shall be withdrawn from said Veterans' Farm and Home Building Fund of 1943 from the date of withdrawal until returned into said fund, or until returned into the General Fund in the State treasury, as the case may be; provided, that in the event of the sale of any bonds which may be hereafter authorized to be issued to create a fund to be expended in accordance with the provisions of this act, then and in that event the said sum of one million nine hundred fifty thousand dollars ($1,950,000) hereby appropriated shall be returned without interest into the General Fund in the State treasury out of the proceeds from the sale of such bonds. The remaining fifty thousand dollars ($50,000) shall constitute a fund available for the payment of administrative expenses alone until such time as other moneys are available for such purposes from the sales of real estate as provided for in this act. The State Controller is authorized and directed to draw warrants upon such funds from time to time upon requisition of the board approved by the State Department of Finance and the State Treasurer is hereby authorized and directed to pay such warrants.

Return

CHAPTER 1047

An act to add Section 2497 to the Business and Professions Code, relating to drugless practitioners under the Board of Osteopathic Examiners.

Stats 1937, p 1229, amended

[Approved by Governor June 7, 1943. Filed with Secretary of State June 7, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 2497 is added to the Business and Professions Code, to read:

New section

2497. The Board of Osteopathic Examiners shall not issue any drugless practitioner's certificates under any of the provisions of this chapter or any other law.

Prohibition

All persons holding drugless practitioners certificates may continue to practice under the authorization of their certificates and may renew them, subject to the provisions of this chapter.

Persons holding certificates

CHAPTER 1048

Stats 1931, p 185, amended

An act to amend Section 300 of the Labor Code, relating to the assignment of wages.

In effect August 4, 1943

[Approved by Governor June 7, 1943. Filed with Secretary of State June 7, 1943.]

The people of the State of California do enact as follows:

Stats 1941, p 1851

SECTION 1. Section 300 of the Labor Code is amended to read:

Assignment of wages Conditions necessary to validity

300. No assignment of, or order for wages or salary, earned or to be earned, shall be valid unless:

(a) Such assignment is contained in a separate written instrument, signed by the person by whom the said wages or salary have been earned or are to be earned, and identifying specifically the transaction to which the assignment relates; and

(b) Where such assignment of, or order for wages or salary is made by a married person, the written consent of the husband or wife of the person making such assignment or order is attached to such assignment or order; and

(c) Where such assignment or order for wages or salary is made by a minor, the written consent of a parent or guardian of such minor is attached to such order or assignment; and

(d) Where such assignment of or order for wages or salary is made by a person who is unmarried or who is an adult or who is both unmarried and adult, a written statement by the person making such assignment or order, setting forth such facts, is attached to or included in such assignment or order;

(e) No other assignment or order exists in connection with the same transaction or series of transactions and a written statement by the person making such assignment or order to that effect, is attached thereto or included therein; and

(f) A copy of such an assignment or order and of the written statement provided for in subdivision (d) hereof, authenticated by a notary public, shall have been filed with the employer, accompanied by an itemized statement of the amount then due to the assignee; provided, that at such time no other assignment or order for the payment of any wages or salary is subject to payment, and no attachment or levy on execution against said wages or salary is in force. Any valid assignment, when filed in accordance with the provisions contained herein, shall have priority with respect to any subsequently filed assignment or order or subsequent attachment or levy on execution. Any power of attorney to assign or collect wages or salary shall be revocable at any time by the maker thereof.

Priority

Power of attorney

Other conditions

No assignment of, or order for wages or salary shall be valid unless at the time of the making thereof, such wages or salary have been earned, except for the necessities of life and then only to the person or persons furnishing such necessities

of life directly and then only for the amount needed to furnish such necessities. Under any assignment of, or order for wages or salary to be earned, a sum not to exceed 50 per centum of the assignor's wages or salary, and not to exceed 25 per centum of the assignor's wages or salary, upon the showing that such wages or salary are necessary for the support of his mother, father, spouse, children or other members of his family, residing in this State and supported in whole or in part by his labor, shall be collectible from the assignor's employer at the time of each payment of such wages or salary. Maximum amount

The employer shall be entitled to rely upon the statements of fact in the written statement provided for in subdivisions (d) and (e) hereof, without the necessity of inquiring into the truth thereof, and the employer shall incur no liability whatsoever by reason of any payments made by him to an assignee under any assignment or order, in reliance upon the facts so stated. Reliance of employer on employee's statements

No assignment of or order for wages or salary earned or to be earned shall be valid under any circumstances, if the wages or salary earned or to be earned are paid under a plan for payment at a central place or places established under the provisions of Section 204a of this code. Invalid assignment

This section shall not apply to deductions which the employer may be requested by the employee to make for the payment of life, retirement, disability or unemployment insurance premiums, for the payment of taxes owing from the employee, for contribution to funds, plans or systems providing for death, retirement, disability, unemployment, or other benefits, for the payment for goods or services furnished by the employer to the employee or his family at the request of the employee, or for charitable, educational, patriotic or similar purposes. Exception

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CHAPTER 1049

An act to add Section 737.6-2 to the Agricultural Code, relating to testing and sampling of fluid milk delivered to distributors in accordance with stabilization and marketing plans. Stats 1933, p 60, amended

[Approved by Governor June 7, 1943. Filed with Secretary of State June 7, 1943.] In effect August 1, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 737.6-2 is added to the Agricultural Code, to read: New section

737.6-2. In addition to the enforcement of this chapter by the Bureau of Market Enforcement, the director is hereby charged with the duty of supervision of the milk-fat testing and the weighing and sampling of fluid milk delivered to distributors, which supervision shall be conducted by the Bureau Supervision of testing and weighing

Fund allocation

of Dairy Service, and from the funds provided by the provisions of this article he is authorized to allocate to said Bureau of Dairy Service such sum per annum, not exceeding twenty thousand dollars ($20,000), which shall be used exclusively by said Bureau of Dairy Service for the supervision and checking the correctness of the milk-fat and bacteriological tests and the weighing and sampling of all fluid milk delivered to distributors in accordance with the stabilization and marketing plans established pursuant to the provisions of this division.

CHAPTER 1050

An act making an appropriation to pay the claim of the City and County of San Francisco against the State of California.

In effect August 4, 1943

[Approved by Governor June 7, 1943. Filed with Secretary of State June 7, 1943.]

The people of the State of California do enact as follows:

Appropriation San Francisco

SECTION 1. The sum of thirty-five thousand five hundred thirty dollars ($35,530) is hereby appropriated out of the San Francisco Harbor Improvement Fund to pay the claim of the City and County of San Francisco against the State of California.

CHAPTER 1051

Stats 1937, p. 792, amended

An act to amend Section 1908 of the Harbors and Navigation Code, relating to fire protection.

In effect August 4, 1943

[Approved by Governor June 7, 1943. Filed with Secretary of State June 7, 1943.]

The people of the State of California do enact as follows:

Stats 1937, p 792

SECTION 1. Section 1908 of the Harbors and Navigation Code is amended to read:

Fireboat contract

1908. The board may contract with the City of San Francisco for the furnishing by the city to the board of the services of fireboats owned and operated by the city for the protection from fire of the property under the control and jurisdiction of the board on the San Francisco water front. Any such contract shall provide for the payment by the board out of the San Francisco Harbor Improvement Fund to the City of San Francisco one-half of the expense of maintenance and operation of such fireboats in an amount that shall not exceed the sum of one hundred ten thousand dollars ($110,000) in any year.

Payments Operation

Salaries and wages

The board may also pay the city for furnishing to the board such services of firemen of the city as may be requested by the

board and furnished by the city in the performance of fire prevention work in cooperation with the San Francisco Fire Department, on the property of the State under the control and jurisdiction of the board. The amount to be paid for such services shall not exceed the amount of salary or wages paid by the city to such firemen on account of the performance of such services for the board, and shall not exceed the sum of twenty-five thousand dollars ($25,000) in any one year.

In addition to the amounts which may be collected for the purposes specified in this part by the board, there shall be collected an amount sufficient to carry out the provisions of this section.

CHAPTER 1052

An act to amend Sections 6650, 6651, 6655 and 6662, and to repeal Section 6657 of, and to add Section 6727.5 of the Welfare and Institutions Code, relating to the property and support of patients in State hospitals or patients on parole from such hospitals.

Stats 1937, p 1005, amended

[Approved by Governor June 7, 1943. Filed with Secretary of State June 7, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 6650 of the Welfare and Institutions Code is amended to read as follows:

Stats 1911, p 2503

6650. The husband, wife, father, mother, or children of an insane person or inebriate, the estates of such persons, and the guardian and administrator of the estate of such insane person or inebriate, shall cause him to be properly and suitably cared for and maintained, and shall pay the costs and charges of his transportation to a State institution for the insane or inebriates. The husband, wife, father, mother, or children of an insane person or inebriate, and the administrators of their estates, and the guardian and/or administrator of the estate of such insane person or inebriate, shall be liable for his care, support, and maintenance in a State institution of which he is an inmate. The liability of such persons and estates shall be a joint and several liability.

Liability for care, support and maintenance

SEC. 1.5. Section 6651 of the Welfare and Institutions Code is hereby amended to read as follows:

Stats 1939, p 1775

6651. The monthly rate for the care, support, and maintenance of all insane persons and inebriates at the hospitals for the insane and inebriates where there is liability to pay for such care, support, and maintenance, shall be determined by the Director of Institutions, and shall be payable in advance. The superintendent of a State institution for the insane or inebriates shall, however, on the order of the Director of Institutions, reduce, cancel or remit the amount to be paid by the

Rate of payment

Inability to pay

estate or the relatives, as the case may be, liable for the care, support, and maintenance of any insane person or inebriate committed thereto and confined therein, on satisfactory proof that the estate or relatives, as the case may be, are unable to pay the cost of such care, support, and maintenance. In any case where there has been an advance payment under this section, and such advances or any part thereof should be refunded because of the death, parole, or discharge of any inmate of such institution, such amount shall be paid by the institution or the Department of Institutions to the person who made the payment upon demand, and in the statement to the Controller the amounts refunded shall be itemized and the aggregate deducted from the amount to be paid into the State Treasury, as provided by law. If any insane person or inebriate dies at any time while his estate is liable for his care, support, and maintenance and other expenses at a State hospital, the claim for the amount due may be presented to the executor or administrator of his estate, and paid as a preferred claim, with the same rank in order of preference, as claims for expenses of last illness.

Refund

Preferred claim

States 1941, p 2504

SEC. 2. Section 6655 of the Welfare and Institutions Code is amended to read as follows:

Payment by guardian of estate

6655. If any person committed to a State mental hospital has sufficient estate for the purpose, the guardian of his estate shall pay for his care, support, maintenance, and necessary expenses at the mental hospital to the extent of the estate. Such payment may be enforced by the order of the judge of the superior court where the guardianship proceedings are pending. On the filing of a petition therein by the department, showing that the guardian has failed, refused, or neglected to pay for such care, support, maintenance, and expenses, the court, by order, shall direct the payment by the guardian. Such order may be enforced in the same manner as are other orders of the court.

Order

Sale of property

If at any time there is not sufficient money on hand in the estate of a committed person to pay the claim of a State mental hospital for his care, support, maintenance, and expenses therein, the court may, on petition of the guardian of the estate, or if the guardian fails, refuses, or neglects to apply, on the petition of the department, make an order directing the guardian to sell so much of the other personal or real property or both, of the person as is necessary to pay for the care, support, maintenance, and expenses of the person at the mental hospital. From the proceeds of such sale, the guardian shall pay the amount due for the care, support, maintenance, and expenses at the mental hospital, and also such other charges as are allowed by law.

When payment not exacted

Payment for the care, support, maintenance, and expenses of a person at a State hospital shall not be exacted, however, if there is likelihood of the patient's recovery or release from the hospital and payment will reduce his estate to such an extent that he is likely to become a burden on the community

in the event of his discharge from the hospital. If a certificate from the medical superintendent of the State hospital in which the person is confined as a patient is filed in the office of the county clerk with the papers in the guardianship proceedings of the patient, in which certificate the medical superintendent states that the patient is suffering from a chronic form of insanity, and that in his opinion a recovery is beyond reasonable hope and that the patient will in all probability continue to be a charge in a State hospital until death, such certificate shall be prima facie evidence that the patient is not likely to recover or to be released from the hospital, and the guardian shall pay the amount due for his care, support, maintenance, and expenses at the hospital and such other charges as are allowed by law out of any moneys of the estate in his possession. Certificate

SEC. 3. Section 6662 of the Welfare and Institutions Code is amended to read as follows: Stats 1937, p. 1005

6662. As used in Sections 6660, 6661 and 6729, "Secretary of the Department of Institutions" means the employee of the department designated by the Director of Institutions to perform the duties and exercise the powers mentioned in those sections. "Secretary of the Department of Institutions"

SEC. 4. Section 6657 of the Welfare and Institutions Code is hereby repealed. Stats 1937, p 1005

SEC. 5. Section 6727.5 is added to the Welfare and Institutions Code, to read: New section

6727.5. The charges for the care and keeping of persons on parole from a State hospital where the department pays a private home for such care shall be a liability of such person, his estate, and relatives, to the same extent that such liability exists for inmates of State institutions for the insane and shall be governed by provisions of Article 5 of this chapter relating to the charges and liability for the care and keeping of insane persons in State hospitals Liability for care of parolee from State hospital

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CHAPTER 1053

An act to amend Sections 1516, 1535, 1550, 1554, and 1558 of the Probate Code, relating to guardianship matters of persons confined in State institutions. Stats 1931, p 587, amended

[Approved by Governor June 7, 1943 Filed with Secretary of State June 7, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 1516 of the Probate Code is amended to read as follows: Stats 1935, p 1971

1516. In all cases where no other or no different procedure is provided by statute, the court on petition of the guardian, creditor or other interested party may from time to time instruct the guardian as to the administration of the ward's Petition for instruction as to administration by guardian, etc

estate and the disposition, management, care, protection or preservation of the estate or any property thereof. Notice of the hearing of such petition shall be given for the period and in the manner required by Section 1200 of this code. When the ward is or has been, during the guardianship, confined in a State hospital for the insane in this State, notice of hearing and copy of the petition must be given to the Director of Institutions at least 15 days before the hearing.

Stats 1931, p 587

SEC. 2. Section 1535 of the Probate Code is amended to read as follows:

Ward in State hospital for insane

1535. When the ward is or has been, during the guardianship, confined in a State hospital for the insane in this State, notice of the hearing of the return must be given to the Director of Institutions at least 15 days before the hearing.

Stats 1943, Ch 120

SEC. 3. Section 1550 of the Probate Code is amended to read as follows:

Inventory and appraisement

1550. Within three months after his appointment, or within such further time as the court or judge for a reasonable cause may allow, the guardian must file with the clerk of the court an inventory and appraisement of the estate of his ward, together with a copy of the same which copy shall be delivered by the clerk to the county assessor. The guardian must make oath to the inventory, and the property therein described must be appraised, by an appraiser or appraisers appointed by the court or judge, in the manner provided for the inventory and appraisement of estates of decedents. The inventory and appraisement must be recorded by the clerk in a book kept for that purpose, and whenever any ward is or has been during the guardianship confined in a State hospital in this State the guardian must deliver or mail a copy of the inventory to the Director of Institutions. Whenever any property of the ward is discovered which was not included in the inventory, and whenever any other property has been inherited or acquired by the ward, other than by purchase by the guardian, like proceedings must be had for the inventory and appraisement thereof and the delivery or mailing of a copy thereof as are herein provided in relation to the first inventory.

Stats 1941, p 2437

SEC. 4. Section 1554 of the Probate Code is amended to read as follows:

Notice to Director of Institutions

1554. No account of the guardian of an insane person who is or has been during the guardianship confined in a State hospital in this State shall be settled or allowed unless notice of the time and place of hearing and a copy of the account have been given to the Director of Institutions at least 15 days before the hearing. The statute of limitations shall not run against any claim of the Department of Institutions against the estate of the incompetent for board, care, maintenance or transportation if the account is settled without giving the notice prescribed above.

Statute of limitations

SEC. 5. Section 1558 of the Probate Code is amended to read as follows: Stats 1935, p 1665

1558. On the application of the guardian or next of kin of an insane or incompetent person, the court may direct the guardian to pay and distribute surplus income, not used for the support and maintenance of the ward, or any part of such surplus income, to the next of kin whom the ward would, in the judgment of the court, have aided, if said ward had been of sound mind. The granting of such allowance and the amounts and proportions thereof shall be discretionary with the court, but the court shall give consideration to the amount of surplus income available after due provision has been made for the proper support and maintenance of the ward, to the circumstances and condition of life to which the ward and said next of kin have been accustomed and to the amount which the ward would, in the judgment of the court, have allowed said next of kin, had said ward been of sound mind. Notice of the hearing of said application shall be given as provided in Section 1557 of this code. When the ward is or has been, during the guardianship, confined in a State hospital for the insane in this State, notice of hearing and copy of the petition must be given to the Director of Institutions at least 15 days before the hearing. Distribution of surplus income of incompetent; Notice of hearing

CHAPTER 1054

An act to amend Section 25301 of the Water Code, relating to bonds of irrigation districts. Stats 1943, Ch 368, amended

[Approved by Governor June 7, 1943. Filed with Secretary of State June 7, 1943.] In effect August 4, 1943

Note.—See Stats. 1943, Ch. 368.

CHAPTER 1055

An act to amend Section 412 of the Political Code, relating to the Secretary of State.

[Approved by Governor June 7, 1943 Filed with Secretary of State June 7, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 412 of the Political Code is hereby amended to read: Stats 1929, p 719

412. The Secretary of State, to assist him in the discharge of the duties of his office, may appoint one Assistant Secretary of State, whose powers, duties and liabilities shall be those of a deputy, and such deputies and all such clerical, expert, technical and other assistants as may be necessary for the proper conduct of his office. All such appointments, except those to positions otherwise expressly exempted from civil service, shall be subject to the approval of the State Personnel Board. The Assistant Secretary of State and all deputies shall be civil executive officers. Employees of Secretary of State

CHAPTER 1056

An act relating to the National Flag and the Flag of the State of California, and other flags.

In effect August 1, 1943

[Approved by Governor June 7, 1943. Filed with Secretary of State June 7, 1943.]

The people of the State of California do enact as follows:

Display of flags: Court rooms

SECTION 1. The Flag of the United States of America, the symbol of Federal sovereignty and the Flag of the State of California (the Bear Flag), the symbol of the State's sovereignty, shall be prominently installed, displayed and maintained in the following places in the State, to wit:

a. In all court rooms of the Supreme Court and of the District Courts of Appeal.

b. In all superior court rooms of the State.

c. In all municipal court rooms.

d. In all justice of the peace court rooms.

e. In all rooms where any court or any commission, State, county, city and county or municipal, holds any sessions whatever.

Same Public buildings

SEC. 2. The Flag of the United States of America and the Flag of the State of California (the Bear Flag) shall be prominently displayed during business hours upon or in front of the buildings or grounds of, or at each of the following places, to wit:

a. Each public building whether such building belongs to the State or county or city and county or a municipality.

b. At the entrance and exit of every State park.

c. At the entrance or upon the grounds of the University of California at Berkeley and at Los Angeles.

d. At the entrance or upon the grounds or upon the administration building, of every university, college, high school and grammar grade school, both public and private, within the State of California.

e. Upon or at every agricultural inspection station just inside California and located on every highway leading into California.

f. At the entrance of, or within every State highway maintenance station where personnel resides or is on duty at the time necessary to raise and lower the Flag.

Same Stadia, etc

SEC. 3. The Flag of the United States of America and the Flag of the State of California (the Bear Flag) shall be prominently displayed upon the structures or grounds thereof during any and all games and performances of every kind whatsoever which take place in a coliseum, stadium, bowl or other open air sites and at all race tracks where racing is being conducted.

Military parades

SEC. 4. The National and State Flags must always be carried at the head of any procession or parade of the National Guard of California or the California State Guard or any

other State military organization or of any sheriff's posse or of any police department or fire department of any city.

Acquisition of flags

SEC. 5. Where provision is herein made for the installation or display of the Flag of the United States of America and the Flag of the State of California in a place publicly-owned, whether by the State, by a county, or a city and county, or a municipality, it shall be the duty of the proper public officials charged with the obligation of furnishing such places to make them usable, to make provision for the acquisition of the flags and the installation, display and maintenance thereof as herein provided.

Similar flags

SEC. 6. Where a city or county or city and county has adopted an official flag, it shall be unlawful for any other city or county or city and county to adopt an official flag so similar that it might deceive or mislead anyone as to the city or county or city and county to which it belongs.

Size and manner of display

SEC. 7. Where the National and State Flags are used as herein provided, they must be of the same size and if only one flag pole is used, the National Flag must be above the State Flag and the State Flag shall be so hung as to not interfere with any part of the National Flag above it and at all times the National Flag must be placed in the position of first honor.

Enforcement by superior court

SEC. 8. The superior court is hereby granted jurisdiction to enforce each and all of the provisions of this act on the petition of any citizen of the county in which the subject of complaint is located.

Constitutionality

SEC. 9. The unconstitutionality of any clause or section of this act shall not affect the remaining sections or clauses which are constitutional.

CHAPTER 1057

An act to add Section 2 to an act entitled "An act to provide for the establishment and maintenance of a College of Veterinary Medicine in the University of California, and to make an appropriation therefor," approved June 9, 1941, relative to the period of time during which the moneys thereby appropriated are available for expenditure.

Stats. 1941, p. 2522, amended

[Approved by Governor June 7, 1943. Filed with Secretary of State June 7, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

New section

SECTION 1. Section 2 is added to the act cited in the title hereof, to read:

Inapplicable provisions

Sec. 2. Section 435 of the Political Code does not apply to this act or the moneys appropriated by it.

CHAPTER 1058

Stats 1935, p 1338, amended

An act to add Section 699.5 to the Military and Veterans Code, relating to assistance to veterans, prescribing the powers and duties of the Veterans' Welfare Board in aiding veterans in connection with veterans' rights, privileges, and preferences, and making an appropriation.

In effect August 4, 1943

[Approved by Governor June 7, 1943. Filed with Secretary of State June 7, 1943.]

The people of the State of California do enact as follows:

New sect on

SECTION 1. Section 699 5 is added to the Military and Veterans Code, to read:

Claims of veterans against United States Assistance by board

699.5. The board may assist every veteran of any war of the United States in presenting and pursuing such claim as the veteran may have against the United States arising out of war service and in establishing the veteran's right to any privilege, preference, care, or compensation provided for by the laws of the United States or of this State. The board may cooperate and, with the approval of the Department of Finance, contract with any organization of veterans which has regularly, for a period of five years next preceding the date of such contract, maintained an established committee or agency rendering similar services to veterans as the services referred to in this section and pursuant to such contract may compensate such organization for services within the scope of this section rendered by it to any veteran or veterans. No such contract shall be made unless the board determines that, owing to the confidential relationships involved and the necessity of operating through agencies which the veterans involved will feel to be sympathetic towards their problems, the services can not satisfactorily be rendered otherwise than through the agency of such veterans organization and that the best interests of the veterans involved will be served if such contract is made.

Appropriation Veterans' Welfare Board

SEC. 2. Out of any money in the State treasury not otherwise appropriated there is hereby appropriated the sum of one hundred fifty thousand dollars ($150,000) to be expended by the Veterans' Welfare Board during the Ninety-fifth and Ninety-sixth Fiscal Years in carrying out the provisions of Section 699.5 of the Military and Veterans Code.

CHAPTER 1059

An act to amend Section 8 and to repeal Sections 4 and 10 of, and to add Sections 4, 10a, 10b, 10c, 11a, and 12a to, an act entitled "An act relating to the rights, powers and disabilities of aliens and of certain companies, associations and corporations with respect to property in this State, providing for escheats in certain cases, prescribing the procedure therein, requiring reports of certain property holdings to facilitate the enforcement of this act, prescribing penalties for violation of the provisions hereof, and repealing all acts or parts of acts inconsistent or in conflict herewith," approved by the electorate November 2, 1920, relating to the rights, powers and disabilities of aliens and of certain companies, associations and corporations with respect to contracts for the use, leasehold or other interest in real property less than the fee, including cropping contracts, providing for escheats in certain cases, prescribing the procedure therein, defining the powers and duties of the Attorney General or the district attorney of the proper county in reference thereto, providing as to the duties, powers and authority of any alien appointed by any court as guardian of his native-born minor child or children, or as guardian of any other person, or persons, and prescribing the procedure in such cases, and to provide a penalty.

Stats 1921, p. lxxxii, amended

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Sections 4 and 10 of the act cited in the title hereof are repealed.

Stats 1923, p 1020

SEC. 2. Section 4 is added to said act, to read:

New section

Sec. 4. Whenever any alien mentioned in Section 2 hereof is appointed by any court as a guardian of his native-born minor child or children, or as a guardian of any other person or persons, it shall be unlawful for such said alien guardian to farm, operate or manage any land or lands held by such guardianship estate, except solely for the use and benefit of the ward or wards of said estate, or to enjoy, possess or have, in whole or in part, the beneficial use of any such said land or lands so held or possessed or which belong to any such said guardianship estate, nor shall said alien guardian have or enjoy or receive directly or indirectly the beneficial use of such said lands or the proceeds received from the sale of any crops produced, grown or raised thereon, it being the intent of this section that no alien mentioned in Section 2 hereof shall by any guardianship proceedings whatsoever evade or violate or seek to evade or violate any of the provisions of this statute.

Alien guardian
Operation of farms, etc

Intent

Annual report

In all such said guardianship estates, the alien guardian must make every year a report to the court in which said guardianship estate is pending, showing in detail and supported by receipts, all money disbursed, expended and paid out by said guardian, to whom same was paid, for what purpose, and the date of such said disbursement or payment. Also all money received, from whom received, for what purpose received, and the date of the receipt thereof. A copy of said report shall be served by the guardian on the district attorney of the county, and said guardian shall give said district attorney notice of the hearing of said report. Failure on the part of the said alien guardian so to make such report, or serve such copy thereof, or notify such district attorney shall constitute a direct violation hereof, for which said guardian may be prosecuted and punished as set forth in Section 10a of this act.

Service

Additional matters

Said alien guardian shall include in such report such other matters and items as the court may require, the said alien guardian to be under the absolute jurisdiction and control of the court at all times, and the court may from time to time require said alien guardian to make special reports on all things pertaining to said guardianship estate. The court may also require the ward of any such said guardianship estate to be produced in court whenever said court may deem such procedure necessary and proper for the protection of said guardianship estate.

Compensation of guardian

The court shall have the power to fix the compensation of the said alien guardian at such amount as the court may determine. The court shall also fix the amount of bond to be given by said alien guardian. The court shall also fix and determine the amount of attorney's fees in all such guardianship matters.

Removal

Whenever any alien guardian shall fail, neglect or refuse to comply with the terms and provisions hereof, he may be removed as guardian of said estate by the court, when deemed to be for the best interests of said estate.

Final account

The court shall require a final account to be filed on behalf of any such guardianship estate at the time the ward or wards shall become 21 years of age. The court may also require such matters to be included in said report as said court may deem to be necessary and proper. No such guardianship estate shall be finally closed until the final report shall have been filed and approved by the court.

Stats 1923, p 1020

SEC. 3. Section 8 of said act is amended to read:

Escheat: Leaseholds, etc., acquired by aliens

Sec. 8. Whenever any leasehold or other interest in real property, including cropping contracts which are hereby declared to constitute an interest in real property, but excluding interests in real property covered by Section 7 of this act, is hereafter created by any landlord or owner and acquired by any alien mentioned in Section 2 of this act, or any company, association or corporation mentioned in Section 3 of this act, in violation of the provisions of this act, then and

in such event, all of the right, title and interest of such landlord or owner in and to said real property, other than a landlord or owner who has acted in good faith and after reasonable investigation, and the interest of such alien or such company, association, or corporation, in the real property shall escheat to the State of California as of the date of the creation and acquiring in violation of the provisions of this act. The Attorney General or the district attorney of the proper county shall institute proceedings against both such landlord or such owner and such alien mentioned in Section 2 of this act or such company, association or corporation mentioned in Section 3 of this act, to have such escheat adjudged and enforced in the same manner as is provided in Section 7 of this act. In the event that the interest of such landlord or owner is an interest less than the fee, then in such proceedings the court shall determine the value of all of the right, title, and interest of such landlord or owner, if any, and such alien, company, association, or corporation, as of the date of such acquisition in violation of the provisions of this act, and enter judgment for the State for the amount thereof together with costs. Thereupon the court shall order the sale of the right, title and interest of such landlord or owner and such alien or such company, association, or corporation as provided in Section 1271 of the Code of Civil Procedure. Upon the confirmation of such sale the court shall fix and determine the total costs and expenses of the county in which the case is tried in preparing and prosecuting such escheat cause, and same shall thereupon be repaid to said county out of the proceeds of the sale and the balance shall be paid into the State treasury.

Proceedings

Court order to sell

The provisions of this section shall not apply to any real property hereafter acquired in the enforcement or satisfaction of any lien now existing upon or interest in such property so long as such real property so acquired shall remain the property of the alien, company, association, or corporation acquiring the same in such manner. No alien, company, association or corporation mentioned in Section 2 or in Section 3 of this act shall hold for a longer period than two years in possession of any agricultural land acquired in the enforcement of or in satisfaction of a mortgage or other lien hereafter made or acquired in good faith to secure a debt.

When provisions inapplicable

Acquired agricultural land

The provisions of this section shall not operate to divest any bona fide interest of any person, firm, corporation, or association, which is acquired in good faith and for value and not in violation of this act prior to the filing of a notice of lis pendens in connection with an action for escheat under the provisions of this act.

Rights not divested

Any share of stock or the interest of any member in a company, association or corporation hereafter acquired in violation of the provisions of Section 3 of this act shall escheat to the State of California as of the date of such acquiring, and

Escheat of stock

it is hereby declared that any such share of stock or the interest of any member in such a company, association or corporation so acquired in violation of the provisions of Section 3 of this act is an interest in real property. Such escheat shall be adjudged and enforced in the same manner as is provided in this section for the escheat of a leasehold or other interest in real property.

New section

SEC. 4. Section 10a is added to said act, to read:

Penalty

Sec. 10a. Any person who violates any of the provisions of this act shall be punishable by imprisonment in the county jail not to exceed one year or in the State penitentiary not exceeding 10 years, or by a fine not to exceed five thousand dollars ($5,000), or both.

New section

SEC. 4. Section 10b is added to said act, to read:

Injunction proceedings

Sec. 10b. The Attorney General of the State of California or the district attorney of the proper county is hereby granted the power to institute in the name of the people of the State of California injunction proceedings to enjoin and restrain any and all persons from entering into any written or oral agreements in violation of the terms and provisions of this act, and said Attorney General or district attorney shall have the power to file such said injunction proceedings for the purpose of restraining and enjoining any person from operating or conducting farming and agricultural operations in violation of the terms and provisions of this act; all such said injunction proceedings shall be instituted in the superior court of the county in which the real property involved is situated. Insofar as applicable said injunction proceedings shall be governed by the terms and provisions of Part 2, Title 7, Chapter 3, of the Code of Civil Procedure of the State of California.

New section

SEC. 6. Section 10c is added to said act, to read:

Declaratory judgment

Sec. 10c. The Attorney General of the State of California and the district attorney of the proper county are hereby granted power to institute proceedings in the name of the people of the State of California under this act, in the superior court of the county in which the land involved is located for the purpose of testing and determining by a civil action in a declaratory manner whether or not any agricultural land is being farmed or used under a contract written or oral in violation of the terms and provisions of this act.

New section

SEC. 7. Section 11a is added to said act, to read:

Agreement in name of alien's wife or child where alien benefits

Sec. 11a. Whenever leases, cropping agreements, or any other agreements to acquire, possess, enjoy, use, cultivate, occupy and transfer real property for farming or agricultural purposes or to transfer in whole or in part the beneficial use of said lands are made in the name of the wife or child of any alien mentioned in Section 2 of this act, or made in the name of any other person, and when any such alien mentioned in Section 2 of this act is then or thereafter allowed to remain or go upon the land, farm and cultivate same and

enjoy directly or indirectly the beneficial use of such said agricultural lands or obtains or has a beneficial interest in or use of the proceeds received from the sale of the agricultural crops produced on said lands, then any person signing or entering into any such agreement with knowledge that any such alien shall be allowed or permitted to farm and cultivate such land and enjoy directly or indirectly the beneficial use of such agricultural lands or have a beneficial interest in or use of the proceeds received from the sale of the agricultural crops produced on said lands or any person who allows or permits any such alien to farm and cultivate such lands and enjoy directly or indirectly the beneficial use of such agricultural lands or obtain or have a beneficial interest in or use of the proceeds received from the sale of the agricultural crops produced on said lands shall be guilty of violation of the terms and provisions of this act, and upon conviction thereof shall be punished in the manner provided in Section 10a hereof, and the Attorney General or the district attorney of the proper county shall have the power to institute injunction proceedings in the name of the people of the State of California against any and all such persons for the purpose of enjoining and restraining them from carrying on farming operations on any agricultural lands in the State of California, under the terms and provisions of any such said agreements, contracts, or leases, as hereinbefore provided.

Penalty

Injunction

SEC. 8. Section 12a is added to said act, to read:

New section

Sec. 12a. In all cases under the provisions of this act, certified copies, certified by the legal custodian thereof, of records, documents, or files of any duly constituted public body, authority, department, bureau or agency, or entries in public or other official books, records, or files made in the performance of his duty by a public officer or employee, or by another person in the performance of a duty enjoined by law, are admissible in evidence, and shall constitute prima facie evidence of the facts stated therein relevant to the question of the person's eligibility to citizenship and place of birth.

Evidence

CHAPTER 1060

An act providing for the preparation and publication of the California Administrative Register and the California Administrative Code, and making an appropriation therefor.

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Out of any money in the State Treasury not otherwise appropriated, the sum of seventy thousand dollars ($70,000) is hereby appropriated to be expended by the

Appropriation: Codification Board

Codification Board during the Ninety-fifth and Ninety-sixth Fiscal Years under the provisions of Article 21 of Chapter 3, Title 1, Part 3 of the Political Code, for the compilation, codification, indexing, printing, and publication of the California Administrative Register and the California Administrative Code.

Sale of register and code

SEC. 2. The California Administrative Register and the California Administrative Code shall be sold to the public by the State Printer under direction of the Department of Finance for the best price obtainable without regard to any of the costs incurred for compilation, codification, indexing, printing, and publication. All money received from the sale of the California Administrative Register and the California Administrative Code shall be deposited in the General Fund in the State Treasury.

Disposition of funds

Publication date, etc

SEC. 3. The publication date shall be determined by the Codification Board, and all rules and regulations thereafter filed and all rules and regulations theretofore filed and in effect on the publication date shall be published.

CHAPTER 1061

Stats 1939, p 482, amended

An act to amend Sections 101, 102, 104, 106, 107, 110, and 113 and to repeal Section 111 of, and to add Section 107.5 to the Health and Safety Code, relating to the State Department of Public Health.

In effect August 4, 1943

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

Stats 1939, p 482

SECTION 1. Section 101 of the Health and Safety Code is amended to read:

Composition of department

101. The department shall consist of the State Board of Public Health, the State Director of Public Health and such divisions as are or may be necessary for the prevention of disease, the prolongation of life and the promotion of the physical health and mental efficiency of the people of the State.

Stats 1939, p 482

SEC. 2. Section 102 of said code is amended to read:

Members of board
Powers and duties

102. The State Board of Public Health consists of the Director of Public Health and seven other members. The board shall advise the director in the performance of his duties and formulate general policies affecting public health. It shall have power to adopt, promulgate, repeal and amend rules and regulations consistent with law for the protection of the public health. It shall issue licenses and permits as prescribed by law and by rules and regulations of the board. It may hold hearings and subpoena witnesses and documents pursuant to Section 353 of the Political Code. The board shall have no administrative or executive functions other than those set forth in this code.

SEC. 3. Section 104 of said code is amended to read: Stats 1939, p 482

104. One member of the board shall be a duly licensed and practicing dentist of the State. Six other members shall be duly licensed and practicing physicians of the State. Qualifications

SEC. 4. Section 106 of said code is amended to read: Stats 1939, p 482

106. The director is the executive officer of the department. He shall administer the laws and regulations of the board pertaining to public health and shall vigilantly observe sanitary and public health conditions throughout the State and shall take all necessary precautions to protect it in its sanitary and public health relations with other States and countries. He shall perform such other duties as may be prescribed by law, and such other administrative and executive duties as have by other provisions of law been imposed upon the board. Director: Duties

SEC. 5. Section 107 of said code is amended to read: Stats 1941, p 2406

107. The director shall hold the degree of doctor of medicine from an approved medical college and shall be eligible to license to practice in the State of California. He shall have had in addition at least one year's post graduate training in a school of public health approved by the State Board of Public Health, and a minimum of five years' practical experience as an administrative officer in a well organized health department. Qualifications for director

SEC. 6. Section 110 of said code is amended to read: Stats 1939, p 482

110. Subject to the State Civil Service Act the director shall appoint such assistants, deputies, agents, experts and other employees as are necessary for the administration of the affairs of the department, shall prescribe their duties, and fix their salaries subject to the approval of the Department of Finance, and shall require them to execute to the State such official bonds as may be required. Employees

SEC. 7. Section 111 of said code is repealed. Stats 1939, p 482

SEC. 8. Section 113 of said code is amended to read: Stats 1939, p 482

113. Notwithstanding anything in this code as enacted, the director may, subject to the approval of the Governor, create such divisions and subdivisions of the State department as may be necessary and may consolidate, divide, or abolish them from time to time. Departmental organization

SEC. 9. Section 107.5 is added to said code, to read: New section

107.5. The director shall be appointed by the Governor for a term of four years and shall hold office until the appointment and qualification of his successor. The term of the director in office when this section takes effect shall expire January 1, 1944. The Governor may remove the director for misconduct, incompetency, or neglect of duty, after an opportunity to be heard on written charges. A vacancy shall be filled by appointment for the unexpired term. The director shall receive a salary of ten thousand dollars ($10,000) per annum and necessary expenses incurred in the performance of his duties. Director Term Salary

CHAPTER 1062

Stats 1935, p 93, amended

An act to amend Section 105 of the Vehicle Code, relating to the office of director.

In effect August -, 1943

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

Stats 1935, p 93

SECTION 1. Section 105 of the Vehicle Code is amended to read:

Director Appointment

105. Office of Director Created. The department shall be under the control of a civil executive officer to be known as the Director of Motor Vehicles, which office is hereby created. The director shall be appointed by, and hold office at the pleasure

Salary

of, the Governor. He shall receive a salary of eight thousand dollars ($8,000) per year and shall be allowed his actual and necessary traveling expenses incurred in the performance of

Bond

the duties of his office. The director shall execute and deliver, as provided by law, an official bond in the sum of twenty-five thousand dollars ($25,000).

CHAPTER 1063

An act to authorize the Bureau of Criminal Identification and Investigation to lease the teletype system maintained in and by the County of Mendocino for the purpose of connecting the system with the telephone-typewriter system of communication maintained under the direction of the bureau between counties and cities and counties of this State, and to make an appropriation therefor.

In effect August 4, 1943

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

Lease of teletype system in Mendocino County

SECTION 1. The board of managers of the Bureau of Criminal Identification and Investigation may with the approval of the Department of Finance lease the teletype system maintained in and by the County of Mendocino for the purpose of connecting the system with the telephone-typewriter system of communication maintained under the direction of the bureau between counties and cities and counties of this State.

Appropriation

SEC. 2. The sum of four thousand eight hundred dollars ($4,800) is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, to be expended during the Ninety-fifth and Ninety-sixth Fiscal Years in accordance with law in carrying out the provisions of this act.

CHAPTER 1064

An act making an appropriation to the California Polytechnic School for the cultivation of herbs, declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.] In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Out of any money in the State Treasury not otherwise appropriated, the sum of thirty-five thousand dollars ($35,000) is hereby appropriated to the California Polytechnic School for expenditure on and after July 1, 1943, to and including June 30, 1945, for the cultivation of herbs for medicinal and perfume purposes. Appropriation California Polytechnic School

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows: Urgency

The California Polytechnic School is undertaking experimental cultivation of herbs to ascertain if commercial cultivation is feasible in California. Unless this act takes effect immediately and makes funds available commencing with the new fiscal year, investments heretofore made by the State in this activity will be lost and a new industry having possibilities of alleviating the postwar shock will not be in a stage of development necessary for complete commercial exploitation.

CHAPTER 1065

An act making appropriation of money to be used by the Attorney General in the payment of expenses in the proceeding brought by the Attorney General in the Court of Claims of the United States in behalf of the Indians of the State of California, in accordance with an act of the Legislature of 1927, Statutes of 1927, Chapter 643.

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. The sum of fifteen thousand dollars ($15,000), or so much thereof as may be required, is hereby appropriated out of any money in the State Treasury not otherwise appropriated, to be expended during the Ninety-fifth and Ninety-sixth Fiscal Years by the Attorney General in the payment of expenses in the case brought by the Attorney General in Appropriation: Attorney General

the Court of Claims of the United States on behalf of certain Indians of the State of California, pursuant to Section 8025 of the Welfare and Institutions Code or to an act of the Legislature of 1927, Statutes of 1927, Chapter 643.

CHAPTER 1066

An act making an appropriation for the acquisition for State park purposes of certain lands in San Mateo County to be incorporated in the State Park System.

In effect August 4 1943

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

I object to the item of $225,000 in Section 1 of Senate Bill No. 410 and I reduce said amount to $112,500. With this reduction I approve the bill.

EARL WARREN
Governor of California

The people of the State of California do enact as follows:

Appropriation. Division of Parks

SECTION 1. In addition to any money otherwise appropriated the sum of two hundred twenty-five thousand dollars ($225,000) or so much thereof as may be necessary is hereby appropriated to the State Department of Natural Resources Division of Parks out of any money apportioned by subdivision (b) of Section 5014 of the Public Resources Code to the State Park Maintenance and Acquisition Fund not otherwise appropriated to be expended during the Ninety-fifth and Ninety-sixth Fiscal Years for the acquisition for State park purposes, to be incorporated in the State Park System of the land and improvements thereon located in San Mateo County, which land is generally known as Redwood Shrine.

CHAPTER 1067

An act appropriating money for construction, improvement, and equipment for the California Maritime Academy.

In effect August 4, 1943

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

I object to the item of $1,100,000 in Section 1 of Senate Bill No. 431 and I reduce said amount to $250,000. With this reduction I approve the bill.

EARL WARREN
Governor of California

The people of the State of California do enact as follows:

Appropriation California Maritime Academy

SECTION 1. Out of any money in the State Treasury not otherwise appropriated there is hereby appropriated the sum of one million one hundred thousand dollars ($1,100,000) or so much thereof as may be necessary to be expended during the Ninety-fifth and Ninety-sixth Fiscal Years for the use of

the California Maritime Academy in the construction of wards, dormitories, assembly and mess halls, classrooms and other buildings, for the purchase of furniture and equipment, for laying out roads, walks and drill grounds, and for such other construction, improvements, and equipment as may be necessary to enable the said academy to fulfill the purposes of its creation.

CHAPTER 1068

An act making an appropriation for landscaping and auto parking at Marshall's monument grounds.

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. The sum of five thousand dollars ($5,000) is hereby appropriated out of any money apportioned by subdivision (b) of Section 5014 of the Public Resources Code in the State Park Maintenance and Acquisition Fund not otherwise appropriated to be expended during the Ninety-fifth and Ninety-sixth Fiscal Years by the Department of Natural Resources, through the Division of Beaches and Parks, for the purpose of landscaping and making provision for parking of automobiles at Marshall's monument grounds. Appropriation Department of Natural Resources

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CHAPTER 1069

An act making an appropriation from the State Park Maintenance Fund to repay a loan made from the Emergency Fund, to take effect immediately.

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.] In effect immediately

The people of the State of California do enact as follows:

SECTION 1. The sum of seventeen thousand, eight hundred fifty-three dollars ($17,853) is hereby appropriated out of any money in the State Park Maintenance Fund, and said amount shall be transferred to the General Fund in repayment of a loan made to the State Park Maintenance Fund from the Emergency Fund created by Chapter 486, Statutes of 1939. Appropriation General Fund

SEC. 2. Inasmuch as this act provides an appropriation for the usual current expenses of the State it shall, pursuant to the provision of Section 1 of Article IV of the Constitution, take effect immediately. Current expenses

CHAPTER 1070

An act providing that revenues, rents and proceeds from lands lying within any by-pass area under the control of the Reclamation Board shall be paid into the General Fund, and making an appropriation.

In effect August 4, 1943

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

I object to the item of $63,700 in Section 1 of Senate Bill No. 599 and I reduce said amount to $49,000. With this reduction I approve the bill.

EARL WARREN
Governor of California

The people of the State of California do enact as follows:

Disposition of revenues, rents, etc., from sale of crops

SECTION 1. Notwithstanding any other law to the contrary, revenues, rents, and proceeds from sales of crops from lands lying within any of the by-pass areas under control of the Reclamation Board of the State of California, whether earned or accrued prior to or after the effective date of this act, shall hereafter be paid into the State treasury to the credit of the General Fund.

Appropriation: State Reclamation Board

SEC. 2. The sum of sixty-three thousand seven hundred dollars ($63,700) is hereby appropriated out of any money in the State treasury not otherwise appropriated to the State Reclamation Board for support to be expended during the Ninety-fifth and Ninety-sixth Fiscal Years.

CHAPTER 1071

Stats 1943, Ch. 62

An act making an appropriation to the emergency fund specified in Item 221 of the Budget Act of 1943, relating to the repair and restoration of property damaged or destroyed by storms or floods and the expenditure of money appropriated therefor, declaring the urgency of this act, to take effect immediately.

In effect immediately

[Approved by Governor June 8, 1943 Filed with Secretary of State June 8, 1943.]

I object to the item of $1,000,000 in Section 1 of Senate Bill 727 and I reduce said amount to $500,000. With this reduction I approve the bill

EARL WARREN
Governor of California

The people of the State of California do enact as follows:

Appropriation. Emergency Fund

Stats 1943, Ch 62

SECTION 1. Out of any moneys in the State treasury not otherwise appropriated the sum of one million dollars ($1,000,000) is hereby appropriated to the emergency fund specified in Item 221 of the Budget Act of 1943, to be expended by the Department of Public Works acting through the agency of the State Engineer (1) during the Ninety-fifth and Ninety-sixth Fiscal Years, (2) for the cost of repair or restoration of, or both, and for the prevention of further

damage to, levees, flood control works, channels, irrigation works, city and county roads and bridges and other property damaged or destroyed by storm and flood or flood condition subsequent to December 1, 1942, and for which no appropriation or insufficient appropriation, has otherwise been made by law, (3) subject to each and all of the following (in addition to other) conditions, restrictions and limitations:

Expenditure conditions

None of the moneys hereby appropriated shall be expended, allotted or encumbered, or become available for expenditure, for a work of repair or restoration and for the prevention of further damage except for the making of investigations, estimates or reports hereunder by said department unless and until:

(a) Such expenditure and purpose is first approved by the Director of Finance.

(b) The department has first investigated and reported upon the proposed work, has found it to be a matter of general public and State interest and concern, has estimated the cost of the work and filed its report thereon with the Department of Finance.

(c) Moneys equal to or in excess of the amount expendable from this appropriation for said work shall be made available (by a political subdivision, public district, municipality, county or public agency, including agencies of local and Federal Government but excluding agencies which are a part of the executive department of the State Government) for expenditure by the department for such work to the end that any sums expended from this appropriation shall be matched by like or greater amounts from sources other than the State treasury or funds of any agency which is a part of the executive department of the State Government.

Performance of work

The department may perform all or any portion of said work directly by contract or force account or the department and any entity herein authorized to match the appropriation herein made may enter into a contract whereby all or any portion of such work may be performed by any party to such contract.

Availability of Federal funds

SEC. 2. When the United States or any agency thereof is to provide the matching funds under Section 1 hereof it shall not be required that the funds to be provided from Federal sources shall be paid into the State treasury, but the department may proceed with the work when the department has received assurance, adequate in the opinion of the department and the Department of Finance, that the Federal matching funds will be made available for expenditure for said work, or for reimbursement to the department for performance thereof.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution, and therefore shall go into

immediate effect. The following is a statement of the facts constituting such necessity:

The occurrence of storms and floods is inherently unpredictable and it is necessary to provide a flexible method whereby funds may be made available for necessary repair, restoration, and replacement of works and property damaged or destroyed by storms or floods. This act makes such provision and inasmuch as the danger of disastrous storms and floods is now and, until the end of the current rainy season, will be present, it is necessary in the interests of the public health and safety that this act take effect immediately.

CHAPTER 1072

An act making an appropriation to the Department of Agriculture for the construction, maintenance and operation of a highway inspection station for the purpose of enforcing certain provisions of the Agricultural Code.

In effect August 4, 1943

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

Appropriation Department of Agriculture

SECTION 1. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated the sum of sixteen thousand six hundred eighty dollars ($16,680) to be expended by the Department of Agriculture during the Ninety-fifth and Ninety-sixth Fiscal Years for the construction, maintenance and operation of the Las Cruces Inspection Station to aid in the enforcement of the provisions of Chapter 2 of Division 5 of the Agricultural Code relating to fruits, nuts and vegetables being transported through Las Cruces by truck.

CHAPTER 1073

An act making an appropriation from the State Parks Maintenance and Acquisition Fund to the Division of Beaches and Parks, Department of Natural Resources, to salvage, repair, and move buildings at Seacliff State Park, Santa Cruz County.

In effect August 4, 1943

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

Appropriation Division of Beaches and Parks

SECTION 1. In addition to any money otherwise appropriated, the sum of seven thousand five hundred dollars ($7,500), or so much thereof as may be necessary, is hereby appropri-

ated out of any money apportioned by subdivision (a) of Section 5014 of the Public Resources Code to the State Park Maintenance and Acquisition Fund to the Division of Beaches and Parks, Department of Natural Resources, to be expended during the Ninety-fifth and Ninety-sixth Fiscal Years to salvage, repair and move to higher ground, the warden's cottage and other administrative buildings at Seacliff State Park, Santa Cruz County.

CHAPTER 1074

An act making an appropriation to the Division of Beaches and Parks, Department of Natural Resources, for the acquisition of land in Orange County as part of the State Park System.

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.] In effect August 4, 1943

I object to the item of $299,500 in Section 1 of Assembly Bill No. 1954 and I reduce said amount to $150,000. With this reduction I approve the bill.

EARL WARREN
Governor of California

The people of the State of California do enact as follows:

SECTION 1. There is hereby appropriated to the Division of Beaches and Parks, Department of Natural Resources, out of any money apportioned by subdivision (a) of Section 5014 of the Public Resources Code to the State Park Maintenance and Acquisition Fund not otherwise appropriated the sum of two hundred ninety-nine thousand five hundred dollars ($299,500) or so much thereof as may be necessary to be expended subject to the conditions provided in this act, for the acquisition during the Ninety-fifth and Ninety-sixth Fiscal Years for State park purposes of land in Orange County known as the Huntington-Newport Beach proposed State park site, consisting of 9,400 lineal feet more or less of beach frontage or so much thereof as can be purchased at a reasonable price, to be determined by appraisal and negotiation or by condemnation proceedings, said land situate lying and being between the city limits of the City of Huntington Beach and the city limits of the City of Newport Beach and between the ordinary highwater mark of the Pacific Ocean and State Highway No. 101 alternate, excepting therefrom such portions of said described land as are now owned by the State of California, the County of Orange, and included within existing railway rights of way. Appropriation: Division of Beaches and Parks

CHAPTER 1075

An act making an appropriation for the protection of the ocean beach at the City of Redondo Beach.

In effect August 4, 1943

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

Appropriation: City of Redondo Beach

SECTION 1. Out of any unexpended balance of the five hundred thousand dollars ($500,000) appropriated to the Division of Beaches and Parks in the Department of Natural Resources by Chapter 942, Statutes of 1941, there is hereby appropriated to the City of Redondo Beach, the sum of thirty thousand dollars ($30,000) to be expended by said city on behalf of and in the public interest of the State for the protection of the ocean beach at the City of Redondo Beach. No portion of this appropriation shall be expended unless moneys equal to or in excess of the amount to be expended from this appropriation for that purpose shall have been made available (by any person, municipal corporation, political subdivision, public district or public agency other than the State) for expenditure for that purpose, to the end that any sums expended from this appropriation shall be matched by like or greater amounts from sources other than the State.

Matching of funds

Plans

SEC. 2. Before expending any such funds except for preliminary engineering, the city shall furnish to the Department of Public Works for approval such plans, specifications and estimate of costs therefor as the department shall require.

Approval

When the department has approved the plans, specifications, and estimates, the city may proceed to advertise for bids. The written consent of the department must be secured before any contract may be awarded for an amount in excess of the estimate of cost, or to other than the low bidder on the grounds that the low bidder is not responsible, or before the work may be done by day labor.

Contract with Department of Public Works

The city may contract with the Department of Public Works for the performance by the department of all or any part of the work to be done, and for such purpose may but need not transfer to the department for deposit in the State Treasury any moneys available to the city for expenditure for such purposes.

Contracts with others

The city may with the approval of the department contract with the County of Los Angeles or with any agency of the Federal Government for performance by the county or agency of the Federal Government of all or any part of such work, or may with the approval of the department enter into a contract with a private contractor for the performance of all or any part of such work.

SEC. 3. All such work must be performed to the satisfaction of and subject to the approval of the Department of Public Works. Performance approval

SEC. 4. Unless the work shall be done by the Department of Public Works, no officer or employee of the State shall be liable for any act performed or for failure to perform any act, pursuant to this act. Liability

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CHAPTER 1076

An act making an appropriation to the State Department of Education for the acquisition of real property for the San Jose State College.

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.] In effect August 4, 1943

I object to the item of $500,000 in Section 1 of Senate Bill No. 234 and I reduce said amount to $300,000. With this reduction I approve the bill.

EARL WARREN
Governor of California

The people of the State of California do enact as follows:

SECTION 1. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated the sum of five hundred thousand dollars ($500,000) to be expended during the Ninety-fifth and Ninety-sixth Fiscal Years for the acquisition by the State Department of Education with the approval of the Department of Finance of real property for the San Jose State College. Appropriation San Jose State College

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CHAPTER 1077

An act making an appropriation for the acquisition of real property for the Humboldt State College.

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. The sum of forty-five thousand dollars ($45,000) is hereby appropriated out of any money in the State treasury not otherwise appropriated to be expended during the Ninety-fifth and Ninety-sixth Fiscal Years by the Director of Finance, with the approval of the Director of Education, for the acquisition of real property for the Humboldt State College. Appropriation Humboldt State College

CHAPTER 1078

An act to add Section 4.925 to the School Code and to add Section 7305 to the Education Code, relating to the average daily attendance of high school districts, declaring the urgency thereof, to take effect immediately.

Stats 1943, Ch 71, amended

In effect immediately

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 4.925 is added to the School Code, to read:

High school A D A

4.925. The average daily attendance of any high school district which during the school year 1941-1942 had an average daily attendance of 500 or less credited to it for apportionment purposes in each high school maintained by the district shall, for the school year 1942-1943 and for each subsequent school year, be deemed to be, for all the purposes of this division, not less than 80 per cent of the actual average daily attendance of such district for the school year 1941-1942 exclusive of the average daily attendance in special day and evening classes maintained by such district. For all other purposes the average daily attendance of the district shall be the actual average daily attendance of the district.

Duration

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session

Existing law

of the Legislature. While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section; but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

Note.—See Stats. 1943, Ch. 71.

Effect

SEC. 3. Section 2 of this act becomes operative only if

Stats 1943, Ch 71

the Education Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said Education Code takes effect; at which time Section 4.925 of the School Code added by this act is repealed

Repeal

Urgency

SEC. 4. This act is hereby declared to be an urgency measure necessary for the immediate preservation of public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

The war in which the United States of America is now engaged has seriously affected the attendance in the high schools of the high school districts in California. The loss of revenue to such districts resulting from the decrease in attendance can not be overcome entirely by economies. To avoid the unwholesome effects of inadequate support and to

insure the ability of the public schools to cope with the problems arising from the greatly increased attendance which will follow the war, the relief provided by this act must be made available at once and this act should take effect immediately.

CHAPTER 1079

An act making an appropriation for the purchase of land for the Humboldt State College.

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

Appropriation Humboldt State College

SECTION 1. There is hereby appropriated out of any moneys in the State treasury not otherwise appropriated the sum of two hundred dollars ($200), or so much thereof as may be necessary, to be expended by the Director of Finance during the Ninety-fifth and Ninety-sixth Fiscal Years for the purchase, for the Humboldt State College, of that certain parcel of land situate in the County of Humboldt, State of California, and more particularly described as follows:

Commencing at the point where the west line of a street intersects the north line of another street in Harpst Addition to Arcata, as said streets are laid out according to the survey made by F. E. Kelly, Licensed Surveyor, filed in the recorder's office of Humboldt County, January 7, 1939, in Book 9, of Surveys, Page 75, said streets being the ones shown on the map of said survey adjoining to the east lots or blocks 2, 9 and 12, and adjoining to the south of lots or block 11 and 12, respectively, the west line of the first mentioned street being 25′ westerly from the monument line established in said survey therein and the north line of the second mentioned street being 25′ northerly from the monument line established in said survey therein; running from said point of commencement N. 7′ W. along the street as laid out in said survey 300′; thence westerly at a right angle to a point 275′ westerly from the west line of said street; thence southerly at a right angle 300′ to the second mentioned street; and thence N. 89° 53′ E. along the same 275′ to the point of beginning.

Commencing at a point on the westerly property line of the State of California's property above described, which point is the intersection of said westerly property line by the common property line of Bloemer and Hanrahan properties; thence northerly along westerly line of State's property to a point of said line which point is the intersection of said line by the common property line of Bloemer and Foltz properties; thence westerly along the common property line of Bloemer and Foltz a distance of 25′ more or less to a point; thence

southerly on a line parallel to the westerly State of California property line to a point on the common property line of Bloemer and Hanrahan; thence easterly along said common property line of Bloemer and Hanrahan, a distance of 25' more or less, to the point of beginning.

CHAPTER 1080

An act to provide for the establishment and maintenance of a School of Public Health in the University of California and making an appropriation therefor.

In effect August 4, 1943

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

Appropriation School of Public Health

SECTION 1. Out of any money in the State Treasury not otherwise appropriated, there is hereby appropriated to The Regents of the University of California the sum of eighty-seven thousand dollars ($87,000), to be expended during the Ninety-fifth and Ninety-sixth Fiscal Years by The Regents of the University of California for the purpose of establishing and maintaining, in the University of California, a School of Public Health.

CHAPTER 1081

An act to provide for the erection and equipment of a building or buildings on the Campus of the University of California at Los Angeles for use in connection with instruction in engineering, for the establishment and maintenance of a course in engineering on the Campus of the University of California at Los Angeles, and to make an appropriation therefor.

In effect August 4, 1943

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

I object to the item of $650,000 in Section 1 of Assembly Bill No. 1140, and I reduce said amount to $300,000. With this reduction I approve the bill.

EARL WARREN
Governor of California

The people of the State of California do enact as follows:

Appropriation: Engineering instruction

SECTION 1. In addition to any money otherwise appropriated to The Regents of the University of California or for the support of the University of California, the sum of six hundred fifty thousand dollars ($650,000) is hereby appropriated to The Regents of the University of California out of any money in the State treasury not otherwise appropriated, to be

expended by The Regents of the University of California for the purpose of establishing and maintaining on the Campus of the University of California at Los Angeles instruction in engineering, with emphasis on the major disciplines fundamental to aeronautical science and engineering, and for the equipment of a building or buildings to be used in connection with said course of instruction.

CHAPTER 1082

An act to add Section 3.363 to, and to amend Section 4.930 of, the School Code and to add Section 8819.1 to, and to amend Section 7307 of, the Education Code, relating to junior colleges and junior college classes.

Stats 1943, Ch 71, amended

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 3.363 is added to the School Code, to read:

New section

3.363. The governing board of a district maintaining one or more junior colleges may maintain a summer school at any of such junior colleges during the period between the close of one academic year and the beginning of the succeeding academic year.

Junior college summer school

The term "academic year" as used herein means that portion of the school year during which the regular day junior college is maintained, which period must include not less than the number of days of teaching required to entitle the district, to apportionments of State funds.

"Academic year"

SEC. 2. Section 4.930 of the School Code is amended to read:

Stats 1937, p 1714

4.930. Units of average daily attendance in separate junior colleges, or in junior college classes maintained in connection with a high school, in a high school district shall be computed by dividing the total number of days of pupil attendance in such junior colleges or junior college classes, including days of pupil attendance in summer school, by the number of days, exclusive of days taught in summer school, taught therein during the school year.

Units of A. D A

Note.—See Stats. 1943, Ch. 71.

SEC. 5. Sections 3 and 4 of this act become operative only if the Education Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said code takes effect; at which time Section 3.363 of the School Code added to, and Section 4.930 of said code amended by, this act are hereby repealed.

Effect

Stats 1943, Ch 71

Repeal

CHAPTER 1083

An act to add Section 3.223a to, and to amend Section 4.922 of, the School Code and to add Section 8703.1 to, and to amend Section 7302 of, the Education Code, relating to high schools and high school classes, declaring the urgency thereof, to take effect immediately.

Stats. 19-3, Ch 71, amended

In effect Immediately

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 3.223a is added to the School Code, to read:

High school summer school

3.223a. The governing board of a district maintaining one or more high schools may maintain a summer school at any of such high schools during the period between the close of an academic year and the beginning of the succeeding academic year.

"Academic year"

The term "academic year" as used herein means that portion of the school year during which the regular day high school is maintained, which period must include not less than the number of days of teaching required to entitle the district, to apportionments of State funds.

Stats 1931, p 2315

SEC. 2. Section 4.922 of the School Code is amended to read:

Units of A D A

4.922. Units of average daily attendance in high schools shall be construed to be the quotient arising from dividing the total number of days of pupils' attendance in the regular day high schools, the evening high schools, summer schools, the special day and evening classes of high schools, and the part-time vocational courses of the district for the school year by the number of days school was actually taught in the regular day high schools of the district during said year.

Note.—See Stats. 1943, Ch. 71.

Effect

SEC. 5. Sections 3 and 4 of this act become operative only

Stats 1943, Ch 71

if the Education Code is enacted by the Legislature at its Fifty-fifth Session, and, in such case, at the same time as said code

Repeal

takes effect; at which time Section 3.223a added to the School Code and Section 4.922 of the School Code amended by this act are hereby repealed.

Urgency

SEC. 6. This act is hereby declared to be an urgency measure necessary for the immediate preservation of public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

The purpose of this act is to aid in meeting the emergency created by the wars in which the United States of America is now engaged by making possible the acceleration of the progress of pupils through the high schools and to permit their release from school, under conditions prescribed elsewhere in the law, to aid in the planting, care and harvesting of crops

for periods of time without unduly decreasing the amount of time required for their proper education.

In order that this aid may be made available at the earliest possible moment, it is necessary that this act take immediate effect.

CHAPTER 1084

An act to amend Section 57.7 of the Unemployment Insurance Act, relating to unemployment benefits for persons who have served in the armed forces.

Stats 1935, p 1226, amended

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 57.7 of the act cited in the title hereof is amended to read:

Stats 1941, p 2619

Sec. 57.7. Notwithstanding any inconsistent provisions of this act the benefit rights of trainees shall be determined in accordance with the following provisions of this section for the periods and with respect to the matters specified herein. Except as herein otherwise provided, all other provisions of this act shall continue to be applicable in connection with such benefits.

Benefit rights of trainees

(1) The term "military service" as used in this section means active service in the land or naval forces of the United States, but the service of an individual in any reserve component of the land or naval forces of the United States who is ordered to active duty in any such force for a period of 30 days or less shall not be deemed to be active service in such force during such period.

"Military service"

(2) The term "trainee" as used in this section means an individual who entered military service after April 1, 1940, and who continued such service for not less than 90 consecutive days and whose military service was terminated on or before October 1, 1945.

"Trainee"

(3) (a) With respect to any trainee who has an unexpired benefit year at the time of induction into the armed forces, the unexpended balance of benefits remaining to his account shall be reestablished beginning with the first day of the first week succeeding the date of his termination of service. Whenever this balance is exhausted the trainee may file a claim and his base period shall be determined in accordance with the provisions of Subsection (4) hereof, except that all reestablished balances shall lapse 65 weeks after termination of such military service.

Reestablishment of unexhausted benefits after army service, etc

(b) The benefit year of all other trainees shall be 52 weeks from the first day of the first week following the date of termination of military service.

Benefit year

(4) With respect to the determination of the benefit rights of any trainee, the base period shall consist of the first four

Base period

out of the last five completed calendar quarters, excluding those quarters during which the trainee was in military service 60 days or more. For all quarters so excluded there shall be substituted an equal number of quarters immediately preceding his entry into military service, except that the quarter of entry into military service shall be counted as a completed quarter if the commission finds that the inclusion thereof would be more equitable to the trainee.

Prior act (5) No disqualification shall be applied to any trainee after the termination of his military service, by reason of any act or course of action on his part prior to the date of his entry into such service.

U. S benefits (6) If, under an act of Congress, payments with respect to the unemployment of individuals who have completed a period of military service are payable by the United States, a trainee shall be disqualified for benefits with respect to any week for which he receives such benefits and no benefits shall be paid under this act until he has exhausted all his rights to such payments from the United States.

CHAPTER 1085

Stats 1943, Ch 71, amended *An act to add Sections 4 1-1, 4.781-1, 4.782-1, 4.784-1, 4.791-1, 4.793-1, 4.794-1, and 4.796-1 to the School Code and to add Sections 5151.1, 6952.1, 6953.1, 6957.1, 6972.1, 6974.1, 6975.1, and 6977.1 to the Education Code, relating to the support of the public elementary schools and making an appropriation, declaring the urgency thereof, to take effect immediately.*

In effect immediately [Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

I hereby reduce the appropriation made in Senate Bill No. 307 by reducing the limit of $8,250,000 specified in Section 17 thereof to $4,500,000. With this reduction I approve the bill. The reason for making this reduction is that it is my intention and belief that the amount of $4,500,000 should and will be fully sufficient to provide for the additional expenditures contemplated by the other sections of this bill during the ensuing fiscal year, and before the start of the second year of the biennium I anticipate that the Legislature will again be in session and will undoubtedly consider the need for providing further funds for the same purpose for the last one-half of the biennium

EARL WARREN
Governor of California

The people of the State of California do enact as follows:

New section SECTION 1. Section 4.1-1 is added to the School Code, to read:

Transfer to State School Fund 4.1-1. The State Controller shall during each school year transfer from the General Fund of the State to the State School Fund such sums, in addition to the sums accruing to said State School Fund from other sources, as shall provide in such State School Fund for distribution during said school year a total amount to be computed as follows:

Basis amount There shall first be provided an amount not less than thirty-three dollars ($33) per pupil in average daily attendance in

the day and evening elementary schools in the public school system during the next preceding school year, as certified by the Superintendent of Public Instruction.

Additional sums Physically handicapped

In addition there shall be provided such sum as the Superintendent of Public Instruction shall certify as necessary to reimburse the elementary school districts for one-half of the excess cost of educating physically handicapped pupils as provided by this code; provided, that such amount shall not exceed one hundred dollars ($100) for each unit of average daily attendance during the next preceding school year of such physically handicapped pupils. To these amounts there shall be added such sum as the Superintendent of Public Instruction shall certify as necessary to reimburse the several counties for one-half the amount apportioned to elementary school districts on account of special schools or classes for the children of migratory laborers as provided by this code; provided, that the amount so certified by the Superintendent of Public Instruction shall not exceed seventy-five dollars ($75) per calendar month per teacher employed in such special schools or classes during the next preceding school year.

Children of migratory laborers

Maximum amount

SEC. 2. Section 4.781-1 is added to the School Code, to read:

New section

4.781-1. The Superintendent of Public Instruction shall apportion from the State School Fund to each elementary school district seven hundred eighty-five dollars ($785) for each teacher unit allowed to such district by the report of the county, or city and county, superintendent of schools for the preceding school year.

Apportionment for teacher unit Districts

SEC. 3. Section 4.782-1 is added to the School Code, to read:

New section

4.782-1. He shall apportion from the State School Fund to the county elementary school supervision fund of each county seven hundred eighty-five dollars ($785) for each teacher unit allowed to such fund by the report of the county superintendent of schools for the preceding school year.

Apportionment for teacher unit Counties

SEC. 4. Section 4.784-1 is added to the School Code, to read:

New section

4.784-1. He shall apportion from the State School Fund to the unapportioned county elementary school fund of each county seven hundred eighty-five dollars ($785) for each teacher unit allowed to such fund on account of emergency schools maintained in the elementary school districts of the county during the preceding school year by the county superintendent of schools.

Emergency school apportionment

SEC. 5. Section 4.791-1 is added to the School Code, to read:

New section

4.791-1. He shall compute the total amount to be apportioned from the State General Fund to each county for elementary schools as follows:

Computation of apportionment

He shall compare the amount to be apportioned to the county from the State School Fund with an amount equal to

thirty-three dollars ($33) for each unit of average daily attendance in the day and evening elementary schools of the county during the preceding school year. The larger of the two amounts shall be the amount required to be apportioned from the State General Fund to the county for elementary schools.

New sect on

SEC. 6. Section 4.793-1 is added to the School Code, to read:

Teacher unit allowance: Districts

4.793-1. The Superintendent of Public Instruction shall allow to each elementary school district seven hundred eighty-five dollars ($785) for each teacher unit allowed to such elementary school district as provided in this code.

New section

SEC. 7. Section 4.794-1 is added to the School Code, to read:

Teacher unit allowance: Counties

4.794-1. He shall allow to the county elementary school supervision fund of each county seven hundred eighty-five dollars ($785) for each teacher unit allowed to such fund as provided elsewhere in this code.

New section

SEC. 8. Section 4.796-1 is added to the School Code, to read:

Emergency school allowance

4.796-1. He shall allow to the unapportioned county elementary school fund of each county seven hundred eighty-five dollars ($785) for each teacher unit allowed to such fund on account of emergency schools maintained in the elementary school districts of the county during the preceding school year by the county superintendent of schools, together with such additional amounts as shall be estimated by the county superintendent of schools and approved by the Superintendent of Public Instruction as the amount needed in the unapportioned county elementary school fund for the current school year as provided in this code.

Note.—See Stats. 1913, Ch. 71.

Maximum amount of appropriation

SEC. 17. The money appropriated under the provisions of this act shall not be in excess of eight million two hundred fifty thousand dollars ($8,250,000) of the amount which otherwise would have been paid from the General Fund in the State treasury had this act not been enacted.

Use of excess moneys

SEC. 18. Any moneys apportioned to the elementary school districts under this act which is in excess of the money which otherwise would have been apportioned under the provisions of Sections 4 1, 4.781, 4.782, 4.784, 4.791, 4.793, 4.794, and 4.796 of the School Code, or Sections 5151, 6952, 6953, 6957, 6972, 6974, 6975 and 6977 of the Education Code, shall be used only for the salaries of certificated employees of the elementary school districts.

Effect

Stats 1913, Ch 71

Repeals

SEC. 19. Sections 1, 2, 3, 4, 5, 6, 7, and 8 of this act are operative until the Education Code enacted by the Legislature at its Fifty-fifth Session takes effect; at which time Sections 4.1, 4.781, 4.782, 4.784, 4.791, 4.793, 4.794, and 4.796 of the School Code added by this act are hereby repealed.

SEC. 20. The sections added to the Education Code by this act shall remain in effect until June 30, 1945, and while they are in effect shall supersede any existing provisions of law with which they are in conflict; but such provisions are not repealed by said sections and after said sections are no longer effective shall have the same force as though these sections had not been enacted. Duration. Existing law.

SEC. 21. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect, and to become operative July 1, 1943. A statement of the facts constituting such necessity is as follows: Urgency.

The difficulties imposed upon the public elementary schools because the districts maintaining such schools now receive for the support of such schools an amount of State funds much less than are provided for the support of high schools and junior colleges has been intensified by the conditions resulting from the war in which the United States of America is now engaged. It is imperative that additional State funds be immediately provided for the support of the public elementary schools of this State in order that those schools may continue to serve the children of this State and, as a consequence, this act should take effect immediately.

CHAPTER 1086

An act relating to the forest situation in California and making an appropriation.

[Approved by Governor June 8, 1943 Filed with Secretary of State June 8, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Out of any money in the State treasury not otherwise appropriated there is hereby appropriated to the Department of Natural Resources the sum of fifteen thousand dollars ($15,000) to be used during the Ninety-fifth and Ninety-sixth Fiscal Years by a committee which is hereby created and whose members shall consist of two members of the Senate to be appointed by the Rules Committee of the Senate, two members of the Assembly, to be appointed by the Speaker thereof, the chairman of the State Board of Forestry, and the Director of Natural Resources for investigating the forest situation in California; the prospective life of old growth timber reserves; the possibility and feasibility of restoring old cutover lands to productivity; the growth and returns that may be expected from such restoration; the agencies that should undertake such restoration; the importance of the forest industries to the timber counties and to the Appropriation. Timber reserves.

State, including pay rolls, taxes and the like; and other matters affecting the permanence of forest growth, forest industries and the communities depending upon them; and investigate and determine the forests which should be preserved as necessary for the conservation of water, prevention of floods and, or, for scenic purposes; that such investigation shall extend to all parts of the State, and shall include recommendations concerning the same.

Report

The committee shall prepare a report upon its findings for presentation to the next Legislature, and with such report it shall include a list of cutover lands the restoration of which can not be undertaken by private owners, their probable cost, their condition, their forest growth possibilities, their probable cost of rehabilitation, management and administration, and their probable yield and returns.

Expenses

The members of the committee shall serve without compensation, but shall be allowed mileage at the rate of five and one-half cents ($.05½) each way, incurred in connection with their services upon the committee, and other actual and necessary expenses for living accommodations and meals, incurred in connection with their services upon the committee, or in lieu of expenses for accommodations and meals, an allowance of ten dollars ($10) per day. The appropriation made by this act is exempt from the provisions of Sections 664 and 669 of the Political Code.

CHAPTER 1087

An act to authorize the purchase of certain real property for the people of the State of California by the Director of Institutions, and making an appropriation therefor.

In effect August 4, 1943

[Approved by Governor June 8, 1943 Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

Authority to purchase

SECTION 1. The Director of Institutions is hereby authorized to acquire by purchase in the name of the State of California the following described real property for the use of the Sonoma State Home:

NORTHWESTERN PACIFIC RAILROAD RIGHT OF WAY THROUGH PROPERTY OF SONOMA STATE HOME

A tract of land of varying widths on each side of the center line of the Santa Rosa and Carquinez Railroad (now the Northwestern Pacific Railroad Company) and for the length of said center line described as follows:

Beginning at the intersection of the center line of the Northwestern Pacific Railroad Company with the southerly line of the lands belonging to the State of California (Sonoma State Home) at approximate Eng. Sta. 1064 + 35.8, at which point the tract of land is sixty (60) feet in width, being thirty (30)

feet on each side of the center line; running thence northwesterly 942.2 feet to the BC of a taper # 1 curve to the left, thence along said taper curve 120 feet; thence along a 2° 30′ curve to the left 867.7 feet; thence along a 5° curve to the left 481.8 feet; thence along a taper # 1 curve to the left 270.2 feet; thence tangent to above curve 380 feet more or less to a point where the tract of land widens to a width of one hundred (100) feet being fifty (50) feet on each side of the center line; thence continuing on tangent 281.3 feet more or less to beginning of a taper # 3 curve to the right; thence along said taper # 3 curve 90 feet; thence along a 10° curve to the right 535.2 feet; thence along a taper # 3 curve to the right 90 feet; thence along the tangent to the above curve 100 feet more or less to a point where the width of the tract of land becomes variable, being fifty (50) feet on easterly side of the center line and of varying widths fifty (50) feet maximum on the westerly side of the center line; thence continuing on tangent 274.1 feet more or less; thence along a taper curve # 2 to the right 150 feet; thence along a 6° curve to the right 358.5 feet; thence along a 3° curve to the right 384.8 feet; thence along a 10° curve to the right 247 feet more or less to a point where the tract of land becomes one hundred (100) feet in width; being fifty (50) feet on each side of the center line; thence continuing on above 10° curve 92.9 feet more or less; thence along a taper # 3 curve to the right 90 feet; thence tangent to above curve 228.3 feet; thence along a taper # 3 curve to the left 90 feet; thence on a 10° curve to the left 97.4 feet more or less to a point on the northerly line of the lands belonging to the State of California which line is the southerly line of lands now or formerly belonging to Frank G. Thierkoff et ux, and which point is Eng. Sta. 1125 + 98; thence continuing on the above 10° curve to the left 277 feet more or less to Eng. Sta. 1128 + 75 which is a point on the westerly line of the lands belonging to the State of California which line is the easterly line of the lands now or formerly belonging to Frank G. Thierkoff et ux; thence continuing on above 10° curve to the left 83.4 feet more or less; thence along a taper # 3 curve to the left 90 feet; thence tangent to the above curve 458 feet more or less to the northerly line of the lands belonging to the State of California (Sonoma State Home), containing 13.21 acres more or less, all situate, lying and being in the County of Sonoma, State of California.

Excepting therefrom that tract of land being one hundred (100) feet in width, fifty (50) feet on each side of the center line, for the length of said center line described as follows:

Beginning at the intersection of the center line of the Northwestern Pacific Railroad Company with the northerly line of the lands belonging to the State of California which line is the southerly line of lands now or formerly belonging to Frank G. Thierkoff et ux, which point is Eng. Sta. 1125 + 98, running thence along the center line of the Northwestern Pacific Railroad northerly on a 10° curve to the left 277 feet more or less to a point on the westerly line of the lands belonging

to the State of California which line is the easterly line of the lands now or formerly belonging to Frank G. Thierkoff et ux, which point is Eng. Sta. 1128 + 75, containing 0.72 acres more or less.

Appropriation

SEC. 2. There is hereby appropriated, from any money in the State Treasury not otherwise appropriated, to the Director of Institutions the sum of nine hundred eighty dollars ($980) to be paid to the grantor of said land as the full purchase price thereof upon delivery of a properly executed and acknowledged grant deed of said land to the people of the State of California.

Improvements

SEC. 3. Such deed shall include a conveyance from the grantor to the grantee of the improvements upon said land.

CHAPTER 1088

An act making an appropriation for the purchase of land by the Director of Institutions.

In effect August 4, 1943

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

Appropriation Agnews State Hospital

SECTION 1. There is hereby appropriated from any money in the State Treasury not otherwise appropriated, the sum of seventy-five thousand dollars ($75,000) to be used for the purchase by the Director of Institutions of land for Agnews State Hospital.

CHAPTER 1089

An act making an appropriation for the acquisition, development and maintenance of parks in Humboldt County for public use.

In effect August 4, 1943

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

Appropriation Parks in Humboldt County

SECTION 1. The sum of twenty-five thousand dollars ($25,000), or so much thereof as may be necessary is hereby appropriated to the Division of Beaches and Parks in the Department of Natural Resources out of any money apportioned by subdivision (b) of Section 5014 of the Public Resources Code in the State Park Maintenance and Acquisition Fund, to be expended during the Ninety-fifth and Ninety-sixth Fiscal Years for acquisition, development, maintenance and protection of parks for public recreational use by the Division of

Beaches and Parks. The appropriation made by this act, if expended, shall be expended for parks in Humboldt County, when the Division of Beaches and Parks determines that such acquisition, development, maintenance and protection is a matter of public and State interest and concern.

CHAPTER 1090

An act to amend Section 356a of the Political Code, relating to contracts between State agencies.

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 356a of the Political Code is amended to read: Stats 1941, p 2575

356a. Any State department, office, board, commission or bureau may, subject to the approval of the Department of Finance, contract with another such agency for the furnishing to it of necessary special or technical services or the performance of certain of its work or functions when the same will tend to eliminate duplication or expense. State departments, officers, boards, commissions or bureaus which are requested to furnish such special or technical services, or to perform such work, are authorized to comply with such requests, and to employ the services of such employees, and to furnish such materials, supplies or equipment as may be necessary to efficiently carry on the work or services provided for in the contract. Said contract shall specify the amount to be paid for the furnishing of such services or the performance of such work or functions and such amount shall include a sum which will reimburse the loaning agency for contributions to the State Employees' Retirement System on compensation paid the employees, the proportionate share of vacation, sick leave and overtime together with the proportion of compensation insurance costs actually chargeable against the agency whose officer or employee is a claimant for compensation benefits. In all such cases the amount shall be based upon the ratio of the elapsed time worked for the agency for which the services were performed to the total number of days in the month, and where a full work week is covered by such employment, the seven-day period from Monday to Sunday, inclusive, including any holidays in said period shall be considered as part of the time employed. Such amount shall be paid to the agency entitled thereto under such contract in accordance with law from out of the funds, moneys or appropriations made available by law for the support of the agency to whom said services are furnished or for whom such work or functions are performed. All moneys received by any agency,

Contracts between State agencies

Reimbursement

Deposit of moneys

other than The Regents of the University of California, under the provisions of this section shall be deposited in the State Treasury and shall be used in augmentation of the appropriation made for such agency. If received by The Regents of the University of California, such moneys shall be added to the other funds provided for or accruing to the use of the University of California, to be used in the same manner and for the same purposes as other funds made available to the university.

CHAPTER 1091

An act making an appropriation for maintenance and repair of the Jenner Jetty on the Russian River.

In effect August 4, 1943

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

Appropriation: Jenner Jetty

SECTION 1. There is hereby appropriated out of any money in the Fish and Game Preservation Fund the sum of five thousand dollars ($5,000) to be expended by the Division of Fish and Game, Department of Natural Resources, during the Ninety-fifth and Ninety-sixth Fiscal Years, for maintenance and repair of the jetty near Jenner at the mouth of the Russian River whenever in the discretion of the Fish and Game Commission the maintenance and repair of said jetty would tend to the protection of fish in said river.

CHAPTER 1092

Stats 1939, p 482, amended

An act to amend Sections 10617 and 115, and to repeal Sections 10621 and 10622 of the Health and Safety Code, relating to registration of previously unregistered births, making an appropriation therefor, providing for the transfer of such appropriation into the Public Health Fund, abolishing the Delayed Registration of Vital Statistics Fund, declaring the urgency hereof, to take effect immediately.

In effect immediately

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

Stats 1943, Ch 13

SECTION 1. Section 10617 of the Health and Safety Code is amended to read:

Delayed certificate of birth

10617. The State Registrar after the expiration of 10 days from receipt by him of acknowledgment of receipt of the duplicate application by the district attorney, shall review the application and the affidavits and documentary evidence

accompanying it, and if the evidence submitted complies with the provisions of Section 10615 and 10616 hereof, he shall issue and file a delayed certificate of such birth. He shall prepare either duplicate originals or certified copies of the certificate and transmit a copy to the local registrar of the district and the county recorder of the county in which such birth occurred, who shall index it as a record of "Delayed Certificates of Birth," except that if the birth occurred in a city and county he shall transmit a copy of the delayed certificate to the local registrar only. He shall also transmit either a duplicate original or certified copy of the certificate to the applicant without cost.

Fund abolished

SEC. 2. The Delayed Registration of Vital Statistics Fund is hereby abolished. Any money remaining in such fund shall be transferred to the General Fund in the State treasury.

Stats. 1943, Ch 13

SEC. 3. Sections 10621 and 10622 of the Health and Safety Code are repealed.

Appropriation: Department of Public Health

SEC. 4. Out of any money in the State treasury not otherwise appropriated, there is hereby appropriated the sum of forty thousand dollars ($40,000) for support of the Department of Public Health to be expended during the Ninety-fifth and Ninety-sixth Fiscal Years, in addition to, and in augmentation of, any other money appropriated for a similar purpose.

Stats 1941, p. 2787

SEC. 5. Section 115 of the Health and Safety Code is amended to read:

"Department of Public Health Fund"

115. There is hereby created in the State treasury a special fund designated as the "Department of Public Health Fund," into which there shall be deposited:

(a) All moneys directed by law to be paid into said fund shall be paid therein and shall be expended solely for the enforcement of the act, article or law under which it is derived, and the expenditure from said fund for the enforcement of any such act, article or law shall not exceed the amount of money credited to said fund thereunder.

(b) All grants of money received by this State from the United States, the expenditure of which is administered through or under the direction of the State Department of Public Health.

(c) All money appropriated by the State for support of the State Department of Public Health. The department may use the money within this subdivision for the purposes for which the money in subdivision (b) is made available by the United States for expenditure by this State. The money to be deposited in the Department of Public Health Fund under this subdivision may be transferred to the Department of Public Health Fund in such amounts as may be authorized by executive order of the Director of Finance.

Record

The Department of Public Health shall keep a record of the classes and sources of income credited to the Department of Public Health Fund and the disbursements therefrom.

General Fund

Unless otherwise expressly provided all moneys deposited in the Department of Public Health Fund under an appropriation from the General Fund by the State, shall be available for all expenditures incurred for the purposes for which it was

Appropriation

appropriated during the period thereof, and, unless by executive order of the Director of Finance such money is directed to be retransferred to the appropriation from which it was transferred to the Department of Public Health Fund, shall be subject to the provisions of Section 435 of the Political Code.

Urgency

SEC. 6. This act is hereby declared to be an urgency measure necessary for the immediate preservation of public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

The existence of a state of war and the increased demand for vital statistics certificates for purposes connected with the armed services and employment in necessary war industries has made necessary the enactment of an expeditious, simple and inexpensive procedure of obtaining these certificates. This law became effective during February, 1943, and the amendments made by this bill are necessary to permit of the more efficient operation of that law, and should therefore become effective immediately.

CHAPTER 1093

Stats 1935, p 1226, amended

An act to amend Sections 6 and 90, and to repeal Sections 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87 and 88 of, and to add Sections 75, 76, 77, 78, 79, 80, 81, 82 and 83 to the Unemployment Insurance Act, relating to the administration thereof, creating the California Employment Stabilization Commission and the California Unemployment Insurance Appeals Board and abolishing the California Employment Commission.

In effect August 4, 1943

[Approved by Governor June 8, 1943 Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

Stats 1939, p 3015

SECTION 1. Section 6 of the act cited in the title hereof is amended to read:

Definitions

Sec. 6. (a) "Commission" means the California Employment Stabilization Commission.

(b) "Public employment office" means a free public employment office or branch thereof operated by this State or maintained as a part of a State controlled system of public employment offices.

(c) "State" includes Alaska, Hawaii, and the District of Columbia, as well as each of the States of the United States.

(d) "Calendar-quarter" means the period of three consecutive calendar months ending on March 31st, June 30th, September 30th, or December 31st, or the equivalent thereof as the commission may by special rule prescribe.

(e) "Contributions" means the money payments to the unemployment fund required by this act.

(f) "Unemployment fund" means the unemployment fund established by this act.

(g) "Unemployment administration fund" means the unemployment administration fund established by this act.

(h) "Benefit account" means the benefit account established by this act.

(i) "Clearing account" means the clearing account established by this act.

(j) "Unemployment trust fund account" means the unemployment trust fund account established by this act.

(k) "Social Security Board" means the Social Security Board established by the Social Security Act. U S C Title 42, Ch 7

(*l*) "Department" means the Department of Employment established by this act.

(m) "Unemployment trust fund" means the unemployment trust fund established and maintained pursuant to Section 904 of the Federal Social Security Act as amended. U S C Title 42, Sec 1104

SEC. 2 Sections 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87 and 88 of said act are repealed. Repeals

SEC. 3. Section 75 is added to said act, to read: New section

Sec 75. The Department of Employment is hereby created in the State Government, and the provisions of this act shall be administered by the California Employment Stabilization Commission, which is hereby created in said department. Administration

SEC. 4. Section 76 is added to said act, to read: New section

Sec. 76. The work and functions of the department shall be segregated and allotted according to their nature into divisions. One of such divisions shall be designated Division of Public Employment Offices and Benefit Payments, and one shall be designated the Division of Accounts and Tax Collections. Each of these two divisions shall be under a chief who shall be appointed by the Governor, subject to the approval of the Senate, and who shall serve at the pleasure of the Governor. The chief of each of these two divisions shall devote his full time to the performance of his duties as such chief of a division and shall receive a salary of seven thousand five hundred dollars ($7,500) per year. There shall be such other divisions as the commission may determine that the exigencies and nature of the work of the department require. Divisions Chiefs Compensation

SEC. 5. Section 77 is added to said act, to read: New section

Sec. 77. The California Unemployment Insurance Appeals Board, to consist of three members to be appointed by the Governor, subject to the approval of the Senate, is hereby created in the Department of Employment. Each member of Appeals Board

such board shall devote his full time to the performance of his duties in this act defined and shall receive a salary of seven thousand five hundred dollars ($7,500) per year.

New section

SEC. 6. Section 78 is added to said act, to read:

Term of office

Sec. 78. One of the members of the board created by Section 77, hereinafter referred to as the "appeals board," shall serve as designated by the Governor until May 1, 1944; one shall serve until September 1, 1945; and one until January 1, 1947. Thereafter each member shall be appointed to serve four years and until his successor is appointed and qualifies, except that a vacancy shall be filled by the Governor, subject to the approval of the Senate, by appointment for the unexpired term.

New section

SEC. 7. Section 79 is added to said act, to read:

Delegation

Sec. 79. In any case before it, the appeals board may delegate to any one of its members or to a special examiner

Decision

or referee the taking and hearing of evidence. Whatever decision is rendered by the said board must be the act of a

Powers

majority of its members. The appeals board and its duly authorized representatives in the performance of its duties under this act shall have the powers of a head of a department as set forth in Section 353 of the Political Code.

New section

SEC. 8. Section 80 is added to said act, to read:

Decision on appeal Time for

Sec. 80. The decision of the appeals board on an appeal from the findings of a referee must be rendered within sixty (60) days after the filing of the appeal unless such board requires the taking of further evidence, in which case the hearing on the appeal shall be commenced within sixty (60) days after the filing of an appeal, and in the latter case the decision of the board must be filed within sixty (60) days after completion of such hearing.

New section

SEC. 9. Section 81 is added to said act, to read:

Proceedings and decisions

Sec. 81. All meetings, hearings, and proceedings of the appeals board shall be public, and all decisions and orders shall be in writing. Such decisions shall contain a statement of the facts upon which the decision is based, and a statement of the decision itself and the reasons therefor. Such decisions shall be available for public inspection, and shall be published from time to time in such manner as to make the same available for public use.

New section

SEC. 10. Section 82 is added to said act, to read:

Provisions re hearings and appeals

Sec. 82. If and wherever elsewhere in this act provision is made for a hearing before or an appeal to the commission in any matter pertaining to the payment of a benefit claim, the collection or computation of a contribution, or the propriety of a charge against an employer's account, such provision shall be construed to mean and provide for a hearing before or an appeal to the appeals board. The decision of the appeals board is final, except for such action as may be taken by judicial tribunal as permitted or required by law.

SEC. 11. Section 83 is added to said act, to read: New section

Sec. 83. The California Employment Stabilization Commission hereby created shall consist of five members, who shall be the three members of the appeals board and the Chief of the Division of Public Employment Offices and Benefit Payments and the Chief of the Division of Accounts and Tax Collections. Composition of Commission

SEC. 12. Section 90 of said act is amended to read: Stats 1939, p. 3006

Sec. 90. (a) The commission, in addition to all other duties imposed and powers granted or implied by the provisions of this act: Powers of commission

(1) Shall keep such records of employment of eligible workers, contributions, penalties, claims, benefits, and payments as are necessary for the proper administration of this act, or advisable for proper understanding of its operation.

(2) May cause to be distributed to the public in any manner it determines feasible its rules, regulations and such other information as it considers desirable, and may advertise in newspapers of general circulation in this State for qualified applicants for work.

(3) May study and make recommendations as to the most effective methods of providing economic security through all forms of social insurance and to these ends carry on and publish the results of investigations and research studies.

(b) General and special rules and regulations for the administration of this act shall be adopted, amended or rescinded as follows: Rules and regulations

(1) Each chief of each division shall have the power and authority in the first instance to formulate rules and regulations or amendments or rescissions of rules and regulations pertaining to matters falling within the jurisdiction of that division. A general rule or regulation or the amendment or rescission of any general rule or regulation shall become effective 10 days after filing with the Secretary of State and publishing in one or more newspapers of general circulation in this State, unless an appeal is taken to the appeals board as hereinafter in this subsection provided. Special rules or amendments or rescissions of such rules shall become effective 10 days after mailing notice thereof to the last known address of the individual or concern affected thereby, unless an appeal is taken to the appeals board as hereinafter in this subsection provided.

(2) Prior to the filing with the Secretary of State or to the sending of notice referred to in the previous subparagraph of this subsection (b) the chief of such division shall hold a public hearing, of which proper notice has been given, at which any persons interested in such rule or regulation shall have an opportunity to be heard.

(3) If at any such hearing any person opposes the proposed rule or regulation or amendment or rescission thereof, or if either of the commissioners who are designated also as chiefs of divisions opposes it, any such person or such commissioner

may request a hearing before the appeals board. If such hearing is requested the matter shall be heard by the appeals board within 30 days from the date of such request, and the proposed rule or regulation or amendment or rescission thereof shall not become effective until and unless the appeals board has finally approved the same. If it does finally so approve there notice shall be given and the rule or regulation or amendment or rescission thereof shall become effective in the same manner and after the same period as provided in subparagraph (1) of this subsection (b).

CHAPTER 1094

Stats 1935, p 1226, amended

An act to amend Section 44.2 of the Unemployment Insurance Act, relating to contributions and refunds thereunder.

In effect August 4, 1943

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

Stats 1939, p 1872

SECTION 1. Section 44.2 of the act cited in the title hereof is amended to read:

Exception to Sec 44

Sec. 44.2. (a) Commencing January 1, 1940, the provisions of Section 44 of this act requiring the payment of worker contributions shall not apply to that part of wages which, after wages equal to three thousand dollars ($3,000) has been paid to a worker by an employer with respect to employment during any calendar year, is paid to such worker by such employer with respect to employment during such calendar year.

Refund

(b) If by reason of a worker rendering service for more than one employer during any calendar year after the calendar year 1943, the wages of the worker with respect to employment during such year exceed three thousand dollars ($3,000), the worker shall be entitled to a refund of any amount of tax, with respect to such wages, imposed by Section 44, deducted from such wages and paid to the commission, which exceeds the tax with respect to the first three thousand dollars ($3,000) of such wages paid. Refunds under this subdivision shall be made by the commission if the worker (i) makes a claim, establishing his right thereto, after the calendar year in which the employment was performed with respect to which refund of tax is claimed, and (ii) such claim is made within six months after the calendar year in which the wages are paid with respect to which refund of tax is claimed. No interest shall be allowed or paid with respect to any such refund.

CHAPTER 1095

An act making an appropriation for the acquisition of real property for the Preston School of Industry.

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Out of any money in the State treasury not otherwise appropriated, the sum of seven thousand two hundred dollars ($7,200) is hereby appropriated to the Director of Institutions, to be expended during the Ninety-fifth and Ninety-sixth Fiscal Years for the acquisition of real property for the Preston School of Industry in Amador County.

Appropriation Preston School of Industry

CHAPTER 1096

An act to add Section 44.6 to the Unemployment Insurance Act, relating to contributions.

Stats. 1935, p. 1226, amended

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 44.6 is added to the act cited in the title hereof, to read:

New section

Sec. 44.6. Except as provided in Section 45.6 contributions required under this act shall become due on the first day of the calendar month following the close of each calendar quarter and shall become delinquent unless the commission grants an extension of time for the payment thereof, if not paid by the first day of the second month following the close of that calendar quarter. If a payment of contributions is sent through the United States mail, postage prepaid, and addressed to the main office of the Department of Employment, 1025 P Street, Sacramento, California, such payment shall be deemed to have been received on the date shown on the post-office cancellation mark stamped upon the envelope containing the payment.

Contributions When due and delinquent

Payment through mail

CHAPTER 1097

An act to appropriate funds to the Division of Libraries for making microfilms of United States census returns.

In effect August 4, 1943

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

Appropriation. Division of Libraries

SECTION 1. The sum of seven hundred fifty dollars ($750) is hereby appropriated out of any money in the State Treasury not otherwise appropriated to be expended by the Division of Libraries during the Ninety-fifth and Ninety-sixth Fiscal Years in making microfilms of the United States census returns of the State of California for the years 1850 to 1880, inclusive, to be kept in the State Library.

CHAPTER 1098

Stats 1939, p 482, amended

An act to add Section 252.5 to the Health and Safety Code, relating to children with an impaired sense of hearing, and making an appropriation therefor.

In effect August 4, 1943

[Approved by Governor June 8, 1943 Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 252.5 is added to the Health and Safety Code, to read:

Children with impaired hearing

252.5. The State Department of Public Health shall seek out children with impaired sense of hearing, especially in the primary and grammar grades of all schools and in its conferences and diagnostic clinics it shall employ for such diagnostic investigation trained otologists.

This section does not give the department power to require medical or physical examination of children without consent of parent or guardian.

Appropriation

SEC. 2. The sum of twenty-six thousand five hundred dollars ($26,500), or so much thereof as may be necessary, is appropriated out of any money in the State Treasury, not otherwise appropriated, to be expended during the Ninety-fifth and Ninety-sixth Fiscal Years by the State Department of Public Health in carrying out the provisions of this act.

CHAPTER 1099

An act making an appropriation to the Department of Agriculture for the purpose of establishing, equipping, and operating a poultry disease diagnostic and testing laboratory in San Diego County.

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. The sum of ten thousand dollars ($10,000), or so much thereof as may be necessary, is hereby appropriated for expenditure during the Ninety-fifth and Ninety-sixth Fiscal Years for equipping, staffing, and maintaining of a poultry disease diagnostic and testing laboratory in San Diego County and for leasing or renting the necessary facilities. The sum of money hereby appropriated is in addition to any other funds heretofore or hereafter appropriated for the support of the Department of Agriculture. Appropriation Department of Agriculture

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CHAPTER 1100

An act to amend Sections 427, 428, and 990 of the Fish and Game Code, relating to hunting and fishing, and the issuance of licenses therefor. Stats 1933, p 394, amended

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 427 of the Fish and Game Code is amended to read: Stats 1933, p 394

427. Class A. A hunting license, granting the privilege to take game birds and mammals, shall be issued: Hunting license To whom issued

(a) To any citizen of the United States, over the age of 18 years, who is a resident of this State, upon the payment of two dollars ($2).

(b) To any citizen of the United States, under the age of 18 years, who is a resident of this State, upon the payment of one dollar ($1).

(c) To any citizen of the United States, not a resident of this State, upon the payment of ten dollars ($10).

(d) To any person, not a citizen of the United States, who shall have declared his intention to become such citizen according to the law made and provided for such purposes, who is a resident of this State, upon the payment of ten dollars ($10). After such applicant has declared his intention to become a citizen he must complete his naturalization at the earliest period allowed by law. Such applicant shall make and

subscribe an oath that he has not claimed his citizenship in a foreign country as a basis for avoiding service in the armed forces of the United States, and the person issuing such license is hereby empowered to administer such oath.

(e) To any person, not a citizen of the United States, upon the payment of twenty-five dollars ($25), except as provided in subdivision (d) of this class; provided, however, that no such license shall be issued to an alien Japanese.

Stats 1933, p 394

SEC. 2. Section 428 of said code is amended to read:

Sporting fishing license To whom issued

428. Class B. A sporting fishing license, granting the privilege to take fish for purposes other than profit shall be issued:

(a) To any citizen of the United States, over the age of 18 years, who is a resident of this State, upon the payment of two dollars ($2).

(b) To any citizen of the United States, over the age of 18 years, not a resident of this State, upon the payment of three dollars ($3).

(c) To any person, not a citizen of the United States, and over the age of 18 years, upon the payment of five dollars ($5); provided, however, that no such license shall be issued to an alien Japanese.

Stats 1933, p 394

SEC. 3. Section 990 of the Fish and Game Code is amended to read:

Commercial fishing licenses

990. Every person who uses or operates or assists in using or operating any boat, net, trap, line, or other appliance to take fish, mollusks or crustaceans for profit, or who brings or causes fish, mollusks or crustaceans to be brought ashore at any point in the State for the purpose of selling the same in a fresh state, shall procure a commercial fishing license.

A commercial fishing license may be issued to any person other than an alien Japanese. A commercial fishing license may be issued to a corporation only if said corporation is authorized to do business in this State, if none of the officers or directors thereof are alien Japanese, and if less than the majority of each class of stockholders thereof are alien Japanese.

CHAPTER 1101

An act to amend Section 2943 of the Penal Code, relating to the discharge of prisoners and making an appropriation.

In effect August 4, 1943

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

Stats 1941, p 1080

SECTION 1. Section 2943 of the Penal Code is hereby amended to read as follows:

Return of money

2943. Each prisoner, when he leaves the prison, shall be supplied with the money taken from him when he entered,

and which he has not disposed of, together with any sum which may have been earned by him for his own account, allowed to him by the State for good conduct or diligent labor, or may have been presented to him from any source; and, in case the prisoner has not funds sufficient for present purposes, he shall be furnished with twenty-five dollars ($25) in money, necessary and suitable clothing costing not more than twenty-five dollars ($25), and his fare by the cheapest route to the place where sentenced from, if the prisoner desires to return there, or to any other place of the same cost for transportation; and shall be entitled, if he so elect, to immunity from having his hair cut, or from being shaved, for three calendar months immediately prior to his discharge. It shall not be lawful for the officers of the prison to furnish, or permit to be furnished, to anyone, for publication, the name of any prisoner about to be discharged.

Money and clothing where no own funds

Immunity from haircut, etc

SEC. 2. Out of any money in the State treasury not otherwise appropriated there is hereby appropriated the sum of seventy-five thousand dollars ($75,000) for the Special Discharge and Parole Fund. The money herein appropriated shall be expended only on written authorization of the State Department of Finance for augmentation of the appropriations for support of the State prisons or California Institution for Men during the Ninety-fifth and Ninety-sixth Fiscal Years.

Appropriation

CHAPTER 1102

An act to provide for the compilation, publication, and distribution by the Secretary of State of a Roster of public officials of California and to make an appropriation therefor.

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. The Secretary of State is hereby authorized to compile, publish and distribute a Roster of the State and local public officials of California.

Roster

SEC. 2. The Secretary of State shall cause the Roster to be printed and shall distribute copies thereof, free of charge, as follows: To the Governor, 50 copies; to the Lieutenant Governor, 30 copies; to each member of the Senate and to each member of the Assembly, 30 copies; to each elective State officer, each head of a State department, each county clerk, each public library upon request, each Governor and each Secretary of State of a State of the United States, one copy. The remaining copies may be distributed, singly and free of

Printing and distribution

charge, in the discretion of the Secretary of State, to any person requesting the same.

Appropriation

SEC. 3. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated the sum of three thousand dollars ($3,000) to be expended during the Ninety-fifth and Ninety-sixth Fiscal Years by the Secretary of State in carrying out the provisions of this act.

CHAPTER 1103

An act making an appropriation for the care and education of pupils of the California School for the Blind who are both deaf and blind.

In effect August 4, 1943

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

Appropriation: California School for Blind

SECTION 1. Out of any moneys in the State treasury, not otherwise appropriated, there is hereby appropriated the sum of six thousand dollars ($6,000) to be expended by the California School for the Blind for the care and education of pupils of said school who are both deaf and blind.

Augmentation of, Stats. 1943, Ch 62

SEC. 2. The money herein appropriated shall be in addition to, and in augmentation of the appropriation contained in Item 74 of Section 2 of the "Budget Act of 1943."

CHAPTER 1104

An act making an appropriation for the destruction of beet leaf hoppers.

In effect August 4, 1943

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

Appropriation State Department of Agriculture

SECTION 1. For the purpose of destroying beet leaf hoppers, there is hereby appropriated to the State Department of Agriculture out of any moneys in the State Treasury not otherwise appropriated the sum of thirty thousand dollars ($30,000), to be expended during the Ninety-fifth and Ninety-sixth Fiscal Years.

CHAPTER 1105

An act making an additional appropriation for the support, operation, construction, improvements, and equipment at the State prisons of California.

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. In addition to any money otherwise appropriated, the sum of sixteen thousand five hundred dollars ($16,500) is hereby appropriated to the State Board of Prison Directors out of any money in the State treasury not otherwise appropriated to be expended during the Ninety-fifth and Ninety-sixth Fiscal Years for the construction and equipment of a two-way radio system in each of the State prisons. Appropriation State Board of Prison Directors

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CHAPTER 1106

An act to repeal Sections 47 to 51, inclusive, of the Unemployment Insurance Act, relating to exemptions, guaranteed employment, and private employment plans under said act. Stats 1935, p 1226, amended

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Sections 47 to 51, inclusive, of the act cited in the title hereof are repealed. Repeals

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CHAPTER 1107

An act to amend Sections 2, 45, 45.9, 45.10, 91, 92, and 94 of the Unemployment Insurance Act, relating to a system of unemployment insurance. Stats. 1935, p 1226, amended

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 45 of the act cited in the title hereof is amended to read: Stats 1939, p 2051

Sec. 45. If an employer fails to make any payment required of him, or fails to pay to the commission the contributions of his workers, in accordance with the provisions of this act and of the rules and regulations adopted by the Default of employer Interest

commission, he shall become additionally liable for interest on such payments at the rate of one-half per cent (½%) per month or fraction thereof from and after the date of delinquency until paid. Such employer and worker contributions, interest and the penalties hereinafter provided for shall be collectible by civil action in the name of and by the commission against the defaulting employer, in addition to any other procedures prescribed by this act.

Failure to file wage report

Any employer without good cause failing within 10 days after specific written demand to file a report of wages of each of his workers for any period in the manner and within the time required by the rules and regulations of the commission shall, in addition to any other sum otherwise payable by him under the provisions of this act, pay as a penalty for each unreported wage item the sum of one dollar ($1) per month, or fraction thereof, up to a maximum of three months; provided, however, that no penalty assessed against an employer with respect to any calendar quarter in accordance with the provisions of this subsection shall be less than the sum of four dollars ($4) or in excess of the sum of two hundred fifty dollars ($250).

Stats 1939, p 2051

SEC. 2. Section 45.9 of said act is amended to read:

Judgments for payments due Certificate

Sec. 45.9. In any case in which any contributions, interest, or penalty imposed under this act is not paid when due, the commission may file in the office of the county clerk of Sacramento County, or with the county clerk of the county in which the employer has his principal place of business, a certificate specifying the amount of the contributions, interest and penalty due, the name and last known address of the employer liable for the same, that the commission has complied with all the provisions of this act in relation to the computation and levy of the contributions, interest and penalty, and a request that judgment be entered against the employer in the amount of the contributions, interest and

Entry

penalty set forth in the certificate. The county clerk immediately upon the filing of such certificate shall enter a judgment for the commission against the employer in the amount of the contributions, interest, and penalty set forth in the certificate. Such judgment may be filed by the county clerk in a loose-leaf book entitled "Unemployment Contributions Judgments."

Recordation

An abstract of such judgment or a copy thereof may be recorded with the county recorder of any county and from the time of such recording, the amount of the contributions, interest and penalty therein set forth shall constitute a lien upon all the property of the employer in such county, owned by him or which he may afterwards and before the lien expires acquire, which lien shall have the force, effect and

Execution

priority of a judgment lien. Execution shall issue upon such a judgment upon request of the commission in the same manner as execution may issue upon other judgments and sales shall be held under such execution as prescribed in the Code

of Civil Procedure. In all proceedings under this section the commission or its authorized agents shall be empowered to act on behalf of the people of the State of California.

Remedy cumulative

It is expressly provided that the foregoing remedy of the commission shall be cumulative and that no action taken by the commission shall be or be construed to be an election on the part of the commission to pursue any remedy hereunder to the exclusion of any other remedy for which provision is made in this act.

Hearing

Prior to the filing by the commission of the certificate provided for in this section, the delinquent employer shall be given an opportunity for oral hearing before the commission or its duly authorized representative.

Notice

Notice of the time and place of such hearing must be mailed at least 15 days in advance thereof, and may be sent by registered mail addressed to the last known address of the delinquent employer. In the event the delinquent employer or his representative does not appear at such hearing or if an appearance is made but the delinquent employer does not establish to the satisfaction of the commission or its duly authorized representative that the amount of contributions, interest and penalties claimed to be due is erroneous, the commission may proceed forthwith to file the certificate provided for in this section.

Satisfaction of judgment

Whenever any such judgment has been entered, and if thereafter the contributions upon which such judgment is based are paid or found to be erroneous, the commission shall immediately cause a satisfaction of judgment to be filed with the clerk who issued such judgment and a certified copy thereof to be recorded with the county recorder of each county wherein said judgment or a copy thereof has been recorded.

Release of judgment lien

The commission may at any time release all or any portion of the property subject to the lien of such judgment from such lien or subordinate the lien of the judgment to other liens and encumbrances if it determines that the taxes, interest and penalties are sufficiently secured by a lien on other property or that the release or subordination of the judgment lien will not endanger or jeopardize the collection of such taxes, interest and penalties.

Certificate

A certificate by the commission to the effect that any property has been released from such judgment lien or that such judgment lien has been subordinated to other liens and encumbrances shall be conclusive evidence that the property has been released or that the judgment lien has been subordinated as provided in the certificate.

Stats 1939, p 2051

SEC. 3. Section 45.10 of said act is amended to read:

Injunction prohibited

Sec. 45.10. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding, in any court against this State or against any officer thereof to prevent or enjoin under this act the collection of any contribution sought to be collected; but after payment of any such contribution under protest, duly verified and setting forth the grounds of objection to the legality of such contribution, the employer paying such contribution may

Action to recover payment

bring an action against the commission in any court of competent jurisdiction in the county seat of the county wherein the employer maintains his principal place of business for the recovery of contributions so paid under protest. No such action may be instituted more than 60 days after the payment of such contribution, except that the commission may in writing at any time prior to the expiration of said 60 days period extend for a period of not exceeding two years the time within which such action may be instituted, and failure to bring suit within said 60 days or within any such extended period, if an extension has been granted, shall constitute waiver of any and all demands against this State on account of any alleged overpayment of contributions hereunder, except that such demands may still be prosecuted in accordance with the provisions of Section 45.11 of this act. No grounds of illegality of the contribution shall be considered by the court other than those set forth in the protest filed at the time of the payment of the contribution.

Limitation of action

Judgment for plaintiff: Credit and refund

Interest

If in any such action judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any contribution, interest and penalties due from the plaintiff under this act, and the balance of the judgment shall be refunded to the plaintiff from the clearing account. In any such judgment, interest shall be allowed and paid out of the clearing account of the Unemployment Fund only to the extent that interest and penalties collected under Sections 45 and 45.3 are available therefor, at the rate of 6 per cent per annum upon the amount of contributions found to have been illegally collected from the date of payment thereof to the date of such credit or refund on account of such judgment.

Stats 1939, p 1967

SEC. 4. Section 2 of said act is amended to read:

National plan

Sec. 2. This act is enacted as a part of a National plan of unemployment reserves and social security, and for the purpose of assisting in the stabilization of employment conditions. The imposition of the tax herein imposed upon California industry alone, without a corresponding tax being imposed upon all industry in the United States, would, by the corresponding penalty upon California industry, defeat the very purposes of this act set forth in Section 1. Therefore this act shall take effect only if and when there is enacted legislation by the United States Government providing for a tax upon the payment of wages by employers in this State, against which all or any part of the contributions required by this act may be credited.

When act operative

Effect of change in Federal law

Whenever such legislation enacted by the United States Government is repealed, amended, interpreted, affected or otherwise changed in such manner that no portion of the contributions required by this act may be thus credited, then upon the date of such change, the provisions of this act requiring contributions and providing for payment of benefits shall cease to be operative and any assets in the unemployment fund or unemployment administration fund shall in the discretion

of the State Treasurer be held in the then existing depositaries or otherwise in the State Treasury. In the case of the unemployment administration fund, such moneys may thereafter be dealt with by the State Treasurer pursuant to the conditions of the grant thereof to the State by the United States Government or agency thereof.

SEC. 5. Section 91 of said act is amended to read: Stats. 1935, p 1226

Sec. 91. The commission may also study and make recommendations as to action which might tend to: Studies and recommendations

(a) Promote the prevention of unemployment and the regularization of employment.

(b) Encourage and assist in the adoption of practical methods of vocational training, retraining and guidance.

(c) Promote the establishment and operation by governmental units and agencies of reserves for public work to be prosecuted in times of business depression and unemployment.

(d) Promote the reemployment of unemployed workers throughout the State in any way that may seem feasible.

(e) Reduce and prevent unemployment; and to these ends carry on and publish the results of any investigations and research which it deems relevant.

SEC. 6. Section 92 of said act is amended to read: Stats 1939, p 2145

Sec. 92. In addition to all other powers granted and duties imposed by this act, the commission: Additional powers

(a) May create unemployment districts.

(b) Shall establish, maintain and operate adequately staffed public employment offices for men, women and juniors who are legally qualified to engage in gainful occupations and shall maintain a veterans placement service to be devoted to securing work for veterans and a farm placement service to promote the placement and clearance of agricultural labor, and a youth placement department to promote the placement of youth in suitable fields of employment. Adequate records and statistics on all the classifications above mentioned shall be compiled and kept by the employment service, and a report of such records, statistics, applications and placements shall be made semiannually.

(c) May promulgate such rules as it finds desirable for the registration of unemployed persons, and for placing them in available employment. To this end it may accept financial contributions from any governmental unit or agency, or private persons.

SEC. 7. Section 94 of said act is amended to read: Stats 1935, p 1226

Sec. 94. The unexpended balance of every appropriation and fund, available for the purposes or support of the division prior to the transfer referred to in Section 93 shall be available to the commission for such purposes or support after the transfer. Funds after transfer

CHAPTER 1108

Stats 1935, p 1226, amended

An act to amend Section 15 of the Unemployment Insurance Act, relating to election to become an employer and to have services deemed employment under said act.

In effect August 4 1943

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

Stats 1939, p 2819

SECTION 1. Section 15 of the act cited in the title hereof is amended to read:

Election to become employer subject to act

Sec. 15. (a) An employing unit, not otherwise subject to this act, which files with the commission its written election to become an employer subject hereto for not less than two calendar years, shall, with the written approval of such election by the commission, become an employer subject hereto to the same extent as all other employers, as of the date stated in such approval, and shall cease to be subject hereto as of January 1st of any calendar year subsequent to such two calendar years, notwithstanding anything elsewhere contained in this act, only if at least 30 days prior to such first day of January, it has filed with the commission a written notice to that effect.

(b) Any employing unit for which services that do not constitute employment as defined in this act are performed, may file with the commission a written election that all such services performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment by an employer for all the purposes of this act for not less than two calendar years. Upon the written approval of such election by the commission, such services shall be deemed to constitute employment subject to this act from and after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January 1st of any calendar year subsequent to such two calendar years, notwithstanding anything elsewhere contained in this act, only if at least 30 days prior to such first day of January such employing unit has filed with the commission a written notice to that effect.

(c) Every employing unit which files an election to become an employer subject to this act or to cease to be an employer subject to this act, pursuant to the provisions of this section shall post and maintain printed notices of such election on his premises, of such design, in such numbers, and at such places as the commission may determine to be necessary to give notice thereof to persons in his service. Individuals in the employ of any employing unit which files

an election to become an employer subject to this act shall be given a reasonable opportunity to file objections thereto or be heard thereon prior to the commission's approval of such election.

Requisite for approval

(d) In no case shall the commission approve any such election under subdivisions (a) and (b) of this section unless and until it has been established to the satisfaction of the commission that such employing unit is normally and continuously engaged in a regular trade, business or occupation.

CHAPTER 1109

An act to amend Sections 53, and 54 of the Unemployment Insurance Act, relating to base periods and benefits under said act.

Stats 1935, p 1226, amended

[Approved by Governor June 8, 1943 Filed with Secretary of State June 8, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 53 of said act is amended to read:

Stats 1939, p 2146

Sec. 53. The maximum total amount of benefits payable to an individual during any one benefit year shall be determined by the total wages paid to the individual in employment for employers during his base period, and shall be the amount appearing or shall be computed in the manner set forth in Column B in the table in this section, opposite the line on which in Column A of such table there appears the wage bracket containing such wages paid to such individual. For the purpose of this section and Section 54, wages due to an individual but unpaid within the time limit set forth in Sections 201, 202, and 204 of the Labor Code of the State of California, shall be deemed wages paid to such individual.

Maximum benefits for one benefit year

Table

A Amount of total wages	B Maximum total amount of benefits payable
$300.00- $349.99	$163
350.00- 399.99	188
400.00- 449.99	213
450 00- 499.99	238
500.00- 549.99	263
550.00- 599.99	16 times weekly benefit amount
600.00- 649.99	
650.00- 699.99	
700.00- 749.99	
750.00- 799.99	
800.00- 899.99	

Or 16 times weekly benefit amount, whichever is the lesser.

A Amount of total wages	B Maximum total amount of benefits payable
$900.00- $999.99	$306
1,000.00-1,099.99	324
1,100.00-1,199.99	342
1,200.00-1,299.99	360
1,300.00-1,399.99	378
1,400.00-1,499.99	396
1,500.00-1,599.99	414
1,600.00-1,699.99	414
1,700.00-1,799.99	432
1,800.00-1,899.99	432
1,900.00-1,999.99	450
2,000.00- and up	468

Stats 1939, p 2146 See also Stats 1943, Ch 1121

SEC. 2. Section 54 of said act is amended to read:

"Weekly benefit amount"

Sec. 54. An individual's "weekly benefit amount" shall be the amount appearing in Column B in the table set forth in this section on the line of which in Column A of such table there appears the wage bracket containing the amount of wages paid to such individual for employment by employers during the quarter of his base period in which such wages were the highest.

Table

A Amount of wages in highest quarter	B Weekly benefit amount
$75.00-$199.99	$10
200.00- 219.99	11
220.00- 239.99	12
240.00- 259.99	13
260.00- 279.99	14
280.00- 299.99	15
300.00- 319.99	16
320.00- 339.99	17
340 00- and up	18

CHAPTER 1110

An act providing for the acquisition of specified property by the Department of Employment.

In effect August 4, 1943

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

Acquisition of property for Department of Employment

SECTION 1. The Department of Finance is hereby authorized to acquire for the Department of Employment certain building and property in the City of Visalia under terms and conditions approved by the Director of the Department of Finance.

CHAPTER 1111

An act to add Section 64 and amend Section 101 of the Unemployment Insurance Act, relating to the recoupment of erroneous payments and the prevention of collusion.

Stats. 1935, p 1226, amended

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 64 is added to the act cited in the title hereof to read:

New section

Sec. 64. Regardless of any other provisions of the act, any person who by reason of nondisclosure of or misrepresentation by him of a material fact concerning information requested by the commission in connection with a claim for benefits or who because of an error or mistake in calculation by the commission has received any sum as benefits under this act to which he is not entitled shall in the discretion of the commission be liable to repay such sum to the commission for the fund, and the commission is hereby authorized to commence civil action in its name for the recovery thereof, or in lieu of civil action and after opportunity for hearing before the commission or its representative shall have such sum deducted from any future benefits payable to him under this act with respect to his current benefit year and/or from any benefits to which such individual is entitled during the 52 weeks immediately following the expiration of such individual's current benefit year; provided, however, that no deductions from future benefits shall be made with respect to benefits received by any person without fault on his part or the recoupment of such payments by the commission would be against equity or good conscience; provided, however, there shall be no recoupment of benefits paid pursuant to a referee's decision which affirms an initial determination or in accordance with a final decision of the commission regardless of any further appeal; provided further, nothing herein contained shall be construed as authorizing or permitting the commission to charge to any employer's account any benefits erroneously or unlawfully paid.

Liability for repayment of benefits to which not entitled

Recovery

Restrictions

SEC. 2. Section 101 of said act is amended to read:

Stats 1939, p 3006

Sec. 101. It is a misdemeanor:

(a) Wilfully to make a false statement or representation or knowingly fail to disclose a material fact to obtain, increase, reduce, or defeat any benefit or payment under the provisions of this act, whether for the maker or for any other person or for the purpose of lowering or avoiding any contribution required of the maker or any other person or to avoid becoming or remaining subject to this act;

Acts constituting misdemeanor

(b) On the part of any employing unit or any officer or agent of an employing unit to make a greater deduction from the wages of a worker than the contribution required of such worker under this act, for the purpose of paying any contribution under this act;

(c) On the part of any employing unit or any officer or agent of an employing unit wilfully and unlawfully to fail to appear or to testify or to produce books, papers, and records, required at any hearing under this act;

(d) On the part of any employing unit or any officer or agent of an employing unit, wilfully and unlawfully to fail or neglect to make available required records for the inspection of the commission or its authorized representatives at any reasonable time during business hours;

(e) On the part of any employing unit, or any officer or agent of an employing unit, wilfully and unlawfully to fail or neglect to furnish to the commission reports required by it when necessary for the enforcement of this act;

(f) On the part of any employing unit or any officer or agent of an employing unit or any individual to connive or conspire to aid such individual to obtain unemployment insurance to which such individual is not entitled by the wilful withholding of information or by the wilful failure to report any relevant information.

CHAPTER 1112

Stats 1935, p 1226, amended

An act to add Sections 56.6 and 56.7 to the Unemployment Insurance Act, relating to cooperation between States in the collection of contributions and obtaining of wage records.

In effect August 4, 1943

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 56.6 is added to the act cited in the title hereof, to read:

Comity

Sec. 56.6. The courts of this State shall recognize and enforce liabilities for unemployment contributions imposed by other States which extend a like comity to this State.

Power to sue outside State

Reciprocity

The commission is hereby empowered to commence action in any other jurisdiction by and in the name of the commission to collect unemployment contributions, penalties and interest legally due this State. The officials of other States which extend a like comity to this State are empowered to sue for the collection of such contributions in the courts of this State. A certificate by the Secretary of State under the Great Seal

of the State that such officers of the department as designated by the commission have authority to collect the unemployment contributions shall be conclusive evidence of such authority.

New section

SEC. 2. Section 56.7 is added to said act, to read:

Examination of records, etc., by other States

Sec. 56.7. The commission is hereby authorized to enter into arrangements with the appropriate agencies of other States or the Federal Government whereby reports, records, or other necessary information, upon the basis of which an employing unit may become subject to the provisions of this act, shall be examined and audited by such other State or Federal agency in the State or Territory in which said employing unit's reports, records, or other necessary information is located.

Reciprocal arrangements

The commission is also authorized to enter into reciprocal arrangements with such other State agencies or the Federal Government whereby the reports, records, or other necessary information, upon the basis of which an employing unit may become subject to the provisions of another State unemployment insurance act or the Federal Unemployment Tax Act, may be examined and audited by this State agency.

CHAPTER 1113

An act to amend Section 52.1 of the Unemployment Insurance Act, relating to the filing of claims.

Stats 1935, p 1226, amended

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

Stats 1939, p 2146

SECTION 1. Section 52.1 of the act cited in the title hereof is hereby amended to read:

"Benefit year"

Sec. 52.1. The term "benefit year," with respect to any individual, means the 52 consecutive week period beginning with the first day of the first week with respect to which the individual first files a valid claim for benefits, and thereafter the 52 consecutive week period beginning with the first day of the first week with respect to which the individual next files a valid claim for benefits after the termination of his last preceding benefit year. Any claim for benefits made in accordance with the provisions of this act and rules and regulations adopted thereunder shall be deemed a "valid claim" for the purposes of this section if the individual is unemployed and has earned wages in employment for employers necessary to qualify for benefits under Section 53 of this act.

CHAPTER 1114

Stats 1935, p 1226, amended

An act to amend Sections 45.2 and 45.5 of the Unemployment Insurance Act, relating to wage records and the collection of contributions.

In effect August 4, 1943

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

Stats 1939, p 2051

SECTION 1. Section 45.2 of the act cited in the title hereof is hereby amended to read:

No statute of limitations

Sec. 45.2. No statute of this State shall limit the time within which the commission may enforce the payment of contributions by civil action or any other remedy provided by this act if by reason of any intent to evade the provisions of this act no contribution report or an erroneous return has been filed.

Stats 1939, p 2051

SEC. 2. Section 45.5 of said act is amended to read:

Assessments by commission

Sec. 45.5. If an employing unit neglects or refuses to make a contribution report as required by this act or renders an erroneous contribution report, the commission through its duly authorized representatives shall make an estimate based upon any information in its possession or that may come into its possession of the amount of wages paid for employment for the delinquent for the period or periods in respect to which a contribution report was not filed or an erroneous contribution report made, and upon the basis of said estimated amount compute and assess employer and worker contributions payable by a delinquent; provided, that in the absence of an intent to evade the provisions of this act such assessment must be made and notification given to the employer as hereinafter provided within three years from the date on which the contribution liability included in the assessment became due. All such assessments shall bear interest and shall include penalties at the rate specified in this act for other delinquencies. Within a reasonable time after such assessment, the commission shall give to the delinquent written notice of such estimate, the notice to be served personally or by registered mail in the same manner as prescribed for services of notices in the Code of Civil Procedure, but the delinquent shall have the right to petition for reassessment of any contribution found to be due by the commission; provided such petition for reassessment is filed not later than 30 days after the service or mailing of the notice of the assessment; provided further, that an additional 30 days for the filing of a petition for reassessment may be granted if good cause is shown therefor.

When made

Interest

Delinquency notice

Petition for reassessment

Intent and construction

SEC. 4. The amendment made by Section 1 of this act to Section 45.2 of the Unemployment Insurance Act is hereby declared to be merely a clarification of the original intention of the Legislature, rather than a substantive change, and such section shall be construed for all purposes as though it had always read as hereinabove set forth.

CHAPTER 1115

An act to amend Sections 44, 45.11 and 46.1 of the Unemployment Insurance Act, relating to the collection of contributions.

Stats 1935, p 1226 amended

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 44 of the act cited in the title hereof is hereby amended to read:

Stats 1939, p 2051

Sec. 44. Beginning on January 1, 1936, each worker, employed by one employer subject to this act, shall contribute to the fund one-half of 1 per cent of his wages paid by an employer with respect to employment; and beginning on January 1, 1937, nine-tenths of 1 per cent of such wages and on and after January 1, 1938, and after his employer has satisfied the conditions set forth in this act with respect to becoming an employer, 1 per cent of such wages; except that the rate of contributions required of a worker shall not in any year exceed 50 per cent of the general rate required of employers. Each employer shall, notwithstanding any provisions of law in this State to the contrary, withhold in trust the amount of his workers' contributions from their wages at the time such wages are paid, shall show such deduction on his pay roll records, shall furnish each worker with a statement in writing showing the amount which has been deducted, in such form and at such times as the commission may prescribe, and shall transmit all such contributions to the fund, in addition to his own contributions, pursuant to regulations of the commission.

Contributions by employees

Employer's duties

Contributions by workers, payable to the commission as herein provided, shall be exempt from garnishment, attachment, execution or any other remedy for the collections of debts, and in the event of the insolvency or bankruptcy of the employer such contribution shall not be considered any part of the assets of the employer and shall be paid to the commission prior to the payment of any other claim against such employer.

Exemption from execution

Bankruptcy of employer

Each employer shall be liable for any and all contributions required to be made by his workers on account of wages paid to them by such employer regardless of whether or not such employer shall have made a deduction on account thereof from the workers' wages at the time such wages were paid; provided, however, that no employer shall be liable for contributions required on behalf of himself or of any of his employees with respect to wages payable or paid, as the case may require, while there is in effect at the time such wages became payable or were paid (whichever time is the time for determining contribution liability) a rule or regulation or interpretation of the commission or of the department that such wages were not subject to contributions imposed by this section. As used in this act, except when the context clearly requires otherwise,

Liability of employer

"Contributions"

the term "contributions" shall include the contributions of workers pursuant to this section.

Operation of rules

The commission or the department may prescribe the extent, if any, to which any rule regulation or interpretation issued or promulgated in accordance with the provisions of this act shall be applied without retroactive effect.

Stats 1939, p 2051

SEC. 2. Section 45.11 of said act is hereby amended to read:

Adjustments and refunds

Sec. 45.11. If not later than three years after the date on which any contributions, penalties, or interest were paid an employing unit who has paid such contributions, penalties, or interest thereon shall make application for an adjustment thereof in connection with subsequent contribution payments, or for a refund thereof because such adjustment can not be made, and the commission shall determine that such contributions, penalties or interest, or any portion thereof was erroneously collected, the commission shall allow such employing unit to make an adjustment thereof in connection with subsequent contribution liability or if such adjustment can not be made the commission may refund such contributions, penalties and interest from the clearing account. For like cause and within three years, adjustment or refund may be made on the commission's own initiative; provided, however, that before such adjustment or refund may be allowed the employing unit must conform to applicable rules and regulations of the commission with respect to the refund to the workers entitled thereto of any moneys deducted by the employing unit in accordance with Section 44 of this act.

Interest

Interest shall be allowed and paid out of the clearing account of the unemployment fund only to the extent that interest and penalties collected under Sections 45 and 45.3 are available therefor, upon any overpayment of contributions, if such overpayment was made under protest and was not made because of an error or mistake on the part of an employing unit, at the rate of 6 per cent per annum from the date of the overpayment to the date of the allowance of the adjustment, credit or refund.

Stats 1939, p 2051

SEC. 3. Section 46.1 of said act is hereby amended to read:

Representatives of insolvents and decedents Duties

Sec. 46.1. Every assignee, receiver, trustee in bankruptcy, or other representative of an insolvent employing unit, and every administrator or executor of the estate of a deceased employing unit, shall within 90 days after assuming office send due notice in writing of the name and address of the employing unit, his own name and address, and such other information as may be required by the commission. In addition to other penalties prescribed by this act, failure to observe the requirements of this section shall cause the assignee, receiver, trustee in bankruptcy, or other representative of an insolvent employing unit, or the administrator or executor of the estate of the deceased employing unit to be personally responsible for all loss in contributions, penalties and interest attributable to such failure to notify the commission, as provided for in this section. The liability

Liability

herein imposed may be enforced by civil action in the name of the commission against the assignee, receiver, trustee in bankruptcy, or other representative of the insolvent employing unit, and against the administrator or executor of the deceased employing unit.

CHAPTER 1116

An act to amend Section 27 of the Unemployment Insurance Act, relating to the escheating of funds.

Stats 1943, p 1226, amended

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 27 of the act cited in the title hereof is hereby amended to read:

Stats 1941, p 3002

Sec. 27. Any amounts determined by the commission or its authorized representatives to be payable to employing units or workers as refunds of contributions erroneously paid which are unclaimed at the end of three years from such determination shall be included in the revenue to the Unemployment Fund. The employing unit or person entitled to such payment shall not thereafter maintain any claim, action or proceeding with respect to such amounts. Whenever any warrant is drawn on an account in the Unemployment Fund or on the Unemployment Administration Fund by the State Controller or the commission and same remains unclaimed after three years the amount thereof shall revert to that account in the Unemployment Fund from which the amount was payable, or the Unemployment Administration Fund, as the case may be.

Unclaimed refunds

CHAPTER 1117

An act to amend Section 9.7 of the Unemployment Insurance Act, relating to the termination of subject status.

Stats 1935, p 1226 amended

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 9 7 of the act cited in the title hereof is amended to read:

Stats 1939, p 2037

Sec. 9.7. An employing unit shall cease to be an employer subject to this act only as of the first day of January of any calendar year, and only if it files with the commission on or before the thirty-first day of January of such year, a written application for termination of coverage, and the commission finds that there were no 20 different days, each day being

Cessation of employer status

in a different week within the preceding calendar year, within which such employing unit employed the number of individuals necessary to qualify as an employer subject to the act for the current calendar year under the provisions of Section 9 (a); provided, however, that the provisions of this section shall not apply to those employing units electing to become employers under the provisions of Section 15 of this act. The commission may for good cause waive the requirements for application for termination of coverage.

Exemption

Single employing unit

For the purpose of this section, the two or more employing units mentioned in subdivisions (b) and (c) of Section 9 shall be treated as a single employing unit in determining the liability of either of them for contributions during the calendar year following the year in which the acquisition occurred.

Commission's duty

The commission, prior to the close of each calendar year, shall send every employer an application for termination of coverage which shall be completed and returned to the commission within the time specified above by those employing units affected by the provisions of this section.

New employer

An employing unit ceasing to be an employer in accordance with this section or the provisions of Section 15, upon again qualifying as an employer shall be deemed to be a new employer for all purposes of this act.

CHAPTER 1118

An act making an appropriation to The Regents of the University of California to be expended for an investigation of the control of Pierce's disease of grapevines in California, declaring the urgency of this act, to take effect immediately.

In effect immediately

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

Appropriation Regents of University of California

SECTION 1. Out of any money in the State Treasury not otherwise appropriated, there is hereby appropriated to The Regents of the University of California the sum of thirty-five thousand dollars ($35,000) to be expended by The Regents of the University of California during the Ninety-fifth and Ninety-sixth Fiscal Years in carrying out an investigation of the control of Pierce's disease of grapevines in California.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health, and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California and therefore shall take effect immediately. The facts constituting such necessity are as follows:

The disease of grapevines known as Pierce's disease is now present in most of the vineyard districts of California and is

destroying large numbers of vines in those areas. This disease is one of the most destructive virus diseases known to the vineyard industry, and caused an estimated damage in 1942 alone in excess of one million dollars ($1,000,000) in crop loss. The disease is spreading rapidly and is of major concern in all counties producing grapes in this State and there is no known means of control. This disease has already completely eliminated the grape industry in certain counties of California, and unless immediate steps are taken will completely destroy the entire industry within the State.

CHAPTER 1119

An act making an appropriation for the support of the California Commission on Interstate Cooperation, to take effect immediately.

[Approved by Governor June 8, 1943 Filed with Secretary of State June 8, 1943.] In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Out of any money in the State treasury not otherwise appropriated, the sum of fifteen thousand dollars ($15,000) is hereby appropriated for the support of the California Commission on Interstate Cooperation during the Ninety-fifth and Ninety-sixth Fiscal Years. Appropriation California Commission on Interstate Cooperation

SEC. 2. This act, inasmuch as it makes an appropriation for the usual current expenses of the State, shall under the provisions of Section 1 of Article IV of the Constitution take effect immediately. Current expenses

CHAPTER 1120

An act to increase the statutory salary and the statutory compensation of State officers and State employees, and making an appropriation.

[Approved by Governor June 8, 1943 Filed with Secretary of State June 8, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. On September 1, 1943, the salary and compensation of each employee of the State and of each officer of the State (except State officers appointed by the Governor or elected by the people) whose salary or compensation is expressly fixed by statute (exclusive of the Constitution) at a definite amount, is hereby increased as follows: Statutory salaries Increase

(1) To each such officer and employee whose monthly salary or wage as fixed by statute (exclusive of the Constitution) does not exceed three hundred dollars ($300), during the period from September 1, 1943, to January 31, 1944, inclusive,

shall be paid an increase in accordance with the following schedule:

To such officer or employee who, on the effective date of this act has, for a period of not less than the time shown in the following schedule, occupied a position, the salary or wage for which has been fixed by statute (exclusive of the Constitution), an increase each month as herein specified:

For not less than one year and two months	$81.00
For not less than one year and one month	78.00
For not less than one year	75.00
For not less than eleven months	72.00
For not less than ten months	69.00
For not less than nine months	66.00
For not less than eight months	63.00
For not less than seven months	60.00
For not less than six months	55.00
For not less than five months	50.00
For not less than four months	45.00
For not less than three months	40.00
For not less than two months	35.00
For not less than one month	30.00
For less than one month	25.00

(2) To each such officer and employee whose monthly salary or wage as fixed by statute (exclusive of the Constitution) exceeds three hundred dollars ($300), during the period from September 1, 1943, to January 31, 1944, inclusive, shall be paid an increase in accordance with the following schedule:

To such officer or employee who, on the effective date of this act has, for a period of not less than the time shown in the following schedule, occupied a position, the salary or wage for which has been fixed by statute (exclusive of the Constitution), an increase each month as herein specified:

For not less than one year and two months	$69.00
For not less than one year and one month	66.00
For not less than one year	63.00
For not less than eleven months	60.00
For not less than ten months	57.00
For not less than nine months	54.00
For not less than eight months	51.00
For not less than seven months	48.00
For not less than six months	44.00
For not less than five months	40.00
For not less than four months	36.00
For not less than three months	32.00
For not less than two months	28.00
For not less than one month	24.00
For less than one month	20.00

(3) To each such officer and employee whose monthly salary or wage as fixed by statute (exclusive of the Constitution), does not exceed three hundred dollars ($300), during the

period February 1, 1944, to June 30, 1945, inclusive, shall be paid an increase of twenty-five dollars ($25) per month.

(4) To each such officer and employee whose monthly salary or wage as fixed by statute (exclusive of the Constitution), exceeds three hundred dollars ($300), during the period February 1, 1944, to June 30, 1945, inclusive, shall be paid an increase of twenty dollars ($20) per month.

SEC. 2. This act shall not apply to the salary or compensation earned by any State officer or employee for services rendered after June 30, 1945. Duration

SEC. 3. Out of any money in the State treasury not otherwise appropriated there is hereby appropriated the sum of twenty-five thousand ninety dollars ($25,090) in addition to, and in augmentation of, Item 228 in Section 2 of the "Budget Act of 1943" to carry out the provisions of this act. Appropriation

Stats 1943, Ch 62

CHAPTER 1121

An act to amend Section 54 of the Unemployment Insurance Act, relating to the weekly benefit amount.

Stats 1935, p 1226, amended

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 54 of the Unemployment Insurance Act is amended to read:

Stats 1943, Ch 1109

Sec. 54. An individual's "weekly benefit amount" shall be the amount appearing in Column B in the table set forth in this section on the line of which in Column A of such table there appears the wage bracket containing the amount of wages earned by such individual for employment by employers during the quarter of his base period in which such wages were the highest.

"Weekly benefit amount"

Table

A Amount of wages in highest quarter	B Weekly benefit amount
$75.00-$199.99	$10
200.00- 219.99	11
220.00- 239.99	12
240.00- 259.99	13
260.00- 279.99	14
280.00- 299.99	15
300.00- 319.99	16
320.00- 339.99	17
340.00- 359.99	18
360.00- 379.99	19
380.00- and over	20

CHAPTER 1122

An act to amend Section 542 of the Code of Civil Procedure, relating to the attachment of real and personal property.

In effect August 4, 1943

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

Stats 1937, p 1617

SECTION 1. Section 542 of the Code of Civil Procedure is amended to read as follows:

Execution by sheriff, etc

542. The sheriff, constable, or marshal, to whom the writ is directed and delivered, must, upon receipt of instructions in writing, signed by the plaintiff or his attorney of record, and containing a description of the property, and in the case of real property or growing crops the name of the record owner of the real property to be attached, or upon which the crops are growing, and a statement as to whether or not the real property is registered under the Land Title Law, an initiative act adopted by election November 3, 1914, execute the same without delay, and if the undertaking mentioned in Section 540 of this code be not given, as follows:

Real property in defendant's name

1. Real property, standing upon the records of the county in the name of the defendant, must be attached, by filing with the recorder of the county a copy of the writ, together with a description of the property attached, and a notice that it is attached, and by serving an occupant of the property, if there is one upon the property at the time service is attempted, with a similar copy of the writ, description and notice, or if there is no occupant then on the property, then, by posting the same in a conspicuous place on the property attached. Service upon the occupant may be made by leaving said copy of the writ, description and notice with the occupant personally, or, in his absence with any person of suitable age and discretion, found upon the property at the time service thereof is attempted and who is either an employee or agent of such occupant or a member of his family or household. Where the property described in the notice consists of more than one distinct lot, parcel or governmental subdivision and any of such lots, parcels or governmental subdivisions lie with relation to any of the others so as to form one or more continuous, unbroken tracts, one service or posting, need be made as to each such continuous, unbroken tract.

Growing crops on real property in defendant's name

1a. Growing crops (which, until severed, shall be deemed personal property not capable of manual delivery), growing upon real property standing upon the records of the county in the name of the defendant, must be attached by filing with the recorder of the county a copy of the writ, together with a description of the growing crops to be attached, and of the real property upon which the same are growing, and a

notice that such growing crops are attached in pursuance of the writ, and by serving an occupant of the real property, if there is one upon the real property at the time service is attempted, with a similar copy of the writ, description and notice, or if there is no occupant then on the real property, then, by posting the same in a conspicuous place on the real property. Service upon the occupant may be made by leaving said copy of the writ, description and notice with occupant personally, or, in his absence, with any person, of suitable age and discretion, found upon the real property at the time service thereof is attempted and who is either an employee or agent of such occupant or a member of his family or household. Where the real property described in the notice consists of more than one distinct lot, parcel or governmental subdivision, and any of such lots, parcels or governmental subdivisions lie with relation to any of the others so as to form one or more continuous unbroken tracts, one service or posting need be made as to each such continuous unbroken tract.

Whenever growing crops have been attached under the provisions of this subdivision, which will greatly deteriorate in value, unless properly cultivated, cared for, harvested, packed or sold, the court issuing such writ, upon application of the person in whose favor the writ runs, and after due notice to the owner of said property, may direct the sheriff to take possession of said property and to cultivate, care for and preserve the same and, when necessary, harvest, pack and sell such property. Any sale of such property shall be made in the same manner that property is sold on execution and the proceeds must be retained by the sheriff to be applied to the satisfaction of any judgment which may be recovered in the action in which said writ is issued. The court shall order said applicant to pay such expenses in advance if the court may deem it proper, or may direct that the whole or any part of such expenses be paid from the proceeds of any sale of such property.

Real property in name of person other than defendant

2. Real property, or any interest therein, belonging to the defendant, and held by any other person, or standing on the records of the county in the name of any other person, must be attached in the same manner as is real property standing upon the records of the county in the name of the defendant by the provisions of Subdivision 1 of this section and the notice of attachment shall state that the real property therein described, and any interest of the defendant therein held by or standing on the records of the county in the name of such other person (naming him), are attached. In addition, a similar copy of the writ, description and notice shall be delivered to such other person, or his agent, if known and within the county, or left at the residence of either, if within the county. The recorder must index such attachment when filed, in the names, both of the defendant and of the person by whom the property is held or in whose name it stands of record.

Growing crops of real property of person other than defendant

2a. Growing crops (which, until severance, shall be deemed personal property not capable of manual delivery), or any interest therein, belonging to the defendant, and growing upon real property held by any other person or standing upon the records of the county in the name of any other person, must be attached in the same manner as growing crops growing upon real property standing upon the records of the county in the name of the defendant are attached by the provisions of Subdivision 1a of this section, and the notice of attachment shall state that the crops therein described or any interest of the defendant therein, held by, or standing upon the records of the county in the name of, such other person (naming him), are attached in pursuance of the writ. In addition, a similar copy of the writ, description and notice shall be delivered to such other person, or his agent, if known and within the county, or left at the residence of either, if known and within the county. The recorder must index such attachment when filed, in the names of both the defendant and of the person by whom the real property is held, or in whose name it stands on the record.

Whenever growing crops have been attached under the provisions of this subdivision, which will greatly deteriorate in value unless properly cultivated, cared for, harvested, packed or sold, the court issuing such writ, upon application of the person in whose favor the writ runs, and with or without notice as the court directs to the owner of said property, may direct the sheriff to take possession of said property and to cultivate, care for and preserve the same and, when necessary harvest, pack and sell such property. Any sale of such property shall be made in the same manner that property is sold under execution and the proceeds must be retained by the sheriff to be applied to the satisfaction of any judgment which may be recovered in the action in which said writ is issued. The court shall order said applicant to pay such expenses in advance if the court may deem it proper, or may direct that the whole or any part of such expenses be paid from the proceeds of any sale of such property.

Personal property

3. Personal property, capable of manual delivery, in the possession of the defendant, must be attached by taking it into custody.

Stocks and shares

4. Stocks or shares, or interest in stocks or shares, of any corporation or company, must be attached by leaving with the president, vice president or other head of the same, or the secretary, assistant secretary, cashier, assistant cashier, or any managing agent, thereof, a copy of the writ, and a notice stating that the stock or interest of the defendant is attached, in pursuance of such writ.

Deposit: Personal property capable of manual delivery

5. In cases where the sheriff, constable, or marshal is instructed to take into possession personal property capable of manual delivery, whether the same is to be placed in a warehouse or in custody of a keeper, the sheriff, constable or mar-

shal shall require, as a prerequisite to the taking of such property, that in addition to written instructions the plaintiff or his attorney of record deposit with the sheriff, constable or marshal, a sum of money sufficient to pay the expenses of taking and keeping safely said property for a period not to exceed five days. In the event that a further detention of said property is required, the sheriff, constable or marshal must, from time to time, make written demand upon the plaintiff or his attorney for further deposits to cover estimated expenses for periods not to exceed five days each. Such demand must be served as provided in Section 1011 of this code, or by depositing such notice in the post office in a sealed envelope, as first-class registered mail, postage prepaid, addressed to the person on whom it is served at his last known office or place of residence. In the event that the money so demanded is not paid the sheriff, constable, or marshal shall release the property to the person or persons from whom the same was taken. There shall be no liability upon the part of the sheriff, constable or marshal to take or hold personal property unless the provisions of this section shall have been fully complied with.

Further deposits

6. Debts and credits and other personal property, not capable of manual delivery must be attached by leaving with the persons owing such debts, or having in his possession, or under his control, such credits and other personal property, or with his agent or in the case of a corporation, with the president of the corporation, vice president, secretary, assistant secretary, cashier, or managing agent thereof, a copy of the writ, and a notice that the debts owing by him to the defendant, or the credits and other personal property in his possession, or under his control, belonging to the defendant, are attached in pursuance of such writ; provided, however, that debts owing to the defendant by a banking corporation or association, building and loan association or title insurance company, maintaining branch offices, or credits or other personal property whether or not the same is capable of manual delivery, belonging to the defendant and in the possession of or under the control of such banking corporation or association, building and loan association or title insurance company, must be attached by leaving a copy of the writ and the notice with the manager or other officer of such banking corporation, or association, building and loan association or title insurance company at the office or branch thereof at which the account evidencing such indebtedness of the defendant is carried, or at which such banking corporation or association, building and loan association or title insurance company has credits or other personal property belonging to the defendant in its possession or under its control; and no attachment shall be effective as to any debt owing by such banking corporation or association,

Personal property not capable of manual delivery

building and loan association or title insurance company if the account evidencing such indebtedness is carried at an office or branch thereof not so served, or as to any credits or other personal property in its possession or under its contro at any office or branch thereof not so served.

Torrens title property

7. If real property sought to be attached is registered under said land title law, an additional copy of the writ, together with a description of the Torrens title certificate, a description of the property and a notice that it is attached shall be filed with the registrar of titles of the county.

CHAPTER 1123

Stats 1939, p 1067, amended

An act to add Sections 506.6 and 506.7 to the Public Resources Code, relating to the powers and duties of the State Park Commission respecting shore line protection, improvement and development of State or publicly owned beaches, and to appointment of a Beach Erosion Control Engineer.

In effect August 4, 1943

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 506.6 is added to the Public Resources Code, to read:

Employees

506.6. (1) The State Park Commission is hereby authorized and directed to appoint, in accordance with civil service and other provisions of law, such officers and other expert and clerical assistants as it may deem necessary, including a Beach Erosion Control Engineer. The Beach Erosion Control Engineer shall be a civil engineer registered under the Civil Engineers' Act and shall have had not less than ten (10) years experience in beach and shore line protection, improvement, and development, and his salary shall not exceed six thousand dollars ($6,000) a year. It shall be his duty:

Beach Control Engineer; Salary

Duties

(a) To study and report upon problems of beach erosion and means for the development, protection and improvement of beaches and shore line areas.

(b) To investigate and report to the State Park Commission upon beach areas suitable or needed for public recreation purposes and to prepare plans for the improvement, development, and protection of public beaches.

(c) To cooperate with all agencies of government, Federal and State, for the purpose of carrying out the provisions of this code, and to act in an advisory capacity on beach erosion, protection, improvement and development when requested by political subdivisions of the State, when so authorized by the State Park Commission.

(d) To assist in the preparation of a State master plan of shore line development, which plan shall take into consideration, correlate and coordinate, as nearly as feasible, the master plans of shore line development of the various coastal counties of the State.

SEC. 2. Section 506.7 is added to the Public Resources Code, to read: New section

506.7. The State Park Commission shall have power to adopt, alter, change or amend any State master plan of shore line development. Change in plan

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CHAPTER 1124

An act to repeal an act entitled "An act granting rights of way for lines, roads, structures, levees, canals and excavations to the United States over the proprietary lands of this State," approved May 18, 1921, and Section 8351 of the Public Resources Code, making a statement of Legislative intent and defining certain terms, declaring the urgency hereof to take effect immediately. Stats 1921, p 180, repealed; Stats 1939, p 1067, amended

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.] In effect immediately

The people of the State of California do enact as follows:

SECTION 1. The act cited in the title hereof is repealed. Repeal

SEC. 2. Section 8351 of the Public Resources Code is repealed. Stats 1943, Ch 609

SEC. 3. It is hereby declared that the term "proprietary lands" or terms or designations of like or similar purport and meaning as used in the act cited in the title hereof and as used in the continuation and extension of said act in Section 8351 of the Public Resources Code does not include, has never included and was not intended by the Legislature to include lands held by the State in trust for a particular purpose, nor to lands which have been sold or deeded or both to the State because of tax delinquency on the part of the person liable for such taxes assessed against such lands. "Proprietary lands"

SEC. 4. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows: Urgency

This is a period of National emergency. There has been a great influx of representatives of various agencies of the United States. To allow such agents access to State lands will greatly impede the State in the use of its property. The

great increase in the number of such representatives necessitates an immediate change of policy of this State in regard to rights of way over its proprietary lands. To defer operation of this act will be highly detrimental to the State in the utilization of its property. It is, therefore, necessary that this act take effect immediately.

CHAPTER 1125

Stats 1941, p 2816, repealed

An act making an appropriation to the Division of Beaches and Parks, Department of Natural Resources, for the acquisition of land in Marin County as part of the State Park System, and to repeal an act entitled "An act making an appropriation to the Department of Natural Resources, Division of Parks, for the acquisition of land in Marin County as part of the State Park System," approved July 12, 1941.

In effect immediately

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

Appropriation Division of Beaches and Parks

SECTION 1. In addition to any other money appropriated there is hereby appropriated to the Division of Beaches and Parks, Department of Natural Resources, out of any money appropriated by subdivision (b) of said Section 5014 of the Public Resources Code to the State Park Maintenance and Acquisition Fund the sum of thirty thousand dollars ($30,000), or so much thereof as may be necessary, and subject to the conditions provided in this act, for the acquisition during the Ninety-fifth and Ninety-sixth Fiscal Years for State park purposes of land in Marin County known as "Camp Taylor" and more particularly described as follows:

Tract of land known as Lot A, Sec. 2-3-9-10, T. 2 N., R. 8 W., containing 607 acres; tract of land known as Lot A, Sec. 11, T. 2 N., R. 8 W., containing 450 acres; tract of land known as Lot A, Sec. 12, T. 2 N., R. 8 W., containing 45 acres; tract of land known as Lot A, Sec. 14, T. 2 N., R. 8 W., containing 374 acres; tract of land known as Lot A, Sec. 15, T. 2 N., R. 8 W., containing 531 acres; tract of land known as Lot A, Sec. 22-23, T. 2 N., R. 8 W., containing 295 acres; all more fully described in Book 45 of Deeds on page 25, Marin County Records;

Also tract of land bounded northeast and east by F. W. Dickson 346 acre tract and 80.3 acre tract, southwest by land of Eliz. A. Rodgers, containing 30.4 acres more fully described in Book 45 of Deeds on page 25, Marin County Records, being altogether 2,332.4 acres, more or less.

Conditions of expenditure

SEC. 2. No part of the appropriation made by this act shall be expended until such time as the board of supervisors

of the County of Marin either (a) cancels the entire amount of delinquent taxes and penalties upon the land described in Section 1; or (b) pays into the State treasury for use by the State for the acquisition of said land an amount equivalent to the total of such taxes and penalties, said amount being approximately thirty thousand dollars ($30,000).

Any additional money needed for the purchase or acquisition of the lands described herein shall be raised by public subscription, and the board of supervisors of the County of Marin is hereby authorized to appoint a committee of responsible citizens of the County of Marin for that purpose. Additional money

SEC. 3. The act cited in the title hereof is repealed. Repeal

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CHAPTER 1126

An act to add Section 1920b to the Code of Civil Procedure, relating to the preservation of documentary records by the preparation of photographic copies thereof and providing that such copies may be used in place of the original under certain conditions.

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 1920b is hereby added to the Code of Civil Procedure, to read as follows: New section

1920b. A print, whether enlarged or not, from any photographic film, including any photographic plate, microphotographic film, or photostatic negative, of any original record, document, instrument, plan, book or paper destroyed or lost after such film was taken may be used in all instances that the original record, document, instrument, plan, book or paper might have been used, and shall have the full force and effect of said original for all purposes, upon proof that the following conditions exist: Use of photographic copies; Conditions

1. That at the time of the taking of said photographic film, microphotographic, photostatic or similar reproduction, the person or officer under whose direction and control same was taken, attached thereto, or to the sealed container in which the same was placed and has been kept, a certification complying with the provisions of Section 1923 of this code and stating the date on which, and the fact that, the same was so taken under his direction and control;

2. That said photographic film, microphotographic, photostatic or similar reproduction was taken in order to keep a permanent record of the original; and

3. That the said original was subsequently destroyed or lost.

CHAPTER 1127

An act to add Section 5.751-1 to the School Code and to add Section 13842.1 to the Education Code, relating to salaries of persons employed by school districts in positions requiring certification qualifications, declaring the urgency thereof, to take effect immediately.

Stats 1943, Ch 71, amended

In effect immediately

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 5.751-1 is added to the School Code, to read:

Salary for full time day school teacher

5.751-1. The governing board of each school district shall pay to each person employed in a day school of the district for full time in a position or positions requiring certification qualifications an annual salary of not less than one thousand five hundred dollars ($1,500).

Salary for part time teacher

The governing board of each school district shall pay to each person employed for less than full time in a position or positions requiring certification qualifications an annual salary of not less than an amount which shall be the same proportion of one thousand five hundred dollars ($1,500) as the time required of such person in such position or positions is of the time required of a person employed full time in a position or positions requiring certification qualifications.

"For full time"

As used herein the term "for full time" means for not less than the minimum school day each day the schools of the district are maintained during the school year.

Apportionment

In the event any elementary school district receives as income during any school year from all available sources less than one thousand seven hundred fifty dollars ($1,750), the county superintendent of schools having jurisdiction over the district may apportion to such district from the unapportioned county elementary school fund not to exceed eighty dollars ($80) for the purpose of enabling the governing board of such district to comply with the provisions of this section.

Substitutes

The provisions of this section shall not be construed as applying to substitute employees of a school district.

Salaries affected

The provisions of this section shall apply to salaries paid during the school year commencing July 1, 1943, and during subsequent school years.

Note.—See Stats. 1943, Ch. 71.

Effect

Stats 1943, Ch 71

Repeal

SEC. 3. Section 1 of this act remains operative only until the Education Code, enacted by the Legislature at its Fifty-fifth Session, takes effect, at which time Section 5.751-1 of the School Code added by this act is hereby repealed.

SEC. 4. This act shall remain in effect until June 30, 1945. While this act is in effect it shall supersede any existing provisions of law which are in conflict with this act; but such provisions are not repealed by this act and after this act is no longer effective shall have the same force as though this act had not been enacted. Duration. Existing law.

SEC. 5. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows: Urgency.

Since the establishment of the present minimum salary for persons employed full time by districts in positions requiring certification qualifications, not only has the cost of the necessities of life increased tremendously but the burden of taxes on income has become so heavy that the present minimum salary virtually makes it impossible for any person, or family to subsist on the present minimum salary. It is essential that an increase in the minimum salary be made effective immediately in order to permit those receiving the minimum salary to receive a salary during the school year commencing July 1, 1943, and subsequent school years if the adverse consequences of salaries which are too low to permit decent living conditions are to be avoided.

SEC. 6. This act shall not become effective unless an act entitled "An act to add Sections 4.1-1, 4.781-1, 4.782-1, 4.784-1, 4.791-1, 4.793-1, 4.794-1, and 4.796-1 to the School Code and to add Sections 5151.1, 6952.1, 6953.1, 6957.1, 6972.1, 6974.1, 6975.1, and 6977.1 to the Education Code, relating to the support of the public elementary schools and making an appropriation, declaring the urgency thereof, to take effect immediately," is enacted by the Fifty-fifth Session of the Legislature. Stats. 1943, Ch. 1085.

CHAPTER 1128

An act to amend Section 352 of the Political Code, relating to the traveling expenses of State officers and employees.

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.] In effect August 4, 1943.

The people of the State of California do enact as follows:

SECTION 1. Section 352 of the Political Code is amended to read: Stats. 1941, p. 2341.

352. (a) All elective constitutional officers, heads of departments, chiefs of divisions, assistants, deputies, agents, experts and other officers and employees of the State when Traveling expenses.

away from their headquarters on State business and all Members of the Legislature when attending regular, special or extraordinary session of the Legislature shall be entitled to receive in addition to their salaries, their actual necessary traveling expenses.

Headquarters (b) The headquarters of heads of departments, elective constitutional officers (other than Member of the Legislature), commissioners of divisions in the Department of Investment, and members of all boards and commissions, unless fixed by law, shall be determined and fixed by the State Board of Control, and the headquarters of all other officers, agents and employees shall be determined and fixed by the appointing power.

Out-of-State travel (c) Any officer or employee of any State department, board, commission or agency may confer with other persons, associations or organizations outside of the State whenever it may be of assistance to such State department, board, commission or agency in the conduct of its work, and actual and necessary traveling expenses shall be allowed such persons when traveling outside of the State, when such traveling and expenses have been approved by the Governor and by the Director of Finance. Except as otherwise expressly provided by any act creating a new department, the members of no State board or commission which is created or continued in force by such act, shall receive any compensation for their services, but they shall be allowed necessary expenses incurred in the performance of duty.

CHAPTER 1129

Stats 1935, p. 93, amended *An act to amend Section 186 of the Vehicle Code, relating to transfers of vehicles.*

In effect August 4, 1943 [Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

Stats 1941, p. 2095 SECTION 1. Section 186 of the Vehicle Code is amended to read:

When transfer complete 186. Transfer of Title or Interest. (a) No transfer of the title or any interest in or to a vehicle registered hereunder shall pass and any attempted transfer shall not be effective unless and until the parties thereto have fulfilled either of the following requirements:

(1) The transferor shall have made proper endorsement and delivery of the certificate of ownership and delivery of the registration card to the transferee as provided in this code and the transferee has delivered to the department or has placed in the United States mail, addressed to the department, such certificate and card when and as required under this code

with the proper transfer fee and thereby makes application for a transfer of registration except as otherwise provided in Section 180, or

(2) The transferor shall have delivered to the department or shall have placed in the United States mail addressed to the department the appropriate documents for the registration or transfer of registration of such vehicle pursuant to such sale or transfer except as provided in Section 178.

Involuntary transfers

(b) The conditions of subdivision (a) of this section shall not apply to involuntary transfers as upon repossession by a vendor under a conditional contract of sale or to transfers with respect to chattel mortgage liens subject to Chapter 3 of this division.

CHAPTER 1130

An act to authorize the creation of a branch of the University of California at Santa Barbara, to abolish Santa Barbara State College, to transfer to The Regents of the University of California all properties belonging to or used for the benefit of said college, including moneys appropriated and unexpended, or which may be appropriated, to grant to employees of Santa Barbara State College who may become employees of the University of California, certain privileges with respect to membership in retirement and pension systems.

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

Abolition and creation

SECTION 1. Santa Barbara State College is hereby abolished, and in its place and stead there shall be created at Santa Barbara a branch of the University of California.

Transfer of property and funds

SEC. 2. All properties, real and personal, belonging to and used by Santa Barbara State College, including all moneys heretofore appropriated for it and unexpended, or which hereafter may be appropriated for it and remain unexpended, are hereby transferred to and vested in The Regents of the University of California, subject to the condition specified in Section 6 of this act. The Regents of the University of California shall be subject to no debts or liabilities which have heretofore accrued, or which hereafter may accrue, against Santa Barbara State College, beyond the amount of the unexpended appropriations heretofore or hereafter made for the State college.

Liability for debts

University branch

SEC. 3. If The Regents of the University of California consent thereto, not later than two years after the effective date of this act they shall establish and thereafter maintain and conduct at Santa Barbara in the place and stead of Santa Barbara State College, a branch of the University of California for the purpose of providing, and at which The Regents of the

University of California shall provide, such courses of university grade as they from time to time may deem proper.

Assistance, etc.

SEC. 4. All officers and boards of this State in anywise empowered or authorized to act in respect of the control, management, or operation of Santa Barbara State College, or empowered or authorized to expend any money for the support or benefit of the State college, or to transfer, convey, or otherwise deal with any of the properties of the State college, or properties used by it or for its benefit, shall take such measures and to do such things as shall be directed or approved by The Regents of the University of California for the accomplishment of the purposes of this act.

Employees

SEC. 5. Every employee of the Santa Barbara State College, and every employee who is absent upon military service, at the time said State college becomes a branch of the University of California, shall thereafter continue in a like capacity as an employee of the University of California, in accordance with the terms of his contract with Santa Barbara State College heretofore entered into. If the employee is a member of a State retirement or pension system, he shall remain a member of the retirement or pension system to which he belongs at such time, but thereafter, at his option, may withdraw therefrom to become a member of any other retirement or pension system to which he is or may become eligible; provided, he shall exercise the option hereby given within 90 days after said State college becomes a branch of the University of California.

Retirement election

Employee in armed forces

If at the time said State college becomes a branch of the University of California the employee is in the armed service of the United States, or of the State, he shall have 90 days after his separation therefrom under honorable conditions within which to exercise the option hereby given. If under said option, he elects to terminate membership in the State Employees' Retirement System and to be a member of the State Teachers' Retirement System, he shall be considered, solely for the purposes of Section 75 of the State Employees' Retirement Act, as permanently separated from State service.

Contribution on exercise of option

The normal contribution required of each person affirmatively exercising said option to terminate membership in the State Teachers' Retirement System and to be a member of the State Employees' Retirement System, shall be based on said person's nearest age at the earliest date he became eligible for membership in the said State Employees' Retirement System prior to the time said State college becomes a branch of the University of California; and within one year after the time said State college becomes a branch of the University of California, or within one year of his return from military service, said person shall pay to the State Employees' Retirement System an amount sufficient to make the accumulated contributions credited to said person under said system equal to the amount which would have been credited had said person been a member of said system from and after the earliest date he

became eligible for membership in the State Employees' Retirement System prior to the time said State college becomes a branch of the University of California. The State shall contribute to the State Employees' Retirement System on account of said person, amounts equal to contributions which would have been made had said person been a member of the State Employees' Retirement System from said first date of eligibility.

Discontinuance of branch

SEC. 6. In the event The Regents of the University of California should discontinue the branch of the University of California at Santa Barbara herein provided for, the real property belonging to or used by Santa Barbara State College, granted by Section 2 of this act, shall revert immediately to the State of California, and the control of the property by The Regents of the University of California shall cease.

University's consent

SEC. 7. No provision of this act relating to Santa Barbara State College, or pertaining to or affecting its properties and operations, shall be operative until The Regents of the University of California, at a duly called meeting, by resolution consent to establish a branch of the University of California at Santa Barbara and cause to be delivered to the office of the Superintendent of Public Instruction a copy of the resolution directed to the Superintendent of Public Instruction.

"The Regents of the University of California"

SEC. 8. "The Regents of the University of California," as used in this act means The Regents of the University of California, the corporation named in Article IX, Section 9 of the Constitution of the State of California.

CHAPTER 1131

An act to amend Section 18200 of the Health and Safety Code, relating to the enforcement of the provisions of Part 2 of said code.

Stats 1939, p 482, amended

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

Stats 1941, p 2790

SECTION 1. Section 18200 of the Health and Safety Code is hereby amended to read as follows:

Enforcement

18200. The California Highway Patrol shall enforce the provisions of Section 18602. The Division of Immigration and Housing in the Department of Industrial Relations shall enforce every other provision of this part; provided, however, that the health officer of the county in which any auto court or resort or auto and trailer camp is situated, may enforce the provisions of Article 3 of Chapter 4, and Articles 3, 4 and 5 of Chapter 5 of this code.

County health officer

Enforcement authority

The officers or agents of the division or the county health officer may:

(a) Enter public or private property to determine whether there exists any auto court and resort, auto camp or trailer camp to which this part applies.

(b) Enter and inspect all auto courts and resorts, auto camps or trailer camps, wherever situated, and inspect all accommodations, equipment or paraphernalia used in connection therewith, including the right to examine any registers of occupants maintained therein in order to secure the enforcement of the provisions of this part.

Peace officers

For the purpose of securing the enforcement of this part the officers or agents of the Division of Immigration and Housing shall have the authority of peace officers, including authority to make arrests, to serve any process or notice throughout the State, and generally such other authority of peace officers as may be necessary in order to secure enforcement of this part.

CHAPTER 1132

An act making an appropriation to pay the claim of the Departmental Accounting Officer of the Department of Finance against the State of California, to take effect immediately.

In effect immediately

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

I object to the item of $660,536.85 in Section 1 of Assembly Bill No. 1538 and reduce the amount to $362,309.12. With this reduction I approve the bill.

It is my intention to reduce, and I hereby reduce, the sources from which the total sum is to be paid, as follows:

Out of any money in the State treasury not otherwise appropriated, from $539,470.46 to $256,276.17;

Out of any money in the State Agricultural Society Contingent Fund in the State treasury, from $1,667.50 to $117.50;

Out of any money in the Real Estate Fund in the State treasury, from $3,597.42 to $1,800.00;

Out of any money in the Retail Sales Tax Fund in the State treasury, from $62,781.01 to $51,194.93.

EARL WARREN
Governor of California

The people of the State of California do enact as follows:

Appropriation: Departmental Accounting Officer of Department of Finance

SECTION 1. The sum of six hundred sixty thousand five hundred thirty-six dollars and eighty-five cents ($660,536.85) is hereby appropriated to be paid as hereinafter described, to pay the claim of the Departmental Accounting Officer of the Department of Finance against the State of California.

Allocation

SEC. 2. The sum of six hundred sixty thousand five hundred thirty-six dollars and eighty-five cents ($660,536.85) shall be paid as follows:

$539,470.46 out of any money in the State Treasury not otherwise appropriated;

1,667.50 out of any money in the State Agricultural Society Contingent Fund in the State Treasury;

$1,953.18 out of any money in the Alcohol Beverage Control Fund in the State Treasury;
524.46 out of any money in the Contractors' License Fund in the State Treasury;
147.60 out of any money in the Dentistry Fund in the State Treasury;
362.81 out of any money now or hereafter in the Fair and Exposition Fund in the State Treasury which otherwise would be allocated to the Thirteenth District Agricultural Association for payment of premiums and other expenses as defined by Section 92 of the Agricultural Code;
1,613.66 out of any money in the Fish and Game Preservation Fund in the State Treasury;
22,849.81 out of any money in the State Highway Fund in the State Treasury;
433.07 out of any money in the Insurance Fund in the State Treasury;
30.12 out of any money in the Joint Navigation and Flood Control Fund in the State Treasury;
481.21 out of any money in the State Lands Act Fund in the State Treasury;
117.70 out of any money in the Medical Examiners' Contingent Fund in the State Treasury;
1,697.20 out of any money in the Motor Vehicle Support Fund in the State Treasury;
33.38 out of any money in the Motor Vehicle Transportation License Tax Fund in the State Treasury;
11,355.47 out of any money in the Motor Vehicle Fuel Fund in the State Treasury;
932.41 out of any money in the Petroleum and Gas Fund in the State Treasury;
80.00 out of any money in the Pharmacy Board Contingent Fund in the State Treasury;
1,362.80 out of any money in the Sacramento and San Joaquin Drainage District Fund, General Assessment No. 1, Administrative, in the State Treasury;
3,597.42 out of any money in the Real Estate Fund in the State Treasury;
62,781.01 out of any money in the Retail Sales Tax Fund in the State Treasury;
8,613.14 out of any money in the San Francisco Harbor Improvement Fund in the State Treasury;
6.56 out of any money in the Service Revolving Fund in the State Treasury;
325.88 out of any money in the Veterans' Farm and Home Building Fund in the State Treasury.

Current expenses

SEC. 3. Inasmuch as this act makes an appropriation for the usual current expenses of the State, it shall, under the provisions of Section 1 of Article IV of the Constitution take effect immediately.

CHAPTER 1133

Stats. 1939, p. 1274, amended

An act to amend Section 107 of the Revenue and Taxation Code, relating to the taxation of real and personal property, including the taxing of possessory interests and mining rights.

In effect August 4, 1943

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

Stats 1941, p. 409

SECTION 1. Section 107 of the Revenue and Taxation Code is amended to read:

"Possessory interests"

107. "Possessory interests" means the following:

(a) Possession of, claim to, or right to the possession of land or improvements, except when coupled with ownership of the land or improvements in the same person.

(b) Taxable improvements on tax exempt land.

Insufficient security

Except as provided in this section, possessory interests shall not be considered as sufficient security for the payment of any

Oil leases

taxes. Leasehold estates for the production of gas, petroleum and other hydrocarbon substances from beneath the surface of the earth, and other rights relating to such substances which constitute incorporeal hereditaments or profits a prendre, are sufficient security for the payment of taxes levied thereon. Such estates and rights shall not be classified as possessory interests, but shall be placed on the secured roll.

Sale for delinquent taxes

In the event of delinquency in the payment of any installment of taxes on such leasehold estates or rights, they shall be subject to seizure and sale in the same manner as provided for the seizure and sale of possessory interests in Sections 2914 to 2919, inclusive, at any time within one year after the delinquency. Suit may be brought against an assessee of such taxes in the event of delinquency in the payment thereof.

CHAPTER 1134

Stats 1941, p 2538, amended

An act to add Section 4 to an act entitled "An act to provide for the improvement and reconstruction of a road in the County of Mendocino, and making an appropriation therefor," approved July 11, 1941, relating to availability of any unexpended balance of the appropriation made therein, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 4 is added to the act cited in the title hereof, to read:

Unexpended appropriation

Sec. 4. The provisions of Section 435 of the Political Code or any other provisions of law to the contrary notwithstanding, any unexpended balance of the sum appropriated under

this act shall remain available for the purposes for which appropriated and shall not revert to the fund from which appropriated.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California, and as such shall take effect immediately. The following is a statement of the facts constituting such necessity: Urgency

The war effort has made heavy demands on the lumber industry. Lumber is required by defense industries and the armed forces. The road referred to in the Burns-Biggar Act is the only road over which lumber products can be shipped to market from sawmills in the vicinity. Shipments of lumber are delayed due to the poor condition of this road. Certain State moneys were made available for expenditure during the Ninety-third and Ninety-fourth Fiscal Years for the improvement and reconstruction of this road. The work can not be completed, due to the lack of manpower, prior to the close of the Ninety-fourth Fiscal Year and unless this act goes into immediate effect work on the road will cease on June 30, 1943. The cessation of work will delay the completion of the improvement and reconstruction of the road and thus hinder and delay the flow of lumber products to industry and the armed forces.

CHAPTER 1135

An act to amend Sections 50 and 372 of the Vehicle Code, relating to the definition of "Unladen Weight" and the payment of weight fees for commercial vehicles. Stats 1935, p 93, amended

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.] In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 50 of the Vehicle Code is amended to read: Stats 1937, p 411

50. "Unladen Weight." The "unladen weight" of a vehicle is the weight of the vehicle equipped and ready for operation on the road including the body, fenders, oil in motor, radiator full of water, with five gallons of gasoline or equivalent weight of other motor fuel; also accessories required by law such as lamps and signals and those special cabinets, boxes and body parts permanently attached to the vehicle, but excluding any load or any machinery or mechanical apparatus which is not a regular part of a motor vehicle but which may be attached to the body or chassis or connected with the driving mechanism which shall be regarded as a part of the load but not a part of the unladen weight of the vehicle. Removable side boards or end gates installed for occasional use but not "Unladen weight" Not part of unladen weight

permanently attached to the body or chassis of a commercial vehicle weighing unladen 3,400 pounds or less without such boards or gates shall not constitute a part of the unladen weight of the vehicle when such vehicle is used primarily upon the premises of the owner.

Stats 1941, pt 1677

SEC. 2. Section 372 of said code is amended to read:

Weight fees for commercial vehicles

372. Weight Fees for Commercial Vehicles. (a) In addition to the registration fee specified in Section 370, there shall be paid fees as set forth in this section for the registration of every vehicle of a type subject to registration used or maintained for the transportation of persons for hire, compensation or profit or designed, used or maintained primarily for the transportation of property.

(b) For any electric vehicle designed, used or maintained as described in subdivision (a) hereof fees shall be paid for registration according to the following schedule:

Unladen weight	Fee
(1) Less than 6,000 pounds	$28 25
(2) 6,000 pounds or more but less than 10,000 pounds	$50 00
(3) 10,000 pounds or more	$80 00

(c) For any vehicle designed, used or maintained as described in subdivision (a) hereof other than an electric vehicle when equipped wholly with pneumatic tires fees shall be paid for registration according to the following schedule:

Weight	Fee
(1) When unladen, 3,000 pounds or more, but less than 6,000 pounds and if not used primarily on the premises of the owner	$ 8 00
(2) When unladen, 3,400 pounds or more, but less than 6,000 pounds and if used primarily on the premises of the owner	$ 8 00
(3) When unladen, 6,000 pounds or more but less than 10,000 pounds and equipped with not more than two axles	$40 00
(4) When unladen, 10,000 pounds or more and equipped with not more than two axles	$50 00
(5) When unladen, 6,000 pounds or more and equipped with three or more axles	$70 00

(d) Any vehicle designed, used or maintained as described in subdivision (a) hereof other than an electric vehicle when not equipped wholly with pneumatic tires shall pay fees for registration amounting to twice the fees imposed upon other vehicles having corresponding weights and axles as specified in subdivision (c) hereof.

CHAPTER 1136

An act to amend Section 101 of the State Employees' Retirement Act, relating to retirement benefits.

Stats. 1931, p. 1442, amended

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

In effect August 4, 1943

The people of the State of California do enact as follows:

SECTION 1. Section 101 of the State Employees' Retirement Act is amended to read as follows:

Stats 1943, Ch. 640

Sec. 101. No modification of the benefits payable after the effective date hereof, under this act, shall be made on account of any amounts hereafter or heretofore paid to a beneficiary, as defined herein, under Division 4 of the Labor Code.

Effect of workman's compensation

If an injury, known to result in the retirement of and/or the death of a member of the California Highway Patrol or of a city policeman or city fireman, is the proximate consequence of the act of a person other than his employer, the Retirement System shall have the right to recover from said person an amount which shall be the actuarial equivalent of the benefits for which it shall be liable because of said injury and/or death, and said right shall be determined under the provisions of Chapter 5 of Part 1, Division 4 of the Labor Code. Any claim in favor of the Retirement System, now pending or which shall arise under this paragraph, may be settled and compromised, and the proceeds of such settlement and compromise shared between the Retirement System and said retired employee, or person entitled to benefits under the Retirement System because of the death of said employee, in such amounts as may be recommended by the President of the Board of Administration, and approved by the Attorney General. Said Retirement System may join with the employer and/or its compensation insurance carrier in any proceeding under said section, and any amount recovered by any of the parties shall be applied first to the amounts which the employer or its insurance carrier shall have paid or become obligated to pay, and second, on the amounts which the Retirement System shall have paid or become obligated to pay.

Recovery from third person

Amounts recovered from third persons under the provisions of this section shall be paid by the Retirement System to the Motor Vehicle Support Fund, or any other fund out of which the compensation of members who are also members of the California Highway Patrol is paid, or to the contracting city in the case of a city policeman or city fireman.

Disposition of money recovered

CHAPTER 1137

Stats 1937, p 185, amended

An act to amend Sections 4803 and 4804 of the Labor Code, relating to disability indemnities for members of the California Highway Patrol.

In effect August 4, 1943

[Approved by Governor June 8, 1943. Filed with Secretary of State June 8, 1943.]

The people of the State of California do enact as follows:

Stats 1939, p. 2518

SECTION 1. Section 4803 of the Labor Code is amended to read as follows:

Disability continuing for more than one year

4803. Whenever such disability of such member of the California Highway Patrol continues for a period beyond one year, such member shall thereafter be subject, as to disability indemnity, to the provisions of this division other than Section 4800, which refers to temporary disability only, during the remainder of the disability, except that such compensation shall be paid out of funds available for the support of the Department of Motor Vehicles, and the leave of absence shall continue.

Stats 1939, p 2518

SEC. 2. Section 4804 of the Labor Code is amended to read as follows:

Limitation on disability indemnity

4804. No disability indemnity shall be paid to said member as temporary disability concurrently with wages or salary payments.

CONCURRENT AND JOINT RESOLUTIONS AND CONSTITUTIONAL AMENDMENTS

FIFTY-FIFTH SESSION OF THE LEGISLATURE

1943

CONCURRENT AND JOINT RESOLUTIONS AND CONSTITUTIONAL AMENDMENTS

ADOPTED AT THE FIFTY-FIFTH SESSION OF THE LEGISLATURE

CHAPTER 1

Senate Concurrent Resolution No. 1—Relative to Inaugural Ceremonies.

[Filed with Secretary of State January 7, 1943.]

Inaugural ceremonies

Resolved by the Senate, the Assembly concurring, That the Senate and Assembly meet in joint session in the Assembly Chamber at the hour of 3 p.m. on the fourth day of January, 1943, for the inaugural ceremonies, and that a committee of three members of the Senate be appointed to confer with a like committee from the Assembly, to make arrangements for the inaugural ceremonies, said committee to be appointed by the President of the Senate and the Speaker of the Assembly, respectively, and to have full power to act in the premises. Any expenses to be paid by the Senate and Assembly out of their respective contingent funds, and not to exceed the sum of five hundred dollars ($500), one-half to be paid from the contingent fund of each house.

CHAPTER 2

Assembly Concurrent Resolution No. 2—Relative to accredited press representatives and the authentication thereof.

[Filed with Secretary of State January 7, 1943.]

Designation of accredited press representatives

WHEREAS, Provision has been made in the Joint Rules of the Senate and Assembly, and in Assembly Rules and Senate Rules, for the designation of accredited press representatives to be granted press cards and privileges, and for the assignment of press seats and desks; and

WHEREAS, It is deemed advisable that qualified press representatives should share and have a part in the responsibility of authenticating such accredited press representatives; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That bona fide correspondents of reputable standing in their business, who represent daily newspapers requiring a daily file of legislative news, or who represent news associations requiring daily telegraphic or radio service on legislative news, are hereby directed and

authorized to appoint a standing committee of their own choosing for the purpose of authenticating accredited press representatives and assignment of press seats and desks in the Assembly and Senate chambers, subject to the approval and supervision of the Speaker of the Assembly and the Senate Committee on Rules in the manner set forth in the Joint Rules and Rules of the Senate and Assembly.

CHAPTER 3

Assembly Concurrent Resolution No. 1—Relative to the selection of the Legislative Counsel of California.

[Filed with Secretary of State January 8, 1943.]

Legislative Counsel

Stats 1913, p 626

Resolved by the Assembly of the State of California, the Senate thereof concurring, That pursuant to Section 1 of an act entitled "An act to establish a Legislative Counsel Bureau and making an appropriation therefor," approved May 26, 1913, as amended, Fred B. Wood is selected Legislative Counsel of California.

CHAPTER 4

Assembly Concurrent Resolution No. 3—Relative to the death of Godfrey Augustus Andreas.

[Filed with Secretary of State January 8, 1943.]

Death of Godfrey Augustus Andreas

WHEREAS, On October 13, 1942, Godfrey Augustus Andreas was called from among us by death; and

WHEREAS, Godfrey Augustus Andreas had been since 1934 a member of the Assembly of California where he was ever faithful to his trust, rendering under all circumstances the highest service to the people of his district and to the State; and

WHEREAS, The members of this body wish to express their regret that there has been lost to the State the splendid service of such a man, and to express further their own personal sorrow in the loss of an esteemed friend and colleague, and to pay fitting tribute to his memory; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That when the respective houses of the Legislature of the State of California shall this day adjourn, they shall do so in respect to the memory of Godfrey Augustus Andreas; and be it further

Resolved, That the Secretary of the Senate and the Chief Clerk of the Assembly are hereby directed to convey to the family of Godfrey Augustus Andreas this expression of tribute from the Senate and Assembly of California.

CHAPTER 5

Assembly Concurrent Resolution No. 4—Relative to adjournment in respect to the memory of former Senator Dwight H. Hart.

[Filed with Secretary of State January 11, 1943]

Death of former Senator Dwight H Hart

WHEREAS, Dwight H. Hart, pioneer hotel man and former member of the Senate of the State of California, has gone to his eternal home; and

WHEREAS, Dwight H. Hart came to California with his father from Trumbull, Ohio, in 1889 to start his career as a hotel operator; became active also in fraternal and public life; was elected in 1919 to fill an unexpired term in the Senate and was reelected to the same office; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the members of the Legislature of the State of California express their grief to the family of Senator Hart, including his widow, Mrs. Mabel Hart, Mrs. Felix McGinnis, his daughter, and Mr. Dwight H. Hart, Jr., his son; and be it further

Resolved, That when the respective houses of the Legislature adjourn this day they shall do so in respect to the memory of the late Senator Dwight H. Hart; and be it further

Resolved, That the Chief Clerk of the Assembly is directed to send a suitably engrossed copy of this resolution to the bereaved widow, Mrs. Mabel Hart of Los Angeles, California.

CHAPTER 6

Assembly Concurrent Resolution No. 5—Relative to adjournment out of respect to the memory of Frank H. Cory.

[Filed with Secretary of State January 11, 1943]

Death of Frank H Cory

WHEREAS, Frank H. Cory, a beloved, courteous, and efficient public servant has been called to the great beyond; and

WHEREAS, Frank H. Cory, born in Rochester, New York, came to California as a boy; attended Napa County schools; and graduated from the old College of the Pacific when it was located in Napa; and

WHEREAS, He served the State of California for four years as deputy clerk of the State Supreme Court and then for 20 years as Chief Deputy Secretary of State until his retirement in September, 1935; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the members of the Legislature of the State of California extend their deep sympathy to the family of Frank H. Cory; and be it further

Resolved, That when the respective houses of the Legislature adjourn this day, they shall do so in respect to the memory of the late Frank H. Cory; and be it further

Resolved, That the Chief Clerk of the Assembly is directed to send suitably engrossed copies of this resolution to the widow, Mrs. Nancy Cory of Pasadena, California, and to Major and Mrs. John Coulstor, Sr. and son, daughter, son-in-law, and grandson.

CHAPTER 7

Assembly Concurrent Resolution No. 9—Approving an amendment to the charter of the City of Berkeley, a municipal corporation in the County of Alameda, State of California, voted for and ratified by the qualified electors of said city at the special municipal election held therein on the twenty-sixth day of May, 1942.

[Filed with Secretary of State January 11, 1943.]

City of Berkeley. Charter amendment

WHEREAS, Proceedings have been taken and had for the proposal, adoption and ratification of an amendment hereinafter set forth to the charter of the City of Berkeley, a municipal corporation in the County of Alameda, State of California, as set out in the certificate of the mayor and city clerk of the said city as follows, to wit:

STATE OF CALIFORNIA }
COUNTY OF ALAMEDA } SS
CITY OF BERKELEY }

Certificate

We, the undersigned, FRANK S. GAINES, Mayor of the City of Berkeley, State of California, and FLORENCE E. TURNER, City Clerk of said City, do hereby certify as follows:

That the City of Berkeley, a municipal corporation in the County of Alameda, State of California, now is and at all times herein mentioned was a city containing a population of more than 3,500 inhabitants, and has been ever since the 1st day of July, 1909, and now is organized and existing and acting under a freeholders' charter adopted under and by virtue of Section 8 of Article XI of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said city at an election duly held for that purpose on the 30th day of January, 1909, and approved by the Legislature of the State of California by Assembly Concurrent Resolution filed with the Secretary of State on the 4th day of March, 1909 (Statutes 1909, page 1208).

That in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, on its own motion, the Council of the City of Berkeley, being the legislative body of said city, by its Resolution No. 25,600-N.S. duly and regularly submitted to the qualified electors of said city a certain proposal designated as "Charter Amendment", to

amend the Charter of said city, and to be voted upon by said qualified electors at the special municipal election held in said city on the 26th day of May, 1942.

That such proposed amendment was published and advertised in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, on the 13th day of April, 1942, in the Berkeley Daily Gazette, a daily newspaper of general circulation published in said City of Berkeley, and the official newspaper of said city, and in each edition thereof during the day of publication.

That copies of said proposed amendment were printed in convenient pamphlet form and in type of not less than ten point, and copies thereof were mailed to each of the qualified electors in said city in accordance with the Constitution of the State of California, and the Charter of the City of Berkeley; and an advertisement that copies thereof could be had by the application therefor at the office of the City Clerk of the City of Berkeley was published in said Berkeley Daily Gazette, a newspaper of general circulation published in said city, on the 14th day of April, 1942, and on each day thereafter to and including May 25th, 1942, all as required by Section 8 of Article XI of the Constitution of the State of California.

That copies of said pamphlet containing said proposed Charter Amendment could be had upon application therefor at the office of the City Clerk of said city to and including the 26th day of May, 1942, the date fixed for said election.

That said special municipal election was duly and regularly held in said City of Berkeley after due notice given and published on the 26th day of May, 1942, which day was not less than forty (40) days, nor more than sixty (60) days after the completion of the publication and advertisement of the aforementioned proposed Charter Amendment in the Berkeley Daily Gazette, the official newspaper of said city.

That the returns of said election were, in accordance with the law in such cases made and provided, duly and regularly canvassed and certified to, and it was duly found, determined and declared by the proper officers thereunto duly and properly authorized, that said proposed amendment to the Charter of the City of Berkeley was ratified by a majority of the electors of said city voting thereon; that the Council of said city did by its Resolution No. 25,729-N.S. duly declare the result of said election as determined by the canvass of the returns thereof.

That as to said Charter Amendment this certificate shall be taken as a full and complete certification as to the regularity of all proceedings had and done in connection therewith.

That said Amendment to the Charter of the City of Berkeley, so ratified by the electors of said city, is in words and figures as follows, to-wit:

CHARTER AMENDMENT.

To amend Section 57 of Article X of the Charter of the City of Berkeley to read as follows:

Tax rate

Section 57. LIMIT OF TAX LEVY. The tax levy authorized by the Council to meet the municipal expenses for each fiscal year shall not exceed, except as herein provided, the rate of One and 47/100 Dollars on each One Hundred Dollars of the assessed value of all real and personal property within the City.

Additional tax for school support

The Council, if requested by the Board of Education, shall in addition to the tax for municipal purposes, levy a tax for the adequate support of the public schools, such levy not to exceed thirty-five cents on each One Hundred Dollars of the assessed value of all real and personal property within the City.

Duration

Provided, however, that Section 57 as hereinabove set forth shall apply only until one year after cessation of hostilities with all the Countries against which the United States is at war, and that one year after the cessation of hostilities, Section 57 of the Charter shall read as follows:

Tax rate

"*Section 57.* LIMIT OF TAX LEVY. The tax levy authorized by the Council to meet the municipal expenses for each fiscal year shall not exceed, except as herein provided, the rate of one dollar on each one hundred dollars of the assessed value of all real and personal property within the City.

Additional tax for school support

"The Council, if requested by the Board of Education, shall in addition to the tax for municipal purposes, levy a tax for the adequate support of the public schools, such levy not to exceed thirty-five cents on each one hundred dollars of the assessed value of all real and personal property within the City."

And we further certify that we have compared the foregoing proposed and ratified Amendment to the Charter of the City of Berkeley with the original proposal submitting the same to the electors of said city, and find that the foregoing is a full, true, correct and exact copy thereof.

IN WITNESS WHEREOF, we have hereto set our hands and caused the seal of the City of Berkeley to be affixed hereto this 23rd day of June, 1942.

[SEAL]

FRANK S. GAINES
Mayor of the City of Berkeley

FLORENCE E. TURNER
City Clerk of the City of Berkeley

WHEREAS, The said proposed amendment as ratified as hereinbefore set forth, has been and now is duly presented and submitted to the Legislature of the State of California for approval, or rejection, as a whole without power of alteration in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Approval

Resolved by the Assembly of the State of California, the Senate concurring, a majority of all the members elected to each house voting therefor and concurring therein, that said amendment to the charter of the City of Berkeley as presented to, and adopted, and ratified by the electors of said city and as hereinbefore fully set forth, be and the same is hereby approved as a whole, without amendment or alteration, for and as an amendment to and as a part of the charter of said City of Berkeley.

CHAPTER 8

Assembly Concurrent Resolution No. 10—Approving certain amendments to the charter of the City of Long Beach, State of California, ratified by the qualified electors of said city at a general municipal election held therein on the second day of June, 1942.

[Filed with Secretary of State January 11, 1943]

City of Long Beach Charter amendments

WHEREAS, The City of Long Beach, in the County of Los Angeles, State of California, contains a population of over 50,000 inhabitants, and has been, ever since the year 1921, and now is, organized and acting under and by virtue of a freeholders' charter, adopted under and by virtue of Section 8, Article XI, of the Constitution of the State of California, which charter was duly ratified by a majority of the qualified electors of said city at a special election held for that purpose on the fourteenth day of April, 1921, and approved by the Legislature of the State of California, on the twenty-sixth day of April, 1921 (Statutes of 1921, page 2054), and amendments thereto duly ratified by the qualified voters of said city and by resolutions of said Legislature as set out in the certificate of the mayor and city clerk of said City of Long Beach, hereinafter set forth; and

WHEREAS, Proceedings have been had for the proposal, adoption and ratification of certain amendments to the charter of said City of Long Beach, as set out in the certificate of the

mayor and city clerk of said City of Long Beach, as follows, to wit:

CERTIFICATE OF ADOPTION BY THE QUALIFIED ELECTORS OF THE CITY OF LONG BEACH AT A GENERAL MUNICIPAL ELECTION HELD THEREIN ON THE 2ND DAY OF JUNE, ONE THOUSAND NINE HUNDRED FORTY-TWO, OF CERTAIN AMENDMENTS TO THE CHARTER OF THE CITY OF LONG BEACH, STATE OF CALIFORNIA.

STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES, } SS.
CITY OF LONG BEACH.

Certificate

We, CLARENCE E. WAGNER, Mayor of the City of Long Beach, and FRANK J. BEGGS, City Clerk of the City of Long Beach, do hereby certify as follows:

That said City of Long Beach, in the County of Los Angeles, State of California, is now, and was at all of the times herein mentioned, a city containing a population of more than fifty thousand inhabitants as ascertained by the last preceding census taken under the authority of the Congress of the United States; and,

That said City of Long Beach is now, and was at all of the times herein mentioned, organized and existing under a freeholders' charter adopted under the provisions of Section Eight, Article Eleven, of the Constitution of the State of California, which charter was duly ratified by a majority of the electors of said city at a special election held therein on the fourteenth day of April, 1921, and approved by the legislature of the State of California, on the twenty-sixth day of April, 1921, and amendments thereto duly ratified by the qualified voters of said city, and approved by resolution of said legislature and filed with the Secretary of State of the State of California the 27th day of April, 1923, (Statutes 1923, page 1624), and amendments thereto duly ratified by the qualified voters of said city and approved by resolution of said legislature and filed with said Secretary of State the eighteenth day of April, 1925, (Statutes 1925, page 1330), and amendments thereto duly ratified by the qualified voters of said city and approved by resolution of said legislature and filed with said Secretary of State the fifteenth day of January, 1929, (Statutes 1929, page 1977), and amendments thereto duly ratified by the qualified voters of said city and approved by resolution of said legislature and filed with said Secretary of State the twenty-ninth day of March, 1929, (Statutes 1929, page 2062), and amendments thereto duly ratified by the qualified voters of said city and approved by resolution of said legislature and filed with said Secretary of State the second day of March, 1931, (Statutes 1931, page 2780), and amendments thereto duly ratified by the qualified

voters of said city and approved by resolution of said legislature and filed with said Secretary of State the nineteenth day of April, 1933, (Statutes 1933, page 3006), and amendments thereto duly ratified by the qualified voters of said city and approved by resolution of said legislature and filed with said Secretary of State the twenty-ninth day of April, 1935, (Statutes 1935, page 2565), and amendments thereto duly ratified by the qualified voters of said city and approved by resolution of said legislature and filed with said Secretary of State the tenth day of June, 1935, (Statutes 1935, page 2677), and amendments thereto duly ratified by the qualified voters of said city and approved by resolution of said legislature and filed with said Secretary of State the twentieth day of June, 1935, (Statutes 1935, page 2698), and amendments thereto duly ratified by the qualified voters of said city and approved by resolution of said legislature and filed with said Secretary of State the fourteenth day of May, 1937, (Statutes 1937, page 2921), and amendments thereto duly ratified by the qualified voters of said city and approved by resolution of said legislature and filed with said Secretary of State the 9th day of April, 1941, (Statutes 1941, page 3351); and,

That the legislative body of said city, namely, the City Council of said City, did, by motion duly adopted on the fourteenth day of April, 1942, on its own motion, and pursuant to the provisions of Section Eight, of Article Eleven, of the Constitution of the State of California, duly propose to the qualified electors of said City of Long Beach six (6) amendments to the charter of said city, numbered Propositions One to Six, and ordered that said proposed amendments be submitted to said qualified electors of said city at a general municipal election to be held in said city on the 2nd day of June, 1942; and,

That said amendments numbered One to Six, inclusive, were, on April twentieth, 1942, duly published in the Long Beach Sun and in each edition thereof during said day of publication; and,

That said Long Beach Sun was, upon the date of said publication, and at all times since has been, and now is, a daily newspaper of general circulation within said City of Long Beach, and was, upon the date of the publication of said proposed amendments, and at all times since has been, and now is, published in said city and said newspaper was, upon the date of the publication of said proposed amendments, and at all times since has been and now is, the official newspaper of said city, and was the newspaper designated by said City Council for the publication of said proposed amendments; and,

That said proposed amendments were duly and regularly printed in convenient pamphlet form and, at and during the

time and in the manner provided by law, a notice was published in said Long Beach Sun that such copies of said proposed amendments could be had upon application therefor in the office of the City Clerk of said city, and said proposed amendments so printed in convenient pamphlet form were duly and regularly distributed in the manner provided by law; and,

That said City Council did, by ordinance designated as Ordinance No. C-2053, order the holding of a general municipal election in said City of Long Beach on the 2nd day of June, 1942, which date was not less than forty nor more than sixty days after the completion of the publication of said proposed amendments, as aforesaid, and which ordinance was published at least three times in the Long Beach Sun, the official newspaper of the City of Long Beach, ten days prior to the date of said election, to wit: On the twentieth, twenty-first and twenty-second days of May, 1942, in the Long Beach Sun, the official newspaper of the City of Long Beach and a newspaper of general circulation and published in said city, and said ordinance was posted in three conspicuous places in the City of Long Beach; and,

That said general municipal election was held in said City of Long Beach on the 2nd day of June, 1942, which day was not less than forty days nor more than sixty days after the completion of the publication of said proposed amendments once in the Long Beach Sun, as aforesaid; and,

That at said general municipal election held, as aforesaid, a majority of the qualified voters of said City of Long Beach voting thereon, voted in favor of each of said proposed charter amendments and duly ratified the same; and,

That the City Council of said City of Long Beach did, at the time and in the manner and form provided by law, to wit, on the ninth day of June, 1942, regularly canvass the returns of said general municipal election, and did then and there duly find, determine and declare that a majority of the qualified voters of said City of Long Beach voting thereon had voted in favor of and had ratified each of said proposed amendments; and,

That said proposed amendments to the Charter of the City of Long Beach, ratified by the electors of said City, as aforesaid, are in words and figures as follows, to wit:

PROPOSITION NO. 1

That the Charter of the City of Long Beach be amended by amending Section 101 thereof, to read as follows:

Credits for veterans

Sec. 101. In all examinations before the Civil Service Board, held pursuant to this charter, said Board shall, in addition to all other credits, give to veterans a credit of ten additional points; and the term "veterans" as used herein shall mean honorably discharged soldiers, sailors, or marines, of whatever rank or grade (including army field clerks), who have, or who shall have, served for a period of thirty days or

more in either the United States Army, Navy, or Marine Corps, or nurse in the Army, Navy, or Marine Corps, in time of war, or as a nurse in the service of the American Red Cross in time of war: "time of war" shall include any expedition of the armed forces of the United States.

Such ten-point credit shall likewise be granted to the widows of such veterans and also to the wives of injured soldiers, sailors, or marines who themselves are not qualified, but whose wives are qualified to hold such positions. Credits for widows of veterans

The average passing grade in all examinations shall be seventy. Passing grade

All ties shall be decided in favor of veterans.

Preference under this section shall not apply to promotion or to promotion examination.

Veterans claiming the benefit of this section must submit proof of honorable discharge from the United States Government. Honorable discharge

PROPOSITION NO. 2

That the Charter of the City of Long Beach be amended by adding thereto a new section to be known and designated as Section 101.6, and to read as follows:

Sec. 101.6. All persons in the classified service who shall have been, at the time of the effective date of this section, or who thereafter shall be, required by law to leave their employment with the City for the purpose of rendering service in aid of the nation, in other than the armed forces of the United States, during time of war or national emergency defined by law, shall be reinstated, without loss of status or seniority, to the positions held by them prior to their being required to leave the employment of the City, or shall be instated to positions of like seniority or status, unless in the meantime such positions shall have been abolished; subject, however, to the following conditions, to wit: Reinstatement after service in armed forces Conditions

1. That all such persons shall have filed, at or about the time of leaving, documentary proof of their having been so required to leave the service of the City;

2. That application for reinstatement in the service of the City be made within ninety (90) days after discharge, release or relief from such required service. Such application shall be accompanied by a certificate of honorable discharge, or other adequate proof of satisfactory service; and

3. That such persons are still physically qualified to perform the duties of the positions previously held by them, or of such like positions.

All persons appointed or transferred to fill such positions and all other persons appointed or transferred to other positions by reason thereof shall be deemed to be substitute employees and, notwithstanding any other provision of this charter, such substitute employees may be separated from such positions at any time unless they held positions subject Substitute employees

to the provisions of this article immediately prior to appointment or transfer as substitute employees, in which event, and notwithstanding any other provision of this charter, they shall be reinstated without loss of status or seniority to the permanent positions which they held immediately prior to their first appointment or transfer as such substitute employees or to positions of like seniority and status, unless in the meantime such positions shall have been abolished. Substitute employees shall be appointed in the same manner as other employees from the applicable reinstatement, promotional or general eligible list then in effect.

Lay-offs

Except as otherwise expressly provided herein, substitute employees, upon the completion of the probationary period, shall acquire the same rights as other permanent employees and upon the return of an employee from such required service, any lay-off made necessary thereby, shall be in accordance with the rules governing lay-offs of other employees.

PROPOSITION NO. 3

That the Charter of the City of Long Beach be amended by amending Section 104 thereof, to read as follows:

Promotional examinations

Sec. 104. The Civil Service Board shall provide, in all cases where it is practicable, for promotion of members of lower rank in the classified service to fill vacancies in such service. All such promotions shall be based upon competitive examinations and records of merit, efficiency, character, conduct and seniority. The Civil Service Board shall provide in its rules and regulations for the creation of appropriate promotional eligible lists in accordance with the provisions of this section.

PROPOSITION NO. 4

That the Charter of the City of Long Beach be amended by amending subsections (2), (3) and (7), of Section 217 thereof, to read, respectively, as follows:

Appointment of general manager and consulting engineer

(2) To appoint a general manager who shall be, subject to the control of the Board, the chief administrative officer of the department, and a consulting engineer, each of whom shall have such powers and duties as the Board may prescribe, and hold office during the pleasure of the Board, and receive such compensation, if any, as the Board may determine. No such general manager or consulting engineer appointed under the provisions of this section, shall be, nor shall he have been for at least six (6) months prior to such appointment, a member of said Board of Water Commissioners.

Dismissal of appointee

Should an employee of the classified civil service be appointed to a position mentioned in this subsection, his dismissal by the Board from such position shall not accomplish his dismissal from the classified civil service, but he shall be restored to the rank and grade held by him prior to his appointment under this subsection.

(3) To employ and appoint such other officers, employees and agents as may be necessary or convenient in the execution of its functions, and to prescribe and fix their duties, authority and compensation; provided that all offices and places of employment in the permanent service of the Water Department shall be created by resolution duly passed by the Board, and provided further, that all such permanent places of employment in the Water Department, except the general manager, the consulting engineer, and the secretary, shall be subject to such provisions of Article XI of this charter as are not in conflict herewith; and provided further, that any officer, employee or agent employed by the department may be summarily dismissed for the good of the service by four-fifths of the Board of Water Commissioners. The Board may appoint additional employees, who need not be in the classified civil service, to perform emergency or temporary work.

Other officers and employees

Noncivil service

(7) To sue and be sued in the name of said Board, and to exercise complete control over all litigation wherein it is involved, or which pertains to any matters within the jurisdiction of said Board; provided, however, that the City Attorney shall represent the Board in all matters to which it is a party and shall be the sole and exclusive legal adviser of the Board with reference to any of its functions, powers or duties under this charter.

Litigation

PROPOSITION NO. 5

That the Charter of the City of Long Beach be amended by repealing Sections 325, 326, 327 and 328 thereof, and by amending Section 324 thereof, to read as follows:

Repeals

Sec. 324. The industrial districts of the City of Long Beach shall be such as are established and defined by ordinance of the City Council, from time to time.

Industrial districts

PROPOSITION NO. 6

That Section 229x of the Charter of the City of Long Beach be amended by amending subsection (c) thereof, to read as follows:

(c) Any and all moneys derived by the City of Long Beach from the development of oil, gas or other hydrocarbon substances, in accordance with the foregoing provisions of this section, shall be apportioned as follows:

Apportionment of moneys derived from development of oil, gas, etc.

1. REVENUE FROM LANDS ACQUIRED BY GRANT FROM STATE OF CALIFORNIA. Whenever there may be outstanding bonds issued by the City of Long Beach for harbor purposes, not less than fifty per centum (50%) of any and all money derived by the City of Long Beach from oil, gas or other hydrocarbon substances, from all tidelands and submerged lands acquired by the City from the State of California, as distinguished from lands acquired by the City through purchase, tax deed, exchange, trade, or gift, shall be paid into a special fund, the "Harbor Bond Redemption and

Interest Fund." All moneys placed in such special fund, pursuant to this section, or otherwise, shall be used solely and exclusively to pay the principal and interest on all such bonds issued by the City of Long Beach for harbor purposes. When there shall have been deposited in such fund sufficient of such money to pay the principal and interest on any and all such outstanding bonds, thereafter, and until there may be other such bonds outstanding, the moneys provided herein to be placed in said "Harbor Bond Redemption and Interest Fund", shall be paid into the "Harbor Revenue Fund." The balance of such moneys so derived from all tidelands and submerged lands acquired by the City from the State of California, shall be paid into the "Harbor Revenue Fund."

2. REVENUE FROM LANDS OTHER THAN STATE GRANT LANDS. Any and all revenue derived by the City of Long Beach from oil, gas or other hydrocarbon substances, from all lands acquired by the City by purchase, tax deed, exchange, trade, gift, or any method other than through a grant from the State of California, as distinguished from lands acquired from the State of California by grant and commonly known as "tide and submerged lands", and all revenue from lands that may hereafter be acquired by the City of Long Beach in the Harbor District, together with all money derived from cash bonuses paid by oil companies or individuals for oil leases on such lands not acquired from the State of California (including all money hereafter paid for permits for drilling oil wells or for the erection of oil well derricks or other buildings in connection with oil development, anywhere in the Harbor District, and irrespective of whether or not such wells, derricks or buildings are located on lands acquired from the State of California), shall be paid into the "General Bond Redemption and Interest Fund" of the City of Long Beach and shall be used solely and exclusively for the purpose of paying principal and interest on any outstanding bonds issued by the City of Long Beach, except bonds issued for harbor purposes, Water Department bonds and Gas Department bonds. When there shall have been deposited in such funds sufficient of such money to pay the principal and interest on any and all such outstanding bonds, except bonds issued for harbor purposes, Water Department bonds and Gas Department bonds, thereafter, and until there may be other such bonds outstanding, the moneys provided herein to be placed in said "General Bond Redemption and Interest Fund", shall be paid into the "General Purpose Fund" of the City.

That the foregoing is a full, true and correct copy of said proposed amendments to the charter of the City of Long Beach, ratified by the electors of said city, as aforesaid, on file in the office of the City Clerk of said City of Long Beach.

IN WITNESS WHEREOF, CLARENCE E. WAGNER, Mayor, as aforesaid, and FRANK J. BEGGS, City Clerk, as aforesaid, have hereunto set their hands and caused the

corporate seal of the City of Long Beach to be thereunto duly affixed, on this 19th day of Nov., 1942.

CLARENCE E. WAGNER
Mayor of the City of Long Beach

[SEAL]

FRANK J. BEGGS
City Clerk of the City of Long Beach

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WHEREAS, Said proposed amendments to the charter of the City of Long Beach, ratified by the electors of said city, as aforesaid, have been, and are now, submitted to the Legislature of the State of California, for approval or rejection without power of alteration or amendment, in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Approval

Resolved by the Assembly of the State of California, the Senate thereof concurring, a majority of all the members elected to each house voting therefor and concurring therein, that said amendments to the charter of the City of Long Beach, as proposed to, adopted and ratified by the qualified electors of said City of Long Beach, as hereinabove fully set forth, be and the same are, and each of them is, hereby approved as a whole without amendment or alteration, for and as amendments to and as parts of the charter of the City of Long Beach.

CHAPTER 9

Assembly Concurrent Resolution No. 11—Approving amendments to the charter of the City and County of San Francisco voted for and ratified by the electors of said City and County of San Francisco at an election held therein on the third day of November, 1942.

[Filed with Secretary of State January 11, 1943.]

City and County of San Francisco Charter amendments

WHEREAS, The City and County of San Francisco, State of California, contains a population of over 500,000 inhabitants, and has been ever since the eighth day of January, in the year 1932, and is now organized and acting under a freeholders' charter adopted under and by virtue of Section 8 of Article XI of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said city and county at an election held for that purpose on the twenty-sixth day of March, 1931, and approved by the Legislature of the State of California and filed in the office of the Secretary of State on the fifth day of May, 1931 (Statutes of 1931, Page 2973); and

WHEREAS, The legislative authority of said city and county, namely the board of supervisors thereof, duly proposed to

the qualified electors of the City and County of San Francisco fourteen (14) amendments to the charter of said City and County of San Francisco by the submission of fourteen (14) proposals, entitled as follows, to wit:

PROPOSITION NO. 26.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said City and County of San Francisco by adding thereto a new section to be known as Section 121.1 providing an additional and alternative method of financing the cost of the acquisition of the operative properties of the Market Street Railway Company by the issuance of revenue bonds and authorizing the consolidation of said operative properties of said Market Street Railway Company with the present Municipal Railway system of San Francisco and providing for the payment of said bonds solely out of the revenues of said Municipal Railway system after the consolidation of the operative properties of the Market Street Railway Company with the said Municipal Railway system and which said bonds shall in no respect be secured by the taxing power of the City and County of San Francisco.

PROPOSITION NO. 27.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said City and County by amending Section 175 of said Charter regulating the nomination of elective officers by providing therein the order in which the names of the several candidates for City and County and Municipal offices shall be placed upon the ballot and that any officer who is a candidate to succeed himself in office may have printed after his name, whenever the same appears upon the ballot, the word "incumbent.".

PROPOSITION NO. 28.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said City and County by amending Section 36 thereof, Fire Department, relating to rate of pay for members of the Fire Department, and by amending Section 35 thereof, and adding thereto new sections to be known as Sections 35.1, 35.2, 35.3, 35.4, 35.5, 35.6, 35.7, 35.8, 35.9, 35.10, 35.11, 35.12 and 35.13, relating to the Police Department, by providing a graduated scale and readjustments in the schedule of annual compensations for the several ranks of said departments, and by providing annual maximum compensation on the basis of years of service rendered by police officers, women protective officers and police patrol drivers in said department.

PROPOSITION NO. 29.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said City and County by amending Section 135 thereof, relating to powers and duties of board of education.

PROPOSITION NO. 30.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said City and County by amending Section 136 thereof by providing a definite term of office for the Superintendent of Schools, for the method of his appointment and for his suspension and removal, and providing that the incumbent Superintendent of Schools shall continue to hold his office at the pleasure of the Board of Education.

PROPOSITION NO. 31.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said City and County by amending paragraph "d", subdivision 3 of Section 172.1 thereof, relating to the Health Service System.

PROPOSITION NO. 32.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said City and County by adding a new section thereto to be known as Section 38.1 (Salvage Corps) relating to the acquisition and operation by the City and County of San Francisco of the facilities of the Underwriters' Fire Patrol.

PROPOSITION NO. 33.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said City and County by amending Sections 153 and 161 thereof, relating to Leaves of Absence and Continuous Service.

PROPOSITION NO. 34.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said City and County by amending Section 151 thereof, relating to standardization of salaries.

PROPOSITION NO. 35.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said City and County by adding a new section

thereto to be known as Section 145.1, Limited Tenure Appointments, relating to limited tenure appointments in time of war when eligibles from regularly established lists are not available for appointment.

PROPOSITION NO. 36.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said City and County by amending Sections 50 and 51 thereof by providing that certain employees of the California Palace of the Legion of Honor and the M. H. de Young Memorial Museum shall be subject to the civil service provisions of the Charter.

PROPOSITION NO. 37.

Describing and setting forth a proposal to the electors of the City and County of San Francisco to amend the Charter of said City and County by amending Section 42 thereof, Recreation Commission, by prescribing the powers and duties of the Recreation Commission.

PROPOSITION NO. 38.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said City and County by adding thereto a new section to be designated Section 132.1, "Abandonment of Street Car or Other Transportation Service."

PROPOSITION NO. 39.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said City and County by amending Section 9 thereof, "Powers Vested in Board of Supervisors."

WHEREAS, Said legislative authority, in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, and within fifteen (15) days of said proposal, caused said fourteen (14) proposed amendments to said Charter to be published, once in the official newspaper of the said City and County of San Francisco and each edition thereof issued or published on the date of said publication, to-wit, in the "San Francisco News", a newspaper of general circulation in the City and County of San Francisco and the official newspaper of said City and County; and

WHEREAS, Said legislative body caused copies of said Charter amendments to be printed in convenient pamphlet form and in type of not less than ten point, and caused copies thereof to be mailed to each of the qualified electors of said City and County of San Francisco, and until the day fixed for

the election upon said Charter amendments, advertised in said the "San Francisco News", a newspaper of general circulation in the City and County of San Francisco, a notice that copies of said Charter amendments could be had upon application therefor at the office of the Board of Supervisors; and

WHEREAS, The said legislative authority of said City and County ordered placed upon the ballot at a general election to be held in the City and County of San Francisco on the Third day of November, 1942, the said fourteen (14) several proposals to amend the Charter of the City and County of San Francisco; and

WHEREAS, Said general election was held in said City and County of San Francisco on the Third day of November, 1942, which day was more than forty days and less than sixty days from the completion of the publication of said proposed charter amendments for one day in said the "San Francisco News" and each edition thereof as hereinbefore set forth; and

WHEREAS, The Board of Supervisors of said City and County did thereafter, in regular meeting assembled, by resolution duly adopted by said Board and entered in the minutes thereof, direct that a canvass of said election held on the 3rd day of November, 1942, be immediately begun and made by the Registrar of Voters of said City and County, it appearing to said Board of Supervisors that at the time of the commencement of said canvass all of the returns of said election held on the 3rd day of November, 1942, from each election precinct in the City and County of San Francisco in which polls were opened had theretofore been received by the said Registrar of Voters; and

WHEREAS, Thereafter, to-wit, on the 30th day of November, 1942, said Board of Supervisors duly approved the "official statement" of votes cast at the general election held in the City and County of San Francisco, State of California, on Tuesday, the Third day of November, 1942, and

WHEREAS, At said general election so held on the Third day of November, 1942, Thirteen (13) of said proposed amendments were ratified by a majority of the electors of said City and County voting thereon, to-wit: Propositions Numbered Twenty-seven, Twenty-eight, Twenty-nine, Thirty, Thirty-one, Thirty-two, Thirty-three, Thirty-four, Thirty-five, Thirty-six, Thirty-seven, Thirty-eight and Thirty-nine, and that the other amendment, Proposition Number Twenty-eight, received less than a majority of the votes of the electors voting thereon and was not ratified; and

WHEREAS, The said Thirteen (13) Charter Amendments so ratified by the electors of the City and County of San Francisco, are now submitted to the Legislature of the State of California for approval or rejection as a whole without power of alteration or amendment in accordance with the provisions of Section 8 of Article XI of the Constitution of the

State of California, and are in words and figures as follows, to-wit:

PROPOSITION NO. 27

CHARTER AMENDMENT—ABOLISHING INCUMBENTS' PREFERENCE ON BALLOT.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said City and County by amending Section 175 of said Charter regulating the nomination of elective officers by providing therein the order in which the names of the several candidates for city and county and municipal offices shall be placed upon the ballot and that any officer who is a candidate to succeed himself in office may have printed after his name, whenever the same appears upon the ballot, the word "incumbent."

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of the City and County of San Francisco, at an election to be held on the 3rd day of November, 1942, a proposal to amend the Charter of said City and County by amending Section 175 of said Charter regulating the nomination of elective officers by providing therein the order in which the names of the several candidates for city and county and municipal offices shall be placed upon the ballot and that any officer who is a candidate to succeed himself in office may have printed under his name, whenever the same appears upon the ballot, the word "incumbent."

NOMINATION OF ELECTIVE OFFICERS

Procedure for nomination

Section 175 The name of a candidate for an elective office shall be printed upon the ballot when a declaration of candidacy and certificates of not less than ten nor more than twenty sponsors shall have been filed on his behalf, and when the nomination shall be made in the following manner: The candidate,

Declaration of candidacy

not more than fifty days before the municipal election in November, shall file with the registrar a declaration of his candidacy, in the form prescribed by the registrar for all candidates, including statements of his qualifications in not to exceed one hundred words, subscribed by him before the registrar. The registrar shall forthwith certify to the said subscription and its date and

Filing fee

retain and file the declaration The candidate shall pay to the registrar at the time of filing his declaration of candidacy the

Certification by sponsors

sum of thirty dollars ($30). After said declaration shall have been signed, certified and filed, and not later than thirty-five days before said election in November, not less than ten nor more than twenty sponsors for the said candidate, who are electors of the city and county qualified to vote at the said municipal election, shall appear before the registrar and shall certify

under oath to the qualifications of the said candidate on a form of certificate prescribed by the registrar for all sponsors of all candidates.

Defect in declaration

In the event the registrar shall refuse to file such declaration of candidacy or certificate of a sponsor thereof, he shall forthwith designate in writing on the declaration or certificate the defect thereof, or other reason for refusing to file the same, and shall return the same to the party tendering it. No defect in any declaration or certificate presented to the registrar shall prevent the filing of another declaration or certificate within the period allowed for presenting the declaration or certificate.

Name on ballot

Withdrawal

The name of every candidate who has been duly and regularly nominated shall be placed on the ballot under the title of the office for which he is a candidate, provided that a candidate whose nomination has been completed, may, not less than thirty days before a municipal election, withdraw as a candidate by filing with the registrar his withdrawal, naming the office; such withdrawal must be signed and sworn to by the person withdrawing.

Order of names on ballot

The name of every candidate who has been nominated for office as hereinbefore provided shall be placed on the ballot in alphabetical order in accordance with the initial letter of his surname, under the heading of the office for which said candidate has been nominated in the following manner: The name of the candidate highest on the alphabetical list of candidates for any particular office shall be printed first on the ballot under the proper heading for said office in the lowest numbered assembly district in the City and County. Thereafter, in each succeeding assembly district, the name of the candidate appearing first for said office in the last preceding district shall be placed last and the order of the names of the other candidates for said office shall remain unchanged.

In the event that the number of candidates in any group shall exceed the number of assembly districts in the City and County then the total number of candidates in such group shall be divided by the number of assembly districts and the quotient of said division, if an integral number, or, if it be a fractional number, then the next highest integral number, shall be the number of candidates to be taken from the beginning of the list of said candidates and placed at the end of said list of candidates in each succeeding assembly district.

Designation after name

Immediately under the name of each candidate and not separated therefrom by any line may appear, at the option of the candidate, one of the following designations:

(a) Words designating the city, county, district or State office which the candidate then holds.

(b) If the candidate be a candidate for the same office which he then holds, and only in that event, the word "incumbent."

(c) The word designating the profession, vocation or occupation of the candidate. The profession, vocation or occupation

so designated shall be the same as appears in the affidavit of registration of the candidate.

In all cases words so used shall be printed in eight-point roman bold-face capitals and lower-case type.

No incumbent shall have any further preference in the location of his name on said ballot unless the same is permitted by this section.

Scope of section

The provisions of this section shall not be applicable to candidates for the office of the United States senator, representatives in Congress, State officials, members of the State Senate or Assembly, delegates to be selected at any presidential or State primary election, judges of the Superior Court, or judges of the Municipal Court.

Duty of registrar

The registrar shall preserve in his office for a period of four years all candidates' declarations and all sponsors' certificates filed in accordance with this section.

Ordered Submitted: Board of Supervisors, San Francisco, Sept. 15, 1942.

Ayes: Supervisors Colman, Gallagher, Green, MacPhee, Mead, O'Gara, Roncovieri, Shannon, Uhl.

Noes: Supervisors Brown, Meyer.

I hereby certify that the foregoing Charter Amendment was ordered submitted by the Board of Supervisors of the City and County of San Francisco.

DAVID A. BARRY,
Clerk.

PROPOSITION NO. 28

CHARTER AMENDMENT — FIRE AND POLICE DEPARTMENTS.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said City and County by amending Section 36 thereof, Fire Department, relating to rate of pay for members of the Fire Department, and by amending Section 35 thereof, and adding thereto new sections to be known as Sections 35.1, 35.2, 35.3, 35.4, 35.5, 35.6, 35.7, 35.8, 35.9, 35.10, 35.11, 35.12 and 35.13, relating to the Police Department, by providing a graduated scale and readjustments in the schedule of annual compensations for the several ranks of said departments, and by providing annual maximum compensation on the basis of years of service rendered by police officers, women protective officers and police patrol drivers in said department.

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of the City and County of San Francisco, at an election to be held therein on November 3, 1942, a proposal to amend the Charter of

said City and County by amending Section 36 thereof, Fire Department, relating to rates of pay for members of the Fire Department, and by amending Section 35 thereof, and adding thereto new sections to be known as Sections 35.1, 35.2, 35.3, 35.4, 35.5, 35.6, 35.7, 35.8, 35.9, 35.10, 35.11, 35.12 and 35.13, relating to the Police Department, by providing a graduated scale and readjustments in the schedule of annual compensations for the several ranks of said department, and by providing annual maximum compensation on the basis of years of service rendered by police officers, women protective officers and police patrol drivers in said department, so that the same shall read as follows:

FIRE DEPARTMENT

Fire commission

Section 36. The fire department shall be under the management of a fire commission, consisting of three members, who shall be appointed by the mayor and each of whom shall receive an annual compensation of twelve hundred dollars ($1200.00). The term of each commissioner shall be four years, commencing at twelve o'clock noon on the 15th day of January in the years 1940, 1941, and 1942, respectively.

Appointments

The fire commission shall appoint a chief engineer, a secretary and a department physician who shall hold office at its pleasure.

Powers and duties

The fire commissioners shall be successors in office of the fire commissioners holding office in the city and county at the time this charter shall go into effect, and shall have all the powers and duties thereof, except as in this charter otherwise provided. The commissioners shall have power, upon recommendation of the chief engineer, to send fire boats, apparatus and men outside the City and County of San Francisco for fire-fighting purposes.

Positions

Positions of officers and employees of the fire department legally authorized shall continue, and incumbents therein legally appointed thereto shall continue as the officers and employees of the department under the conditions governing their respective appointments, and except as in this charter otherwise provided.

Compensation

The annual compensation for the several ranks in the department shall be as follows: Chief Engineer, $7500.00; First Assistant and Second Assistant Chief Engineers, $5100.00; Battalion Chiefs, $4500.00; Captains, $3300 00; Lieutenants, $3120.00; Engineers, $2940.00; Chief's Operators, $2820.00; Drivers, Stokers, Tillermen, Truckmen and Hosemen, for first year of service, $2400.00; for second year of service, $2400.00; for third year of service, $2400.00; for fourth year of service, $2520.00; for fifth year of service, $2580.00; for sixth year of service, $2640.00; and for the seventh year of service and thereafter, $2700.00. Pilots of Fire Boats and Marine Engineers of Fire Boats, $3360.00; Firemen of Fire Boats, $2760.00.

Hours of duty

Each period of twenty-four hours shall be divided into two tours of duty, to-wit: from eight o'clock a. m. to six o'clock

p. m., and from six o'clock p. m. to eight o'clock a. m. The uniformed force of the fire department shall be divided into two platoons, the officers and members assigned to which shall alternate on the tours of duty at intervals of not more than one week. No officer or member shall be required to remain on duty for more than fourteen consecutive hours, except when changing from one tour of duty to the other, or in case of a conflagration requiring the services of more than one-half of the force of the department.

Reward

On the recommendation of the chief engineer, the commission may reward any member of the department for heroic or meritorious conduct, the form or amount of said award to be discretionary with the commission, but not to exceed one month's salary in any one instance.

The chief engineer, or in his absence any assistant chief engineer, or in their absence any battalion chief in charge, may, during a conflagration, cause to be cut down or otherwise removed any buildings or structures for the purpose of checking the progress of such conflagration.

Military leave

The absence of any officer or member of the fire department on military leave of absence, as defined by Section 153 of this charter, shall be reckoned a part of his service under the City and County, for the purpose of computing years of service in gaining added compensation as provided for herein.

Effective date

This amendment shall become effective when the joint legislative resolution approving such amendment is filed with the Secretary of State, and the increased salaries provided for herein shall be payable only when the proper appropriation has been made to meet said salaries but not later than July 1, 1943.

POLICE DEPARTMENT

Personnel

Section 35. The police department shall consist of a police commission, a chief of police, a police force and such clerks and employees as shall be necessary and appointed pursuant to the provisions of this charter, and shall be under the management of a police commission consisting of three members, who shall be appointed by the mayor, and each of whom shall receive an annual compensation of twelve hundred dollars ($1,200). The term of each commissioner shall be four years, commencing at twelve o'clock, noon, on the fifteenth day of January in the years 1942, 1944 and 1945, respectively. The incumbents serving as members of the commission on the effective date of this amendment shall continue to hold their respective positions, subject to the provisions of the charter, for the remainder of the terms for which they have been respectively appointed.

Terms of commissioners

The police commissioners shall be the successors in office of the police commissioners holding office in the City and County at the time this amendment shall become effective, and shall have all the powers and duties thereof, except as in this

charter otherwise provided. They shall have power to regulate traffic, including the location and use of traffic control devices for that purpose. Regulation of traffic

Section 35.1. The police commission shall appoint a chief of police who shall hold office at its pleasure. Chief of police

Section 35.2. All positions in the police department legally authorized shall be continued, and incumbents therein legally appointed thereto shall be continued as officers and employees of the department under the conditions governing their respective appointments and except as otherwise provided in this charter. Positions continued

Section 35.3. Each member of the department holding the position of inspector on the effective date of this amendment, and who has held such position for one year continuously prior thereto, is hereby declared permanently appointed thereto. The chief of police may detail from time to time other members of the department for performance of duty in the bureau of inspectors who shall be known as assistant inspectors, and who may be removed from such detail by order of the chief of police. An appointment as an inspector shall not be subject to competitive examination, but in case of vacancy in said rank of inspector, the appointment shall be made by the chief of police from among those assistant inspectors who have been detailed to, and who have actually served with the bureau of inspectors for at least five years prior to such appointment. Inspectors and assistant inspectors shall have the same rights as other members of the department to take competitive examinations from their respective civil service ranks. An inspector guilty of any offense or violation of the rules and regulations of the police department shall be subject to punishment as provided in Section 155 of this charter. The chief of police in addition to the inspectors above provided for shall detail any member of the department to serve as inspector of school traffic patrols who shall have the rank and pay of inspector, subject to the provisions of this section. Inspectors

Section 35.4. Subject to the provisions of Section 20 of this charter governing the appointment and removal of non-civil service appointees, and without competitive examination, the chief of police shall have power to appoint a police surgeon; to designate a deputy chief of police, a department secretary, and a director, bureau of special services, from any rank in the department; to designate a director, bureau of criminal information, from among the members of the department having the rank of sergeant or higher; to designate a captain of inspectors, a captain of traffic, and a director, bureau of personnel, from among the members of the department holding rank of lieutenant or higher, and to designate a supervising captain of districts from among the members of the department holding the rank of captain. Provided, that the captain of inspectors, who held said position on the 14th day of April, 1937, and for one year continuously prior thereto, is hereby continued in the said position as if he had Noncivil service appointees

been appointed thereto after civil service examination and certification. The department secretary or other suitable member of the department shall be assigned by the chief of police to serve also as secretary to the police commission without extra compensation. The chief of police shall assign a property clerk from among the members of the department, such assignment shall be made at the rank and pay of the member so assigned.

When any member of the department, detailed to any of the positions above mentioned, shall be removed from said detail or position, he shall be returned to his civil service rank and position, unless removed from the department pursuant to the provisions of Section 155 of the charter.

Police force

Section 35.5. The police force of the City and County shall not exceed one police officer for each five hundred inhabitants thereof. The annual compensations for the several ranks in the department shall be as follows: Chief of police, $7,500; deputy chief of police, $5,700; captain of inspectors, $5,300; department secretary, $5,100; captain of traffic, director, bureau of criminal information; director, bureau of personnel and supervising captain of districts, each, $4,300; captains and criminologist, $3,900; lieutenants and director, bureau of special services, each, $3,300; inspectors, $3,060; sergeants, $2,940; police surgeon, $2,700; photographer, $3,000; police officers, police patrol drivers, and women protective officers, for first year of service, $2,400; for second year of service, $2,400; for third year of service, $2,400; for fourth year of service, $2,520; for fifth year of service, $2,580; for sixth year of service, $2,640; for seventh year of service and thereafter, $2,700.

Salaries

Minimum salary

The minimum annual compensation for police officers, women protective officers, and police patrol drivers, now members of the department or who shall be appointed from eligible lists established prior to the effective date of this amendment, shall be $2,520, and further adjustments shall be in accordance with the preceding paragraph.

Service determination

In determining years of service necessary for a police officer, women protective officer and police patrol driver to receive the annual compensation sum of $2,580, $2,640, and $2,700, respectively, as provided for herein, service rendered prior to the effective date of this amendment shall be given full credit and allowed. All service under this section shall be computed on the calendar year basis.

Military leave

The absence of any police officer, woman protective officer, or police patrol driver on military leave of absence, as defined by Section 153 of this charter, shall be reckoned a part of his service under the City and County, for the purpose of computing years of service in gaining added compensation as provided for herein.

Any member assigned to two-wheel motorcycle traffic duty shall receive $15 per month in addition to the compensation to which he would otherwise be entitled.

Permits

Section 35.6. The chief of police may refuse to issue any permit that is subject to police department investigation and issuance, if it shall appear that the character of the business or the applicant requesting such permit does not warrant the issuance thereof, or he may revoke any such permit as soon as it shall appear that the business or calling of the person to whom it was granted is conducted in a disorderly or improper manner, or that the place in which the business is conducted or maintained is not a proper or suitable place in which to conduct or maintain such business or calling.

Riots, etc.

Section 35.7. In the suppression of any riot, public tumult, disturbance of the public peace or organized resistance against the laws or public authority, the chief of police, in the lawful exercise of his functions, shall have all the powers that are now or that may be conferred on the sheriff by the laws of this state.

Contingent fund of chief of police

Section 35.8. The Supervisors shall provide in the annual budget, an amount not to exceed in any one fiscal year the sum of $10,000 to be known as the contingent fund of the chief of police. The chief of police may from time to time, disburse such sums for contingent expenses of the department as in his judgment shall be for the best interests of the City and County, and the police commission shall allow and order paid out of such contingent fund, upon orders signed by the chief of police, such amounts as may be required.

Special police officers

Section 35.9. At his discretion or upon the petition of any person, firm or corporation, the chief of police may appoint, and at his pleasure remove special police officers. Such officers shall be subject to all the rules and regulations of the department.

Patrol special officers

Section 35.10. The police commission may appoint patrol special officers and for cause may suspend or dismiss said patrol special police officers after a hearing on charges duly filed with the commission and after a fair and impartial trial. Each patrol special police officer shall be at the time of his appointment not less than twenty-one years of age nor more than forty years of age and must possess such physical qualifications as may be required by the commission. Age qualifications shall not apply to present patrol special police officers acting as such at the time of the effective date of this amendment nor to their reappointment. Patrol special police officers who are designated by the police commission as the owners of certain beat or territory as may be fixed from time to time by said commission or the legal heirs or representatives of said owners, may dispose of their interest in said beat or territory to a person of good moral character, approved by the police commission and eligible for appointment as a patrol special police officer.

Rewards

Section 35.11. On the recommendation of the chief of police, the commission may reward any member of the department for heroic or meritorious conduct. The form or amount

of said reward to be discretionary with the commission, but not to exceed one month's salary in any one instance.

Care and sale of property

Section 35.12. The chief of police shall have power, by regulation, to provide for the care and restitution of property that may come into possession of any officer or employee thereof, and the sale at public auction of all such unclaimed property, as well as the disposition of such property as shall consist of weapons or articles used or that may be used in the commission of crime, or the sale or disposition of which is prohibited by law.

Effective date

Section 35.13. This amendment shall become effective when the joint legislative resolution approving such amendment is filed with the Secretary of State, and the Board of Supervisors has appropriated the funds necessary in connection therewith, but not later than July 1, 1943.

Ordered Submitted—Board of Supervisors, San Francisco, September 14, 1942.

Ayes: Supervisors Brown, Colman, Gallagher, MacPhee, Mead, Meyer, O'Gara, Roncovieri, Shannon, Uhl.

Absent: Supervisor Green.

I hereby certify that the foregoing charter amendment was ordered submitted by the Board of Supervisors of the City and County of San Francisco.

DAVID A. BARRY,
Clerk.

PROPOSITION NO. 29

CHARTER AMENDMENT—POWERS AND DUTIES OF THE BOARD OF EDUCATION.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said City and County by amending Section 135 thereof, relating to powers and duties of board of education.

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of the City and County of San Francisco, at an election to be held therein on November 3, 1942, a proposal to amend the Charter of said City and County by amending Section 135 thereof, powers and duties of board of education, by providing a method of payment of certificated employees of board of education in twelve equal payments.

POWERS AND DUTIES OF BOARD OF EDUCATION.

Establishment of schools

Section 135. In addition to the powers conferred by the general laws of the state and other provisions of this charter, the board of education shall have power to establish and maintain such schools as are authorized by the laws of the

state as the board may determine, and to change, modify, consolidate or discontinue the same as the public welfare may require.

Employment of personnel, etc.

The board shall also have power to employ such teachers and other persons as may be necessary to carry into effect its powers and duties; to fix, alter and approve their salaries and compensations, except as in this charter otherwise provided, and to withhold for good and sufficient cause the whole or any part of the wages, salary, or compensation of any person or persons employed as aforesaid; and to promote, transfer and dismiss teachers, but no teacher shall be dismissed from the department except for insubordination, immoral or unprofessional conduct, or evident unfitness for teaching. Appointment, promotion, assignment and transfer of deputy superintendents, principals, assistants, teachers and all other certificated employees shall be made by the board of education upon the recommendation of the superintendent of schools. All promotions of teachers shall be based solely on merit. Nothing in this section shall be construed to prevent the board from removing teachers as provided in this charter and the laws of the state. Charges against teachers must be made in writing by the superintendent after investigation and shall be finally passed upon by the board after giving the accused teacher a fair and impartial hearing before said board.

Probationary period

All teachers, heads of departments, vice-principals, principals, supervisors and directors shall be classified as permanent employees in their respective positions after they have been successfully employed in such positions in the school department for a probationary period of three years. In the absence of any action to the contrary by the board of education at the end of the third year of such employment, the classification shall be considered as permanent. A deputy superintendent shall be classified as a permanent employee in such position in the school department in which he was permanently employed immediately prior to his appointment as deputy.

Civil service

Non-teaching and non-technical positions, and positions not required by law to be filled by a person holding a teaching or other certificate as required by law, shall be employed under the civil service provisions of this charter and the compensations of such persons shall be fixed in accordance with the salary standardization provisions of this charter.

The board of education shall have power to grant and to renew, and, for insubordination, immoral or unprofessional conduct or unfitness for teaching, to revoke teachers' certificates.

Funds

The board shall establish regulations subject to the approval of the controller for the disbursement of all moneys belonging to the school department or the school fund or funds, and to

secure strict accountability in the expenditure thereof, and to provide for the prompt payment of all salaries due and allowed to officers, teachers and other employees of the school department.

Salary payments

Notwithstanding any other provision of this Charter to the contrary, the Board of Education of the San Francisco Unified School District may authorize payment of the annual compensation of certificated employees in twelve equal payments, the first such equal payment being made on or before the fifth day of August of each school year, and continuing each month thereafter until the full annual compensation shall be paid, provided that the last equal payment shall be made not later than the 5th day of July of the succeeding school year, and provided further that in the event that the certificated employee for any reason does not perform the full year of service, said certificated employee shall receive only such amount as is authorized by the School Code of the State of California. In the event said certificated employee has been paid an amount greater than such employee is entitled to receive under the provisions of the School Code of the State of California, said certificated employee shall be liable therefor and within thirty days after such excess payment said certificated employee shall reimburse the San Francisco Unified School District for the excess, and said certificated employee shall not be paid any of his retirement accumulations or credits until the San Francisco Unified School District has been reimbursed for the said excess.

Annual salary schedule

The board shall, between the 1st and 21st days of May of each year, adopt a schedule of salaries for the next ensuing fiscal year for teachers and other employees of the school department. Compensations of non-teaching and non-technical employees shall be fixed in accordance with the salary standardization provisions of this charter.

Ordered Submitted: Board of Supervisors, San Francisco, Sept. 14, 1942.

Ayes: Supervisors Brown, Colman, Gallagher, MacPhee, Mead, Meyer, O'Gara, Roncovieri, Shannon, Uhl.

Absent: Supervisor Green.

I hereby certify that the foregoing Charter Amendment was ordered submitted by the Board of Supervisors of the City and County of San Francisco.

DAVID A. BARRY,
Clerk.

PROPOSITION NO. 30

CHARTER AMENDMENT—SUPERINTENDENT OF SCHOOLS.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said City and County by amending Section 136 thereof by providing a definite term of office for the Superintendent of Schools, for the method of his appointment and for his suspension and removal, and providing that the incumbent Superintendent of Schools shall continue to hold his office at the pleasure of the Board of Education.

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of the City and County of San Francisco at an election to be held therein on November 3, 1942, a proposal to amend the Charter of said City and County by amending Section 136 thereof by providing a definite term of office for the Superintendent of Schools and for the method of his appointment and for his suspension and removal, and providing that the incumbent Superintendent of Schools shall continue to hold his office at the pleasure of the Board of Education.

SUPERINTENDENT OF SCHOOLS

Section 136. The Superintendent of Schools shall be the executive officer of the Board of Education. He shall be appointed by said board to serve for a term of four years and he shall receive an annual salary of $10,000 unless an increase in said salary shall be fixed by the Board of Education and approved by the Board of Supervisors. The incumbent in the office of superintendent on the first day of July, 1942, shall continue to serve at the pleasure of the board. Term and compensation

During his term of office the superintendent may be removed from his office, as in this section hereinafter provided, for misconduct or incompetency after charges setting forth the nature and character of said misconduct or incompetency are filed against the said superintendent. Said charges must be in writing and shall be signed by at least two members of the Board of Education. A copy of said charges, together with a notice of the time and place of the hearing on the same, shall within five days after the filing of the same be served upon the said superintendent. The mailing of a copy of said charges, with notice of time and place of hearing on the same, by United States registered mail, with the proper amount of postage prepaid thereon, addressed to said superintendent at his last known place of residence, shall be deemed to be a service of said charges as provided for in this section: A public hearing on said charges shall be had by the Board of Education not Removal from office

less than ten, nor more than twenty, days after the filing of said charges, provided that full power and authority is hereby given to the Board of Education to continue said hearing from time to time not to exceed sixty days from the commencement thereof, provided that for good cause said board may grant a further continuance on said hearing. The superintendent shall have the right to answer said charges, to appear at the hearing thereof and to be represented by counsel thereat for the purpose of defending himself against said charges. Pending the determination of said charges, the superintendent may be suspended from his office by a majority vote of the Board of Education, and the board may appoint a qualified person to discharge the duties of said superintendent during the period of suspension. If the Board of Education after hearing said charges shall by a two-thirds vote of all the members, determine that said charges have been sustained, it may by the same vote remove said superintendent from his office. No member of the board shall be entitled to vote on the removal of said superintendent unless he or she has been present at the entire hearing of such charges, provided that any member of the board who has not been present may vote for the removal of the superintendent, if such member has read a transcript of all the testimony taken on said hearing during his absence therefrom, and shall file with the board an affidavit to this effect. If said charges are not sustained by a two-thirds vote of all the members of said board, or if after said charges are sustained, the superintendent is not removed from office as a result thereof, said superintendent shall be reinstated in his position and shall be allowed his salary for the time that he has been under suspension, together with the costs of defending himself against said charges, including a reasonable fee for his attorney to be fixed and allowed by the board. If the charges are sustained, and as a result thereof said superintendent is removed from office, no further salary shall be allowed to said superintendent from the date of his suspension. In the hearing and determination of said charges filed against said superintendent, the judgment of said Board of Education shall be final unless in determining the sufficiency of said charges said Board of Education commits a clear abuse of discretion.

General powers

The superintendent shall have the powers and duties specified by this charter for department heads, in addition to such powers and duties as are fixed by general law.

Qualifications

The positions of superintendent and deputy superintendent shall be held only by persons of expert or technical training, but shall not be subject to any provisions of this charter prescribing a residence qualification for officers or appointees, provided, however, that during their incumbency appointees to such positions shall reside in the city and county, and in case any appointee shall fail so to do, his appointment shall at once be revoked by the board.

Ordered Submitted: Board of Supervisors, San Francisco, September 10, 1942.

Ayes: Supervisors Brown, Gallagher, MacPhee, Mead, Meyer, O'Gara, Ronconvieri, Shannon, Uhl.

Noes: Supervisor Colman.

Absent: Supervisor Green.

I hereby certify that the foregoing charter amendment was ordered submitted by the Board of Supervisors of the City and County of San Francisco.

DAVID A. BARRY,
Clerk.

PROPOSITION NO. 31

CHARTER AMENDMENT—HEALTH SERVICE SYSTEM

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said City and County by amending paragraph "d," subdivision 3 of Section 172.1 thereof, relating to the Health Service System.

The Board of Supervisors of the City and County of San Francisco hereby submits to the electors of the City and County of San Francisco at the general election to be held on November 3, 1942, a proposal to amend the Charter of said City and County by amending Section 172.1 thereof, so that the same shall read as follows:

HEALTH SERVICE SYSTEM

Section 172.1:

Subdivision 1. A health service system for municipal employees is hereby established. (Establishment) Said system shall be administered by a board to be known as the Health Service Board. (Administration) The members of the system shall consist of all employees of the City and County who are members of the retirement system and all teachers and employees of the Board of Education who are members of said retirement system. (Members) Any employee who adheres to the faith or teachings of any recognized religious sect, denomination or organization and, in accordance with its creed, tenets or principles, depends for healing upon prayer in the practice of religion shall be exempted from the system upon filing annually with the Health Service Board an affidavit stating such adherence and dependence and disclaiming any benefits under the system. (Exemptions) The board shall have the power to exempt any person whose annual compensation exceeds forty-five hundred ($4,500 00) dollars and any person who has otherwise provided for adequate medical care.

Health Service Board

Subdivision 2. The Health Service Board shall consist of nine members elected by the members of the system. The first members of the board shall classify themselves by lot so that three shall serve for one year, three for two years and three for three years from and after May 15, 1937. Thereafter the term of office shall be three years. The president of the board shall act as the appointing officer under the civil service provisions of this Charter for the appointing, disciplining and removal of such employees as may be authorized by the board. Each member of the board shall give bond in the sum of ten thousand ($10,000.00) dollars, the premium on which shall be paid out of the funds of the system. Vacancies shall be filled for the unexpired term by a majority vote of the remaining members of the board. Members of the board shall be nominated by a written nomination of twenty members filed with the registrar of voters not earlier than April 1 nor later than April 15 of each year. The registrar of voters shall prepare ballots and shall furnish the same to all members of the system between April 15 and April 25 and shall receive the ballots between April 25 and May 7 and canvass and certify the result on May 8. The registrar of voters shall have power to make such regulations respecting the form, distribution and canvassing of the ballots as may be necessary to secure secrecy of the ballots and prevent fraud. The persons equal in number to the number to be elected who receive the greatest number of votes shall be declared elected. Not more than one employee of any one department or office may be a member of the board. For the purpose of the first election, all employees eligible for membership in the system shall be deemed members.

Board's powers

Subdivision 3. The board shall have power:

(a) By a two-thirds vote of the entire membership of the board to adopt a plan or plans for rendering medical care to members of the system, or for the indemnification of the cost of said care, or for obtaining and carrying insurance against such costs, provided:

1. No member of the system shall be required to accept the services or medical supplies of any physician, surgeon, person licensed to treat human diseases without the use of drugs, dentist, nurse, pharmacist or hospital selected by the board, but, subject to rules and regulations of the board, every member shall have the right to select, of his own choice, any duly licensed physician, surgeon, person licensed to treat human diseases without the use of drugs, dentist, nurse, pharmacist, hospital or other agency of medical care as herein defined, who or which will render the required services pursuant to said rules and regulations, and the board shall make provision for the exercise of such choice; and is hereby expressly prohibited from entering into any exclusive contract for the rendering of said services;

2. Any duly licensed physician, surgeon, person licensed to treat human diseases without the use of drugs, dentist, nurse, pharmacist, hospital or other agency of medical care shall have

the right to furnish such services or medical supplies at uniform rates of compensation to be fixed by the board;

3. Such rates of compensation and any and all proposed contracts respecting the rendering of such services shall be reviewed by the retirement board of the City and County and shall not become effective unless and until approved by the retirement board. The retirement board may approve, refer to the Health Service Board for further consideration, or disapprove any matter or proposal which is within its jurisdiction under the provisions of this section, and it shall act within sixty (60) days after any matter has been submitted to it, and failure of the retirement board to approve, refer or disapprove the same within said period shall constitute an approval.

4. In January of each year, at public hearings, the Health Service Board shall review and determine the adequacy of medical care provided for members of the system and the adequacy of fee schedules and the compensation paid for all services rendered and it may make such revisions therein as it deems equitable. Any such determination or revision shall be subject to review by the retirement board upon an appeal taken within thirty (30) days thereafter by a written petition filed with the retirement board and signed by not less than fifteen per cent (15%) of the members of the system or by not less than fifteen per cent (15%) of those of any one of the following groups who have contracted to render services to the members of the system: Physicians and surgeons; persons licensed to treat human diseases without the use of drugs; dentists; nurses; pharmacists; hospitals; other agencies of medical care. A copy of such petition shall also be filed with the Health Service Board at the same time. The retirement board may approve or disapprove such determination or revision of the Health Service Board by a majority of its members or refer the same to the Health Service Board for further consideration. Failure of the retirement board to approve, refer or disapprove such determination or revision within sixty (60) days after filing the petition shall constitute an approval.

5. The Health Service Board shall receive, consider and, within sixty (60) days after receipt, act upon any matter pertaining to the administration, operation or conduct of the health service system submitted to it in writing by any member of the system or any person who has contracted to render medical care to the members of the system.

6. The said retirement board is hereby authorized and empowered and it is hereby made its duty to exercise the powers and to perform the duties prescribed for it by this section.

(b) To put said plans into effect and to conduct and administer the same and, for all or any of said purposes, to contract therefor and use the funds of the system.

(c) To make rules and regulations for the transactions of its business, the granting of exemptions and the admission to

the system of persons who are hereby made members thereof and such other officers and employees as may voluntarily become members of the system with the approval of the board.

(d) To appoint a medical director and such other employees as may be necessary. The compensation of the medical director shall be fixed by the board and he shall hold office at its pleasure. The employees, other than the medical director, shall be subject to the civil service provisions of the Charter, provided that all employees who are actually employed or who may be on military leave of absence from employment on the effective date of this amendment and who have been continuously employed for one year immediately preceding such date or such military leave of absence shall be continued in their respective positions and classifications as if appointed thereto after examination and certification from a civil service list of eligibles and shall thereafter be governed by and be subject to the civil service provisions of this Charter. Prior to July 1 in each year the Health Service Board shall fix the compensation of its employees, which compensation shall be the same as the rates of compensation fixed by the Board of Supervisors, under the provisions of Section 151 of this Charter, for similar classifications and services in other City and County departments. The health service board shall submit to the Board of Supervisors prior to July 1 of each year a list of the positions established under the Health Service Board, and such positions and the compensation therefor shall be enumerated in the annual salary ordinance. Payrolls covering such positions shall be governed by Section 150 of the Charter.

(e) To make provision for the participation in the benefits of the system by the dependents of members, retired municipal employees and temporary municipal employees, provided that such participation shall be without cost to the City and County.

Deductions from salary

Subdivision 4. The board shall determine and certify to the Controller the amount to be paid monthly by the members of the system to a fund for the purposes of the system hereby created. The Controller shall deduct said sums from the compensation of the members and shall deposit the same with the Treasurer of the City and County to the credit and for the use of the system. Such deductions shall not be deemed to be a reduction of compensation under any provision of this Charter. The board shall have control of the administration and investment of the funds, provided that all investments shall be of the character legal for insurance companies in California. Disbursements from the fund shall be made only upon audit by the Controller and the Controller shall have and exercise the accounting and auditing powers over the funds of the system which are vested in him by this Charter with respect to all other municipal boards, officers and commissions.

Subdivision 5. The term "medical care" shall include the services of physicians, surgeons, nurses, persons licensed to treat human diseases without the use of drugs, hospitalization, medicines and appliances, and dental, optical and other medical treatments and services. "Medical care"

All acts performed and services rendered under the provisions of this section shall be performed in accordance with the provisions as to professional conduct prescribed by the statutes of the State of California regulating such professional conduct and services.

Medical care, as defined in this section, shall not be furnished or supplied to any member of the system by or in any of the public health and hospital facilities of the City and County, except that emergency medical and hospital care may be rendered to any member of the system in the usual course of emergency health service. Public facilities

Subdivision 6. Members of the system shall have and possess no claim or recourse against any of the funds of the municipality by virtue of the adoption or operation of any plan for rendering medical care, indemnifying costs of said care or carrying insurance against such costs, but the claim and recourse of any such member shall be limited solely to the funds of the system. All expenses of the system shall be borne exclusively by the funds of the system and the City and County shall not appropriate or contribute funds in any manner for the purposes of the system hereby established and provided. Claims

Ordered Submitted: Board of Supervisors, San Francisco, September 14, 1942.

Ayes: Supervisors Brown, Colman, Gallagher, MacPhee, Mead, Meyer, O'Gara, Roncovieri, Shannon, Uhl.

Absent: Supervisor Green.

I hereby certify that the foregoing Charter Amendment was ordered submitted by the Board of Supervisors of the City and County of San Francisco.

DAVID A. BARRY,
Clerk.

PROPOSITION NO. 32

CHARTER AMENDMENT—SALVAGE CORPS

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said City and County by adding a new section thereto to be known as Section 38.1 (Salvage Corps) relating to the acquisition and operation by the City and County of San Francisco of the facilities of the Underwriters' Fire Patrol.

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of the City and County of San Francisco, at an election to be held therein on November 3, 1942, a proposal to amend the Charter of said City and County by adding Section 38.1 thereto, to read as follows:

SALVAGE CORPS

Creation

Section 38.1. There is hereby created in the San Francisco Fire Department a division to be known as the Salvage Corps.

Duties

The duties of said Salvage Corps shall be the protection of property, during the period of any fire and immediately after said fire, from damage by smoke, water or flames. Said Salvage Corps shall be under the jurisdiction of the Fire Commission of the City and County of San Francisco. The personnel of said Salvage Corps shall not be transferred to any other branch or division of the Fire Department but shall at all times be subject to the orders of the chief engineer of the department insofar as actual service is concerned. The personnel of said Salvage Corps may be increased in accordance with the fiscal and budgetary procedure provided for in the Charter, but members of any other branch or division of said Fire Department shall not be transferred to said Salvage Corps except after examination and certification as to eligibility by the Civil Service Commission.

Jurisdiction over

Transfers

Persons in Underwriters' Fire Patrol

All persons employed in the uniformed force of the corporation known as the Underwriters' Fire Patrol of San Francisco, on the effective date of this amendment and who have been so employed for a period of six months next before the effective date of this amendment shall become members of said Salvage Corps and shall be deemed appointed as such in accordance with the civil service provisions of the Charter and shall thereafter be entitled to all of the benefits thereof. Any person heretofore employed in the uniformed force of said Underwriters' Fire Patrol of San Francisco who has been granted a leave of absence for military purposes and who had been so employed by said Underwriters' Fire Patrol of San Francisco for a period of six months next before the granting of said leave of absence, shall, on the expiration of his said leave, become a member of said Salvage Corps and also shall be deemed appointed thereto pursuant to the civil service provisions of the Charter and entitled to all of the benefits thereof.

Persons in armed forces

All persons who, on the effective date of this amendment, shall be serving as officers in said uniformed force of said Underwriters' Fire Patrol of San Francisco and who have been so serving for a period of six months prior thereto, shall continue to occupy their respective official positions, with the exception that such persons as may be serving in the position of sergeant shall become lieutenants in said Salvage Corps and the position of sergeant shall no longer exist.

The officers and members of said Salvage Corps shall receive respectively the salaries provided for captains, lieutenants and hosemen provided by Section 36 of the Charter and for the purpose of determining the salaries of said hosemen, service rendered in the uniformed force of said Underwriters' Fire Patrol of San Francisco shall be deemed as service rendered in the service of the City and County of San Francisco. Salaries

Upon the actual taking over of the employees of said Underwriters' Fire Patrol of San Francisco, the members thereof coming into the employment of the City and County of San Francisco shall become members of the San Francisco City and County Retirement System and shall be entitled to the benefits thereof and subject to the obligations thereof pursuant to the provisions of Section 165 of the Charter. Retirement

All employees hereafter added to said Salvage Corps, including officers appointed thereto, other than those who may have been serving in the uniformed forces of said Underwriters' Fire Patrol of San Francisco and continue in the service of the City and County of San Francisco pursuant to the provisions of this section, shall be appointed and hold their positions subject to the civil service provisions of the Charter. New members

The tours of duty of the members of said Salvage Corps shall be the same as the tours of duty for other members of the uniformed force of the Fire Department as the same are set forth in Section 36 of the Charter. Tours of duty

The physical and age requirements for future applicants and members of the Salvage Corps shall be the same as those applicable to applicants for and regular members of equal rank in the San Francisco Fire Department. Physical and age requirements

This amendment shall become effective when the joint legislative resolution approving such amendment is filed with the Secretary of State, and the Board of Supervisors has appropriated the funds necessary in connection therewith, but not later than July 1, 1943. Effective date

Ordered Submitted: Board of Supervisors, San Francisco, September 14, 1942.

Ayes: Supervisors Brown, Colman, Gallagher, Green, O'Gara, Shannon.

Noes: Supervisors MacPhee, Mead, Meyer, Roncovieri, Uhl.

I hereby certify that the foregoing Charter Amendment was ordered submitted by the Board of Supervisors of the City and County of San Francisco.

DAVID A. BARRY,
Clerk.

PROPOSITION NO. 33

CHARTER AMENDMENT—LEAVES OF ABSENCE AND CONTINUOUS SERVICE.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said city and county by amending Sections 153 and 161 thereof, relating to Leaves of Absence and Continuous Service.

The Board of Supervisors of the City and County of San Francisco hereby submit to the electors of the City and County of San Francisco at the general election to be held on November 3, 1942, a proposal to amend Sections 153 and 161 thereof so that the same shall read as follows:

LEAVES OF ABSENCE

Rules

Section 153. Leaves of absence to officers and employees of the city and county shall be governed by rules established by the civil service commission, provided that leave of absence to any officer or employee for the purpose of leaving the city and county, taking a position outside of the city and county service, or accepting a position in some department or office of the city and county other than the one in which he is employed and where the duties are in no way related to the duties covered by his civil service classification, shall be limited to six months; and provided, further, that no limit shall be placed on a leave of absence granted to enable an officer or employee to accept promotion to a non-civil service position in the same department in which he holds civil service status, or promotion to co-related work in another department or office of the city and county.

Military leaves

Leaves of absence shall be granted to officers and employees of the city and county of San Francisco and non-certificated officers and employees of the San Francisco Unified School District and to eligibles on lists for appointment to positions therein for service in the armed forces of the United States or the State of California or for service on ships operated by or for the United States government in time of war and for such time thereafter as may be provided by rule of the civil service commission, but not to exceed two years after the proclamation of peace, except in case of disability incurred in line of duty with the armed forces or the merchant marine when such disability shall extend beyond such period.

Whenever any officer or employee of the city and county of San Francisco, or any non-certificated officer or employee of the San Francisco Unified School District or any eligible on a list for appointment to positions therein shall, by order of the government of the United States or by lawful order of any of its departments or officers, or by lawful order of the State of California, or any of its departments or officers, be directed in time of peace to report for service or training in

the armed forces of the United States, or in the armed forces of the State of California, and shall be inducted into said service, said officer or employee or eligible shall be entitled to a leave of absence from his office or position or eligibility during the time of such service and for a period of not to exceed three months after the expiration thereof.

In addition to such leaves, the board of supervisors by a three-fourths vote may, on the recommendation of the civil service commission, provide by ordinance that leaves of absence shall be granted to such officers, employees, and eligibles during time of war or in time of peace for other service directly connected with the prosecution of the war or national defense or preparedness. Leaves granted pursuant to the provisions of the two preceding paragraphs and ordinances adopted pursuant to the provisions of this paragraph shall be designated military leaves.

Status on return

If a person on military leave has been appointed to a permanent position, he shall be entitled to resume such position at the expiration of his leave, and if any civil service rights accrue to any appointee by reason of seniority, the term of service shall be reckoned a part of his service under the city and county, exclusive of service under the retirement provisions of this charter. If persons on military leave during time of war have standing on an eligible list, they shall retain their places thereon, and upon presenting an honorable discharge or certificate of honorable service from such wartime service shall be preferred for appointment for a period of four years after the proclamation of peace in the order of standing upon such register at the time of induction into such wartime service and before candidates securing standing through an examination held subsequent to such induction. If a person on military leave during time of peace has standing on an eligible list, he shall maintain his place on said list while such leave is in force unless pursuant to the provisions of Section 145 hereof the list shall expire or be cancelled during the period said leave is in force. If the name of such person on military leave during time of peace or war is reached for permanent appointment to a position from a list of civil service eligibles prior to the date of expiration or cancellation of such list as provided in Section 145 hereof, he shall be appointed to such position at the end of the service for which he was granted such leave, provided that no such person shall be appointed to an entrance position in the uniformed ranks of the police and fire departments under this provision who is more than 35 years of age unless the name of such person was reached for appointment to such position before such person reached age 35.

Filing of order

Officers, employees, or eligibles entering or being inducted into any service for which military leave may be granted under the provisions of this section shall, prior thereto, file with the civil service commission a copy of the orders requiring such service.

Rules

The civil service commission shall adopt rules to govern the administration of military leaves as herein provided and to govern lay-offs occasioned by the return of officers, employees or eligibles who have been granted military leaves as provided in this section.

Retroactive leaves

Military leaves granted to officers, employees, or eligibles for service on ships operated by or for the United States government shall be retroactive to December 7, 1941.

Illness or disability

The civil service commission, by rule and subject to the approval of the board of supervisors by ordinance, shall provide for leaves of absence due to illness or disability, which leave or leaves may be cumulative, if not used as authorized, provided that the accumulated unused period of sick leave shall not exceed six months, regardless of length of service, and provided further that violation or abuse of the provisions of said rule and ordinance by any officer or employee shall be deemed an act of insubordination and inattention to duties.

CONTINUOUS SERVICE

Credit for period of military leave

Section 161. Continuous service shall be defined by the board of supervisors, but the absence of any officer or employee of the city and county from service caused by reason of the service of such officer or employee in the military or naval forces of the United States in any war in which the United States has engaged, shall not be deemed to be absence from service for the purposes of the retirement system and such officer or employee shall receive credit under the retirement system, for the period of such absence, in the same manner as if he had not been absent.

Contributions to retirement system on return from service

Any member of the retirement system who is absent after September 14, 1940, from the service of the city and county, by reason of service in the armed forces of the United States, or the State of California or service on ships operated by or for the United States government, and for such time thereafter as may be provided by rule of the civil service commission, but not to exceed two years after the proclamation of peace, except in case of disability incurred in the line of duty with said armed forces or on said ships when such disability extends beyond such period, or any service connected with the war effort for which leaves of absence shall be authorized pursuant to section 153 of the charter, or any such member who is absent after September 14, 1940, from the service of the city and county, by reason of an order of the government of the United States or the State of California, or by lawful order of any of the departments or officers of said governments, may elect within four months after the effective date hereof or within four months after the beginning of such absence, to contribute to said retirement system while serving in said forces or on said ships, and at times and in a manner to be fixed by the retirement board, amounts equal to the contributions which he would have made from the beginning of said absence, or from the date of said election, had he remained on

duty in the position he occupied and at the compensation being earned by him immediately prior to the beginning of said absence. The city and county shall contribute to the retirement system on account of any member who exercises affirmatively the election provided herein, in the same manner and amounts as if said member were not absent in said service. If the member's base pay in said service shall be less than one hundred dollars per month, city and county, in lieu of said member, shall contribute also said amount which the member otherwise would have been required to contribute under said election, and said contributions shall be administered as if made by said member.

It is the purpose of the paragraph next preceding, to place a member who is absent from the service of the city and county by reason of service as set forth in paragraph next preceding, and who contributes or for whom contributions are made under the election herein provided, in the same status under the retirement system, as that which he would have occupied had he remained on duty in the position he occupied immediately prior to the beginning of said absence and charter and ordinance provisions governing the retirement system, shall apply to said member with like effect as if he were not absent. If, Default however, a member who exercises affirmatively the election provided herein, shall default in any of the contributions due to the retirement system under said election, and if said contributions are not made for him, then he shall be considered absent from service during the period covered by said defaulted contributions, the same as if he had not exercised affirmatively said election, and he shall not receive credit as service for the city and county, for the period covered by said defaulted contributions; but the absence during said period of default shall not break the continuity of service required of such member to entitle him to a pension or retirement allowance, as provided under the retirement system.

Any member of the retirement system who is absent from the service of the city and county by reason of service set forth in the second paragraph of this section, and who does not affirmatively exercise election herein provided, shall not receive credit as service for the city and county, for the period of such absence, but the absence shall not break the continuity of service required of such member to entitle him to a pension or retirement allowance as provided under the retirement system.

Ordered Submitted—Board of Supervisors, San Francisco, September 15, 1942.

Ayes: Supervisors Brown, Colman, Gallagher, MacPhee, Mead, Meyer, O'Gara, Roncovieri, Shannon, Uhl.

Absent: Supervisors Brown, Green.

I hereby certify that the foregoing charter amendment was ordered submitted by the Board of Supervisors of the City and County of San Francisco.

DAVID A. BARRY,
Clerk.

PROPOSITION NO. 34

CHARTER AMENDMENT—STANDARDIZATION OF COMPENSATIONS.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said City and County by amending Section 151 thereof, relating to standardization of salaries.

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of the City and County of San Francisco, at an election to be held therein on November 3, 1942, a proposal to amend the Charter of said City and County by amending Section 151 thereof, relating to standardization of salaries, so that the same shall read as follows:

Standardizations of Compensation

Power of board of supervisors

Section 151. The board of supervisors shall have power and it shall be its duty to fix by ordinance from time to time, as in this section provided, all salaries, wages and compensations of every kind and nature, except pension or retirement allowances, for the positions, or places of employment, of all officers and employees of all departments, offices, boards and commissions of the city and county in all cases where such compensations are paid by the city and county.

Exceptions

Compensations specified in this charter shall not be subject to the provisions of this section. Compensations of the teaching and other technical forces of the school department and employees of the Steinhart Aquarium and law library, departments, construction employees engaged outside of the city and county, part-time employees, and inmate and institutional help receiving less than fifty dollars ($50.00) per month, shall be fixed by the department head in charge thereof, with the approval of the board or commission, if any, in charge of the department concerned and subject to the budget and appropriation provisions of this charter; provided that part-time employees shall be recorded as such by a department head, only with the approval of the civil service commission and, when so recorded, shall be noted as part-time on payrolls, budget estimates, salary ordinance and similar documents.

Schedules of compensation submitted by civil service commission

In fixing schedules of compensation as in this section provided, the civil service commission shall prepare and submit to the board of supervisors and the board shall adopt a proposed schedule of compensations which shall include all classifications, positions and places of employment the wages or salaries for which are subject to the provisions of this section; provided, that the civil service commission shall from time to time prepare and submit to the board of supervisors and the

board shall adopt amendments to the schedule of compensations which are necessary to cover any new classifications added by the civil service commission. Under the schedules of compensation recommended by the civil service commission and adopted by the board of supervisors as herein provided, like compensation shall be paid for like service, based upon the classification as provided in section 141 of the charter, and for those classifications of employment in which the practice is customary, the proposed schedules of compensation shall provide for minima, intermediate, and maxima salaries and for a method of advancing the salaries of employees from the minimum to the intermediate and to the maximum with due regard to seniority of service. The compensations fixed as herein provided shall be in accord with the generally prevailing rates of wages for like service and working conditions in private employment or in other comparable governmental organizations in this state; provided, that for specialized services which are peculiar to the municipal service and not duplicated elsewhere in private or other governmental organizations in this state, the commission shall recommend and the board of supervisors shall fix a compensation which shall be in accord with the wages paid in private employment or other governmental organizations in the state for the nearest comparable service and working conditions; and provided further that if the civil service commission determines on the basis of facts and data collected as hereinafter provided that the rates generally prevailing for a particular service in private employment or in other governmental organizations are inconsistent with the rates generally prevailing in private employment or other governmental organizations for services requiring generally comparable training and experience, the commission shall set forth these data in its official records and shall recommend and the board of supervisors shall fix a compensation for such service that shall be consistent with the compensations fixed by the board of supervisors for other services requiring generally comparable training and experience; and provided further that the minimum compensation fixed for full time employments subject to the civil service provisions of this charter shall be not less than $106.00 per month.

The proposed schedules of compensation or any amendments thereto shall be recommended by the civil service commission solely on the basis of facts and data obtained in a comprehensive investigation and survey concerning wages paid in private employment for like service and working conditions or in other governmental organizations in this state. The commission shall set forth in the official records of its proceedings all of the data thus obtained and on the basis of such data the commission shall set forth in its official records an order making its findings as to what is the generally prevailing rate of pay for each class of employment in the municipal service as herein provided, and shall recommend a rate of pay for each

such classification in accordance therewith. The proposed schedules of compensation recommended by the civil service commission shall be transmitted to the board of supervisors, together with a compilation of a summary of the data obtained and considered by the civil service commission and a comparison showing existing schedules. Before being presented to the board of supervisors for consideration, the proposed schedules and a comparison with existing schedules shall be published once a week for two weeks.

Approval, etc., by board

The board of supervisors may approve, amend or reject the schedule of compensations proposed by the civil service commission; provided, that before making any amendment thereto the data considered by the board of supervisors as warranting such amendment shall be transmitted to the civil service commission for review and analysis and the commission shall make a report thereon to the board of supervisors, together with a report as to what other changes, and the cost thereof such proposed amendment would require to maintain an equitable relationship with other rates in such schedule.

Higher than standard salary

Where any compensation paid on January 1, 1931, is higher than the standard compensation fixed as provided in this section for such position or employment, said compensation shall be continued to the incumbent of such position as long as he legally holds said position, and department heads, in cooperation with the civil service commission where said commission has jurisdiction, shall continuously offer all possible opportunities to said incumbents to assume duties and responsibilities in higher classifications consistent with the higher rates of compensation hereby continued. The salaries and wages paid to employees whose compensations are subject to the provisions of this section shall be those fixed in the schedule of compensations adopted by the board of supervisors as herein provided and in accord with the provisions of the ordinance of the board of supervisors adopting the said schedule, and the compensations set forth in the budget estimates, and the annual salary ordinance and appropriations therefor shall be in accord therewith.

New schedule every five years

Not later than January 15, 1944 and every five years thereafter and more often if in the judgment of the civil service commission or the board of supervisors economic conditions have changed to the extent that revision of existing schedules may be warranted in order to reflect current prevailing conditions, the civil service commission shall prepare and submit to the board of supervisors a schedule of compensations as in this section provided. A schedule of compensations or amendments thereto as provided herein which is adopted by the board of supervisors on or before April 1 of any year shall become effective at the beginning of the next succeeding fiscal year and a schedule of compensations or amendments thereto adopted by the board of supervisors after April 1 of any year shall not become effective until the beginning of the second

succeeding fiscal year. The board of supervisors shall appropriate twelve thousand five hundred dollars ($12,500) to the civil service commission to be known as the salary survey fund and to be used exclusively for defraying the cost of surveys of wages in private employment and in other governmental jurisdictions and making reports and recommendations thereon and publication thereof as herein provided. No expenditures shall be made therefrom except on authorization of board of supervisors. In the event of the expenditure of any of said funds, the board of supervisors in the next succeeding annual budget shall appropriate a sum sufficient to reimburse said salary survey fund. Salary survey fund

Where compensations for services commonly paid on an hourly or a per diem basis are established on a weekly, semi-monthly or monthly salary basis for city and county service, such salary shall be based on the prevailing hourly or per diem rate, where this can be established, and the application thereto of the normal or average hours or days of actual working time, in the city and county service, including an allowance for annual vacation. Every person employed in the city and county service shall, after one year's service, be allowed a vacation with pay of two calendar weeks, annually, as long as he continues in his employment. Hourly or per diem basis. Vacation

Ordered submitted—Board of Supervisors, San Francisco, September 14, 1942.

Ayes: Supervisors Brown, Colman, Green, MacPhee, Mead, Meyer, O'Gara, Roncovieri, Shannon, Uhl.

Noes: Gallagher.

I hereby certify that the foregoing charter amendment was ordered submitted by the Board of Supervisors of the City and County of San Francisco.

DAVID A. BARRY,
Clerk.

PROPOSITION NO. 35

CHARTER AMENDMENT—LIMITED TENURE APPOINTMENTS.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said City and County by adding a new section thereto to be known as Section 145.1, Limited Tenure Appointments, relating to limited tenure appointments in time of war when eligibles from regularly established lists are not available for appointment.

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of the City

and County of San Francisco, at an election to be held therein on November 3, 1942, a proposal to amend the Charter of said City and County by adding Section 145.1 thereto, Limited Tenure Appointments, relating to limited tenure appointments in time of war when eligibles from regularly established lists are not available for appointment.

LIMITED TENURE APPOINTMENTS

Duration noncompetitive tests and appointments

Section 145.1. When in time of war declared by the Congress of the United States eligibles are not available for appointment from registers established through the regular examination procedure as provided under Section 145 hereof, the civil service commission may qualify applicants for wartime appointments to entrance positions through informal and non-competitive tests. Such tests and appointments resulting therefrom shall be governed solely by the provisions of this section and by rule of the civil service commission adopted pursuant thereto and the tests shall be adequate in the judgment of the civil service Commission to determine the capacity of applicants to perform the duties of the positions to be filled pending creation of lists of eligibles through the regular examination procedure as provided in Section 145 hereof. Appointments made under the provisions of this section shall be designated "limited tenure appointments" and may continue only until registers of eligibles are established through the regular examination procedure provided in Section 145 hereof but in no event to exceed six months beyond the cessation of hostilities.

Priority

Applicants who qualify for limited tenure appointments under the provisions of this section shall be appointed to positions in order of priority of filing applications.

Termination

Limited tenure appointments may be terminated by the appointing officer at any time for lack of work or funds. Limited tenure appointments may be terminated by the appointing officer for good cause at any time with the approval of the civil service commission without reference to the procedures governing removals set forth in Section 154 hereof.

No right or preference acquired

Persons serving under limited tenure appointments as in this section provided shall by reason of such service acquire no right or preference to permanent civil service status as defined elsewhere in this charter or by rule of the civil service commission which is conferred on persons completing probationary appointments made from lists of eligibles established through the regular examination procedures provided in Section 145 of the charter.

Restriction on non-civil service appointments

Non-civil service appointments in the absence of civil service eligibles as provided in Section 149 of this charter shall not be authorized if applicants qualified for limited tenure appointments are available. The civil service commission shall make every effort consistent with current conditions to maintain adequate registers of eligibles established through the regular examination procedure provided in Section 145 hereof. If its annual appropriation is insufficient to meet the cost of

the examinations required to establish registers of eligibles through the examination procedures set forth in Section 145 hereof, or to qualify applicants for limited tenure appointments as herein provided, the commission shall report to the mayor the estimated cost thereof and the mayor shall request and the supervisors shall make supplemental appropriations therefor in the manner provided herein for supplemental appropriations.

The civil service commission shall adopt rules to carry out the provisions of this section and to govern the administration of limited tenure appointments. Rules

Ordered Submitted: Board of Supervisors, San Francisco, September 10, 1942.

Ayes: Supervisors Brown, Colman, Gallagher, MacPhee. Meyer, O'Gara, Shannon, Uhl.

Absent: Supervisors Green, Mead, Roncovieri.

I hereby certify that the foregoing charter amendment was ordered submitted by the Board of Supervisors of the City and County of San Francisco.

DAVID A. BARRY,
Clerk.

PROPOSITION NO. 36

CHARTER AMENDMENT—CALIFORNIA PALACE OF THE LEGION OF HONOR AND M. H. DE YOUNG MUSEUM.

Providing that certain employees of the California Palace of the Legion of Honor and the M. H. de Young Memorial Museum shall be subject to the Civil Service provisions of the Charter.

Describing and setting forth a proposal to the electors of the City and County of San Francisco to amend the Charter of said City and County by amending Sections 50 and 51 thereof by providing that certain employees of the California Palace of the Legion of Honor and the M. H. de Young Memorial Museum shall be subject to the civil service provisions of the Charter.

The Board of Supervisors of the City and County of San Francisco hereby submits to the electors of the City and County of San Francisco at the general election to be held on November 3, 1942, a proposal to amend the Charter of said City and County by amending Sections 50 and 51 thereof so that the same shall read as follows:

CALIFORNIA PALACE OF THE LEGION OF HONOR

"Section 50. The California Palace of the Legion of Honor shall be known as such in perpetuity. The management, superintendence, and operation thereof and the lands set aside Management: Trustees

therefor shall be vested in a board of eleven trustees, of which the mayor and the president of the park commission shall be ex officio members. All vacancies occurring in said board shall be filled by the vote of a majority of the remaining members thereof. None of said trustees shall receive any compensation for his or her services. Trustees need not be residents of the City and County.

"The Board shall have exclusive charge of the said memorial, the lands set aside therefor, and its affairs, and of all real and personal property thereunto belonging, or which may be acquired by loan, purchase, gift, devise, bequest or otherwise, when not inconsistent with the terms and conditions of the loan, gift, devise or bequest. It shall meet for its purposes at least once in three months, and at such other times as the president or any three members thereof may appoint, in a place to be provided for the purpose. It shall appoint a director, curators and a secretary who shall hold office at its pleasure. It shall appoint such other assistants and employees as may be necessary, who shall be subject to the civil service and salary standardization provisions of this Charter; provided that all such assistants and employees who are actually employed, or who may be on military leave of absence from employment on the effective date of this amendment and who have been continuously employed for one year immediately preceding such date or such military leave of absence shall be continued in their respective positions as if appointed thereto after examination and certification from a civil service list of eligibles and thereafter shall be governed by and subject to the civil service provisions of this Charter.

Employees

The secretary shall keep a full account of all property, money, receipts and expenditures, and a record of all its proceedings, and shall file annually a report with the controller. The trustees shall have power to insure loan exhibits against any risk.

Property, etc.

"The supervisors, for the purpose of maintaining, operating and superintending said memorial, and the purchase of objects of art, literary productions and other personal property, shall provide an amount sufficient for the maintenance, operation, and superintendence thereof; subject to the budget and fiscal provisions of this charter, and to that end shall levy a tax annually, the proceeds of which shall be credited to and deposited in a fund in the treasury of the city and county to be known as the 'California Palace of the Legion of Honor Fund,' and shall be used exclusively for the purposes thereof.

Tax levy

"It is the intention that the administration and control of the California Palace of the Legion of Honor shall be continued with the powers granted and under the conditions imposed by the terms of the donation and accepted by the City and County."

M. H. DE YOUNG MEMORIAL MUSEUM

"Section 51. The M. H. de Young Memorial Museum shall be known as such in perpetuity. The museum and the grounds set aside therefor shall be under the management, superintendence, and operation of a board consisting of eleven trustees, of which the Mayor and the president of the park commission shall be ex-officio members. All vacancies occurring in said board shall be filled by the vote of a majority of the remaining members thereof. None of said trustees shall receive any compensation for his or her services. Management Trustees

"The board shall have exclusive charge of the said memorial museum, the lands set aside therefor, and its affairs, and of all real and personal property thereunder belonging, or which may be acquired by loan, purchase, gift, devise, bequest, or otherwise, when not inconsistent with the terms and conditions of the loan, gift, devise, or bequest. The trustee shall have power to insure loan exhibits against any risk. The park commission shall maintain and care for the grounds of this memorial museum, and shall furnish the moneys for the necessary repair and embellishment of the grounds and unoccupied parts.

"The board of trustees shall have the power to maintain, repair or reconstruct existing buildings and construct new buildings and to make and enter into contracts relating thereto, subject, however, to the budget and annual appropriation ordinance. The Supervisors, subject to the budget provisions of this charter, shall, for the purpose of maintaining said memorial museum, include in each annual budget of City and County expenditures an amount sufficient for the maintenance, operation and superintendence thereof, not less than forty thousand dollars ($40,000) in each annual budget, and such additional amount as is necessary to take care of the increased demand for help, buildings, repairs, and care of said memorial museum. Such amount shall be credited to and deposited in the fund in the treasury of the City and County to be known as the 'M. H. de Young Memorial Museum Fund.' The board shall meet for its purposes at least once in three months, and at such other times as the president or any three members thereof may appoint, in a place to be provided for the purpose. It shall appoint a director, curators and a secretary who shall hold office at its pleasure. It shall appoint such other assistants and employees as may be necessary, who shall be subject to the civil service and salary standardization provisions of this Charter; provided that all such assistants and employees who are actually employed, or who may be on military leave of absence from employment on the effective date of this amendment and who have been continuously employed for one year immediately preceding such date of such military leave of absence shall be continued in their respective positions as if appointed thereto after examination and certification from a civil service list of eligibles and thereafter shall be governed by and subject Employees

Property, etc

to the civil service provisions of this Charter. The secretary shall keep a full account of all property, money, receipts and expenditures, and a record of all its proceedings, and shall file annually a report with the controller.

"It is the intention that the administration and control of the M. H. de Young Memorial Museum shall be continued with the powers granted and under the conditions imposed by the terms of the donations and accepted by the City and County."

Ordered Submitted—Board of Supervisors, San Francisco, September 15, 1942.

Ayes: Supervisors Brown, Colman, Gallagher, Green, MacPhee, Mead, Meyer, O'Gara, Roncovieri, Shannon, Uhl.

I hereby certify that the foregoing Charter Amendment was ordered submitted by the Board of Supervisors of the City and County of San Francisco.

DAVID A. BARRY,
Clerk.

PROPOSITION NO. 37

CHARTER AMENDMENT—RECREATION DEPARTMENT.

Describing and setting forth a proposal to the electors of the City and County of San Francisco to amend the Charter of said City and County by amending Section 42 thereof, Recreation Commission, by prescribing the powers and duties of the Recreation Commission.

The Board of Supervisors of the City and County of San Francisco hereby submits to the electors of the City and County of San Francisco at the general election to be held on November 3, 1942, a proposal to amend the charter of said city and county by amending Section 42 thereof, so that the same shall read as follows:

RECREATION DEPARTMENT

Recreation Commission

Section 42. The Recreation Department shall be under the management of a Recreation Commission consisting of seven members, five of whom shall be appointed by the mayor, and who shall serve without compensation. Three of the members appointed by the mayor shall be men and two shall be women. The superintendent of schools and the superintendent of parks shall be members of the commission ex-officio.

Ex-officio members

Terms

The members of said commission heretofore appointed by the mayor and who shall continue to hold office on the effective date of this section, as amended, shall continue to hold their respective offices for the respective terms for which they have been appointed, and at the expiration of each of said terms the mayor shall fill the vacancies created by the expiration of the term of any member of said commission, and the

mayor shall have the authority to fill any vacancy otherwise occurring in said commission.

Superintendent

The Recreation Commission shall appoint a superintendent, who shall be the chief executive officer of said department, and who shall hold office at the pleasure of the commission.

Powers of commissioners

The commissioners shall have the complete and exclusive control, management and direction of all playgrounds, recreation centers, and all other recreation facilities, now or hereafter placed under charge of the commission, including exclusive right to erect and to superintend the erection of buildings and structures thereon, and to construct new playgrounds and recreation centers, except as in the charter otherwise provided.

Order Submitted: Board of Supervisors, San Francisco, September 10, 1942.

Ayes: Supervisors Brown, Colman, Gallagher, MacPhee, Mead, Meyer, O'Gara, Shannon, Uhl.

Absent: Supervisors Green, Roncovieri.

I hereby certify that the foregoing charter amendment was ordered submitted by the Board of Supervisors of the City and County of San Francisco.

DAVID A. BARRY,
Clerk.

PROPOSITION NO. 38

CHARTER AMENDMENT — ABANDONMENT OF STREET CAR OR OTHER TRANSPORTATION SERVICE.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said City and County by adding thereto a new section to be designated Section 132.1, "Abandonment of street car or other transportation service."

The Board of Supervisors of the City and County of San Francisco hereby submits to the electors of the City and County at the general election to be held on November 3, 1942, a proposal to amend the Charter of said City and County by adding a new section thereto to be designated Section 132.1, "Abandonment of street car or other transportation service," to read as follows:

ABANDONMENT OF STREET CAR OR OTHER TRANSPORTATION SERVICE

Abandonment

Section 132.1. In the event of the unification, consolidation or merger of the San Francisco Municipal Railway with any privately owned street railway system or with any portion or facility thereof, no line of street railway, bus line, trolley bus

line or cable car line, or any portion thereof, which is now or will be owned by the City and County of San Francisco and is now or will be operated by the Public Utilities Commission, shall be abandoned nor shall the service be discontinued thereon except upon recommendation by the Public Utilities Commission, in writing, to the Board of Supervisors. The recommendation of the Public Utilities Commission shall be acted upon by the Board of Supervisors within thirty days from the receipt thereof. For the purpose of hearing such recommendation a public hearing shall be held. If the said recommendation is disapproved by at least nine votes it shall not become effective and such service shall be continued. If said recommendation is not disapproved by nine votes of said board the recommendation shall become effective forthwith. Failure of the Board of Supervisors to act on said recommendation within thirty days shall be deemed as the approval of said recommendation of the Public Utilities Commission; provided that the Public Utilities Commission may without reference or recommendation to the Board of Supervisors abandon or discontinue service on any line of street railway, bus line, trolley bus line, or cable car line, or any portion thereof, which has been in operation for less than one year next immediately preceding such order of abandoment or discontinuance.

Recommendation

Hearing

Approval

Ordered Submitted—Board of Supervisors, San Francisco, September 15, 1942.

Ayes: Supervisors Gallagher, Green, MacPhee, Mead, Meyer, O'Gara, Roncovieri, Shannon, Uhl.

Noes: Supervisors Brown, Colman.

I hereby certify that the foregoing Charter Amendment was ordered submitted by the Board of Supervisors of the City and County of San Francisco.

DAVID A. BARRY,
Clerk.

PROPOSITION NO. 39

CHARTER AMENDMENT—POWERS VESTED IN BOARD OF SUPERVISORS.

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said City and County by amending Section 9 thereof, "Powers Vested in Board of Supervisors."

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of the City and County of San Francisco, at an election to be held therein on November 3, 1942, a proposal to amend the Charter of the City and County by amending Section 9 thereof, "Powers

Vested in Board of Supervisors," so that the same shall read as follows:

POWERS VESTED IN BOARD OF SUPERVISORS

General powers

Section 9. The powers of the City and County, except the powers reserved to the people or delegated to other officials, boards or commissions by this Charter, shall be vested in the Board of Supervisors and shall be exercised as provided in this charter. The Board of Supervisors shall, ex-officio, be the board of equalization for the City and County. It shall be the duty of the Board of Supervisors to canvass the vote cast at each election in the City and County, and certify the official count of such balloting. The supervisors shall determine the maximum number of each class of employment in each of the various departments and offices of the City and County and shall fix rates and schedules of compensation therefor in the manner provided in this Charter. On the recommendation of the mayor and the chief administrative officer, the Board of Supervisors may create or abolish departments which are now or may hereafter be placed under the chief administrative officer or under commissions appointed by the mayor.

The Board of Supervisors may, by ordinance, confer on any officer, board or commission such other and additional powers as the board may deem advisable.

The Board of Supervisors, by ordinance, may provide medical care, hospitalization, compensation and such other benefits as the board may deem necessary for regularly authorized volunteer civilian defense workers suffering injury arising out of and in the course of their activities as such civilian defense workers.

Whenever the Board of Supervisors by ordinance shall declare that the public interest demands a night university, municipally established, maintained and controlled, they shall submit the proposal to the people, and if approved by a majority of the electors voting thereon, the Board of Supervisors may by ordinance provide for the establishment, maintenance and control of such a night university having courses of instruction in advance of the instruction maintained in high schools or junior colleges. Said university shall have the power to grant academic degrees and shall be open to any resident of the City and County qualified to enter and pursue the courses of instruction therein given.

Ordered Submitted: Board of Supervisors, San Francisco, Sept. 14, 1942.

Ayes: Supervisors Brown, Colman, Gallagher, MacPhee, Mead, Meyer, O'Gara, Roncovieri, Shannon, Uhl.

Absent: Supervisor Green.

I hereby certify that the foregoing Charter Amendment was ordered submitted by the Board of Supervisors of the City and County of San Francisco.

DAVID A. BARRY,
Clerk.

Certificate

STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO } ss.

This is to certify that we, JESSE C. COLMAN, President of the Board of Supervisors of the City and County of San Francisco, and DAVID A. BARRY, Clerk of the Board of Supervisors of said City and County, have compared the foregoing proposed and ratified amendments to the Charter of the said City and County of San Francisco with the original proposals, submitting the same to the electors of said City and County at a general election held on Tuesday, the Third day of November, One Thousand Nine Hundred Forty-Two, and find that the foregoing is a full, true, correct and exact copy thereof, and we further certify that the facts set forth in the preamble preceding said amendments to said Charter are true.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the same to be authenticated by the seal of the City and County of San Francisco, this 30th day of December, One Thousand Nine Hundred Forty-Two.

JESSE C. COLMAN,
President of the Board of Supervisors of the City and County of San Francisco.

DAVID A. BARRY,
Clerk of the Board of Supervisors of the City and County of San Francisco.
[Seal]

Approval

Now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, a majority of all the members elected to each house voting therefor and concurring therein, that said amendments to the Charter of the City and County of San Francisco, as proposed to, and adopted and ratified by the electors of said city and county, and as hereinbefore fully set forth, be and the same are, and each of them is hereby approved as a whole without amendment or alteration, for and as amendments to, and as part of the Charter of the City and County of San Francisco.

CHAPTER 10

Assembly Concurrent Resolution No 12—Relative to commendation of former members of the Legislature serving in the armed forces of the United States.

[Filed with Secretary of State January 11, 1943.]

Former members of Legislature in armed forces

WHEREAS, There are former members of the Legislature of the State of California serving in the armed forces of the United States; and

WHEREAS, The members of the Legislature of the State of California are proud of these former colleagues and are also proud of the families of these colleagues; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That former members of the Legislature of the State of California in the armed forces and their families are to be commended for the service they are rendering our country and for their patriotism; and be it further

Resolved, That the Chief Clerk of the Assembly is directed upon the request of a member of the Legislature to send a suitably engrossed copy of this resolution to a former member of the Legislature serving in the armed forces or to the family of any such former member.

CHAPTER 11

Senate Concurrent Resolution No. 2—Approving a certain amendment to the charter of the County of San Bernardino, State of California.

[Filed with Secretary of State January 11, 1943.]

County of San Bernardino. Charter amendment

WHEREAS, The County of San Bernardino, State of California, has at all times herein mentioned been and now is a body politic and corporate and is now and has been since the seventh day of April, 1913, organized and acting under and by virtue of a charter adopted under and by virtue of Section 7½ of Article XI of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said county at an election held for that purpose on the fifth day of November, 1912, and approved by the Legislature of the State of California, on the seventh day of April, 1913; and

WHEREAS, Proceedings have been had for the proposal, adoption and ratification of an amendment to said charter set out in the certificate of the chairman of the board of supervisors and the county clerk and ex officio clerk of the board of supervisors of the County of San Bernardino, to wit:

STATE OF CALIFORNIA, }
} SS.
COUNTY OF SAN BERNARDINO, }

Certificate

Certificate of County Clerk of the County of San Bernardino, State of California, and the Chairman of the Board of Supervisors of San Bernardino County, State of California, as to the adoption and ratification of a certain amendment to the Charter of said County of San Bernardino, submitted to the qualified electors of said County on the 3rd day of November, 1942.

PREAMBLE.

BE IT KNOWN THAT:

WHEREAS, the County of San Bernardino, State of California, has at all times mentioned herein been and now is a body politic of said State of California, and is now and has been since the 7th day of April, 1913, organized and acting under and by virtue of a charter adopted under and by virtue of Section 7½ of Article XI of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said County at an election held for that purpose on the 5th day of November, 1912, and approved by the Legislature of the State of California, on the 7th day of April, 1913; (Statutes 1913, page 1652, et seq.), and

WHEREAS, on the 8th of September, 1942, the Board of Supervisors of said San Bernardino County, pursuant to the provisions of Section 7½ of Article XI of the Constitution of said State, duly proposed to the qualified electors of said County an amendment to the charter of said County by the submission of a proposal for such amendment to said electors at the general election to be held November 3rd, 1942, and at the same time said board duly ordered that said proposal be submitted to the qualified electors of said County for ratification or rejection at said general election, and further duly ordered that said proposal should be forthwith published ten times in the San Bernardino Daily Sun, a daily newspaper of general circulation, printed, published and circulated in said county; and in said proposal, said proposed amendment was set forth in full and at length, and was and is in the words and figures hereinafter set forth; and,

WHEREAS, thereafter, said proposal was duly published in full and at length in said newspaper for ten times, and on the following dates, to-wit: September 14th to September 23rd, 1942, inclusive, and as often during said time as said newspaper was regularly published; and said general election at which said proposal was submitted to the vote of the qualified electors of said County was not less than thirty days nor more than sixty days after the publication of said proposal, as aforesaid; and

WHEREAS, said Board of Supervisors duly prescribed the form and title to be printed on the general election ballot to be used at said general election for the submission of said proposal, which said form and title is hereinafter set forth, and in which said form and under which said title, said proposal appeared on said ballots; and,

WHEREAS, subsequent to said publication and at least twenty-five days prior to November 3rd, 1942, the County Clerk of said County duly filed in his office a notice of election, among other things, and in addition to all other matters required by law, stated that said proposal would be submitted to the qualified electors of said County at said general election to be held November 3rd, 1942, and said Clerk, immediately

after filing said statement, as aforesaid, also caused a copy of said notice to be posted in a prominent place in his office, and on said notice, said proposal appeared in the form and by the title so prescribed by said Supervisors and in the form and by the title said proposal appeared upon said ballot; and,

WHEREAS, at said general election said proposal was duly submitted to the vote of the qualified electors of said County, and appeared on the general ballot at said election in the following form, to-wit:

"COUNTY CHARTER AMENDMENT
CHARTER AMENDMENT NUMBER SEVEN OF THE
COUNTY OF SAN BERNARDINO

Proposal submitted by the Board of Supervisors of the County of San Bernardino, State of California, to amend the Charter of the County of San Bernardino;

Shall the Charter of the County of San Bernardino be amended by amending Sections 1 and 11 of Article I to read as follows:

SECTION 1. The Board of Supervisors shall consist of five members, one from each supervisorial district. The supervisors shall be nominated and elected at the time and in the manner provided by general laws, except and provided that each supervisor shall be elected by the electors of such district and not by the electors of the county at large.

SECTION 11. A supervisor may be removed from office in the manner provided by law. Any vacancy in the office of supervisor shall be filled by appointment, in the manner and for the term provided by law, and in the case of the election of a supervisor for an unexpired term or for a remainder of an unexpired term such officer shall be nominated and elected at the time and in the manner provided by general laws, except and provided that each supervisor shall be elected by the electors of such district and not by the electors of the county at large."

And opposite said proposal to be voted upon, and to the right thereof, and on separate lines, were printed the words "YES" and "NO", with voting squares thereafter and in addition thereto; said ballot contained all other matters and things required by law to be stated thereon, and said ballot in all respects duly complied with law; and said proposal was duly and regularly submitted to said qualified electors in strict compliance with law, and after full compliance with each and every provision of law relating to the amendment of County charters; and,

WHEREAS, the County Clerk of said San Bernardino County mailed a printed copy of said proposed Amendment enclosed in an envelope with a sample ballot, to each qualified elector within said County of San Bernardino, at least ten days prior to the said 3rd day of November, 1942; and,

WHEREAS, the returns of said general election held in the County of San Bernardino on the said November 3rd, 1942, at which election said proposal was submitted to the vote of the qualified electors of said County, were made to and canvassed by the County Clerk of said County of San Bernardino, as ordered by said Board of Supervisors, and duly certified to the Board of Supervisors, and it appeared therefrom and was so declared by the Board of Supervisors that 18,564 votes were cast in favor of said proposal and that 10,097 votes were cast against said proposal and it appeared therefrom that a majority of the qualified electors of the County of San Bernardino voting thereon, at such general election, voted in favor of the said proposal and said proposed amendment, and said Board of Supervisors thereupon ordered and declared that said proposed amendment was ratified; and.

WHEREAS, said amendment so ratified by the electors of the County of San Bernardino, at said general election held on November 3rd, 1942, is now submitted to the Legislature of the State of California, for approval or rejection, as a whole, without power of alteration or amendment, in accordance with the provisions of Section 7½ of Article XI of the Constitution of the State of California; now

THEREFORE, the undersigned, C. E. GRIER, Chairman of the Board of Supervisors of the County of San Bernardino, State of California, and HARRY L. ALLISON, County Clerk and ex-officio Clerk of the Board of Supervisors, San Bernardino County, State of California, authenticating their signatures with the official seal of said Board of Supervisors, do hereby certify that said amendment to said Charter of said County, so ratified by the majority of the electors voting thereon at said general election held on the 3rd day of November, 1942, as submitted to said electors is in the words and figures as follows, and is and shall, if so approved by said Legislature be in the words and figures following, to-wit:

"CHARTER AMENDMENT NUMBER SEVEN

That the charter of the County of San Bernardino shall be amended by an amendment to be known as "County Charter Amendment Number Seven", amending Sections 1 and 11 of Article I of said Charter, to read as follows:

Board of supervisors: Election

SECTION 1. The Board of Supervisors shall consist of five members, one from each supervisorial district. The supervisors shall be nominated and elected at the time and in the manner provided by general laws, except and provided that each supervisor shall be elected by the electors of such district and not by the electors of the county at large.

Removal and vacancies

SECTION 11. A supervisor may be removed from office in the manner provided by law. Any vacancy in the office of supervisor shall be filled by appointment, in the manner and for the term provided by law, and in the case of the election of a supervisor for an unexpired term or for a remainder

of an unexpired term such officer shall be nominated and elected at the time and in the manner provided by general laws, except and provided that each supervisor shall be elected by the electors of such district and not by the electors of the county at large."

AND WE FURTHER CERTIFY hereby that the facts set forth in the preamble of this certificate preceding said amendment to said charter are and each of them is true,

And, for and on behalf of said County of San Bernardino, we, being hereinbefore duly authorized, do hereby request the Legislature of the State of California, to approve said amendment to said charter as a whole, and to take such other and further steps and proceedings as may be necessary to perfect such approval.

IN WITNESS WHEREOF, we have hereunto set our hands and affixed the official seal of said Board of Supervisors of San Bernardino County, State of California, this 30th day of November, 1942.

[SEAL]

C. E. GRIER
Chairman of the Board of Supervisors San Bernardino County, State of California.

ATTEST: HARRY L. ALLISON
County Clerk and ex-officio Clerk of the Board of Supervisors, San Bernardino County, State of California.

WHEREAS, Said proposed amendment to the charter to the County of San Bernardino, so ratified by the majority of the electors voting thereon at the general election held on the third day of November, 1942, has been submitted to the Legislature of the State of California for approval and ratification as a whole, without power of alteration or amendment in accordance with the provisions of Section 7½ of Article XI of the Constitution of the State of California; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly concurring, A majority of all members elected to each house voting for the adoption of this resolution and concurring therein, that said amendment to the Charter of the County of San Bernardino, as proposed, adopted and ratified by the electors of the said County of San Bernardino, and as hereinbefore set forth, be, and the same is hereby approved as a whole, without amendment or alteration, and as an amendment to and as a part of the charter of the County of San Bernardino. Approval

CHAPTER 12

Senate Concurrent Resolution No. 5—Approving certain amendments to the charter of the County of San Mateo, State of California, submitted to, voted for, and ratified by, the electors of said county at the general election held on the third day of November, 1942.

[Filed with Secretary of State January 11, 1943.]

County of San Mateo Charter amendments

WHEREAS, The County of San Mateo, State of California, has been at all times herein mentioned, and now is, a body politic, and corporate, and a political subdivision of the State of California, and is now and has been, since the twenty-eighth day of January, 1933, organized and acting under and by virtue of a freeholder's charter, adopted under and by virtue of Section 7½ of Article XI of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said county at an election held for that purpose on the eighth day of November, 1932, and approved by the Legislature of the State of California in the Fiftieth Session thereof, and filed in the office of the Secretary of State on the twenty-eighth day of January, 1933; and,

WHEREAS, The board of supervisors of said county, pursuant to the provisions of said Section 7½ of Article XI of said Constitution, did, by resolution and order adopted September 15, 1942, duly propose to the qualified electors of said County of San Mateo six amendments to the charter of said county, designated as proposed county charter amendments Nos. 1, 2, 3, 4, 5, and 6 and ordered that said amendments be submitted to said qualified electors of said county at a general election to be held in said county on the third day of November, 1942, which date was fixed in said resolution as the day for holding said general election; and

WHEREAS, Said proposed charter amendments Nos. 1, 2, 3, 4, 5, and 6, were, and each of them was, published for 10 times in the Burlingame Advance-Star, a daily newspaper of general circulation, printed, published and circulated in said county, to wit, on September 18, 19, 21, 22, 23, 24, 25, 26, 28, and 29, 1942; and

WHEREAS, Pursuant to said resolution, the said board of supervisors did pass a resolution on the fifteenth day of September, 1942, calling an election to be held on the third day of November, 1942, for the submission of certain proposed amendments, to the charter contained in the said resolution, and said resolution did set out the purpose and time of the said general election, and did establish the election precincts and designated the polling places and the names of the election officers of each precinct; that the said resolution was published in the San Mateo Times on the ninth and sixteenth days of October, 1942; and

WHEREAS, Said general election, at which said proposed amendments were submitted to the qualified electors of said county, was not less than 30 nor more than 60 days after publication of said proposed amendments, as aforesaid; and

WHEREAS, Said general election was held in said County of San Mateo on said third day of November, 1942, which said day was not less than 30 days and not more than 60 days after said six proposed amendments to said charter had been published for 10 times in said Burlingame Advance-Star; and

WHEREAS, Thereafter the board of supervisors of said county of San Mateo did, in the manner provided by law, duly and regularly canvass the returns of said election, and on the seventeenth day of November, 1942, did duly declare the result of said general election as determined from the canvass of the returns thereof; and

WHEREAS, At said general election held on said third day of November, 1942, five of said proposed amendments were ratified by a majority of the electors of said county voting thereon, to wit: charter amendments Nos. 1, 2, 4, 5, and 6, and that all other such proposed amendments, to wit: No. 3, received less than a majority of the votes of such qualified electors voting thereon and were not ratified; and

WHEREAS, Said charter amendments so ratified by the electors of said County of San Mateo are now submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration or amendment, pursuant to the provisions of said Section 7½ of Article XI of the Constitution of the State of California, and are in words and figures as follows, and are and shall, if so approved by said Legislature, be in the words and figures following, to wit:

AMENDMENT NO. I

Section 2 of Article III of said Charter is hereby changed and amended to read as follows:

Section 2. *Additional Powers and Duties.* In addition to the other powers and duties herein provided, it shall be the duty of the Board of Supervisors, and said Board shall have the power:

Board of Supervisors
Additional powers and duties

(a) To appoint, remove or suspend from office, in the manner and method herein provided, all appointive county officers, boards and commissions, whose appointments, removals or suspensions are not otherwise provided for by this Charter.

(b) To confirm, in the manner and method herein provided, the appointments of all officers who, under the provisions of this Charter, are appointed by the County Executive.

(c) To provide, by ordinance, for the compensation of elective officers and appointive officers, in the manner and method herein provided.

(d) To provide, by ordinance, and therein to fix and regulate, the appointment and number of assistants, deputies, clerks, attaches, and other persons to be employed, from time to time, in the several offices of the county, and therein to

prescribe and regulate the powers, duties, qualifications and compensation of such persons, the times at which, and the terms for which, they shall be appointed, and the manner of their appointment and removal; provided, however, that the provisions of such ordinance or ordinances, so to be enacted by the Board of Supervisors, shall in all respects conform to and comply with all other provisions of this Charter with respect to the manner and method of appointment and removal of such assistants, deputies, clerks, attaches and other employees, their powers, duties, qualifications, compensation, the times of their appointment and the terms for which they shall be appointed.

(e) To provide, upon recommendation of the County Executive, for necessary court rooms and other office facilities and services for all State officers assigned for duty in this county.

(f) To provide, by ordinance, upon the recommendation of the County Executive, for the creation of offices other than those required by the Constitution and laws of the State, and, upon the like recommendation, for the election or appointment of persons to fill the same, for the manner of such appointment, for the times at which and the terms for which such persons shall be so elected or appointed, and to prescribe their duties, and to fix their compensations.

(g) To provide, by ordinance, upon the recommendation of the County Executive, for the creation of offices hereafter created by the Constitution or by general law, and, upon the like recommendation, for the election or appointment of persons to fill the same, for the manner of such appointment, for the times at which and the terms for which such persons shall be so elected or appointed, and to prescribe their duties, and to fix their compensation.

(h) To provide for the consolidation of any county office with any other county office, and for the segregation of consolidated county offices, provided, that no county offices which shall be consolidated under a specific provision of this Charter may later be segregated by the Board of Supervisors under this general provision.

(i) To request from the State a proposal of an annual contract for forest-fire protection services for the area of the county outside of the incorporated municipalities and established fire districts. If the terms of such proposal, which shall cover in detail the method and manner of providing fire protection for the areas herein mentioned, are satisfactory and a contract can be entered into for this service for a sum not greater than the annual appropriation made by the Board of Supervisors for said fire protection, then said contract with the State shall be executed. If, however, satisfactory contract cannot be executed, then the Board of Supervisors shall appoint a fire warden together with such necessary personnel as is required, fixing their salaries and duties for the purpose of furnishing adequate fire protection for said areas.

(j) To provide for a special temporary or permanent working force under the County Executive, whose members shall be qualified to perform duties in any one or more of the County offices or functions within which their services may from time to time be required, and to prescribe, in the administrative code herein provided for, rules and regulations not in conflict with general law or the provisions of the Charter, with respect thereto.

(k) To require, if deemed proper, any county or township officer or employee, before or after entering upon the duties of his office, or service, to give bond for the faithful performance thereof, in such penal sum as may be fixed by the Board of Supervisors.

(l) To provide, publish and enforce, a complete code of rules, not inconsistent with general law or this Charter, prescribing in detail the method of procedure of the Board of Supervisors; also, to enact an administrative code of rules specifying in detail the powers, duties, methods and procedure of all offices and institutions.

The Board of Supervisors shall provide and publish said code of rules hereinabove referred to and enact said administrative code hereinabove referred to within one year from the effective date of this Charter amendment.

Should said Board of Supervisors fail to provide and publish said code of rules or to enact said administrative code of rules within said time, no warrant can be drawn or paid after the expiration of said time for the salary of any of the members of said Board until said code of rules are so provided and published and said administrative code of rules are so enacted.

(m) To require periodic or special reports of expenditures and costs of operation, to examine all records and accounts, to inquire into the conduct of any office, and to require attendance of any officer of the county at any meeting of the Board of Supervisors for purposes of information.

(n) To provide for the assumption of and discharge by county officers of such of the functions of municipalities and of special districts which now are, or hereafter may be, authorized by general laws, or in the case of chartered municipalities by provisions of the charters thereof.

(o) To provide for any temporary advisory commission to serve, with or without compensation, and assist the Board of Supervisors, or any county officer, in the conduct of county functions.

(p) To provide for the fixing of the compensation of such fish and game wardens, probation and other officers as may be provided by general law.

(q) To perform such other duties as may be prescribed or required by this Charter, or by general law.

AMENDMENT NO. II

Section 5 of Article VI of said Charter is hereby changed and amended to read as follows:

Appointments and confirmation

Section 5. *County Executive Appointments.* The County Executive shall, subject to confirmation by the Board of Supervisors, appoint a building inspector, a board of public health and welfare, a director of health and welfare, a purchasing agent and a recreation commission.

Failure to act

If the Board of Supervisors shall, within thirty days after submission by the County Executive of a nominee or nominees for confirmation by said Board, fail to take action upon same, said failure so to act shall be conclusively deemed to be, and shall operate as, a confirmation of said Board.

Failure of county executive to appoint and submit

The County Executive shall, within thirty days after any vacancy occurs in, or after a refusal by the Board of Supervisors to confirm a nominee for, or after the creation of, any office, board, or commission which said office, board or commission is made appointable by the County Executive pursuant to the provisions of this Charter, submit to said Board of Supervisors a nominee or nominees for confirmation by said Board. If the County Executive within such time fails to so submit a nominee or nominees then said Board of Supervisors shall thereafter make such appointment.

Refusal of confirmation

Should said Board of Supervisors refuse to confirm a nominee of the County Executive for any such office, board or commission then the County Executive shall not thereafter submit the same nominee to said Board of Supervisors for the same appointment to such office, board or commission for which such confirmation was refused but the County Executive shall submit a different nominee for such confirmation.

AMENDMENT NO. IV

Section 8 of Article VII of said Charter is hereby changed and amended to read as follows:

Composition and powers

Section 8. *Board of Health and Welfare.* The board of health and welfare shall consist of three physicians, a dentist, a sanitary engineer, a layman, and, exofficio, the county superintendent of schools, all of whom shall be legal residents of the county and shall serve without compensation. The powers and duties of the members of said Board shall be advisory only. They shall consider and report on problems and matters under the jurisdiction of the health, sanitary and social service of the county and advise and make recommendations to the County Executive and to the director of health and welfare relative to the functions and affairs of the department. Said Board shall be vested with such other powers and functions, and shall perform such other duties as now are, or hereafter may be, vested in and conferred upon it by general law or ordinances of the Board of Supervisors.

AMENDMENT NO. V

A new section is added to Article XIII of said Charter to be numbered 15 and to read as follows:

Purpose

Section 15. *Purpose of Charter.* The purpose of this Charter is to establish and maintain in the County a local self-government operating through a Board of Supervisors and a County Executive elected by the people of the county in the manner provided by law.

Board and executive

To carry out this purpose the Board of Supervisors shall be the legislative and policy-fixing branch of the government of the County and the County Executive shall carry out those policies under the direction of said Board except as otherwise expressly provided in this Charter.

AMENDMENT NO. 6

ARTICLE XIV

ESTABLISHING CIVIL SERVICE

Commission

Section 1. Establishment of Civil Service Commission

At the first meeting of the Board of Supervisors, hereinafter called the board, next following the date upon which this article takes effect, the board shall appoint a civil service commission, hereinafter called the commission, composed of five members, no two of whom may be residents of the same supervisorial district. Qualifications for membership on the commission shall be the same as those required for the members of the board, provided that no member of the board, or any officer, official, or employee of the county shall be a member of the commission nor shall any commissioner be employed by the county in any other capacity during his service on the commission.

TERMS OF OFFICE OF THE CIVIL SERVICE COMMISSION

Terms

The term of office for a member of the commission shall be four years and until his successor is appointed by the board and qualified; provided the terms of office of two members of the first commission shall be one year and the terms of office of the other members shall be two, three, and four years, respectively. At the first meeting of the commission the members thereof shall determine by lot the relative order of the expiration of their terms.

Vacancies

Vacancies occurring in the commission shall be filled by appointment by the board for the remainder of the unexpired term only.

SELECTING THE OFFICERS OF THE COMMISSION

Officers

The commission at its first meeting and annually thereafter at the first meeting of each year shall elect one of its members as chairman and another one of the members as a vice-chairman.

COMMISSION MEETINGS

Section 2. Commission Meetings

Meetings

The commission shall hold regular public meetings quarterly during the first ten days of January, April, July and October in the San Mateo County Court House, and in addition thereto shall hold special meetings upon the call of the chairman, or any two members of the commission, at such time and place as the affairs of the commission may require.

Notice

The county executive, by virtue of that office, shall be notified of and may attend all meetings of the commission.

QUORUM

Quorum

Three members of the commission shall constitute a quorum for the transaction of business.

CIVIL SERVICE COMMISSION REMOVAL FOR CAUSE

Removal

Members of the commission shall be subject to removal in accordance with the procedure provided elsewhere in this charter for the suspension and removal of commission members appointed by the board.

EXPENSES OF THE COMMISSION

Expenses

Section 3. Expenses of the Commission

Members of the commission shall receive compensation for their actual and necessary expenses incidental to the proper execution of their duties and responsibilities.

OFFICES OF THE COMMISSION

Offices

Suitable accommodations shall be provided for the offices of the commission. The budgets of the commission for the remaining portion of the first fiscal year shall be determined by the board, and the board shall be empowered to advance funds for the work of the commission.

CLASSIFIED SERVICE

Section 4. Classified Service

"Classified service"

The provisions of this article shall apply to, and the term "classified service" shall include, all offices, positions, and employments in the service of the county and all persons occupying such offices, positions, and employments except:

Exceptions

1. Positions or offices filled through election by the people.

2. Positions on all boards or commissions appointed by the board of supervisors or other officers elected by the people.

3. Positions, offices, or employments requiring the services of professional or technical experts employed on a temporary basis for a specific project.

4. Positions filled by resident physicians or surgeons employed in the Department of Public Health and Welfare.

5. Part-time physicians employed in clinics, institutions, and hospitals operated by the Department of Public Health and Welfare.

6. Positions, offices or employments in the office of the District Attorney which require the possession of a license to practice law.

7. Two deputy sheriffs in the office of the Sheriff.

8. Probation Officers in the office of the Superior Court.

9. Special Officers or investigators in the offices of the Sheriff and the District Attorney.

10. Jurors and election officers.

11. In addition to persons or positions excepted elsewhere in this section, one person holding a confidential position to any elected officer except that there shall be but one such position to any board or commission composed in whole or in part of officers elected by the people.

12. Positions, offices, or employments furnished by an independent contractor in carrying out the provisions of a contract entered into with any office, commission, board or agency of the county. However, except for contracts providing for the construction of viaducts, bridges, street improvements, sewers, canals, public buildings or public utilities, the commission shall have the power to request that any position be filled and work performed by a person appointed or appointable under the provisions of this Article.

CLASSIFICATION OF EMPLOYEES

Section 5. Classification of Employees

Classification

The commission shall contract with the State Personnel Board to classify all offices, positions and employments and the incumbent personnel thereof. In the event that the State Personnel Board fails to provide such service it shall be the duty of the commission to provide for such classification.

EXAMINATIONS

Section 6. Examinations

Examinations

The commission shall contract with the California State Personnel Board to provide for and conduct all examinations and supply eligibility lists for all classes of employment in the classified service. In the event that the State Personnel Board fails to provide such service it shall be the duty of the commission to provide for and conduct such examinations and supply eligibility lists. Applicants for examinations must be residents of the County of San Mateo for at least one year prior to the date of the examination, except that, on agreement between the commission and the board, the commission may waive this requirement for technical or specialized positions.

No person shall be refused permission to participate in any examination upon the basis of race, color, religious or political opinions or affiliations, or union membership.

Eligibility lists resulting from examinations for all classes of positions except laborers shall remain in existence for at least one year and may be extended for an additional period of one year in the discretion of the commission.

Within the discretion of the commission examinations for laborers may be restricted to tests of physical fitness and eligibility lists for such positions may be declared open and continuous.

STATUS OF PRESENT EMPLOYEES

Section 7. Status of Present Employees

Incumbents

Any person who has been employed in a position defined in this article as a position in the classified service for a period of six months immediately preceding the effective date of this article shall be deemed to be a permanent employee.

Any person who has been employed for a period of three months or more each year during two or more consecutive years immediately preceding the effective date of this act in a regularly recurrent position defined in this article as a position in the classified service, but who has not been so employed for a sufficient period to assume status as a permanent employee, shall be considered as a probationary employee and at the end of one year of continuous service shall be deemed a permanent employee without examination.

NEW APPOINTMENTS

Section 8. New Appointments

New appointments

All new employees in the classified service shall be selected in accordance with the provisions of this article and the rules of the commission, from applicants on eligibility lists which, wherever practicable, as determined by the commission, shall be made up from promotional examinations; provided, that such applicants shall be placed on such eligibility lists in the order of their relative merit as determined by competitive examinations; and provided further, that appointments shall be made from the first three applicants on the eligibility lists who are ready and willing to accept the position. When no eligibility list exists for a position in the classified service, new employees may be appointed for a period not to exceed six months and during said six months an examination shall be held for such classification. No successive temporary appointments may be made and no person shall be employed in temporary capacities for a total of more than six months in any one year. No questions relating to political or religious opinions, affiliations, race, color, or marital status shall be asked of any candidate whose name has been certified for appointment, nor shall any discrimination be exercised therefor.

POWERS AND DUTIES OF THE COMMISSION

Civil service rules

Section 9. Powers and Duties of the Commission

The commission shall prescribe and amend, subject to the provisions of this article, such rules as may be necessary to insure the selection and retention of employees in the classified service upon a basis of merit and fitness. Such rules shall be binding upon the board of supervisors, elective officials, boards and commissions, and all employees in the service of the county.

The said rules shall provide for the administration by or under the direction of the commission of all matters pertaining to the classified service regarding applications, examinations, eligibility, promotions, applicants, compensation within classification, and job analysis and specification. In addition the said rules shall provide for the procedures to be followed by the board, the county executive, or department heads as they pertain to the classified service regarding appointments, demotions, transfers, dismissals, resignations, lay-offs, re-employments, vacations, leaves of absence, and any other matters necessary to carry out the provisions and purposes of this article.

SECRETARY TO THE CIVIL SERVICE COMMMISSION

Secretary

Section 10. Secretary to the Civil Service Commission

The commission shall appoint a secretary within ninety days after the appointment of the commission from an eligibility list in accordance with the provisions of Section 6 of this article. He shall be responsible to the commission for carrying out all procedures in the administration of the classified personnel in conformity with the provisions of this Article and the rules of the commission. He shall keep an official record of all actions taken by the commission and shall prepare, or cause to be prepared, an annual report which shall be amended or approved by the commission and submitted to the board of supervisors.

ROSTER OF EMPLOYEES

Roster

Section 11. Roster of Employees

The commission shall maintain in its offices an official roster of all persons employed in the classified service of the county and shall indicate thereon all changes of employment status, changes in pay, and other matters as may be pertinent to the enforcement of this article.

SALARY SCHEDULES

Salary schedules

Section 12—Salary Schedules

The commission shall recommend to the board, salary schedules for the classified service, consisting of a minimum and maximum salary pertaining to each classification of employment, together with such intermediate salary steps as

may be found advisable for the separate classifications Such salary schedules shall reflect as nearly as possible the salaries paid for comparable services in the municipalities of the county and public jurisdictions in and around the San Francisco Bay Area. No changes in such salary schedules shall be made by the board in a manner which shall disturb the relationship which salary schedules for the various classifications bear to one another.

Such salary schedules, when adopted by the board, shall not result in decreases in rates of pay currently paid to employees in the classified service if such rates of pay are above the recommended maximums for the classifications involved.

The commission shall make additional surveys at such times and recommend to the board such changes in the salary schedules as will most adequately carry out the intent of this section.

The salary for laborers, workmen, and mechanics employed on an hourly or per diem basis shall be the general prevailing rate of such wages in San Mateo County.

RIGHT OF HEARING OR APPEAL FOR PERMANENT EMPLOYEES

Permanent employee

Section 13. Right of Hearing or Appeal for Permanent Employees

Any employee in the classified service who has served a probationary period not to exceed one year as prescribed by the rules of the commission for his classification shall be deemed to be a permanent employee.

Suspension

Employees in the classified service may be suspended without pay for not more than thirty days, or may be demoted or dismissed, but no such permanent employee shall be suspended, demoted or dismissed except for reasonable cause, such reasonable cause to be determined by the commission. In any such case the secretary of the commission shall within five days of such demotion, suspension or dismissal, file written charges with the commission and give a copy of such charges to the employee.

Charges

Appeal

An employee who has been demoted, suspended, or dismissed may appeal to the commission within fourteen days after receipt of a copy of the written charges by a written answer to such charges.

Hearing

Upon receipt of such an appeal, the commission shall order a hearing. The accused employee shall have the right to appear in person, with counsel or with such additional representation as he may consider necessary to his defense and to be heard in his own defense. If the commission sustains the employee, the commission may order paid all or part of his full compensation from the time of demotion, suspension or dismissal, and it shall order his reinstatement. Nothing in this section shall be construed to limit the right of an employee in the classified service to appeal to the commission against any action detrimental to his employment status or welfare and

contrary to the provisions of this article or the rules of the commission.

The decisions of the commission rendered upon hearings or appeals as provided for under this section shall be binding upon all officers and employees of the county. Binding effect of decisions

RETIREMENT SYSTEM

Section 14. Retirement System

Within one year following the effective date of this article the board of supervisors shall provide a retirement system for the employees of the county comparable in conditions, values, and allowances to systems in effect in public jurisdiction in the State of California. Adoption

Before adopting such a retirement system the board shall give full consideration to recommendations made by the civil service commission concerning the selection and establishment of such a system.

POLITICAL ACTIVITY

Section 15. Political Activity

No person who is in the classified service or who is upon any eligibility list shall be appointed, demoted, or removed, or in any way discriminated against because of his political acts, opinions, or affiliations; provided, that no such person shall engage in political activities during his assigned hours of employment in the service of the county. No elected or appointed officer or employee of the county shall directly or indirectly solicit or be concerned in soliciting any assessment, contribution, or political service of any kind whatsoever for any political purpose from any person who is in the classified service or who is upon any eligibility list. Political acts

No officer or employee in the classified service of the county shall directly or indirectly coerce or attempt to coerce or in any way bring pressure upon any other such officer or employee, to support or refrain from supporting any political group for any political purpose whatsoever.

RIGHT OF SUBPOENA

Section 16. Right of Subpoena

The commission shall have the power to subpoena witnesses, to require the production of records or information pertinent to investigation, and to administer oaths. It may, or may delegate to the secretary of the commission so to do, inspect any records of any county officer or department that may be necessary to insure adherence to the provisions of this article and the rules of the commission. Witnesses, records, etc.

LAY-OFF FOR OR LACK OF WORK OR LACK OF FUNDS

Section 17. Lay-off for or Lack of Work or Lack of Funds

Lay-off

The provisions of this article shall not be construed to prevent lay-offs of employees in the classified service for lack of work or lack of funds, except that the procedure and order of lay-off shall be controlled by the rules of the commission.

PENALTY FOR VIOLATION

Section 18. Penalty for Violation

Penalty

Any person who shall wilfully or through culpable negligence violate any of the provisions of this article shall be guilty of a misdemeanor.

REPEAL OF INCONSISTENT SECTIONS

Section 19. Repeal of Inconsistent Sections

Repeal

All articles, sections, or parts of sections of the charter of the County of San Mateo inconsistent with the provisions of this article are hereby repealed.

CONSTITUTIONALITY

Section 20. Constitutionality

Constitutionality

Each section of this article and every part of each section are hereby declared to be independent sections and parts of sections, and the holding of any section or part thereof to be void, ineffective, or unconstitutional for any cause, shall not affect the other sections or parts thereof.

STATE OF CALIFORNIA, }
COUNTY OF SAN MATEO. } SS.

Certificate

We, the undersigned, FRED E. BEER, Chairman of the Board of Supervisors of the County of San Mateo, State of California, and W. H. AUGUSTUS, County Clerk and ex-officio Clerk of the Board of Supervisors of said County of San Mateo, do hereby certify:

That the foregoing proposed and ratified amendments to the charter of said County of San Mateo, submitted to the electors of said County at a general election held in said county on said 3rd day of November, 1942, has been compared by us, and each of us, with the proposed amendments set forth in the resolution adopted by said Board of Supervisors, as hereinbefore set forth, and that the foregoing is a full, true, correct and exact copy thereof, and we further certify that the facts set forth in the preamble preceding said amendment to said charter are, and each of them is, true.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the same to be authenticated by the seal of said Board of Supervisors of the County of San Mateo this 1st day of December, 1942.

FRED E. BEER
Chairman, Board of Supervisors of the County of San Mateo, State of California

[SEAL]

W. H. AUGUSTUS
County Clerk and ex-officio Clerk of the Board of Supervisors of the County of San Mateo, State of California

WHEREAS, Said proposed amendment to the charter of said County of San Mateo, so ratified by the electors thereof, has been submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration or amendment, in accordance with the provisions of Section 7½ of Article XI of the Constitution of the State of California; now, therefore, be it

Approval

Resolved by the Senate of the State of California, the Assembly concurring, a majority of all the members elected to each house voting for adoption of this resolution, and concurring therein, that said amendment to the charter of the County of San Mateo as proposed, adopted and ratified by the electors of said County of San Mateo, and as hereinbefore set forth, be and the same is hereby approved as a whole, without amendment or alteration, and as an amendment to, and as a part of, the charter of the County of San Mateo, State of California.

CHAPTER 13

Senate Concurrent Resolution No. 6—Approving a certain amendment to the charter of the City of San Leandro, a municipal corporation of the County of Alameda, State of California, voted for and ratified by the qualified electors of said city at a special municipal election held therein on the third day of November, 1942.

[Filed with Secretary of State January 11, 1943]

City of San Leandro. Charter amendment

WHEREAS, Proceedings have been taken and had for the proposal, adoption and ratification of a certain amendment hereinafter set forth, to the charter of the City of San Leandro, a municipal corporation of the County of Alameda, State

of California, as set out in certificate of the mayor and city clerk of the City of San Leandro, as follows, to wit:

STATE OF CALIFORNIA }
COUNTY OF ALAMEDA } SS
CITY OF SAN LEANDRO }

Certificate

We, the undersigned, Helen L. C. Lawrence, Mayor of the City of San Leandro, State of California, and E. F. Hutchings, City Clerk of said City, do hereby certify and declare as follows:

That the City of San Leandro, a municipal corporation in the County of Alameda, State of California, now is and at all times herein mentioned was, a city containing a population of more than three thousand five hundred inhabitants but less than fifty thousand population and has been ever since the twentieth day of July, 1933, and is now, organized, existing and acting under a Freeholders' Charter, adopted under and by virtue of Section 8 of Article XI of the Constitution of the State of California, which Charter was duly ratified by the qualified electors of said city at an Election duly held for that purpose on the twelfth day of July, 1933, and approved by the Legislature of the State of California, by Concurrent Resolution filed with the Secretary of State on the Twentieth day of July, 1933. (Statutes of 1933, p. 3196).

That in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, on its own motion, the Council of the City of San Leandro, being the legislative body thereof, by its Resolution No. 513 C. M. S., entitled, "A resolution calling a special election in the city of San Leandro on Tuesday, November 3, 1942, consolidating said election with the general state election to be held on said day, and proposing and submitting an amendment to the Charter of the city of San Leandro under the provisions of Section 8, of Article XI, of the Constitution of the State of California", duly and regularly submitted to the qualified electors of said city a certain proposal to amend the charter of said city and to be voted on by qualified electors at a special municipal election called and held for that purpose in said city after consolidation as hereinafter set forth on the 3rd day of November, 1942.

That said certain proposal was designated and entitled as follows:

"PROPOSITION NO. 1

Shall Section 1 of Article XX of the Charter of the City of San Leandro relating to the civil service of the city be amended to provide that all employees appointed by the Board of Library Trustees or the Board of Education, be excepted from the provisions of the Article?"

That said proposal was so submitted to the qualified electors at a special election on November 3, 1942, which election was consolidated with the general state election held on said day by proceedings duly and regularly taken in the manner provided by law by the Council of the City of San Leandro, being the governing body of said city.

That in the order and resolution calling and consolidating such election said City Council of the City of San Leandro authorized the Board of Supervisors of Alameda County, being the county in which such City of San Leandro is situated, to canvass the returns of such election.

That said proposed amendment was published and advertised in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California and in accordance with the provisions of the Charter of the City of San Leandro, on the 18th day of September, 1942, in "The San Leandro Reporter", a weekly newspaper of general circulation published in the City of San Leandro and the official newspaper of said City of San Leandro, and in each edition thereof, during the day of publication.

That under and pursuant to proceedings duly and regularly taken in the manner provided by law, said proposed amendment was submitted to the voters at said special consolidated election on the third day of November, 1942, which day was not less than forty (40) nor more than sixty (60) days after the completion of the publication and advertisement of the aforementioned proposed amendment in "The San Leandro Reporter", the official newspaper of said city.

That thereafter on the twenty-third day of November, 1942, the Board of Supervisors of the County of Alameda in the manner provided by law, did regularly canvass the returns of said election, and did on said day duly certify the result of the canvass of the said returns of said municipal election by Resolution No. 39291 adopted on the said twenty-third day of November, 1942, and declared the result of said municipal election as determined from the canvass of the returns thereof; and by said Resolution did find, determine and declare that said proposed amendment to the Charter of the City of San Leandro was ratified by a majority of electors of said city voting thereon.

That this certificate shall be taken as a full and complete certification as to the regularity of all proceedings had and done in connection therewith.

That said amendment to the Charter of the City of San Leandro so ratified by the electors of said city is in words and figures as follows, to-wit:

That Article XX of the City Charter be amended by amending Section 1 thereof to read as follows:

"SECTION 1. EFFECT AND APPLICATION OF THIS ARTICLE: This Article shall have the effect of placing under its provisions and the rules and regulations adopted in compliance herewith all offices, employments and positions

Civil Service Effect of article

now existing or hereafter created within the municipal service of the City of San Leandro, except positions on appointive boards, commissions, City Manager, City Attorney, City Judge, heads of departments, all those offices, positions or employments to which is attached a monthly remuneration of $50.00, or less, all employees appointed by the Board of Library Trustees or the Board of Education, and those filled by election by a vote of the people. Offices, employments and positions coming within the jurisdiction of this Article shall be known as the Civil Service of the City of San Leandro. Officers and employees responsible, without intermediary supervision, to the City Council and the City Manager shall be subject to removal by the respective appointing authorities without right of appeal or hearing by the Civil Service Board or other body. No person other than a person promoted from a civil service position to the head of a department shall be appointed to such position until such person shall have first passed a test prescribed by the City Council; provided, however, that any person promoted to the position of a head of a department from the civil service may be removed therefrom at the discretion of the appointing authority, but shall be reinstated to the position from which he was promoted unless the action for removal has been for cause other than personal prejudice, religious or political reasons other than political activities on the part of such person removed."

And we further certify that we have compared the foregoing proposed and ratified amendment to the Charter of the City of San Leandro with the original proposal submitting the same to the electors of said City and find that the foregoing is a full, true and correct copy thereof.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the Seal of the City of San Leandro to be affixed hereto, this 26th day of November, 1942.

HELEN L. C. LAWRENCE
Mayor of the City of San Leandro

[SEAL]

E. F. HUTCHINGS
City Clerk of the City of
San Leandro

WHEREAS, Said proposed amendment so ratified as hereinabove set forth has been, and is now duly presented and submitted to the Legislature of the State of California for approval or rejection without power of alteration or amendment in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Approval

Resolved by the Senate of the State of California, the Assembly thereof concurring, a majority of all members elected to each house voting therefor, and concurring therein, that the amendment to the charter of the City of San Leandro, as proposed to, and adopted and ratified by the qualified electors of the City of San Leandro, be, and the same is hereby

approved as a whole, without amendment or alteration, for and as an amendment to, and as a part of, the charter of the City of San Leandro.

CHAPTER 14

Assembly Concurrent Resolution No. 6—Approving a certain amendment to the charter of the County of Sacramento, State of California, submitted to, voted for, and ratified by the electors of said county at the general election held on the third day of November, 1942.

[Filed with Secretary of State January 12, 1943.]

County of Sacramento Charter amendment

WHEREAS, The County of Sacramento at all times herein mentioned has been and now is a body politic of the State of California, and is now and has been since the first day of July, 1933, organized and acting under and by virtue of a charter adopted under and by virtue of Section 7½ of Article XI of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said county at an election held for that purpose on the eighteenth day of February, 1933, and subsequently approved by the Legislature of the State of California and filed with the Secretary of State of the State of California, during the month of May, 1933; and

WHEREAS, The board of supervisors of said county, pursuant to the provisions of Section 7½ of Article XI of said Constitution did, by resolution adopted the 21st day of September, 1942, duly propose to the qualified electors of said County of Sacramento an amendment to the charter of said county, and ordered that said proposed amendment be submitted to said qualified electors of said county at the general election to be held on the 3rd day of November, 1942; and

WHEREAS, Said proposed amendment was published for 10 times in "The Sacramento Union", a daily newspaper of general circulation, printed, published, and circulated in said County of Sacramento, on, to wit, the following dates, September 23, 24, 25, 26, 27, 28, 29, 30, October 1 and 2, all in the year 1942; and

WHEREAS, Said general election was held in said County of Sacramento on the 3rd day of November, 1942, which said day was not less than 30 days nor more than 60 days after said proposed amendment to said county charter had been published for 10 times in "The Sacramento Union"; and

WHEREAS, Thereafter, the board of supervisors of said County of Sacramento did, in the manner provided by law, duly and regularly canvass the return of said election, and, on the 29th day of November, 1942, did duly declare the result of said general election, as determined from the canvass of the returns thereof; and

WHEREAS, At said general election held on the 3rd day of November, 1942, said proposed amendment was ratified by a majority of the electors of said county voting thereon; and

WHEREAS, Said charter amendment, so ratified by the electors of said Sacramento County, is now submitted to the Legislature of the State of California, for approval or rejection as a whole, without power of alteration or amendment, pursuant to the provisions of said Section 7½ of Article XI of the Constitution of the State of California, and is in words and figures as follows:

PROPOSAL

To amend Section 70 of the Charter of the County of Sacramento to read as follows:

SECTION 70. COMPENSATION OF JUSTICES OF THE PEACE AND CONSTABLES.

Fixing The compensation of Justices of the Peace and Constables shall be fixed by the Board of Supervisors and must be salaries only, and in such amounts as may be commensurate with their respective duties. Such compensation need not be uniform in amount for the several townships nor proportionate to population therein. Their duties and qualifications shall be such as now are, or may hereafter be prescribed by law.

STATE OF CALIFORNIA, }
} ss.
County of Sacramento. }

Certificate We, the undersigned, H. A. SENF, Acting Chairman of the Board of Supervisors of the County of Sacramento, State of California, and T. F. PATTERSON, County Clerk and ex-officio Clerk of the Board of Supervisors of said County of Sacramento, do hereby certify:

That the foregoing proposed and ratified amendment to the charter of said County of Sacramento, submitted to the electors of said county at the general election held on said 3rd day of November, 1942, has been compared by us, and each of us, with the proposed amendment set forth in the resolution adopted by said Board of Supervisors as hereinbefore set forth, and that the foregoing is a full, true and exact copy thereof, and we further certify that the facts set forth in the preamble preceding said amendment to said charter are, and each of them is, true.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the same to be authenticated by the seal of said Board of Supervisors of the County of Sacramento this 4th day of January, 1943.

H. A. SENF
Acting Chairman of the Board of Supervisors of the County of Sacramento.

[SEAL]

T. F. PATTERSON
County Clerk and Ex-officio Clerk of the Board of Supervisors of the County of Sacramento, State of California.

and

WHEREAS, Said proposed amendment to the charter of said County of Sacramento, so ratified by the electors thereof,

has been submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration or amendment, in accordance with the provisions of Section 7½ of Article XI of the Constitution of the State of California; now, therefore, be it

Approval

Resolved by the Assembly of the State of California, the Senate thereof concurring, a majority of all the members elected to each house voting for adoption of this resolution, and concurring therein, that said amendment to the charter of the County of Sacramento, as proposed, adopted and ratified by the electors of said County of Sacramento, and as hereinbefore set forth, be, and the same is hereby, approved as a whole, without amendment or alteration, and as an amendment to, and as a part of, the charter of the County of Sacramento, State of California.

CHAPTER 15

Assembly Concurrent Resolution No. 7—Approving a certain amendment to the charter of the County of Sacramento, State of California, submitted to, voted for, and ratified by the electors of said county at the general election held on the third day of November, 1942.

[Filed with Secretary of State January 12, 1943.]

County of Sacramento: Charter amendment

WHEREAS, The County of Sacramento at all times herein mentioned has been and now is a body politic of the State of California, and is now and has been since the first day of July, 1933, organized and acting under and by virtue of a charter adopted under and by virtue of Section 7½ of Article XI of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said county at an election held for that purpose on the eighteenth day of February, 1933, and subsequently approved by the Legislature of the State of California and filed with the Secretary of State of the State of California, during the month of May, 1933; and

WHEREAS, The board of supervisors of said County, pursuant to the provisions of Section 7½ of Article XI of said Constitution did, by resolution adopted the tenth day of August, 1942, duly propose to the qualified electors of said County of Sacramento an amendment to the charter of said county, and ordered that said proposed amendment be submitted to said qualified electors of said county at the general election to be held on the 3rd day of November, 1942; and

WHEREAS, Said proposed amendment was published for 10 times in "The Sacramento Union", a daily newspaper of general circulation, printed, published and circulated in said County of Sacramento, on, to wit, the following dates, September 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20, all in the year 1942; and

WHEREAS, Said general election was held in said County of Sacramento on the 3rd day of November, 1942, which said day was not less than 30 days nor more than 60 days after said proposed amendment to said county charter had been published for 10 times in "The Sacramento Union"; and

WHEREAS, Thereafter, the board of supervisors of said County of Sacramento did, in the manner provided by law, duly and regularly canvass the return of said election, and, on the 29th day of November, 1942, did duly declare the result of said general election, as determined from the canvass of the returns thereof; and

WHEREAS, At said general election held on the 3rd day of November, 1942, said proposed amendment was ratified by a majority of the electors of said county voting thereon; and

WHEREAS, Said charter amendment, so ratified by the electors of said Sacramento County, is now submitted to the Legislature of the State of California, for approval or rejection as a whole, without power of alteration or amendment, pursuant to the provisions of said Section 7½ of Article XI of the Constitution of the State of California, and is in words and figures as follows:

PROPOSAL

To amend Section 35 of the Charter of the County of Sacramento to read as follows:

Fixing SECTION 35. SALARIES OF APPOINTIVE OFFICERS. The annual compensation of the appointive officers of the County of Sacramento shall be fixed by ordinance of the Board of Supervisors.

STATE OF CALIFORNIA, }
} ss.
County of Sacramento. }

Certificate We, the undersigned, H. A. SENF, Acting Chairman of the Board of Supervisors of the County of Sacramento, State of California, and T. F. PATTERSON, County Clerk and ex-officio Clerk of the Board of Supervisors of said County of Sacramento, do hereby certify:

That the foregoing proposed and ratified amendment to the charter of said County of Sacramento, submitted to the electors of said county at the general election held on said 3rd day of November, 1942, has been compared by us, and each of us, with the proposed amendment set forth in the resolution adopted by said Board of Supervisors as hereinbefore set forth, and that the foregoing is a full, true and exact copy thereof, and we further certify that the facts set forth in the preamble preceding said amendment to said charter are, and each of them is, true.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the same to be authenticated by the seal of said Board of Supervisors of the County of Sacramento this 4th day of January, 1943.

H. A. SENF
Acting Chairman of the Board of Supervisors of the County of Sacramento.

[SEAL]

T. F. PATTERSON
County Clerk and Ex-officio Clerk of the Board of Supervisors of the County of Sacramento, State of California.

and

WHEREAS, Said proposed amendment to the charter of said County of Sacramento, so ratified by the electors thereof, has been submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration or amendment, in accordance with the provisions of Section 7½ of Article XI of the Constitution of the State of California; now, therefore, be it

Approval

Resolved by the Assembly of the State of California, the Senate thereof concurring, a majority of all the members elected to each house voting for adoption of this resolution, and concurring therein, that said amendment to the charter of the County of Sacramento, as proposed, adopted and ratified by the electors of said County of Sacramento, and as hereinbefore set forth, be, and the same is hereby, approved as a whole, without amendment or alteration, and as an amendment to, and as a part of, the charter of the County of Sacramento, State of California.

CHAPTER 16

Assembly Concurrent Resolution No. 13—Relating to adjournment in respect to the memory of Frank J. Ruhstaller.

[Filed with Secretary of State January 12, 1943.]

Death of Frank J Ruhstaller

WHEREAS, The members of the Legislature have learned with deep sorrow that Frank J. Ruhstaller at the age of 72 departed from this life on January 6, 1943; and

WHEREAS, Frank J. Ruhstaller, a native of Sacramento, was a civic leader in Sacramento for more than half a century, a prominent business leader having been a former president of the Buffalo Brewery which his father founded, an active member of many fraternal organizations, and an ardent sportsman; and

WHEREAS, It has been well said of Frank J. Ruhstaller that "Charities, kindnesses and justices have characterized his

whole existence. The aroma of good deeds during his life has perfumed the entire community. He has been modest, never seeking the limelight nor the vanities of life. There are no high dramatic summits in his career"; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the members of the Legislature of the State of California extend their profound sympathy to Mrs. Alice M. Ruhstaller, the widow, and other members of the bereaved family; and be it further

Resolved, That when the respective houses of the Legislature adjourn this day they shall do so in respect to the memory of the late Frank J. Ruhstaller; and be it further

Resolved, That the Chief Clerk of the Assembly is directed to send suitably engrossed copies of this resolution to Mrs. Alice M. Ruhstaller of Sacramento, the widow, to Mrs. Charlotte Hall of New York, a sister, and to Mr. August L. Ruhstaller of Sacramento, a brother.

CHAPTER 17

Assembly Concurrent Resolution No. 15—Relative to the California State Council of Defense.

[Filed with Secretary of State January 15, 1943.]

Suspension of activities of State Council of Defense

WHEREAS, The Legislature will soon give full consideration to a plan for the reorganization of the California State Council of Defense and maximum participation by the State of California in the war effort; and

WHEREAS, Essential work now being done by the State Council of Defense can be done more effectively and at less cost by and through other existing departments of the State; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the California State Council of Defense either suspend its activities entirely or reduce them to a minimum until such time as the Legislature has completed its consideration of the reorganization of the State Council and has passed laws designed to put that reorganization into effect; and be it further

Resolved, That copies of this resolution be forthwith transmitted to the Governor and to the State Personnel Board and that they be and are hereby requested and urged to take such action as they may find meet and proper in accomplishing the purposes and attaining the objectives set forth in this resolution.

CHAPTER 18

Assembly Joint Resolution No 9.—Relative to memorializing Congress to request the Jefferson Bicentennial Commission, Senator Carter Glass, Chairman, to invite the nations and peoples of the world to join with the people of the United States of America in observing and celebrating the Bicentennial of Jefferson's Day of Birth, April 13, 1943.

[Filed with Secretary of State January 18, 1943.]

WHEREAS, Thomas Jefferson was born on April 13, 1743; and Jefferson's birthday

WHEREAS, Thomas Jefferson is known as "The Father of American Democracy"; and

WHEREAS, He was foremost among the founding fathers in formulating and promulgating the principles of democracy and organizing the new Government of the United States of America, laying its foundation on such principles and organizing its powers in such form as to insure its perpetuity and the peace, prosperity, and happiness of her citizens; and

WHEREAS, The Congress of the United States has appointed a Jefferson Bicentennial Commission, Senator Carter Glass, Chairman, to make ready for the celebration; and

WHEREAS, In view of the great struggle now going on between democracy and dictatorships, it would be exceeding fitting and a very appropriate time to call to the world's attention the democratic wisdom of the "Sage of Monticello"; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Congress of the United States be requested to instruct the Jefferson Bicentennial Commission to invite all the other nations and peoples of the earth to join with the people of the United States of America in observing and celebrating Thomas Jefferson's Bicentennial Birthday, April 13, 1943.

CHAPTER 19

Assembly Joint Resolution No. 10—Relative to the allocation and distribution of food and farm labor.

[Filed with Secretary of State January 18, 1943.]

WHEREAS, Due to the war industry and civilian activity in the State, California has undergone tremendous change, and the shift in population to California has resulted in an increase in civilian population of about a million residents more than those shown by 1940 census; and Allocation and distribution of food and labor

WHEREAS, Movement of personnel of the Army and Navy in California has resulted in additional persons now consuming quantities of food allocated for civilian use to the various States of the Union and which quotas generally are based upon population shown by the last National census and also upon basis of 1941 purchases, which does not reflect the shift in population resulting from the above mentioned war activities; and

WHEREAS, A severe shortage has resulted in manpower necessary to the maintenance of farms, dairies and the agricultural producing section of this State, all such shortage of manpower tending to a serious reduction in the production of foodstuffs; and

WHEREAS, Each and all of the above factors have created and are creating a severe and serious depletion in the essential supply of necessary food commodities and supplies in the State of California and particularly in various sections thereof;

Resolved by the Assembly and Senate of the State of California, jointly, That the Honorable Claude E. Wickard, Food Administrator for these United States and the departments of Federal Government and the officers and departments thereof controlling such matters, are hereby requested to use their best efforts and take immediate steps to cause an alleviation of the above situation in California by granting to

First: That recognition be taken of the increased civilian and military population now in the State of California since the last census and that because of such increased population, additional quotas of food be allocated to the State of California for the supply of such additional civilian and military population not in such State in the year which was used as the basis upon which existing quotas are figured.

Second: That means be provided and persons be given authority to see that existing quotas of food commodities and supplies allocated to the State of California shall be so distributed that equitable distribution of such supplies be provided for all the people of California and not only to those of a certain district or districts.

Third: That investigation be had which will result in the providing of or the release of sufficient manpower for the carrying on of the usual and regular farm, dairy and agricultural pursuits of the agricultural and farming districts of California whereby an adequate and continuous production and flow of food commodities and supplies, particularly dairy products, may be maintained in this State; be it further

Resolved, That a copy of this resolution be sent to the Honorable Claude E. Wickard and to the California Representatives in Congress.

CHAPTER 20

Assembly Concurrent Resolution No. 18—Relative to adjournment out of respect to the memory of Herbert Johnston Evans.

[Filed with Secretary of State January 18, 1943]

Death of Herbert Johnston Evans

WHEREAS, The members of the Assembly have, with regret, learned of the death in Monrovia, California, of their former colleague, Herbert Johnston Evans; and

WHEREAS, Herbert Johnston Evans, a native of London, England, devoted many years of his long and exemplary life to public service, especially after coming to America in 1891; and

WHEREAS, Herbert Johnston Evans has been a resident of California since 1902; and

WHEREAS, Herbert Johnston Evans served as an official of the City of Monrovia for many years, and served his adopted State for two terms as State Senator from 1924 to 1933 and as a member of this Assembly from 1933 to 1937; and

WHEREAS, This Assembly extends its sincere sympathy to his widow and children; now, therefore, be it

Resolved by the Assembly of the State of California, That when the Assembly adjourns this day, it do so out of respect for the memory of the late Herbert Johnston Evans; and be it further

Resolved, That a suitably engrossed copy of this resolution be transmitted by the Chief Clerk of this Assembly to Mrs. Margot Evans, and also to Mrs. Margot Evans Lauzier of Monrovia and to Brigadier General Arthur Evans now stationed in Florida.

CHAPTER 21

Senate Concurrent Resolution No. 12—Approving certain amendments to the charter of the County of San Diego, State of California, voted for and ratified by the qualified electors of said county at a general election held therein on the third day of November, 1942.

[Filed with Secretary of State January 19, 1943]

County of San Diego Charter amendment

WHEREAS, Proceedings have been had for the proposal, adoption and ratification of amendments to said charter set

out in the certificate of the chairman of the board of supervisors and the county clerk and ex officio clerk of the board of supervisors of the County of San Diego, to wit:

STATE OF CALIFORNIA }
COUNTY OF SAN DIEGO } ss

Certificate

Certificate of County Clerk of the County of San Diego, State of California, and Chairman of the Board of Supervisors of the County of San Diego, State of California, as to the Adoption and Ratification of Certain Amendments to the Charter of said County of San Diego, Submitted to the Qualified Electors of the Said County of San Diego on the third day of November, 1942.

PREAMBLE

Be it known that:

WHEREAS, The County of San Diego, State of California, has at all times mentioned herein, been and now is a body politic of the State of California, and is now and has been since the 1st day of July, 1933, organized and acting under and by virtue of a charter adopted under and by virtue of section seven and one-half of article eleven of the constitution of the State of California, which charter was duly ratified by the qualified electors of the said county at an election held for that purpose on the 8th day of November, 1932, and approved by the Legislature of the State of California on the 17th day of January, 1933; and

WHEREAS, on the 8th day of September, 1942, the Board of Supervisors of said County of San Diego pursuant to the provisions of section seven and one-half of article eleven of the constitution of said state duly proposed to the qualified electors of the said county certain amendments to the charter of the said county by submission of proposals for such amendments to said electors at the general election held on November 3, 1942, and on said date the said Board of Supervisors duly ordered said proposals to be submitted to the qualified electors of said county for ratification or rejection at said general election, and further duly ordered that the said proposals of September 8, 1942, should be forthwith published for ten times in the San Diego Union, a daily newspaper of general circulation, printed, published and circulated in said County, and in said proposals said proposed amendments and each of them were set forth in full and at length and were and are in the words and figures hereinafter set forth; and

WHEREAS, thereafter, the said proposals of September 8th, 1942, were duly published in full and at length in said San Diego Union for ten times on the following dates, to wit: September 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19, 1942, and that said publications were made as often during said time as

said newspaper was regularly published; and said general election at which said proposals were submitted to the vote of the qualified electors of said county was not less than thirty days nor more than sixty days after publication of said proposals as aforesaid; and

WHEREAS, immediately subsequent to said publication, the said Board of Supervisors duly prescribed the form and titles to be printed on the general election ballot to be used at said general election for submission of said proposals, which said form and titles are hereinafter set forth, and in which said form and under which said titles said proposals appeared on said ballot; and

WHEREAS, subsequent to said publication and at least twenty-five days prior to November 3, 1942, the County Clerk of said county duly filed in his office a notice of election in which, among other things and in addition to all other matters required by law, it was stated that said proposals, and each of them, would be submitted to the qualified electors of said county at said general election on November 3, 1942, and said clerk caused a copy of said notice to be posted in a prominent place in his office; and

WHEREAS, not more than twenty-five days nor less than fifteen days prior to said November 3rd, 1942, the County Clerk of said county caused to be mailed to each qualified elector within said County of San Diego, inclosed in an envelope a sample ballot, containing the propositions to be voted upon, and each of them, and said ballot was in the form required by law and contained all matters and things required by law to be contained therein; and

WHEREAS, at said general election said proposals, and each of them, were duly submitted to the vote of the qualified electors of said County and appeared on the ballot at said general election and appeared in the following form, to wit:

AMENDMENT NO. 1 TO THE CHARTER OF THE COUNTY OF SAN DIEGO

Shall section 21 of Article V of the Charter of the County of San Diego be amended to provide that if a vacancy occurs in the Office of a Justice of the Peace the Board of Supervisors shall appoint an eligible person to hold the office for the remainder of the unexpired term?	Yes
	No

AMENDMENT NO. 2 TO THE CHARTER OF THE COUNTY OF SAN DIEGO

Shall section 33 of Article VI of the Charter of the County of San Diego be amended by adding thereto provisions requiring the Road Commissioner to submit a budget of proposed expenditures prior to the first day of May of each year; to prohibit any work on roads and bridges until right of ways have been obtained; to require detailed plans and specifications on all construction work involving an expenditure in excess of Three Thousand and no/100 Dollars ($3,000.00); to prohibit the Road Commissioner or any officer or employee of the Road Department from authorizing the use of any labor, material or equipment of the County of San Diego on any project in excess of estimates submitted to the Board of Supervisors unless authorized by a four-fifths (4/5ths) vote of said Board after an investigation by said Board; to provide for no transfer or revision in the Road Department budget without the approval of the Auditor and Controller unless upon an appeal to the Board of Supervisors; to provide for an unappropriated reserve fund of not to exceed twenty per cent (20%) of the estimated revenue in the Road Department budget to be made available by a four-fifths (4/5ths) vote of the Board of Supervisors to cover unforeseen requirements; to provide that in all transactions involving the Road Department the Board of Supervisors shall act as a Board; to provide that construction work on highways and bridges shall be done by contract or force account as the Board of Supervisors directs; and to provide that during the year any work not included within the budget of the Road Department may be ordered by a four-fifths (4/5ths) vote of the Board of Supervisors if funds are available?	Yes No

AMENDMENT NO. 3 TO THE CHARTER OF THE COUNTY OF SAN DIEGO

Shall subdivision (f) of section 34, Article VI, of the Charter of the County of San Diego be amended to provide that the report of the annual audit for the fiscal year shall be filed with the Clerk of the Board of Supervisors and shall be open to public inspection and two copies thereof furnished to the Auditor and Controller?	Yes No

AMENDMENT NO. 4 TO THE CHARTER OF THE COUNTY OF SAN DIEGO

Shall section 36 of Article VII of the Charter of the County of San Diego be amended to provide for the adoption of the annual budget by resolution rather than by ordinance; to provide for the filing with the Auditor and Controller before the 10th day of June of each year by every department, office, court, district, board and commission of the County of an estimate in writing of the probable requirements of each in detail for the fiscal year including a schedule of employment positions and compensations showing any increases or decreases requested over the preceding fiscal year, and to repeal the one-twelfth (1-12th) expenditure control provisions contained in said section 36?	Yes
	No

AMENDMENT NO. 5 TO THE CHARTER OF THE COUNTY OF SAN DIEGO

Shall section 43, Article VIII of the Charter of the County of San Diego be amended to provide for a method of payment of Road Camp prisoners in conformity with the provisions of general law?	Yes
	No

AMENDMENT NO. 6 TO THE CHARTER OF THE COUNTY OF SAN DIEGO

Shall section 47 of the Charter of the County of San Diego be amended to provide for the payment of services of the Sheriff in the serving of civil process as provided by general law?	Yes
	No

WHEREAS, said ballot contained all matters and things required by law to be stated and contained thereon, and said ballot in all respects duly complied with the law; and said proposals and each of them, were duly and regularly submitted to said qualified electors in strict compliance with law, and after full compliance with each and every provision of law relating to the amendment of county charters; and

WHEREAS, the returns of said general election held in the County of San Diego on the 3rd day of November, 1942, at which election said proposals, and each of them, were duly submitted to the vote of the qualified electors of said County, were made to and canvassed by the County Clerk and ex officio Registrar of Voters of the County of San Diego and by said officer certified to the Clerk of the Board of Supervisors that 44,940 votes were cast in favor of said proposed amendment No. 1 and that 11,726 votes were cast against said proposed amendment No. 1; that 41,554 votes were cast in favor of said proposed amendment No. 2 and that 11,243 votes were cast against said proposed amendment No. 2; that 44,082 votes were cast in favor of said proposed amendment No. 3 and that 8,244 votes were cast against said proposed amendment No. 3; that 37,237 votes were cast in favor of said proposed amendment No. 4 and that 12,651 votes were cast against said proposed amendment No. 4; that 36,679 votes were cast in favor of said proposed amendment No. 5 and that 14,552 votes were cast against said proposed amendment No. 5; that 31,090 votes were cast in favor of said proposed amendment No. 6 and that 19,904 votes were cast against said proposed amendment No. 6; and it appeared therefrom and was so declared by said Board of Supervisors that a majority of the qualified electors of said County of San Diego voting thereon at said general election voted in favor of each of said proposed amendments Nos. 1, 2, 3, 4, 5 and 6 above set forth and said Board of Supervisors thereupon ordered and declared that said proposed amendments Nos. 1, 2, 3, 4, 5 and 6 and each of them were ratified; and

WHEREAS, said amendments so ratified by the electors of said County of San Diego at said general election held on November 3, 1942, are now submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration or amendment in accordance with provisions of section seven and one-half of article eleven of the constitution of the State of California;

NOW THEREFORE, the undersigned, Walter Bellon, Chairman of the Board of Supervisors of the County of San Diego, State of California, and J. B. McLees, County Clerk and ex officio Clerk of the Board of Supervisors of the County of San Diego, State of California, authenticating their signatures with the official seal of said Board of Supervisors of the County of San Diego do hereby certify that said amendments to said charter of said County and each of them, so ratified by the majority of the electors voting thereon at said general election held on the 3rd day of November, 1942, as submitted to said electors, are in words and figures as follows,

and are and shall, if so approved by said legislature be in the words and figures following, to wit:

PROPOSED AMENDMENT TO THE CHARTER OF THE COUNTY OF SAN DIEGO, NO. 1

Section 21. Article V, to be amended to read as follows:

"Section 21. Justices of the Peace shall be nominated and elected at the times and in the manner and for the terms now or hereafter provided by general law. If a vacancy occurs in the office of a Justice of the Peace, the Board of Supervisors shall appoint an eligible person to hold the office for the remainder of the unexpired term."

Nomination and election of Justices of Peace

PROPOSED AMENDMENT TO THE CHARTER OF THE COUNTY OF SAN DIEGO NO. 2

Section 33, Article VI, to be amended to read as follows:

"Section 33: The Road Commissioner, subject to such rules and regulations as shall be prescribed by the Board of Supervisors, shall have direction and control over all work of construction, maintenance and repair of roads, highways and bridges, other than work done under contract, and it shall be his duty to examine and inspect contract work as the same progresses, and see that the same is properly performed and when completed, to file his written approval thereof with the Board of Supervisors.

Powers and duties of Road Commissioner

"He shall also have control and management of all County rock quarries and gravel pits, and of all other materials, property and instrumentalities necessary for and connected with the construction, maintenance and repair of roads, highways and bridges.

"The employment of labor on any of the said work shall be subject to such rules and regulations as may be prescribed by the Board of Supervisors and set forth in the Administrative Code.

"On or before the 1st day of May in each year the Road Commissioner shall submit to the Auditor and Controller a Budget of expenditures for the ensuing fiscal year. This proposed budget shall comply with the provisions of Section 3714 of the Political Code and shall be in the form prescribed by the State Department of Finance.

"No work on highways and bridges shall be commenced until all rights of way have been obtained, approved by the County Counsel as to form, and accepted by the Board of Supervisors.

Rights of way

"Plans and specifications for all construction work on highways and bridges involving an expenditure in excess of $3,000 shall be prepared by the Road Commissioner and submitted to the Board of Supervisors on or before the adoption

Plans and specifications

of the preliminary budget for each fiscal year. Such plans and specifications shall be in detail, including cross-sections, and shall be approved by the Board of Supervisors before appropriations shall be made therefor in the final budget. Standard specifications for construction work may be prepared by the Road Commissioner and submitted to the Board of Supervisors for approval, and such standard specifications may be adopted by reference in any plans and specifications without incorporating detailed specifications in the plans and specifications. Estimates of cost of construction for each job shall be incorporated in the proposed budget, and when approved by the Board of Supervisors and incorporated in the final budget shall be the appropriation for each particular construction job included in the budget.

Costs in excess of estimates

"The County Surveyor and Road Commissioner, or any officer or employee of the Road Department, shall not authorize the use of any labor, material or equipment of the County of San Diego on any project in excess of estimates submitted to the Board of Supervisors, unless the Board of Supervisors by a four-fifths (4/5) vote authorize the continuation of such project after an investigation by said Board of the facts at any regular or called meeting of said Board of Supervisors.

Transfers or revisions

"No transfers or revisions shall be made within the general class of maintenance and operation as defined in Section 3714 of the Political Code in any Road Department budget without first securing the approval of the Auditor and Controller; provided, however, that should such approval be refused an appeal may be taken to the Board of Supervisors, whose decision in the matter shall be final.

Unappropriated reserve

"The Road Department budget may contain an unappropriated reserve in each fund in an amount not exceeding 20% of the estimated revenue from each fund. The money in such unappropriated reserve shall be available for appropriation by a four-fifths (4/5) vote of the members of the Board of Supervisors to cover expenditures which have not been provided for or that may have been insufficiently provided for, and unforeseen requirements as they may arise.

Board action

"In all transactions involving the Road Department, the Board of Supervisors shall act as a Board.

Contract or force account

"Construction work on highways and bridges may be done by contract or by force account as the Board of Supervisors may direct.

Work not included in budget

"During any fiscal year construction work on any highway or bridge not included in the budget may be ordered by the Board of Supervisors by a four-fifths (4/5) vote of the members of the Board if funds are available for such work."

PROPOSED AMENDMENT TO THE CHARTER OF THE COUNTY OF SAN DIEGO NO. 3

Subdivision (f), section 34, Article VI, to be amended to read as follows:

"(f) The Board of Supervisors shall order an annual audit of the Controller's books of accounts, records and transactions, to be made by one or more certified public accountants. The report of such annual audit for the fiscal year shall be filed with the Clerk of the Board of Supervisors and shall be open to public inspection, and two copies thereof furnished to the Auditor and Controller." Annual audit of Controller's books

PROPOSED AMENDMENT TO THE CHARTER OF THE COUNTY OF SAN DIEGO NO. 4

Section 36, Article VII, to be amended to read as follows:

"Section 36: On or before the 10th day of June of each year, every Department, Office, Court, District, Board and Commission of the County shall prepare and file with the Auditor and Controller an estimate, in writing, of the probable requirements of each in detail for the fiscal year, including a schedule of employment positions and compensations showing any increases or decreases requested over the preceding fiscal year in the number of such positions or rates of compensation therefor, and showing the necessities of said department or office to be provided for in the treasury. Estimates of departments, etc

"On or before the 30th day of July of each year, the Auditor of the County of San Diego shall prepare and transmit to the Board of Supervisors, accompanied with the estimates and reports of each Department, Office, Court, District, Board and Commission which he shall require to be delivered to him by the heads of each department or office, as hereinabove provided, an estimate of the probable necessities of the County for the fiscal year, giving the amount required to meet the interest and sinking fund for any and all outstanding bonded indebtedness, together with the amount needed for salaries and probable wants of all departments and offices of the County government in detail, and showing the necessity for each of the several funds to be provided for in the treasury. The estimate shall also show, as nearly as may be, what amount of income and revenue is likely to accrue to the treasury and be collected from fines, licenses and other sources of revenue exclusive of tax on property, and shall give an estimate of what amount will be required to be levied and raised by tax upon all property in the County in order to meet the necessities of such fiscal year, said estimates to be based upon, where practical, the resources and expenditures of the preceding fiscal year; and at the same time, the Auditor shall also report to the Board of Supervisors the balance on hand in the County Treasury in each of the several funds. The said estimates, with such revisions or changes as shall Estimate by county auditor

Preliminary budget

have been made therein, shall constitute the preliminary budget for the fiscal year.

"Said preliminary budget, in which shall be set forth the Auditor's tabulation, shall, on or before the 10th day of August of each year be printed or mimeographed in full in pamphlet form in quantities sufficient to supply one copy to each taxpayer requesting the same; and the Board of Supervisors shall, on or before such date, cause to be published a notice that said budget is available to taxpayers, and designating the time and place at which the Supervisors will meet for the purpose of fixing the fiscal budget, as provided by general law.

Budget resolution

"On or before the 30th day of August of each year, the Board of Supervisors shall adopt a budget resolution, which shall fix and determine the amount of money to be expended by each office or department during the fiscal year, and it shall appropriate such sums of money as may be necessary to carry on the various departments and offices of the County government during such fiscal year. Said budget resolution shall further provide a budget for each office or department."

PROPOSED AMENDMENT TO THE CHARTER OF THE COUNTY OF SAN DIEGO NO. 5

Section 43, Article VIII, to be amended to read as follows:

Earnings of county prisoners

"Section 43: Enforced labor without compensation as a penalty for the commission of public offenses, is hereby prohibited. The net earnings of all County prisoners, based upon such compensation as may be fixed by the Board of Supervisors and which compensation need not be the prevailing rate of compensation for similar services performed, shall be credited and paid in the manner now or hereafter provided by general law."

PROPOSED AMENDMENT TO THE CHARTER OF THE COUNTY OF SAN DIEGO NO. 6

Section 47, Article IX, to be amended to read as follows:

Service of civil process

"Section 47: The Sheriff shall, except when otherwise requested by either party to an action, send all processes to be served in civil matters to the Deputy Sheriff nearest to the point of service, who shall charge for such service mileage from that point, and not from the County Seat, and such other fees as provided by law."

We further hereby certify that the facts set forth in the preamble of this certificate preceding said amendments to said Charter are and each of them is true; and for and on behalf of said County of San Diego, we being duly authorized do hereby request the Legislature of the State of California to approve said amendments to said Charter, and each of them, as a whole, and to take such other and further steps and proceedings as may be necessary to perfect such approval.

IN WITNESS WHEREOF we have hereunto set our hands and affixed the official seal of said Board of Supervisors of the County of San Diego, State of California, this 21st day of December, 1942.

[SEAL]

WALTER BELLON
Chairman of the Board of Supervisors of the County of San Diego, State of California.
J. B. McLEES
County Clerk of the County of San Diego, State of California.

Attest: J. B. McLees
County Clerk and Ex officio Clerk of the Board of Supervisors of the County of San Diego, State of California.

WHEREAS, Said proposed amendments to the charter of the County of San Diego, so ratified by the majority of the electors voting thereon at said general election held on the third day of November, 1942, and each of them, have been submitted to the Legislature of the State of California for approval and ratification as a whole, without power of alteration or amendment in accordance with the provision of Section 7½ of Article XI of the Constitution of the State of California; now, therefore, be it

Approval

Resolved, by the Senate of the State of California, the Assembly concurring, a majority of all the members elected to each house voting for the adoption of this resolution and concurring therein, that said amendments to the charter of the County of San Diego, and each of them, as proposed, adopted and ratified by the electors of the said County of San Diego and as hereinbefore set forth, be and the same are hereby approved as a whole, without amendment or alteration, and as amendments to and as a part of the charter of the County of San Diego.

CHAPTER 22

Senate Concurrent Resolution No. 3—Approving amendments to the charter of the County of Fresno, State of California, which were submitted to the qualified electors of said county and voted on and ratified by them at the general election held therein on November 3, 1942.

[Filed with Secretary of State January 19, 1943]

WHEREAS, In accordance with the provisions of Section 7½ of Article XI of the Constitution of the State of California, a petition signed by 10 per centum of the qualified electors of

County of Fresno: Charter amendment

Fresno County, California, computed upon the total numbers of votes cast in said county for all candidates for Governor at the last general election at which a Governor was elected, to wit, the general election held in 1938, was on September 17, 1942, filed in the office of the county clerk of said county, petitioning the board of supervisors thereof to submit to the qualified electors of said county, a proposed amendment to the charter of said county, which amendment is set forth in full in said petition; and

WHEREAS, Said county clerk examined said petition and attached thereto his certificate certifying that the same was signed by the requisite number of qualified electors of said county, and did on September 22, 1942, present said petition to the board of supervisors of said county; and

WHEREAS, Said board of supervisors did, on September 22, 1942, adopt a resolution ordering that said amendment be submitted to the qualified electors of said county at the general election to be held in said county on November 3, 1942; and

WHEREAS, Said amendment was published 10 times, to wit, beginning September 23, 1942, and ending October 2, 1942, in The Fresno Bee, a daily newspaper of general circulation, printed, published and circulated in said County of Fresno; and

WHEREAS, Said amendment was submitted by the board of supervisors of said county to the qualified electors thereof at the general election held in said County on November 3, 1942; and

WHEREAS, Said board of supervisors, after the returns of said election had been duly canvassed, did find and declare that a majority of the qualified electors voting on said amendment voted in favor of the same; and

WHEREAS, Said amendment has been submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration or amendment, which amendment is in words and figures as follows, to wit:

AMENDMENT TO FRESNO COUNTY CHARTER

Amends Section 44 to read as follows:

Sec. 44.

Civil service

1. For the purpose of providing for the selection and retention of appointive officers and employees of the County of Fresno on the basis of merit and ability rather than political affiliations, the Board of Supervisors of the County of Fresno is hereby required within ninety days from the effective date of this Section to provide by ordinance for a system of civil service examination, appointment and retention in employment of all such officers and employees.

Provisions of ordinance

2. Such ordinance shall provide for: (a) a civil service commission of three electors holding no other public office serving staggered terms of four years with such assistants and

quarters as are necessary, and for authority in such commission to set up a system of civil service rules for examinations, certification, appeal procedure and other necessary details; (b) Dismissal of employees and officers for cause by the Department Head subject to final authority in the Commission to reinstate on appeal; (c) A system for competitive examination and certification of new employees; (d) Certification by noncompetitive examination of present employees and officers after examination and investigation for fitness; (e) Examination rating credits for United States military service in time of war; (f) For exemption of such positions as the Board of Supervisors may deem proper where previous professional examination and certification is required under the State Law, such as doctors, lawyers and nurses; (g) Provision for reinstatement of all officers and employees entering the United States military service during time of war; reinstatement after honorable discharge of all officers and employees entering the United States military service in time of war; (h) Such other matters as may be necessary to fulfill the purposes of this section.

3. Any and all provisions of this Charter in conflict with the provisions of this Section are hereby repealed.

STATE OF CALIFORNIA }
COUNTY OF FRESNO } SS.

Certificate

We hereby certify that on September 22nd, 1942, the County Clerk of Fresno County, California, presented to the Board of Supervisors of said County a petition requesting said Board to submit to the qualified electors of said County a proposed amendment to the Charter of said County; that said amendment, of which the foregoing is a true copy, is set forth in full in said petition; that said petition was filed in the office of said County Clerk on September 17th, 1942, and was duly examined by him and that there is attached thereto a Certificate by said Clerk showing that said petition is signed by ten per centum of the qualified electors of said County, computed upon the total number of votes cast in said County for all candidates for Governor at the last General Election at which a Governor was elected, to-wit, the General Election held in 1938; that on September 22nd, 1942, said Board of Supervisors adopted a Resolution ordering that said amendment be submitted to the qualified electors of said County at the General Election to be held in said County on November 3rd, 1942; that said amendment was published ten times, to-wit, beginning September 23rd, 1942, and ending October 2nd, 1942, in THE FRESNO BEE, a daily newspaper of general circulation, printed, published and circulated in said County, and was submitted to the qualified electors of said County at

the General Election held therein on November 3rd, 1942; that said Board of Supervisors caused the returns of said election to be duly canvassed, and did thereafter on November 24th, 1942, find and declare that a majority of the qualified electors voting on said amendment voted in favor of and duly ratified the same.

DATED: December 29th, 1942.

C. TODD CLARK
Chairman of the Board of Supervisors
[SEAL] E. DUSENBERRY,
COUNTY CLERK and ex-Officio
Clerk of the Board of Supervisors.
By GEO. M. FURUEAUX
Deputy

ATTEST:
E. DUSENBERRY
COUNTY CLERK

and

WHEREAS, Said proposed amendment to the charter of said County of Fresno, so ratified by the electors thereof, has been submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration or amendment, in accordance with the provisions of Section 7½ of Article XI of the Constitution of the State of California; now, therefore, be it

Approval

Resolved by the Senate of the State of California, the Assembly thereof concurring, a majority of all the members elected to each house voting for adoption of this resolution, and concurring therein, that said amendment to the charter of the County of Fresno, as proposed, adopted and ratified by the electors of said County of Fresno, and as hereinbefore set forth, be, and the same is hereby, approved as a whole, without amendment or alteration, and as an amendment to, and as a part of, the charter of the County of Fresno, State of California.

CHAPTER 23

Senate Joint Resolution No. 7—Relative to memorializing and petitioning the Congress of the United States to pass the bill generally known as the Lea-Welch Bill suspending the exemption from tolls in favor of United States Government traffic over the Golden Gate Bridge during the war emergency and for six months thereafter.

[Filed with Secretary of State January 19, 1943.]

Lea-Welch Bill

WHEREAS, The Golden Gate Bridge, spanning the waters of San Francisco Bay, is an essential link in the Highway System of the State of California and an indispensable connection

between the United States Army Reservations at Forts Baker, Barry and Cronkhite, California, and the Presidio of San Francisco, and between many other military establishments in this State, without which connection the movement of armed forces of the United States would be interrupted and the transportation of soldiers, sailors, munitions and the implements of war would be rendered almost impossible without the use of Government water transport; and

WHEREAS, The War Department permit under which the Golden Gate Bridge was erected provides for the passage of "all Government traffic" free of the payment of all tolls; and

WHEREAS, Due to the tremendous increase in the size of the armed forces of the United States and the vast increase in Government traffic due to the emergencies of war, the volume of free traffic has swelled to such proportions that it is monopolizing in large part the services of said bridge and has vastly increased the wear and tear thereon, without any return whatsoever to the Golden Gate Bridge and Highway District; and

WHEREAS, Due to the rationing of gasoline and rubber the civilian traffic has so decreased that the revenues of said bridge will not meet the expenses of the maintenance and operation of said bridge and the payment of interest and retirement of its bond issue; and

WHEREAS, Said bridge was built out of funds wholly raised by the sale of bonds secured by the revenues of said bridge and the property within the district; and

WHEREAS, The present and future existence of the structure depends either upon its operation within the income secured from tolls or the payment of any deficit by the property owners in the counties of San Francisco, Marin, Napa, Sonoma, Del Norte and part of Mendocino; and

WHEREAS, The bridge was built through the courage, enterprise and patriotic spirit of the people of the aforesaid district, and these same property owners are now facing a heavy penalty through the existing financially dangerous condition brought about largely through the lack of tolls from Government traffic; and

WHEREAS, The failure of the revenues of said Golden Gate Bridge to meet the cost of maintenance and operation thereof would disrupt the traffic situation of the State and the fiscal affairs of the Golden Gate Bridge and Highway District without fault on the part of said district or its management; and

WHEREAS, There was introduced in the Seventy-seventh Congress a bill numbered H. R. 7667 by Representative Clarence F. Lea and Richard J. Welch, which bill provided that all Government traffic should pay tolls for the duration of the present emergency; and

WHEREAS, Said bill has been reintroduced in the present Seventy-eighth Congress and is of the most vital importance to the people of the State of California and to the Highway System of the State of California; and

WHEREAS, The Government of the United States through its various agencies, military and civil, is obliged to and does pay tolls for the carrying of its traffic and the transportation of essential men and materials to all privately owned public utilities engaged in the transportation and carrying thereof; and

WHEREAS, The directors of the bridge district in compliance with original requests from the War Department at the time the bridge was first planned, generously cooperated in the demands of the War Department for the construction of certain installations and highway improvements running into several hundred thousand dollars more than was at first suggested; and

WHEREAS, The intent and effect of this measure if passed will be a great forward step in correcting what is now recognized as an extremely unfair business relation between the War Department and the bridge district to the serious detriment of the latter; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California urgently represents to the Congress of the United States that the passage of said bill is a matter of urgent necessity, and it hereby memorializes the Congress to enact said bill in order to prevent penalizing the Golden Gate Bridge and Highway District and the State of California, of which said State the said district is a political subdivision, and to prevent the disruption of the traffic of the State of California and the fiscal system of such Golden Gate Bridge District due to the causes recited in the preamble to this resolution; and be it further

Resolved, That the Secretary of the Senate is hereby directed to send a copy of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, and to each of the Senators and Representatives from California in the Congress of the United States.

CHAPTER 24

Senate Concurrent Resolution No. 14—Approving certain amendments to the charter of the City of San Bernardino, a municipal corporation in the County of San Bernardino, State of California, voted for and ratified by the qualified electors of said city at a special election held thereon on the third day of November, 1942.

[Filed with Secretary of State January 20, 1943.]

City of San Bernardino: Charter amendments

WHEREAS, Proceedings have been taken and had for the proposal, adoption and ratification of certain amendments, hereinafter set forth, to the charter of the City of San Bernardino, a municipal corporation, in the County of San Bernardino, State of California, as set out in the certificate of the

mayor of the City of San Bernardino and the city clerk of said city, as follows, to-wit:

CERTIFICATE

STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO } ss.
CITY OF SAN BERNARDINO

Certificate

We, the undersigned, W. C. Seccombe, Mayor of the City of San Bernardino, and John H. Osborn, City Clerk of said City, do hereby certify and declare as follows:

That the City of San Bernardino, a municipal corporation, in the County of San Bernardino, State of California, now is and at all times herein mentioned was a city containing a population of more than thirty-five hundred inhabitants but less than fifty thousand inhabitants, and is now, and has been, ever since the 8th day of February, 1905, organized, existing and acting under a freeholders Charter adopted under and by virtue of Section Eight of Article Eleven of the Constitution of the State of California, which Charter was duly ratified by the qualified electors of said city, at an election held for that purpose, on the 6th day of January, 1905, and approved by the Legislature of the State of California on the 8th day of February, 1905 (Statutes 1905, page 940, et seq.).

That in accordance with the provisions of Section Eight of Article Eleven of the Constitution of the State of California, on its own motion, the Council of the City of San Bernardino, by Ordinance No. 1683, duly and regularly submitted to the qualified electors of the said City of San Bernardino seven certain proposed amendments to the Charter of the City of said City, said Charter amendments being designated as proposed Charter amendments One to Seven inclusive, to be voted upon by said qualified electors at a special election called and held for that purpose in said City on the 3rd day of November, 1942, consolidating said special election with state general election to be held in said City on Tuesday, the 3rd day of November, 1942, and authorizing said Board of Supervisors to canvass the return for said special Charter election.

That said proposed Charter amendments, and each of them, were published and advertised in accordance with the provisions of Section Eight of Article Eleven of the Constitution of the State of California, on the 19th day of September, 1942 in the San Bernardino Daily Sun, a daily newspaper of general circulation published in said city and of general circulation therein, there being no official newspaper in said city, and in each edition thereof during said day of publication.

That copies of said proposed Charter amendments, and each of them, were printed in convenient pamphlet form, and in type of not less than ten point, and copies thereof were mailed to each of the qualified electors of said city, in accordance with

the Constitution of the State of California; and an advertisement that copies thereof could be had upon application therefor at the office of the City Clerk of the City of San Bernardino was published in said San Bernardino Daily Sun, a newspaper of general circulation published in said city, on the 19th day of September, 1942, and on each day thereafter to and including the 3rd day of November, 1942, the date of said election, all as required by Section Eight of Article Eleven of the Constitution of the State of California.

That copies of said pamphlet containing said proposed Charter amendments, and each of them, could be had upon application therefor at the office of the City Clerk to and including the 3rd day of November, 1942, the date fixed for said election.

That said City of San Bernardino is a municipal corporation of the State of California, having a population of more than thirty-five hundred inhabitants but less than fifty thousand inhabitants.

That the Common Council of said city, by an Ordinance designated "Ordinance No. 1683", did call and order the holding of a special municipal election in the City of San Bernardino on the 3rd day of November, 1942, which date was not less than forty days nor more than sixty days after the completion of the publication of such proposed Charter amendments to said Charter in the San Bernardino Daily Sun, and which said Ordinance calling said election specified, ordered and ordained that said proposed Charter amendments be submitted to the qualified electors of said city, at said special election, for their ratification and rejection, and that said Common Council did by said Ordinance No. 1683 order said special election consolidated with the state general election to be held in the City of San Bernardino on said 3rd day of November, 1942.

That said special municipal election was held in the City of San Bernardino on the 3rd day of November, 1942, and that at said election a majority of the qualified voters voting thereon voted in favor of and did ratify three of said proposed amendments to the Charter of said City being Propositions Number One, Two and Three hereinafter specifically set forth and did reject Propositions Number Four, Five, Six and Seven, and that the Board of Supervisors of said County of San Bernardino did in accordance with the law in such cases made and provided, duly and regularly canvass the returns of said election and did duly find, determine and declare the result of said special election, as determined from the canvass of the returns thereof, to be that a majority of the qualified electors of said City voting on each of said Charter amendments hereinafter set forth, and designated as Proposed Charter amendment No. One, Proposed Charter amendment No. Two and Proposed Charter amendment No. Three, had voted for, and ratified each said amendment, and that the City Council of the City of San Bernardino, in

accordance with the law in such cases made and provided, did duly and regularly adopt and approve the canvass so made and declared by the Board of Supervisors of the County of San Bernardino, and on the 7th day of December, 1942, found, determined and declared that said Proposed Charter amendments No. One, Proposed Charter amendment No. Two and Proposed Charter amendment No. Three, and each of them, were ratified by a majority of the electors of said City voting thereon, and thereafter the City Clerk and ex-Officio Clerk of the Mayor and Common Council of the City of San Bernardino did enter the record thereof in the Minutes of said Mayor and Common Council.

That said amendments to the Charter of the City of San Bernardino so ratified by the electors of the City of San Bernardino are in words and figures, as follows, to-wit:

PROPOSED CHARTER AMENDMENT NO. ONE

That the City Charter of the City of San Bernardino be amended by adding thereto a new section entitled Section 16, to-wit:

"Section 16. Anything in this Charter to the contrary notwithstanding, all employees or officers, excepting elective officers, who have heretofore or shall hereafter enter the armed forces of the United States during war or national emergency as declared by the President or the Congress of the United States shall be entitled to a leave of absence without pay during such service and for a period of 90 days thereafter. Every such employee or officer returning to the City within the time herein specified, and who has been honorably discharged from such services, shall be reinstated without loss of status or seniority, provided they are not physically or mentally incapacitated from performing the duties of said office or position. Military leave of absence. Reinstatement.

That all persons appointed to fill such positions during war or a national emergency shall be temporary appointees only."

PROPOSED CHARTER AMENDMENT NO. TWO.

That Section 181 of the City Charter of the City of San Bernardino be amended to read as follows, to-wit:

"Section 181. The Police Department shall consist of a Chief of Police, and such officers and other policemen as the Mayor and Common Council may from time to time determine." Police Department.

PROPOSED CHARTER AMENDMENT NO. THREE.

That Section 60 of the City Charter of the City of San Bernardino be amended to read as follows, to-wit:

"Section 60. The duties of the City Clerk shall be to keep the corporate seal and all books, papers, records and all other documents belonging to his office; attend all meetings of the Powers and duties of city clerk.

Common Council and keep a journal of the proceedings. He shall have full power and authority to take all affidavits and administer all oaths necessary in the transaction of city business, but shall make no charge therefor. His official books and records shall be kept properly indexed and be open to public inspection during office hours. He shall number and keep a record of all demands allowed and certified to him by the boards and commissions created by this Charter, which allowance has been approved by the Mayor, showing the date of approval, to whom the same is allowed, the nature of the claim, and the fund out of which the same is payable. He shall issue all licenses, draw and countersign all warrants on the Treasurer, and shall do and perform all other acts required of him by this Charter, or by Ordinance, or which may be required of him by the Mayor and Common Council."

That we have compared the foregoing amendments, and each of them, with the original proposals submitted to the qualified electors of said City, and find that the foregoing is a full, true, correct and exact copy thereof; we further certify that the facts set forth in the preamble preceding said amendments to said Charter are, and each of them is, true.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the seal of said City of San Bernardino to be affixed hereto this 15th day of January, 1943.

W. C. SECCOMBE
Mayor of the City of San Bernardino

[SEAL]

JOHN H. OSBORN
City Clerk of the City of San Bernardino.

and

WHEREAS, The said proposed amendments as ratified as hereinbefore set forth have been and now are duly presented and submitted to the Legislature of the State of California for approval or rejection as a whole without power of alteration in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Approval

Resolved by the Senate of the State of California, the Assembly concurring, (a majority of all the members elected to each house voting therefor and concurring therein), That said amendments to the charter of the City of San Bernardino as proposed to, and adopted and ratified by the electors of the said city, and as hereinbefore fully set forth, be and the same is hereby approved as a whole, without amendment or alteration, for and as amendments to and as part of the charter of the said City of San Bernardino.

CHAPTER 25

Assembly Concurrent Resolution No. 19—Relative to permission to leave the State for certain members of the Senate and the Assembly for attendance at the meeting of the Council of State Governments.

[Filed with Secretary of State January 20, 1943]

Leaves of absence for legislators

Resolved by the Assembly of the State of California, the Senate thereof concurring, That leave of absence with permission to leave the State is hereby granted to the Honorable Harrison W. Call and the Honorable Ralph C. Dills, members of the Assembly, and the Honorable Jesse M. Mayo and the Honorable Ed Fletcher, members of the Senate, for attendance upon the meeting of the Council of State Governments at Baltimore, Maryland.

CHAPTER 26

Senate Concurrent Resolution No. 4—Relative to Joint Rules of the Senate and Assembly.

[Filed with Secretary of State January 25, 1943]

Joint rules

Resolved by the Senate of the State of California, the Assembly concurring, That the following be, and the same are, hereby adopted as the Joint Rules of the Senate and Assembly of the State of California for the Fifty-fifth Session:

JOINT RULES OF THE SENATE AND ASSEMBLY

COMMITTEES AND COMMITTEE MEETINGS

Standing Committees

Appointment

1. Each house shall appoint such standing committees as the business of the house may require, the committees, the number of members and the manner of selection to be determined by the rules of each house.

Joint Committees

Rules committees

2. The Rules Committees of each house shall constitute the joint standing committee on joint rules of the Senate and the Assembly.

Joint Meeting of Committees

Joint meetings

3. Whenever any bill has been referred by the Senate to one of its committees, and the same or a like bill has been referred by the Assembly to one of its committees, the chairmen of the respective committees, when in their judgment the interests of legislation or the expedition of business will be better served thereby, shall arrange for a joint meeting of their committees for the consideration of such bill.

BILLS AND RESOLUTIONS

Definition of Word Bill

"Bill"

4. Whenever the word "bill" is used in these rules, it shall include constitutional amendments, concurrent and joint resolutions.

Concurrent and Joint Resolutions

Concurrent

5. Concurrent resolutions relate to matters to be treated by both houses of the Legislature.

Joint

Joint resolutions are those which relate to matters connected with the Federal Government.

Resolutions Treated as Bills

Resolutions treated as bills

6. Constitutional amendments, concurrent and joint resolutions shall be treated in all respects as bills; except that they shall be given only one formal reading in each house and that they shall not be deemed bills within the meaning of Section 2 of Article IV of the Constitution, and shall not be referred to the Committee on Introduction of Bills, and shall not require a vote to authorize their introduction. As in the case of bills, they shall be engrossed in the house in which they originate before being voted upon.

PREPARATION AND INTRODUCTION OF BILLS

Title of Bill

Titles

7. The title of every bill introduced shall convey an accurate idea of the contents of the bill and shall be indicative of the scope of the act and the object to be accomplished. In amending a code section, the mere reference to the section by number shall not be deemed sufficient.

Division of Bill Into Sections

Sections

8. A bill amending more than one section of an existing law shall contain a separate section for each section amended.

Bills which are not amendatory of existing laws shall be divided into short sections, where this can be done without destroying the sense of any particular section, to the end that future amendments may be made without the necessity of setting forth and repeating sections of unnecessary length.

Restrictions as to Amendments

Amendments

9. A substitute or amendment must relate to the same subject as the original bill, constitutional amendment or resolution under consideration.

Changes in Existing Law to Be Marked by Author

Strike-out, etc.

10. In a bill amending a code section or a general law, any new matter shall be underlined and any matter to be omitted shall be in type bearing a horizontal line through the center

and commonly known as "strikeout" type. When printed the new matter shall be printed in italics, and the matter to be omitted shall be printed in "strikeout" type.

In any amendment to a bill which sets out for the first time a section being amended, any new matter to be added and any matter to be omitted shall be indicated by the author and shall be printed in the same manner as though the section as amended were a part of the original bill and was being printed for the first time.

Printing of Amendments

Printing

11. All bills amended by either house shall be immediately reprinted; in the case new matter is added by the amendment such new matter shall be printed in italics in the printed bill, and in the case of matter being omitted, the matter to be omitted shall be printed in strikeout type. When a bill is amended in either house, the first or previous markings shall be omitted.

Printing and Distribution of Bills—Manner of Printing Bills

Printing directions

12. The State Printer shall observe the following directions in printing all bills, constitutional amendments, concurrent and joint resolutions:

(a) The body of such bills shall be printed in solid unspaced form in 10-point roman type so that the same type shall be used both before and after enrollment. Concurrent resolutions approving city or county charters or amendments thereto may be set in smaller type.

(b) All titles of bills shall be set in italics, statute form and the length of the lines used in the titles shall not exceed that of the body of the bill.

(c) The lines of all printed bills shall be numbered by page and not by sections, and amendments shall be identified by reference to title, page and line only.

Distribution of Legislative Publications

Legislative publications

13. All requests for mailing or distribution of bills and legislative publications shall be filed with the Secretary of the Senate or the Chief Clerk of the Assembly. Each member of the Senate and Assembly shall be permitted to submit a list of 10 libraries, chambers of commerce or individuals. The Secretary of the Senate and the Chief Clerk of the Assembly shall order a sufficient number of bills and legislative publications to supply this list together with such number as may be necessary for legislative requirements.

Except as hereinabove provided, no complete list of bills shall be delivered except upon payment therefor of the sum of fifty dollars ($50), nor shall more than two copies of bills or other legislative publications be distributed free to any person, office or organization except to members of the Legislature, the Secretary of the Senate and the Chief Clerk of

the Assembly for the proper functioning of their respective houses; the Legislative Counsel Bureau; Attorney General's office; Secretary of State's office; Controller's office; Governor's office; the Clerk of the Supreme Court; the clerk of the district court of appeal for each district; the Library of Congress and to libraries of the University of California at Berkeley and at Los Angeles; and accredited members of the press. The State Printer shall fix the cost of such bills and publications, including postage, and such moneys as may be received by him shall, after deducting the cost of handling and mailing, be remitted on the first day of each month, one-half each to the Secretary of the Senate and the Chief Clerk of the Assembly for credit to legislative printing. Legislative publications heretofore distributed through the bureau of documents shall be distributed through the bill room. Unless otherwise provided for, the total number of each bill to be printed shall be not more than 2,500.

OTHER LEGISLATIVE PRINTING

Printing of the Daily Journal

Journals

14. The State Printer shall print in such quantity as directed by the Secretary of the Senate and the Chief Clerk of the Assembly, copies of the Journal of each day's proceedings of each house. At the end of the session he shall also print, as directed by the Secretary of the Senate and the Chief Clerk of the Assembly a sufficient number of copies properly paged after being corrected and indexed by the Secretary of the Senate and the Chief Clerk of the Assembly, to bind in book form as the Journal of the respective houses of the Legislature.

What Shall Be Printed in the Journal

Required matters

15. The following shall always be printed in the Journal of each house:

(a) Messages from the Governor and messages from the other house, and the titles of all bills, joint and concurrent resolutions and constitutional amendments when introduced in, offered to, or acted upon by the house.

(b) Every vote taken in the house, and a statement of the contents of each petition, memorial or paper presented to the house.

(c) A true and accurate account of the proceedings of the house, when not acting as a Committee of the Whole.

Printing of the Daily File

Daily Files

16. A daily File of bills ready for consideration shall be printed each legislative day for each house.

The material to be printed in the File and the form and arrangement shall be determined by the respective houses.

Printing of History

17. Each house shall cause to be printed once each week, during the session, a complete History of all bills, constitutional amendments, concurrent, joint and house resolutions originating in or acted upon by the respective houses. A regular form shall be prescribed by the Secretary of the Senate and the Chief Clerk of the Assembly. Such History shall show the action taken upon each measure up to and including the legislative day preceding its issuance. For each legislative day intervening there shall be printed a Supplementary History showing the action taken upon any measure since the issuance of the complete History. Histories

Immediately following the adjournment for the constitutional recess, the History shall be compiled and printed to date of recess by the Secretary of the Senate and the Chief Clerk of the Assembly.

Authority for Printing Orders

18. The Superintendent of State Printing shall not print for use of either house nor charge to legislative printing any matter other than provided by law or by the Rules, except upon a written order signed by the Secretary of the Senate or the Chief Clerk of the Assembly. The Secretary of the Senate and the Chief Clerk of the Assembly may, when necessity requires it, order certain matter printed in advance of the regular order, by the issuance of a rush order. Printing orders

The Secretary of the Senate and the Chief Clerk of the Assembly are hereby authorized and directed between sessions to order and distribute for the members stationery and legislative publications for which there is a demand, and, subject to the rules of their respective houses, to approve the bills covering such orders. All bills for printing must be presented by the State Printer within 30 days after the completion of said printing.

RECORD OF BILLS

Secretary and Chief Clerk to Keep Records

19. The Secretary of the Senate and the Chief Clerk of the Assembly shall keep a complete and accurate record of every action taken by the Senate and Assembly on every bill. Record of bills

Secretary and Chief Clerk Shall Indorse Bills

20. The Secretary of the Senate and the Chief Clerk of the Assembly shall indorse on every original or engrossed bill a statement of any action taken by the Senate or Assembly concerning such bill. Indorsement

ACTION IN ONE HOUSE ON BILL TRANSMITTED FROM THE OTHER

After a Bill Has Been Passed by the Senate or Assembly

Transmittal to other house, etc.

21. When a bill has been passed by either house it shall be transmitted promptly to the other unless a motion to reconsider or a notice of motion to reconsider has been made or it is held pursuant to some rule or order of the house.

The procedure of referring bills to committees shall be determined by the respective houses.

Messages to Be in Writing Under Proper Signatures

Notice of action

22. Notice of the action of either house to the other shall be in writing and under the signature of the Secretary of the Senate or the Chief Clerk of the Assembly from which such message is to be conveyed. A receipt shall be taken from the officer to whom such message is delivered.

PASSAGE AND ENROLLING OF BILLS

Passage of Bills Preceding Final Adjournment

Passage before final adjournment

23. No Senate bill shall be passed by the Senate, and no Assembly bill shall be passed by the Assembly within the time specified in the resolution prior to the adjournment sine die of the two houses of the Legislature at a regular session, unless permission to vote on such bill shall be granted by a three-fourths vote of the house of its origin after being recommended by the Committee on Rules (if it be a Senate bill) or by the Speaker of the Assembly (if it be an Assembly bill).

Enrollment of Bill After Passage

Enrollment

24. After a bill has passed both houses it shall be printed in enrolled form, omitting symbols indicating amendments, and shall be compared by the engrossing and enrolling clerk and the proper committee of the house where it originated to determine that it is in the form approved by the houses. The enrolled bill shall thereupon be signed by the presiding officers of both houses and the Secretary of the Senate and Chief Clerk of the Assembly and presented without delay to the Governor. The committee shall report the time of presentation of the bill to the Governor to the house and the record shall be entered in the Journal.

AMENDMENTS AND CONFERENCES

Amendments to Amended Bills Must Be Attached

Reprint

25. Whenever a bill or resolution which shall have been passed in one house shall be amended in the other, it shall immediately be reprinted as amended by the house making

Attachment and indorsement

such amendment or amendments. Such amendment or amendments shall be attached to the bill or resolution so

amended, and indorsed "adopted" and such amendment or amendments, if concurred in by the house in which such bill or resolution originated, shall be indorsed "concurred in," and such indorsement shall be signed by the Secretary or Assistant Secretary of the Senate, or the Chief Clerk or Assistant Clerk of the Assembly as the case may be; provided, however, that an amendment to the title of a bill adopted after the passage of such bill shall not necessitate reprinting, but such amendment must be concurred in by the house in which such bill originated.

To Concur or Refuse to Concur in Amendments

Concurrence in amendments

26. In case the Senate amend and pass an Assembly bill, or the Assembly amend and pass a Senate bill, the Senate (if it be a Senate bill) or the Assembly (if it be an Assembly bill) must either "concur" or "refuse to concur" in the amendments. If the Senate concur (if it be a Senate bill), or the Assembly concur (if it be an Assembly bill), the Secretary or Chief Clerk shall notify the house making the amendments and the bill shall be ordered to enrollment.

Concurring in Amendments Adding Urgency Section

Urgency section

27. When a bill which has been passed in one house is amended in the other by the addition of a section providing that the act shall take effect immediately as an urgency measure, and is returned to the house in which it originated for concurrence in the amendment or amendments thereto, the procedure and vote thereon shall be as follows:

The presiding officer shall first direct that the urgency section be read and put to a vote. If two-thirds of the members elected to the house vote in the affirmative the presiding officer shall then direct that the question of whether the house shall concur in the amendment or amendments shall be put to a vote. If two-thirds of all the members elected to the house vote in the affirmative, concurrence in the amendments shall be effective.

If the affirmative vote on either of such questions is less than two-thirds of all the members elected to such house, the effect is a refusal to concur in the amendment or amendments, and the procedure thereupon shall be as provided in Joint Rule No. 28.

When Senate or Assembly Refuse to Concur

Reference to Committee on Conference

28. If the Senate or the Assembly refuse to concur in the amendments, the Committee on Rules (if it be a Senate bill) or the Speaker of the Assembly (if it be an Assembly bill) shall appoint a committee of three (3) on conference and the Secretary or the Chief Clerk shall immediately notify the other house of the action taken and request the appointment of

a like committee. Two of the members comprising such committee from each house shall be selected from those voting with the majority on the point about which the difference has arisen, and the other member from each house of such committee shall be selected from the minority, in the event there is a minority vote. The first Senator named on the conference committee shall act as chairman of the committee from the Senate, and the first Assemblyman named on such committee shall act as chairman of the committee from the Assembly and the chairmen thus selected shall arrange the time and place of all meetings and prepare or direct the preparation of reports. The committee on conference shall report to both the Senate and Assembly.

Report of Committee on Conference

Failure to adopt

29. The report of the committee on conference shall not be subject to amendment, and if either house refuse to adopt such report the conferees may be discharged and other conferees appointed; provided, however, that no more than three different conference committees shall be appointed on any one bill.

It shall require the affirmative vote of not less than four of the members constituting the committee to agree upon a report. No member who has served on a committee on conference shall be appointed a member of another committee on conference on the same bill.

When Conference Committee Report Is in Order

When report in order

30. The presentation of the report of a committee on conference shall always be in order, except when a question of order or a motion to adjourn is pending, or during roll call, and, when received, the question of proceeding to the consideration of the report, if raised, shall be immediately passed upon, and shall be determined without debate.

MISCELLANEOUS PROVISIONS

Authority When Rules Do Not Govern

Mason's Manual

31. All relations between the houses which are not covered by these rules shall be governed by Mason's Manual.

Press Rules

Press rules

32. (a) Persons desiring privileges of accredited press representatives shall make application to the Speaker of the Assembly, as required by Rule 94 of Assembly Rules, and to the Committee on Rules of the Senate, as required by Rule 13 of Senate Rules; and shall state in writing the names of the daily newspapers or news associations by which they are employed, and what other occupation or employment they may have, if any; and they shall further declare that they

are not employed, directly or indirectly, to assist in the prosecution of the legislative business of any person, corporation or association, and will not become so employed while retaining the privileges of accredited press representatives.

(b) The applications required by the above rule shall be authenticated in a manner that shall be satisfactory to the standing committee of the Capitol Correspondents Association which shall see that occupation of seats and desks in the Senate and the Assembly chambers is confined to bona fide correspondents of reputable standing in their business, who represent daily newspapers requiring a daily file of legislative news, or who represent news associations requiring daily telegraphic or radio service on legislative news. It shall be the duty of the standing committee at their discretion, to report violation of accredited press privileges to the Speaker of the Assembly, or to the Senate Committee on Rules, and pending action thereon the offending correspondent may be suspended by the standing committee.

(c) Persons engaged in other occupations whose chief attention is not given to newspaper correspondence or to newspaper associations requiring telegraphic service shall not be entitled to the privileges accorded accredited press representatives; and the press list in the Handbook of the California Legislature and the Senate and Assembly Histories shall be a list only of persons authenticated by the standing committee of correspondents.

(d) The press seats and desks in the Senate and Assembly chambers shall be under the control of the standing committee of correspondents, subject to the approval and supervision of the Speaker of the Assembly and the Senate Committee on Rules. Press cards shall be issued by the President of the Senate and the Speaker of the Assembly only to correspondents properly accredited in accordance with the provisions of this rule.

(e) One or more rooms shall be assigned for the exclusive use of correspondents during the legislative session, which rooms shall be known as the press room. The press room shall be under the control of the Superintendent of the Capitol Building and Grounds; provided, that all rules and regulations shall be approved by the Senate Committee on Rules and the Speaker of the Assembly.

Adjournment

33. Adjournment for the constitutional recess and adjournment sine die shall be made only by concurrent resolution. Adjournments

Dispensing With Joint Rules

34. No joint rule shall be dispensed with except by a vote of two-thirds of each house; and Joint Rule No. 23 can be dispensed with only in the manner provided for in said joint rule. If either house shall violate a joint rule a question of Dispensing with rule Violation

order may be raised in the other house and decided in the same manner as in the case of the violation of the rules of such house; and if it shall be decided that the joint rules have been violated, the bill involving such violations shall be returned to the house in which it originated, and such disputed matter be considered in like manner as in conference committee.

INVESTIGATING COMMITTEES

Creating by resolution

35. In order to expedite the work of the Legislature either house, or both houses jointly may by resolution provide for the appointment of committees to ascertain facts and to make recommendations as to any subject within the scope of legislative regulation or control.

Purpose and scope

The resolution providing for the appointment of a committee shall state the purpose of the committee, and the scope of the subject with which it is to act and may authorize it to act either during sessions of the Legislature or after final adjournment.

Secretary, etc

In the exercise of the power granted by this rule, each committee may appoint a secretary and adopt such rules as may appear necessary and proper to carry out the powers granted and duties imposed under this rule. It may employ such clerical, legal and technical assistants as may appear necessary when money has been made available therefor.

Attendance of witnesses

Each such committee is authorized and empowered to summon and subpena witnesses, require the production of papers, books, accounts, reports, documents, records and papers of every kind and description, to issue subpenas and to take all necessary means to compel the attendance of witnesses and to procure testimony, oral and documentary.

Oaths

The members of such committees are, and each of them is, authorized and empowered to administer oaths, and all of the provisions of Article 8, Chapter 2, Title 1, Part 3 of the Political Code, relating to the attendance and examination of witnesses before the Legislature and the committees thereof, shall apply to such committees.

Service of process

The Sergeant-at-Arms of the Senate or Assembly, or other person designated by such Sergeant-at-Arms or by the committee, shall serve any and all subpenas, orders and other process that may be issued by the committee, when directed to do so by the chairman or by a majority of the membership of the committee.

Cooperation of State officers, etc

All officers of the State, including the Legislative Counsel and the heads of each department, agency and subdivision thereof, and all employees of such departments, agencies and subdivisions, and all other persons whether connected with the State Government or not, shall give and furnish to these committees upon request such information, records and documents as the committees deem necessary or proper for the achievement of the purposes for which each such committee was created.

Each such committee may either during the session or during the constitutional recess, meet at the State Capitol or at any other place in the State of California and do any and all things necessary or convenient to enable it to exercise the powers and perform the duties herein granted to it and may expend such money as may be made available to it for such purpose; but no committee shall incur any indebtedness unless money shall have been first made available therefor. Powers

Members shall not be entitled to any salary because of membership on any such committee but shall be allowed mileage at the rate of five and one-half cents ($0.05½) per mile each way incurred in connection with their services upon the committee and actual and necessary expenses for living accommodations and meals incurred in connection with their services upon the committee, or in lieu thereof an allowance of eight dollars ($8) per day for accommodations and meals. The chairman of each committee shall audit and approve the expense claims of the members of the committee and shall certify the amount approved to the Controller, and the Controller shall draw his warrants upon the certification of the chairman. Mileage and necessary expenses

36. In addition to any other committee provided for by these rules, there shall be a joint committee to be known and called the Legislative Budget Committee. Legislative Budget Committee

It shall be the duty of the committee to ascertain facts and make recommendations to the Legislature and to the houses thereof concerning the State budget, the revenues and expenditures of the State, and of the organization and functions of the State, its departments, subdivisions and agencies, with a view of reducing the cost of the State Government, and securing greater efficiency and economy. Duties

The committee shall consist of five members of the Senate and five members of the Assembly. The Senate members of the committee shall be the President pro tempore of the Senate and one member each from the Committees on Finance, Revenue and Taxation, Governmental Efficiency and Judiciary, selected by the respective committees. The Assembly members of the committee shall consist of the Speaker and four other members of the Assembly appointed by the Speaker. The committee shall select its own chairman. Composition of committee

The committee shall have the authority to make rules to govern its own proceedings and its employees. It may also create subcommittees from its membership, assigning to its subcommittees any study, inquiry, investigation or hearing which the committee itself has authority, to undertake or hold, and the subcommittee for the purpose of this assignment shall have and may exercise all the powers conferred upon the committee, limited only by the expressed terms of any rule or resolution of the committee defining the powers and duties of the subcommittee. Such powers may be withdrawn or terminated at any time by the committee. Rules Subcommittees

Applicable provisions

The provisions of Joint Rule 35 above shall apply to the Legislative Budget Committee, and it shall have all the authority provided in such rule or in Article IV, Section 37, of the Constitution.

Legislative Auditor

The committee shall have authority to appoint a Legislative Auditor, to fix his compensation and to prescribe his duties, and to appoint such other clerical and technical employees as may appear necessary.

Meetings

The committee may meet either during sessions of the Legislature, any recess thereof, or after final adjournment, and may meet or conduct business at any place within the State of California.

Mileage and necessary expenses

The members of the committee shall serve without compensation but shall be entited to actual and necessary expenses including expenses for living accommodations and meals incurred in connection with their services on the committee, or in lieu of such expenses for accommodations and meals they shall be entitled to an allowance of eight dollars ($8) per day and travel expenses which shall be deemed to be five and one-half cents ($0.05½) per mile.

Approval of expenses

The chairman of the committee shall audit and approve the expenses of members of the committee or salaries of the employees, and all other expenses incurred in connection with the performance of its duties by the committee, and the chairman shall certify the amount approved to the Controller, and the Controller shall draw his warrants upon the certification of the chairman, and the Treasurer shall pay the same to the chairman of the committee to be disbursed by him.

Pro tempore Legislative Budget Committee

Upon the organization of the Legislature at any succeeding session, all authority, powers, duties, papers and records, personnel or staff, and any unexpended balance in any funds appropriated for the use of the committee, shall be temporarily transferred to a pro tempore Legislative Budget Committee consisting of the Senate Committee on Rules and of the new Speaker and four other members of the Assembly appointed by him, until the committee as hereinabove provided for is appointed or selected when all such authority, powers, duties, papers and records, personnel or staff and all funds available for the use of the committee shall revert to such committee; and be it further

Appropriation

Resolved, That a sum of forty thousand dollars ($40,000) is hereby appropriated from the contingent funds of the Senate and Assembly, to be expended equally from the contingent funds of the Senate and Assembly in carrying out the provisions of this resolution; and be it further

Duplication of work

Resolved, That if there is created by statute a Legislative Audit Bureau, a Legislative Research Bureau, or other similar agency, under legislative control, charged with the duty of performing one or more of the functions given the Legislative Budget Committee by this resolution, the committee is hereby authorized and directed to avoid duplicating the work of such bureau or agency while the latter is in existence and functioning.

CHAPTER 27

Senate Joint Resolution No. 6—Relative to petitioning the Honorable Claude E. Wickard to alleviate the food shortage resulting from increased population in the State.

[Filed with Secretary of State January 25, 1943.]

Alleviation of food shortage, etc

WHEREAS, Due to the war industry and civilian activity in the State, California has undergone tremendous change, and the shift in population to California has resulted in an increase in civilian population of about a million residents more than those shown by the 1940 census; and

WHEREAS, Movement of personnel of the Army and Navy in California has resulted in additional persons now consuming quantities of food allocated for civilian use to the various States of the Union and which quotas generally are based upon population shown by the last National census and also upon basis of 1941 purchases, which does not reflect the shift in population resulting from the above mentioned war activities; and

WHEREAS, A severe shortage has resulted in man power necessary to the maintenance of farms, dairies and the agricultural producing sections of this State, all such shortage of man power tending to a serious reduction in the production of foodstuffs; and

WHEREAS, Each and all of the above factors have created and are creating a severe and serious depletion in the essential supply of necessary food commodities and supplies in the State of California and particularly in various sections thereof; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California does hereby petition the Honorable Claude E. Wickard, Food Administrator for these United States and the departments of Federal Government and the officers and departments thereof controlling such matters, that they use their best efforts and take immediate steps to cause an alleviation of the above situation in California by granting to California in such manner as they may see fit and proper, the following relief:

First: That recognition be taken of the increased civilian and military population now in the State of California since the last census and that because of such increased population, additional quotas of food be allocated to the State of California for the supply of such additional civilian and military population not in such State in the year which was used as the basis upon which existing quotas are figured.

Second: That means be provided and persons be given authority to see that existing quotas of food commodities and

supplies allocated to the State of California shall be so distributed that equitable distribution of such supplies be provided for all the people of California and not only to those of a certain district or districts.

Third: That investigation be had which will result in the providing of or the release of sufficient man power for the carrying on of the usual and regular farm, dairy and agricultural pursuits of the agricultural and farming districts of California whereby an adequate and continuous production and flow of food commodities and supplies, particularly dairy products, may be maintained in this State; and be it further

Resolved, That the Secretary of the Senate is hereby directed to transmit copies of this resolution to the Honorable Claude E. Wickard, and to the Senators and Representatives from California in the Congress of the United States.

CHAPTER 28

Assembly Joint Resolution No. 12—Relative to memorializing the Secretary of Agriculture, the War Manpower Commission, and the Director of Selective Service in relation to grapes and raisins as essential farm products.

[Filed with Secretary of State January 26, 1943.]

Personnel for grape and raisin production

WHEREAS, The grape industry of California represents practically 90 per cent of all grape production in the United States; and

WHEREAS, The vineyards of California represent an investment financially as large, if not larger, than the total amount of tree fruits in the State; represent years of labor and planning; and do not reach maturity until several years old; and

WHEREAS, The amount of man-hours required to produce and harvest grapes and raisins compares favorably per unit of food value with the man-hours required for tree fruits; and

WHEREAS, The shipment of fresh grapes from the State of California provides a healthful and nourishing food which is necessary in the diet of civilians as well as members of the armed forces, not only because the grapes have important nutritive value within themselves, but because a distinct shortage of other foods and fruits in the United States makes it imperative that there be no wastage; and

WHEREAS, The only source of cream of tartar, an important and essential product for the war effort, is the wineries of California; and

WHEREAS, Tree fruits, some vegetables, small fruits, and berries have been listed as "essential" farm products in Local Board Release No. 168 published by National Headquarters

Selective Service System, Washington, D. C., effective November 30, 1942; and

WHEREAS, Grapes and raisins are not mentioned in said release under either "essential" or "nonessential" farm produce and as a result local draft boards have no instructions regarding farm workers employed in the vineyards of California; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Secretary of Agriculture, the War Manpower Commission and the Director of Selective Service are hereby urged to take such action as may be necessary to declare grapes and raisins to be essential farm produce and to take such steps as may be necessary to place the grape and raisin producers on an equal footing in regard to manpower with producers of other agricultural products of the State of California; and be it further

Resolved, That the Chief Clerk of the Assembly is directed to forward copies of this resolution to the Secretary of Agriculture, the War Manpower Commission, the Director of Selective Service, and to each Senator and Representative from California in the Congress of the United States.

CHAPTER 29

Assembly Concurrent Resolution No. 23—Approving certain amendments to the charter of the City of Pasadena, State of California, ratified by the qualified electors of said city at a special municipal election held therein on the third day of November, 1942.

[Filed with Secretary of State January 26, 1943.]

City of Pasadena. Charter amendments

WHEREAS, The City of Pasadena, in the County of Los Angeles, State of California, contains a population of over 50,000 inhabitants, and has been, ever since the year 1901, and now is, organized and acting under and by virtue of a freeholders' charter, adopted under and by virtue of Section 8, Article XI, of the Constitution of the State of California, which charter was duly ratified by a majority of the qualified electors of said city at a special election held for that purpose on the twentieth day of November, 1900, and approved by the Legislature of the State of California, on the twenty-ninth day of January, 1901 (Statutes of 1901, page 884), and amendments thereto duly ratified by the qualified voters of said city and by resolutions of said Legislature as set out in the certificate of the mayor and city clerk of said City of Pasadena, hereinafter set forth; and

WHEREAS, Proceedings have been had for the proposal, adoption and ratification of certain amendments to the charter of said City of Pasadena, as set out in the certificate of the

chairman of the board of directors and city clerk of said City of Pasadena, as follows, to wit:

CERTIFICATE OF RATIFICATION BY ELECTORS OF THE CITY OF PASADENA OF A CERTAIN CHARTER AMENDMENT.

STATE OF CALIFORNIA
County of Los Angeles } ss
City of Pasadena

Certificate

We, the undersigned A. I. Stewart, Chairman of the Board of Directors of the City of Pasadena, State of California, and Bessie Chamberlain, City Clerk of said City, do hereby certify and declare as follows:

That the City of Pasadena, a municipal corporation in the County of Los Angeles, State of California, now is and at all times herein mentioned was a city containing a population of more than 3,500 inhabitants, and now has a population of over 50,000 inhabitants, and ever since the year 1901 has been and now is organized, existing and acting under a freeholders' charter adopted under and by virtue of Section 8 of Article XI of the Constitution of the State of California, which charter was duly ratified by a majority of the qualified electors of said city at a special election held for that purpose on the 20th day of November, 1900, and approved by the Legislature of the State of California on the 29th day of January, 1901 (Statutes of 1901, page 884).

That in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, the Board of Directors of the City of Pasadena, being the legislative body thereof, on its own motion, by Ordinance No. 3692 adopted on the 16th day of September, 1942, duly and regularly proposed that there be submitted to the qualified electors of the City of Pasadena a certain proposal for the amendment of the Charter of said city, designated as Proposition No. 1, to be voted upon by said qualified electors at a special election called and held for that purpose in said city on the 3rd day of November, 1942. That said election was duly and regularly called, authorized and provided for by said Board of Directors by Ordinance No. 3693 adopted on the 16th day of September, 1942, which said ordinance called said special election, for the submission of said amendment, to be held in said city on the 3rd day of November, 1942, and that by said ordinance the said special election was by said Board of Directors duly and regularly consolidated with the general State election to be held on said date. That said election was duly and regularly called and held on said 3rd day of November, 1942, which day was not less than forty (40) nor more than sixty (60) days after the completion of the publication and advertising of the proposed amendment aforesaid in the official newspaper.

That said proposed amendment was published and advertised in accordance with Section 8 of Article XI of the Consti-

tution of the State of California, and in accordance with the provisions of the Charter of the City of Pasadena, on the 17th day of September, 1942, in The Pasadena Star-News, a daily newspaper of general circulation, published in said City of Pasadena, and the official newspaper of said city, and in each edition thereof during the day of publication.

That copies of said proposed amendment were printed in convenient pamphlet form and in type of not less than ten point, and until the day fixed for the said election, and as required by Section 8 of Article XI of the Constitution and by the Charter of the City of Pasadena, a notice was advertised and published in The Pasadena Star-News and the Pasadena Post, the same being newspapers of general circulation in said city, that copies thereof might be had upon application therefor at the office of the City Clerk of the City of Pasadena.

That such copies could be had upon application therefor at the office of the City Clerk of said city until the day fixed for said election. That a copy thereof was mailed to each of the qualified electors of said city as required by law.

That in accordance with the provisions of Section 8 of Article XI of the Constitution and of the Charter of said City of Pasadena and said ordinances of the legislative body thereof, there was held in the said City of Pasadena on the 3rd day of November, 1942, said special election, and that pursuant to the provisions of Section 8 of Article XI of the Constitution and of said Charter and said ordinances the said proposed charter amendment was submitted to the qualified electors of said city for their ratification at said election, and that at said election a majority of the qualified electors voting thereon voted in favor of the ratification of and did ratify said proposed amendment to the Charter of said city hereinafter set forth.

That in accordance with the provisions of the Charter of the City of Pasadena and with the law in such cases made and provided, the Board of Supervisors of the County of Los Angeles caused the Registrar of Voters of said County to canvass and said Registrar of Voters did duly and regularly canvass the returns of said election, and on the 19th day of November, 1942, did certify the results of said canvass to the Board of Directors of the City of Pasadena and on the 24th day of November, 1942, the said Board of Directors did duly find, determine and declare the result of said special election as determined from the canvass of the returns therefor aforesaid to be that a majority of the qualified electors of said city voting on said proposed amendment had voted for and ratified said amendment.

That the said amendment to the Charter so ratified by the electors of the City of Pasadena is in words and figures as follows:

PROPOSITION NO. 1

That the Charter of the City of Pasadena be amended by amending Article 6-1/2 thereof by adding a new section thereto

immediately following Section 4-1/2 to be designated "Section 4-3/4. ANNUAL CONTRIBUTION FOR ANY MUNICIPAL PURPOSES" to read as follows:

Transfer of funds

"SECTION 4-3/4. ANNUAL CONTRIBUTION FOR ANY MUNICIPAL PURPOSES: (a) At the time of or before the adoption of the budget of the city for each fiscal year, as provided for in this charter, the legislative body annually shall determine the amounts to be transferred from the Light and Power Fund and the Water Fund in accordance with the provisions of this section The sums so determined shall be in addition to the sum authorized to be transferred by Section 4-1/2 of this Article 6-1/2, and shall be transferred to the general fund of the city by said legislative body by ordinance on or before the first day of September next succeeding the time of such determination. The sums thus transferred shall be expended for any municipal purposes other than for the purposes of the Municipal Light and Power Department or the Water Department.

Amount transferred

(b) The amount to be so transferred from the Light and Power Fund shall constitute eight per cent (8%) of the gross income of the Municipal Light and Power Department received during the previous fiscal year from the sale of electric energy, and the amount to be so transferred from the Water Fund shall constitute six per cent (6%) of the gross income of the Water Department received during the previous fiscal year from the sale of water.

Where transfer detrimental

(c) Notwithstanding anything herein contained, if the legislative body at the time of or before the adoption of the budget of the city as aforesaid, shall determine that the transfer of such amount from the Light and Power Fund or from the Water Fund will be detrimental to the proper functioning and administration of the said Municipal Light and Power Department or the Water Department, respectively, during the current fiscal year, the legislative body may so find by ordinance, and, in such event, no transfer of such amount, as to which the legislative body shall find the same to be thus detrimental, shall be made thereafter within the current fiscal year. If the legislative body shall determine that the transfer of a less amount than the eight per cent (8%) aforesaid from the Light and Power Fund or of a less amount than the six per cent (6%) aforesaid from the Water Fund will not be detrimental to the proper functioning and administration of the said Municipal Light and Power Department or the said Water Department, respectively, during the current fiscal year, the legislative body may so declare by ordinance, and thereupon shall make transfer as aforesaid of said less amount."

That we have compared the foregoing amendment with the original proposal submitting the same to the electors of said city, and find that the foregoing is a full, true, correct and exact copy thereof.

That as to said amendment this certificate shall be taken as a full and complete certification as to the regularity of all proceedings had and done in connection therewith.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the seal of the said City of Pasadena to be affixed hereto this 29th day of December, 1942.

A. I. STEWART
Chairman of the Board of Directors of the
[SEAL] City of Pasadena.
BESSIE CHAMBERLAIN
City Clerk.

MOTION No. 11577 (December 29, 1942)

Moved by Director M. S. BRENNER

That the Chairman of the Board of Directors and City Clerk of the City of Pasadena be and they are hereby authorized to execute for and on behalf of the City, the Certificate of Ratification by Electors of the City of Pasadena of a certain Charter Amendment, a copy of which is attached hereto, and the City Attorney is hereby directed to take such steps as may be necessary to secure the ratification by the Legislature of the State of California of said Charter Amendment set forth in said Certificate.

Motion duly seconded and carried by the following vote:

AYES: Directors Benedict, Brenner, Dawson, Hamill, Stewart, Wilfong, Wopschall

NOES: None

I hereby certify that the foregoing document is a full, true and correct copy of motion No. 11577 on file in the office of the City Clerk of the City of Pasadena.

BESSIE CHAMBERLAIN
City Clerk
By CLARA BELLE MacLELLAN, Deputy

WHEREAS, Said proposed amendments to the charter of the City of Pasadena, ratified by the electors of said city, as aforesaid, have been, and are now, submitted to the Legislature of the State of California, for approval or rejection without power of alteration or amendment, in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, a majority of all the members elected to each house voting therefor and concurring therein, that said amendments to the charter of the City of Pasadena, as proposed to, adopted and ratified by the qualified electors of said City of Pasadena, as hereinabove fully set forth, be and the same are, and each of them is, hereby approved as a whole without amendment or alteration, for and as amendments to and as parts of the charter of the City of Pasadena. Approval

CHAPTER 30

Senate Concurrent Resolution No. 18—Relative to felicitating the Honorable Joseph R. Knowland upon the publication of his book "California, a Historic Landmark."

[Filed with Secretary of State January 27, 1943.]

Felicitating Honorable Joseph R. Knowland for publication of "California, a Historic Landmark"

WHEREAS, The Honorable Joseph R. Knowland, publisher of the Oakland Tribune of Oakland, California, has rendered conspicuous public service to his native State as legislator, Congressman, publisher, author and historian; and

WHEREAS, Mr. Knowland has heretofore served, respectively, as a Member of the Assembly and of the Senate of this Legislature; and

WHEREAS, Mr. Knowland served with marked distinction and great honor to himself and with pride and esteem to his constituents as Representative of the Sixth District of California in the Congress of the United States during the years 1904 to 1915; and

WHEREAS, Mr. Knowland is a past president of the Native Sons of the Golden West and has been chairman of its Landmark Committee since 1902, and through his relentless efforts has inspired the movement for the investigation and restoration of the historic landmarks so intimately associated with the early history of this State; and

WHEREAS, Mr. Knowland has served the State as a member and chairman of the California State Park Commission, and through the efforts of himself and his associates aided in the development of the present park system, and consummated the location and restoration of many historic shrines and landmarks with enduring monuments bearing tablets relating the story of each event an epoch and the principal character participating therein; and

WHEREAS, Mr. Knowland has now published a book entitled "California, a Landmark History" which records, in a permanent record, chronologically presented, the location of those historic spots, which mark the route of the early navigators and explorers; records events when other sovereignty ruled the California territory; gives the story of the establishment of the Franciscan Missions; tells of the American occupation; speaks of the attempt to establish stable government; recalls the discovery of gold; reveals the struggle for law and order which gave rise to organizing the Vigilance Committees, and other outstanding events identified with the early history and development of this State and of the Nation; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That they do extend sincere congratulations to the Honorable Joseph R. Knowland upon the publication of his book "California, a Landmark History," and commend him for producing a volume which so vividly tells and portrays, in a permanent record, the occurrence of those momentous events and the location and

restoration of those historic landmarks and shrines which have exerted a marked influence upon the development and progress of the State of California and upon the Nation at large; and be it further

Resolved, That the Secretary of the Senate shall transmit to the Honorable Joseph R. Knowland a copy of this resolution, properly engrossed.

CHAPTER 31

Assembly Concurrent Resolution No. 25—Approving a certain amendment to the charter of the County of Los Angeles, State of California, submitted to, voted for, and ratified by, the electors of said county at the general election held in said county on the third day of November, 1942.

[Filed with Secretary of State January 28, 1943.]

County of Los Angeles: Charter amendment

WHEREAS, The County of Los Angeles, State of California, has been at all times herein mentioned, and now is, a body politic and corporate, and a political subdivision of the State of California, and is now, and has been, since the second day of June, 1913, organized and acting under and by virtue of a freeholders' charter, adopted under and by virtue of Section 7½ of Article XI of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said county at an election held for that purpose on the fifth day of October, 1912, and approved by the Legislature of the State of California on the twenty-ninth day of January, 1913; and

WHEREAS, The board of supervisors of said county, pursuant to the provisions of said Section 7½ of Article XI of said Constitution, did, by resolution adopted on the twenty-second day of September, 1942, duly propose to the qualified electors of said County of Los Angeles one amendment to the charter of said county, designated as proposed county charter amendment No. 1, and ordered that said amendment be submitted to said qualified electors of said county at the general election to be held in said county on the third day of November, 1942, which date was the day fixed by law for the holding of said general election; and

WHEREAS, Said proposed charter amendment No. 1 was published for 10 times in the Los Angeles Daily Journal, a daily newspaper of general circulation, printed, published, and circulated in said county, to wit, on September 23, 24, 25, 26, 28, 29, and 30, and October 1, 2, and 3, 1942; and

WHEREAS, Said board of supervisors, by said resolution adopted on said twenty-second day of September, 1942, did order the placing of said proposed charter amendment on the ballot of said general election to be held in said County of Los Angeles on said third day of November, 1942, which date was not less than 30 days nor more than 60 days after said publication of such proposal, as aforesaid, for 10 times in a daily newspaper of general circulation printed, published, and circulated in said county; and

WHEREAS, Said general election was held in said County of Los Angeles on said third day of November, 1942; and

WHEREAS, Thereafter, the registrar of voters of said County of Los Angeles did, in the manner provided by law, duly and regularly canvass the returns of said election and certify the same to the clerk of the board of supervisors of said county, and said clerk did on the nineteenth day of November, 1942, duly enter on the records of said board of supervisors a statement of the result of said canvass and said election; and

WHEREAS, At said general election held on said third day of November, 1942, said proposed amendment was ratified by a majority of the electors of said county voting thereon; and

WHEREAS, Said charter amendment so ratified by the electors of said County of Los Angeles is now submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration or amendment, pursuant to the provisions of said Section 7½ of Article XI of the Constitution of the State of California, and is in words and figures as follows, to wit:

PROPOSED COUNTY CHARTER AMENDMENT NO. 1

That the Charter of the County of Los Angeles be amended by amending Section 14 of Article IV thereof to read as follows:

Appointive county officers

"Sec. 14. The appointive county officers shall be:
Auditor
Board of Education, Members of
Board of Law Library Trustees, Members of
Civil Service Commission, Members of
Coroner
County Clerk
County Counsel
Fish and Game Warden
Health Officer
Horticultural Commissioner
License Collector
Live Stock Inspector
Probation Committee, Members of
Probation Officer
Public Administrator
Public Defender
Purchasing Agent
Recorder
Registrar of Voters
Road Commissioner
Superintendent of Charities
Superintendent of Schools
Surveyor
Tax Collector
Treasurer

Such other officers as may hereafter be provided by law shall also be appointive.

The Treasurer shall be ex-officio Tax Collector and License Collector. Ex-officio capacities

The Public Administrator shall be ex-officio Coroner; provided however, that the provisions of this paragraph shall not be or become operative prior to the 1st day of June, 1945, but on and after said date shall become operative and shall have full force and effect."

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss.

We, the undersigned, GORDON L. McDONOUGH, Chairman of the Board of Supervisors of the County of Los Angeles, State of California, and J. F. MORONEY, County Clerk and ex-officio Clerk of the Board of Supervisors of said County of Los Angeles, do hereby certify: Certificate

That the foregoing proposed and ratified amendment to the charter of said County of Los Angeles, submitted to the electors of said county at the general election held in said county on said third day of November, 1942, has been compared by us, and each of us, with the proposed amendment set forth in the resolution adopted by said Board of Supervisors as hereinbefore set forth, and that the foregoing is a full, true, correct and exact copy thereof, and we further certify that the facts set forth in the preamble preceding said amendment to said charter are, and each of them is, true.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the same to be attested by the County Clerk and authenticated by the seal of said Board of Supervisors of the County of Los Angeles this 22nd day of January, 1943.

GORDON L. McDONOUGH,
Chairman, Board of Supervisors of the County of Los Angeles

[SEAL]

J. F. MORONEY, County Clerk and ex-officio Clerk of the Board of Supervisors,
By ALICE BURKS
Deputy

ATTEST:
J. F. MORONEY, County Clerk
of the County of Los Angeles,
State of California
By INEZ ROBINSON
Deputy

and

WHEREAS, Said proposed amendment to the charter of said County of Los Angeles, so ratified by the electors thereof, has been submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration or amendment, in accordance with the provisions of

Section 7½ of Article XI of the Constitution of the State of California; now, therefore, be it

Approva

Resolved by the Assembly of the State of California, the Senate concurring, a majority of all the members elected to each house voting for adoption of this resolution, and concurring therein, that said amendment to the charter of the County of Los Angeles as proposed by the board of supervisors of said county and as ratified by the electors of said county, and as hereinbefore set forth, be, and the same is hereby approved as a whole, without amendment or alteration, as an amendment to, and as a part of, the charter of the County of Los Angeles, State of California.

CHAPTER 32

Assembly Joint Resolution No. 20—Relative to memorializing the Federal Government to immediately assign a large force of OPA investigators to the City of Vallejo and surrounding communities to enforce the Rent Control Act.

[Filed with Secretary of State January 29, 1943.]

Enforcement of Rent Control Act in Vallejo

WHEREAS, The City of Vallejo and the surrounding communities form an area occupied largely by defense workers and members of the armed forces stationed at Mare Island; and

WHEREAS, In spite of large housing projects by Federal agencies the area is still greatly overcrowded; and

WHEREAS, Such a situation results in difficulty in finding accommodations for families of men in the armed services; and

WHEREAS, Some unscrupulous persons take advantage of the situation to charge unfair rental and food prices, giving unfavorable publicity to a city deep in the war effort and patriotically doing all that is possible for victory; and

WHEREAS, Strict interpretations of the "freezing" statutes often result in penalizing the fair landlord who has hesitated to raise his rents and is giving more in proportion than the other landlord who was first to raise his rents; and

WHEREAS, The staff allowed the branch of OPA in this district is insufficient to inspect premises and prices to do justice to both landlord and tenant, and seller and purchaser; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Federal Government be and is hereby memorialized to immediately assign a large force to the branch of the OPA in the Vallejo area to check rental and food prices and services and to penalize unscrupulous offenders of the OPA rules and regulations; and be it further

Resolved, That the Federal Government be and is hereby memorialized to raise the FHA building quotas for the Vallejo and surrounding communities so that patriotic private citizens may do their part to provide further housing accommodations in the area; and be it further

Resolved, That the Chief Clerk of the Assembly be hereby directed to transmit copies of this resolution to the main office of the OPA, to the main office of FHA, and to each Senator and Member of the House of Representatives from California in the Congress of the United States.

CHAPTER 33

Senate Joint Resolution No. 10—Relative to memorializing the President, the Congress, the Secretary of the Interior and the War Production Board with respect to the urgency of prompt completion of all units of the Central Valley Project.

[Filed with Secretary of State January 29, 1943]

Completion of all units of Central Valley Project

WHEREAS, The Congress of the United States has heretofore appropriated an aggregate of $149,969,000 for the construction of the Central Valley Project, California, and it is estimated that the further sum of $114,031,000 will be necessary to complete said project; and

WHEREAS, The United States Bureau of Reclamation under the direction of the Secretary of the Interior has for the past seven years been engaged in constructing said project; and

WHEREAS, Some units of the project are only partially completed, including Shasta Dam, Keswick Dam, the Contra Costa Canal, Madera Canal and Friant Dam, while work has not even commenced on vital units such as the Delta Cross Channel, the Delta-Mendota Pumping System and the Friant-Kern Canal; and

WHEREAS, Construction of said Friant Dam on the San Joaquin River has been virtually completed by the United States Bureau of Reclamation except for installation of control gates; and said Friant Dam and Madera and Friant-Kern Canals can be completed enabling beneficial use to be made of waters now going to waste, by the use of a comparatively insignificant amount of strategic materials and expenditure of a relatively small additional appropriation by the Congress, and the necessary machinery and equipment for such construction is now idle and therefore available, the necessary labor, skilled and unskilled can be obtained without material conflict with the manpower demands of the war program, and, with irrigation water available from said Friant Dam through said canals, said San Joaquin Valley lands will be capable of affording an enormous increase of production of foods, fibers and raw rubber vital to the progress of the war; and

WHEREAS, the War Production Board has recently ordered cessation of construction of all units of said project except Shasta Dam; and

WHEREAS, The Great Central Valley of California is now making a contribution to the current war program by the production of essential foods and fibers; and

WHEREAS, The completion of the Central Valley Project by providing sorely needed supplementary water supplies will enable an enormous increase in the production of foods and fibers of which there are now serious shortages throughout the Nation; and

WHEREAS, Completion of the project will make available many thousands of acres peculiarly suited to the growing of guayule, the most feasible source of natural rubber; and

WHEREAS, On completion the project will afford a source of electric energy which will enable a vast expansion of ship building yards, factories and other strategic war production plants in California; and

WHEREAS, All features of the Central Valley Project are designed as mutually interrelated, and to fulfill the objectives of the project and to make a material contribution to the war program, it is imperative that the project, including all features thereof, be completed in its entirety; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California hereby respectfully memorializes and urges the President and the Congress of the United States, the Secretary of the Interior, and the War Production Board that all units of the Central Valley Project and all features thereof and particularly those portions thereof positively necessary to aid the war effort be promptly completed, and to that end that the necessary funds, priorities and materials be made immediately available; and be it further

Resolved, That the Secretary of the Senate is hereby requested to transmit copies of this resolution to the President of the United States, to each Senator and Representative from California in the Congress of the United States, to the Secretary of the Interior, and to the War Production Board.

CHAPTER 34

Senate Concurrent Resolution No. 15—Relative to designating this session of the Legislature "The Victory Session."

[Filed with Secretary of State January 29, 1943.]

"The Victory Session"

WHEREAS, The United States is in a state of war; and

WHEREAS, Every source of strength is being enlisted, encouraged and applied in the National effort to win the war; and

WHEREAS, It is the desire and intention of this Legislature and of the people of this great State of California to be helpful and to stimulate and encourage National war aims, purposes and activities; and

WHEREAS, The Legislature of the State of California is in full sympathy and accord with National war aims, purposes and activities and with the thought and purpose of making this Fifty-fifth Session of the Legislature of this great State a war Legislature directing its efforts to the consideration and enactment of all measures needed to assist in the successful

prosecution of the war and the defense of the people of this great State in full cooperation with military authorities; and

WHEREAS, It is desirable and fitting that some suitable concrete and visible design and slogan be adopted by this Legislature to symbolize and remind our people of our and their loyal and steadfast sentiment in our National war aims, purposes and activities; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the members of this Legislature do now adopt, for the purposes herein set forth, as a symbol a large "V" and as a slogan the words "Victory in '43," which "V" and slogan shall hereafter be printed on all stationery to be used for all correspondence of the Fifty-fifth Session of the Legislature and members thereof; and be it further

Resolved, That this session of the Legislature of the State of California be designated, known and referred to as The Victory Session.

CHAPTER 35

Senate Concurrent Resolution No. 19—Relative to requesting the Governor to establish a commission to make a survey of the food supply in California.

[Filed with Secretary of State January 29, 1943.]

Survey of food supply in California

WHEREAS, The United States is at present engaged in hostilities with the Axis Nations; and

WHEREAS, The war is making great demands upon the Nation's food supply in order to furnish sustenance to the members of the armed forces of the United States as well as to its allies overseas; and

WHEREAS, Many of the persons who were formerly engaged in producing farm and dairy products are now employed in factories, shipyards and other establishments manufacturing weapons of war, thereby resulting in a serious labor shortage in the farming industry; and

WHEREAS, There is certain land in the State which is suitable for cultivation but which nevertheless remains unproductive; and

WHEREAS, Other land in the State is cultivated to some extent, but not to the fullest extent possible; and

WHEREAS, Fewer persons are available for employment in the cultivation of land and production of food than ever before; and

WHEREAS, There is already a noticeable food shortage in this State; and

WHEREAS, Acute shortages of food are occurring in the populous centers of the State due to the inequities in food distribution and difficulties arising out of the present food shortage; and

WHEREAS, If existing conditions continue, the food shortage will soon be so acute as to result in the malnutrition of the civilian population of California; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Governor of the State of California be requested to establish a commission to consist of not less than nine members, to be known as the California War Food Supply Commission, all the members of which should be farmers or persons fully conversant with the problems of farmers; and

Resolved, That the Governor be requested to direct this commission to make a complete survey of the food supply in California, to study the methods of food production in this State, to provide for the cultivation of lands at present unproductive, to increase the productivity of lands at present only partially cultivated, to alleviate the present labor shortage in the farming industry, and to investigate all other problems related to the present food shortage in California.

Resolved, That the Governor be requested to direct this commission to make a full and complete report of its findings to the Governor and to the Legislature.

CHAPTER 36

Senate Concurrent Resolution No. 20—Relative to adjournment in respect to the memory of Fred E. Stewart.

[Filed with Secretary of State January 29, 1943.]

Death of Fred E Stewart

WHEREAS, Those of us who came into intimate association with Fred E. Stewart, late member of the State Board of Equalization, cherish the sentiments of affection and regard which his warm personality inspired; and

WHEREAS, He devoted long years of service to his State as member of the Board of Equalization, was coauthor of California's Tax Revision Plan of 1933, and deservedly received National recognition through his selection twice to serve as president of the National Association of Tax Administrators, and we wish to give token of our appreciation and esteem of him as devoted public official, loyal citizen and friend; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That when the respective houses of the Legislature this day adjourn, they do so in respect to the memory of Fred E. Stewart, late member of the Board of Equalization of this State; and be it further

Resolved, That the Secretary of the Senate convey to the family this expression of tribute from the Senate and Assembly of California.

CHAPTER 37

Senate Concurrent Resolution No. 8—Relative to the creation of a Joint Fact-Finding Committee on Un-American Activities in California to investigate the activities of persons and groups known or suspected to be foreign dominated or controlled and recommend legislation for their regulation.

[Filed with Secretary of State January 30, 1943.]

Joint Fact-Finding Committee on Un-American Activities

WHEREAS, These are times of public danger. Subversive persons and groups are endangering our domestic unity so as to leave us unprepared to resist aggression. Under color of the protection afforded by the Bill of Rights these persons and groups seek to destroy our liberties and our freedom by force, threats and sabotage and to subject us to the domination of foreign powers.

State legislation to meet the problem and to assist law enforcement officers can best be based on a thorough and impartial investigation by a competent and active legislative committee; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That there is hereby created a Joint Fact-Finding Committee on Un-American Activities in California which shall investigate, ascertain, collate and appraise all facts causing or constituting interference with the National defense program in California or rendering the people of the State, as a part of the Nation, less fit physically, mentally, morally, economically or socially; and be it further

Resolved, That in addition to other duties imposed upon the committee, the committee shall investigate the activities of groups and organizations whose membership includes persons who are members of the Communist Party, the Fascist organizations, the German Nazi Bund, or any other organization known or suspected to be dominated or controlled by a foreign power, which activities affect the conduct of this State in National defense, the functioning of any State agency, unemployment relief and other forms of public assistance, educational institutions of this State supported in whole or in part by State funds, or any political program; and be it further

Resolved, That the committee shall consist of three members of the Assembly, appointed by the Speaker thereof; and two members of the Senate appointed by the Committee on Rules thereof; and be it further

Resolved, That the committee hereby created in exercising the powers and performing the functions vested in it by this resolution shall have: (i) all the powers conferred upon legislative committees by Article 8, Chapter 2, Title 1, Part 3 of the Political Code; (ii) except when inconsistent with this resolution, all the powers conferred upon committees by the

Rules of the Assembly, the Rules of the Senate, and the Joint Rules of the Senate and Assembly as they are enacted and amended from time to time and such rules are hereby incorporated herein and made a part hereof the same as if they were set forth in this resolution in full; (iii) all powers necessary or convenient to accomplish the objects and purposes of this resolution, including but not limited to the following duties and powers:

(1) To select a chairman from its membership and to employ and fix the compensation of a secretary and such clerical, expert and technical assistants as it may deem necessary;

(2) To create subcommittees from its membership, assigning to the subcommittee any study, inquiry, investigation or hearing which the committee itself has authority to undertake or hold, and the subcommittee for the purpose of this assignment shall have and exercise all of the powers conferred upon the committee limited by the express terms of the resolution or resolutions of the latter defining the powers and duties of the subcommittee, which powers may be withdrawn or terminated at any time by the committee;

(3) To adopt and from time to time amend such rules governing its procedure (including the fixing of its own quorum and the number of votes necessary to take action on any matter) as may to it appear appropriate;

(4) To contract with such other agencies, public or private, as it deems necessary for the rendition and affording of such services, facilities, studies and reports to the committee as will best assist it to carry out the purposes for which it is created;

(5) To hold public hearings at any place in California at which hearings the people are to have an opportunity to present their views to the committee;

(6) To make a complete study, survey and investigation of every phase of the subject of this resolution, including but not limited to the operation, effect, administration, enforcement, and needed revision of any and all laws in anywise bearing upon or relating to the subject of this resolution;

(7) To meet either during sessions of this Legislature or during any recess thereof at any and all places in this State, in public or executive session;

(8) To act only during this session of the Legislature, including any recess hereof;

(9) To file a report with the Legislature during the session of the Fifty-fifth Legislature;

(10) To summon and subpena witnesses, require the production of papers, books, accounts, reports, documents, and records of every kind and description, to issue subpenas and to take all necessary means to compel the attendance of witnesses and procure testimony; and

(11) To cooperate with and secure the cooperation of county, city, city and county and other local law enforcement agencies in investigating any matter within the scope of this resolution, and to direct the sheriff of any county to serve subpenas, orders, and other process issued by the committee; and

(12) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution;

Resolved, That the committee, each of its members, and any representative of the committee thereunto authorized by the committee or by its chairman, is authorized and empowered to administer oaths; and be it further

Resolved, That every department, commission, board, agency, officer and employee of the State Government, including the Legislative Counsel, the Attorney General and their subordinates, and of any political subdivision, county, city, or public district of or in this State shall furnish the committee and any subcommittee, upon request, any and all such assistance, and information, records and documents as the committee or subcommittee deems proper for the accomplishment of the purposes for which the committee is created; and be it further

Resolved, That the California Highway Patrol and all officers and members thereof shall furnish such assistance to the committee as the chairman may direct; and be it further

Resolved, That the members of the committee shall serve without compensation but shall be allowed mileage at the rate of five and one-half cents ($0.05½) per mile each way incurred in connection with their services upon the committee and other actual and necessary expenses for living accommodations and meals, incurred in connection with their services upon the committee, or in lieu of such expenses for accommodations and meals an allowance of ten dollars ($10) per day (no expenses or mileage shall be payable during the session of the Legislature except that this shall not prevent the payment of expenses or mileage during the constitutional recess); and be it further

Appropriation

Resolved, That the sum of ten thousand dollars ($10,000) or so much thereof as may be necessary is hereby made available from the contingent funds of the Senate and of the Assembly for the expenses of the committee and its members and for any charges, expenses or claims it may incur under this resolution, to be paid equally from the contingent funds of the Senate and of the Assembly and disbursed, after certification by the chairman of the committee, upon warrants drawn by the State Controller upon the State Treasurer.

CHAPTER 38

Senate Concurrent Resolution No. 13—Relative to a Fact-Finding Committee on the labor supply for agricultural and industrial enterprises, and defining its powers and duties.

[Filed with Secretary of State January 31, 1943.]

Fact-Finding Committee on labor supply

WHEREAS, It is imperative that all pertinent facts bearing upon agricultural and industrial employment in California be found, assembled and analyzed, to the end that the Senate and Assembly and the members of each may be enabled to act advisedly in the formulation of a comprehensive and effective plan for the supply of labor in agriculture and industry in the State and in the consideration and enactment of legislation calculated to inaugurate such a plan and put it into immediate operation; and

WHEREAS, The facts can best and most expeditiously be ascertained and analyzed and such a plan formulated by the Legislature through a joint Fact-Finding Committee of the Senate and Assembly charged with the study of every phase of this subject during this session of the Legislature and any recesses thereof, reporting to the Legislature as soon as may be; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That a committee on agricultural and industrial employment, designated "The Fact-Finding Committee," of three members, of the Assembly appointed by the Speaker and two members of the Senate appointed by the Rules Committee thereof, is hereby created, which committee is authorized and directed to gather, assemble, study and analyze all facts relating to any and every phase of agricultural and industrial employment, with a view to formulating such a plan and preparing and submitting such legislative measures as will enable the State to solve the labor problems of agriculture and industry, to which end the committee shall have and exercise the duty and power:

(1) To select a chairman from its membership and to employ and fix the compensation of a secretary and such clerical, expert and technical assistants as it may deem necessary;

(2) To create subcommittees from its membership, assigning to the subcommittee any study, inquiry, investigation or hearing which the committee itself has authority to undertake or hold, and the subcommittee for the purpose of this assignment shall have and exercise all of the powers conferred upon the committee limited by the express terms of the resolution or resolutions of the latter defining the powers and duties of the subcommittee, which powers may be withdrawn or terminated at any time by the committee;

(3) To adopt and from time to time amend such rules governing its procedure (including the fixing of its own quorum and the number of votes necessary to take action on any matter) as may to it appear appropriate;

(4) To contract with such other agencies, public or private, as it deems necessary for the rendition and affording of such services, facilities, studies and reports to the committee as will best assist it to carry out the purposes for which it is created;

(5) To hold public hearings at any place in California, at which hearings the people are to have an opportunity to present their views to the committee;

(6) To make a complete study, survey and investigation of every phase of the subject of this resolution, including but not limited to the operation, effect, administration, enforcement, and needed revision of any and all laws in any wise bearing upon or relating to the encouragement of employment in agricultural and industrial enterprises, the furtherance of apprentice training, vocational training and education or re-education, the method, adequacy and efficiency of the functioning of any and all governmental agencies, State or local, in any way charged or concerned with the administration or enforcement of any such laws or any part of any thereof, and the competency and efficiency of the personnel of any such agency;

(7) To meet at any and all times prior to final adjournment of this session of the Legislature, whether the Senate or Assembly be actually then sitting or not, and at any and all places within the State, in the performance of its duties and in carrying out the objects and purposes of this resolution;

(8) To summon and subpena witnesses, require the production of papers, books, accounts, reports, documents, and records of every kind and description, to issue subpenas, and to take all necessary means to compel the attendance of witnesses and procure testimony;

(9) To report its findings and recommendations to the Senate and Assembly and to the people from time to time and at any time; and

(10) To cooperate so far as the judgment of the committee dictates with any Federal agency; and

(11) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution; and be it further

Resolved, That the committee, each of its members, and any representative of the committee thereunto authorized by the committee or by its chairman, is authorized and empowered to administer oaths; and all of the provisions of Article 8, Chapter 2, Title 1, Part 3 of the Political Code, relating to the attendance and examination of witnesses before the Legislature and committees thereof, apply to the committee hereby created; and be it further

Resolved, That the Sergeant-at-Arms of the Senate and of the Assembly and each of them or other officers designated by either of them, are hereby directed to serve any and all subpenas, orders and other process issued by the committee,

when directed so to do by the chairman or by a majority of the membership of the committee; and be it further

Resolved, That every department, commission, board, agency, officer and employee of the State Government and of any political subdivision, county, city, or public district of or in this State shall furnish the committee and any subcommittee, upon request, any and all such assistance, and information, records and documents as the committee or subcommittee deems proper for the accomplishment of the purposes for which the committee is created; and be it further

Resolved, That the members of the committee shall serve without compensation but shall be allowed mileage at the rate of five and one-half cents ($0.05½) per mile each way incurred in connection with their services upon the committee and other actual and necessary expenses for living accommodations and meals, incurred in connection with their services upon the committee, or in lieu of such expenses for accommodations and meals an allowance of eight dollars ($8) per day (no expenses or mileage shall be payable during the session of the Legislature except that this shall not prevent the payment of expenses or mileage during the constitutional recess); and be it further

Appropriation

Resolved, That the sum of two thousand five hundred dollars ($2,500) or so much thereof as may be necessary is hereby made available from the contingent funds of the Senate and of the Assembly for the expenses of the committee and its members and for any charges, expenses or claims it may incur under this resolution, to be paid equally from the contingent funds of the Senate and of the Assembly and disbursed, after certification by the chairman of the committee, upon warrants drawn by the State Controller upon the State Treasurer.

CHAPTER 39

Senate Concurrent Resolution No. 22—Approving certain amendments to the charter of the City of Roseville, State of California, ratified by the qualified electors of said city at a general municipal election held therein on the fourteenth day of April, 1942.

[Filed with Secretary of State January 31, 1943.]

City of Roseville: Charter amendments

WHEREAS, The City of Roseville, in the County of Placer, State of California, contains a population of over 3,500 inhabitants and less than 50,000 inhabitants, and has been, ever since the year 1935 and now is, organized and acting under and by virtue of a freeholders' charter, adopted under and by virtue of Section 8, Article XI, of the Constitution of the State of California, which charter was duly ratified by a majority of the qualified electors of said city at an election held for that purpose on the ninth day of April, 1934, and approved by the Legislature of the State of California, on the

second day of May, 1935, and amendments thereto duly ratified by the qualified voters of said city and by resolutions of said Legislature as set out in the certificate of the mayor and city clerk of said City of Roseville, hereinafter set forth; and

WHEREAS, Proceedings have been had for the proposal, adoption and ratification of certain amendments to the charter of said City of Roseville, as set out in the certificate of the mayor and city clerk of said City of Roseville, as follows, to wit:

CERTIFICATE OF AMENDMENTS TO CHARTER TO THE CITY OF ROSEVILLE, CALIFORNIA

STATE OF CALIFORNIA }
COUNTY OF PLACER } SS.
CITY OF ROSEVILLE }

Certificate

We, the undersigned HAROLD T. JOHNSON, Mayor of the City of Roseville, and R. W. TERRY, City Clerk of the City of Roseville, do hereby certify and declare as follows:

That the City of Roseville is a municipal corporation in the County of Placer, State of California, and is now and at all times hereinafter referred to, was, a city containing a population of more than thirty-five hundred (3500) inhabitants and less than fifty thousand (50,000) inhabitants, as ascertained by the last preceding census taken under the authority of the Congress of the United States;

That said City of Roseville is now organized, existing and acting under a freeholders' charter adopted under and by virtue of Section VIII, Article 11, of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said city at an election duly held for that purpose on April 9th, 1934, and approved by the Legislature of the State of California, by concurrent resolution filed with the Secretary of State on the 2nd day of May, 1935;

That, in pursuance of Section VIII of Article 11 of the Constitution of the State of California, and on its own motion, the Council of the City of Roseville, being the legislative body of said City duly and regularly submitted to the qualified electors of said City of Roseville, certain proposals for amendment of the charter of said city, to be voted upon by said qualified electors at a general municipal election held in said city on the 14th day of April, 1942, which said proposals were designated as proposed charter amendments numbers One and Two;

That said proposed amendments were published and advertised in the form and manner and for the length of time, and in accordance with the provisions of Section VIII, Article 11 of the Constitution of the State of California, in the Roseville Press, which was then and there a daily newspaper printed, and circulated at and within the City of Roseville, County of Placer, State of California, and the official newspaper of said city;

That the election at which said proposed charter amendments were voted upon was by ordinance set and called for the 14th day of April, 1942, which date was not less than forty, and not more than sixty days after the completion of the advertising in the official newspaper as aforesaid;

That thereafter, the City Council of the City of Roseville did, in the manner provided by law, duly and regularly canvass the returns of said election, and that said Council by resolution adopted on the 21st day of April, 1942, declared the result of said election as determined from the canvass of the returns thereof;

That at said municipal election held on the 14th day of April, 1942, said proposed charter amendments Numbered One and Two were ratified and adopted by a majority of the electors of said City voting thereon;

That said proposed Charter Amendment Number One, so ratified by the electors of said City of Roseville, is in the words and figures as follows, to wit:

CHARTER AMENDMENT NUMBER ONE:

Article XIX of the Charter of the City of Roseville is hereby amended by the addition of a new section, thereto, to be number Section 9-A, which section shall read as follows:

Displacement by employee having greater service

Section 9-A. Displacement. The provisions of Section 10 notwithstanding, a permanent employee who is displaced by the abolition of a position, or by consolidation of positions or by displacement by a senior employee, may displace an employee who has a lesser period of service with the City, from one of the following positions, in the order enumerated. First: from a position of the same classification in any department; Second: from a position formerly held by the displacing employee in any department; Third: from a position in the same department, providing the displacing employee has the minimum qualifications for the position he displaces on to. Displacement shall not effect a promotion of displacing employee.

That said proposed Charter Amendment Number Two, so ratified by the electors of the said City of Roseville, in the words and figures as follows, to wit:

CHARTER AMENDMENT NUMBER TWO:

Section One of Article VI of the Charter of the City of Roseville, is hereby amended to read as follows:

Administrative officers

Section One: Officers and Employees: The administrative officers of the City of Roseville shall consist of five members of the Council, a Controller, a City Clerk, a City Treasurer, a City Attorney, a City Assessor, a City Tax Collector, a Superintendent of Streets, a City Judge, a Chief of Police, a Fire Chief, five members of the Board of Education, five Park Commissioners and five Library Trustees, provided the Council may,

by ordinance or resolution, provide for such other or subordinate officers, assistants, deputies, and employees at it may deem necessary, including a City Engineer, who need not be a resident of the City.

Election and terms

The members of the Council, the City Clerk, and the City Treasurer, and the Chief of Police shall be elected from the City at large, and shall hold office for four years, and until their successors are elected and qualified; the members of the Board of Education shall be elected from the Roseville School District at large; provided, however, that all qualified electors of the Roseville School District shall have the right to vote for members of the Board of Education. All other officers and employees, except as otherwise herein provided, shall be appointed by the Council. The City Clerk shall be ex-officio Assessor and ex-officio Tax Collector. The Council may by ordinance combine or consolidate any two or more offices, and require the duties of the same to be performed by one official, except that the office of Controller may not be combined or consolidated with the offices of City Clerk, or City Treasurer.

Ex-officio holding

That we have compared the foregoing amendments with the original proposals submitting the same to the electors of said city and find that the foregoing are full, true, correct and exact copies thereof and of each of them; we further certify that the facts set forth in the preamble preceding such amendments to said Charter are and each of them is true.

That as to all of said amendments this certificate shall be taken as a full and complete certification as to the regularity of all proceedings had and done in connection therewith.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the corporate seal of said City of Roseville to be affixed hereto this 25th day of January, 1943.

HAROLD T. JOHNSON
[SEAL] Mayor of the City of Roseville

ATTEST: R. W. TERRY
City Clerk of the City of Roseville

WHEREAS, Said proposed amendments to the charter of the City of Roseville, ratified by the electors of said city, as aforesaid, have been, and are now submitted to the Legislature of the State of California, for approval or rejection without power of alteration or amendment, in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Approval

Resolved by the Senate of the State of California, the Assembly thereof concurring, A majority of all the members elected to each house voting therefor and concurring therein, that said amendments to the charter of the City of Roseville, as proposed to, adopted and ratified by the qualified electors, of said City of Roseville, as hereinabove fully set forth, be and the same are, and each of them is, hereby approved as a whole without amendments or alteration, for and as amendments to and as parts of the charter of the City of Roseville.

CHAPTER 40

Assembly Joint Resolution No. 22—Relative to memorializing the President and the Congress of the United States to amend the Federal Social Security Act in respect to earnings and other income of recipients of old-age assistance.

[Filed with Secretary of State January 31, 1943.]

Income of recipients of old-age assistance

WHEREAS, The provisions of the Federal Social Security Act now in effect relating to grants to States for old-age assistance require the State agency, in determining need, to take into account any other income and resources of an individual claiming old-age assistance; and

WHEREAS, It is the desire of the Legislature of California to make adequate provision for the senior citizens of the State and to allow them to earn and receive incidental income in a reasonable amount without deduction thereof from the amount of aid allowed them, and without jeopardizing their right to receive old-age aid; and there are many legislative bills now pending before the Legislature of California to accomplish these results, consideration of which necessarily awaits action by the Congress and the President of the United States; and

WHEREAS, It is the consensus of the members of the Legislature of California that provision of adequate assistance to the senior citizens of the State is one of the most important subjects before the Legislature of California at this Fifty-fifth Regular Session of the Legislature; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Congress and President of the United States are hereby memorialized to amend the Federal Social Security Act in such manner as to permit the States to allow their senior citizens to earn and receive other income in such sum as the President and the Congress may deem proper, without deduction from the amount of old-age aid which would otherwise be allowed them, and without affecting their eligibility to receive aid; and be it further

Resolved, That the Chief Clerk of the Assembly is hereby directed immediately to send copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

CHAPTER 41

Assembly Joint Resolution No. 24—Relative to the growing shortage of motor truck transportation.

[Filed with Secretary of State January 31, 1943.]

Relief of motor truck transportation industry

WHEREAS, The population of the Western States of the United States is thinly spread over an area of 1,508,916 square miles with a railroad trackage of only 41,593 miles; and

WHEREAS, Within the State of California there are 1,868 communities wholly dependent upon motor truck transportation for transportation of necessary foods, and other goods to and from their communities; and

WHEREAS, The State of Oregon has 941, and the State of Washington has 874 such dependent communities; and

WHEREAS, The delivery of fluid milk to the cities of San Francisco, Los Angeles, Oakland, Sacramento, and Spokane is wholly by motor truck and trailers; and

WHEREAS, 89.3 per cent of fruits and vegetables, and 66 per cent of the live stock used for food in the City of Los Angeles is transported by motor truck and trailer; and

WHEREAS, 75 per cent of fruits and vegetables, and live stock used for food in the City of San Francisco is transported by motor truck and trailer; and

WHEREAS, 80.6 per cent of all interstate motor truck and trailer loads, originating in Los Angeles consists of total or partial loads of raw or other war materials transported from or to war manufacturing plants; and

WHEREAS, The State of California produces annually 30,000,000 tons of farm, ranch and orchard products which must of necessity be transported to market by motor trucks and trailers during all or some part of its journey to market; and

WHEREAS, Railroads are overburdened in furnishing the transportation needs of the armed forces of the United States during the war emergency, and are not equipped with rolling stock, cars or locomotives to take over any considerable portion of the transportation of foodstuffs and other supplies heretofore transported by motor trucks and trailers; and

WHEREAS, New, or additional motor trucks, or trailers are unobtainable; and

WHEREAS, Thousands of motor trucks and trailers, buses and farm motorized implements, indispensable for the necessary production and transportation of foods, supplies and war materials are in disrepair and not in use because needed repair parts or tires can not be obtained; and

WHEREAS, Motor truck and bus transportation is rapidly becoming difficult or impossible to obtain due to the fewer motor vehicles available for the necessary needs of the people; and

WHEREAS, Any further lessening in the number of motor trucks, or trailers available for transportation will paralyze the agricultural and live stock industries of this State and jeopardize the supply of food and the operation of war manufacturing plants; and

WHEREAS, It is apprehended that because of the conditions aforesaid farmers, fruit and vegetable growers will be hindered in their production of food operations and there will

not be a sufficient number of motor trucks and trailers to transport this year's crops of vegetables, fruits, grains or live stock to market or to transport raw and other materials to and from war production plants; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Congress of the United States be and the same is hereby memorialized to appoint a committee to immediately investigate conditions that prevail in the motor trucking industry in the Western States in respect to the procurement of necessary repair parts and tire replacements and to take such other and necessary action in the premises as will relieve and prevent any further disruption of the motor trucking and passenger bus industry and enable food producers to produce and cultivate their crops and convey the same to markets; and be it further

Resolved, That copies of this resolution be forwarded to the President and Vice President of the United States, to the Speaker of the House of Representatives and to each Senator and Member of the House of Representatives in the Congress of the United States from California.

CHAPTER 42

Senate Concurrent Resolution No. 16—Providing for the continuance of the Joint Committee on Water Problems created by Senate Concurrent Resolution No. 11 (1941 Res. Ch. 130).

[Filed with Secretary of State January 31, 1943.]

Continuance of Joint Committee on Water Problems

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Joint Committee on Water Problems created by said Senate Concurrent Resolution No. 11 of the Fifty-fourth Legislature is continued as a joint committee at this session with those members it had on January 1, 1943, who are now members of the Legislature and with all the powers and duties defined and conferred by said Senate Concurrent Resolution, with power to act until the making of its final report to the Legislature, the time for which is extended to the date of final adjournment of the Fifty-fifth Session; and there is hereby made available from the contingent funds of the Senate and Assembly at this session for expenses of the committee and its members and for any expenses, charges, or claims it may incur, to be disbursed as in said Senate Concurrent Resolution No. 11 prescribed, a sum of money equal to the unexpended and unencumbered balance made available by said Senate Concurrent Resolution No. 11, except that no payment shall be made to committee members for their individual mileage or expenses

incurred during the Fifty-fifth Session, except that this does not prevent the payment of mileage or expenses incurred during the constitutional recess.

CHAPTER 43

Assembly Concurrent Resolution No. 21—Relative to the reports of the annual conventions of the Disabled American Veterans of the World War of the Department of California, and the Department Encampment of the Grand Army of the Republic.

[Filed with Secretary of State February 1, 1943]

Printing of reports

Resolved by the Assembly of the State of California, the Senate thereof concurring, That there shall be printed as a public document 300 copies of the report of the respective annual conventions of the Disabled American Veterans of the World War of the Department of California during the years 1942 and 1943, respectively, together with illustrations, copies of the general orders enacted at such conventions and the official roll, 150 copies for the use of the Assembly and 150 copies for the use of the Senate; the cost of same not to exceed six hundred sixty dollars ($660), payable from the legislative printing appropriation; and be it further

Resolved, That there shall be printed as a public document 300 copies of the sessions of the Department Encampment of the Grand Army of the Republic for the years 1942 and 1943, together with illustrations, copies of the general orders of the department and of the official rolls, 150 copies for the use of the Assembly and 150 copies for the use of the Senate; the cost of same not to exceed four hundred forty dollars ($440), payable from the legislative printing appropriation.

CHAPTER 44

Assembly Concurrent Resolution No. 26—Relative to reports of the 1942, 1943 and 1944 annual conventions of the Military Order of the Purple Heart.

[Filed with Secretary of State February 1, 1943]

Printing of reports and orders

Resolved by the Assembly of the State of California, the Senate thereof concurring, That there shall be printed as a public document 300 copies of the report of the proceedings of the 1942, 1943 and 1944 annual conventions of the Military Order of the Purple Heart together with illustrative copies of all general orders enacted at such conventions and of the official roll, 150 copies for the use of the Assembly and 150 copies for the use of the Senate; the cost of the same to be payable out of the legislative printing appropriation.

CHAPTER 45

Assembly Concurrent Resolution No. 27—Relative to reports of the annual conventions or encampments of the Veterans of Foreign Wars of the Department of California

[Filed with Secretary of State February 1, 1943.]

Printing of reports and orders

Resolved by the Assembly of the State of California, the Senate thereof concurring, That there shall be printed as a public document 300 copies of the report of the annual conventions of the Veterans of Foreign Wars of the Department of California during the years of 1943 and 1944, together with any illustration copies of the general orders enacted at such conventions and of the official roll call, 150 copies for the use of the Assembly, and 150 copies for the use of the Senate, the cost of the same to be payable from the legislative printing appropriation.

CHAPTER 46

Assembly Concurrent Resolution No. 29—Relative to adjournment of the Legislature for the constitutional recess and to the reassembling of the Legislature after such recess and fixing the date for said adjournment and said reassembling.

[Filed with Secretary of State February 1, 1943.]

Constitutional recess

WHEREAS, Section 2 of Article IV of the Constitution of this State requires that, after the Legislature has been in session for a period not exceeding 30 days, a recess must be taken by both houses for a period of not less than 30 days; therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Fifty-fifth Session of the Legislature of the State of California shall adjourn for said recess at 12 o'clock noon on January 31, 1943, and shall reassemble at 11 o'clock a.m. on March 8, 1943.

CHAPTER 47

Assembly Concurrent Resolution No. 31—Relative to commending Joseph C. Beard, Captain of State Police.

[Filed with Secretary of State February 1, 1943.]

Commendation of Joseph C Beard

WHEREAS, Joseph C. Beard, Captain of State Police, is confined to his home by illness; and

WHEREAS, Joseph C. Beard has a record of 33 years of service with the State of California which he began in 1911 as Assistant Sergeant-at-Arms of the Senate of California; and

WHEREAS, During his long service with the State Police, of which he has been Captain since 1927, he has enhanced that reputation and added to it a record of faithful and vigilant

service to the State, and by his courtesy, human kindliness, and force of character has won for himself the warm affection and unqualified respect of all, a symbol of that regard being the gold shield, his official badge of office, which the men under his command, the members of the State Police, presented to him; and

WHEREAS, On January 4, 1943, Joseph C. Beard, disregarding his own health, returned to the Capitol and took command of the State Police for the opening session of the Fifty-fifth Legislature and the inaugural ceremonies of the Governor and Lieutenant Governor, thus keeping unbroken his record of being present on active duty at the opening session of every Legislature since 1911; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California does hereby commend Captain Joseph C. Beard upon the length and excellence of his record of service to the State of California, and the individual members of this Legislature by this resolution wish him a complete recovery and a speedy return to his accustomed place in this Capitol; and be it further

Resolved, That the Chief Clerk of the Assembly is hereby directed to transmit a suitably engrossed copy of this resolution to Captain Joseph C. Beard.

CHAPTER 48

Assembly Joint Resolution No. 14—Relative to small business enterprises.

[Filed with Secretary of State February 1, 1943]

War contracts for small business

WHEREAS, The great majority of manufacturing plants in California are small enterprises with 100 or less employees; and

WHEREAS, A great many of such small business enterprises have been adversely affected by war conditions; and

WHEREAS, A large number of such manufacturing plants could readily be converted and adopted to the production of materials, goods, or supplies essential to the war effort; and

WHEREAS, Such conversion and adaptation would materially further the war effort and contribute to National defense; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Congress of the United States be memorialized to effectuate the policy of the Smaller War Plants Corporation and aid small business enterprises; and be it further

Resolved, That the Secretary of War and the Secretary of the Navy of the United States be memorialized to distribute military and naval contracts more widely by purchasing in smaller quantities and awarding a proportionate share of such contracts to small business enterprises; and be it further

Resolved, That a copy of this resolution be sent to the Secretary of War, the Secretary of the Navy, and the Vice President of the United States and to the Speaker of the House of Representatives of the Congress of the United States and to each Senator and Member of the House of Representatives from California in the Congress of the United States, and that the Senators and Representatives of California are hereby respectfully requested to urge such action.

CHAPTER 49

Assembly Joint Resolution No. 23—Relative to memorializing Congress to enact Senate Bill 450 regarding compensation to civilians.

[Filed with Secretary of State February 1, 1943.]

Compensation for civilian defense workers

WHEREAS, The United States is engaged in a total war and many civilians are patriotically contributing their services in such necessary activities as civilian defense work; and

WHEREAS, Many of these civilians, including the civilian defense workers, may be injured and become burdens on their families or society unless provision is made to protect them from financial loss caused by such injuries; and

WHEREAS, The members of the Legislature of the State of California believe that the Federal Government should make provision to protect these citizens rendering invaluable service to our country; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Congress of the United States be memorialized to enact Senate Bill 450 introduced by Senator Pepper which provides for compensation to civilians including civilian defense workers; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives of the Congress of the United States, and to the Senators and the Representatives from California.

CHAPTER 50

Assembly Joint Resolution No. 26—Relative to the Pharmacy Corps Bill.

[Filed with Secretary of State February 1, 1943.]

Indorsement of Pharmacy Corps Bill

WHEREAS, The Pharmacy Corps Bill, S. 216; H. R. 997, is now pending in Congress, providing for the creation of a pharmacy corps in the United States Army, to be organized under graduate pharmacists skilled and learned in the compounding and dispensing of drugs and medicines; and

WHEREAS, In the treatment of disease, and the care of the sick, or injured, the services of skilled, reliable and experienced graduate pharmacists are essential and such services are second only to the services of skilled physicians and surgeons; and

WHEREAS, It is the well established public policy of the United States and of every State thereof to require all persons engaged in the compounding and dispensing of drugs and medicines to be graduate pharmacists; and

WHEREAS, Such public policy is vital and necessary to the safety, health and life of its people; and

WHEREAS, The health, safety and preservation of life of every member of the armed forces of the United States is of primary and paramount importance for the safety of the Nation; and

WHEREAS, Members of the armed forces of the United States and especially those of them who are overseas at various fighting fronts, are entitled to receive, and it is the policy and desire of the people of the United States to furnish to them, the best treatment and most proficient services within the power and capacity of the people and especially to furnish proficient and skillful graduate pharmacists to safeguard the health and lives of its fighting men; and

WHEREAS, The compounding and dispensing of drugs and medicines is essentially a professional service requiring great skill, intimate knowledge and experience with drugs and medicines; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of this State unanimously indorse the Pharmacy Corps Bill, S. 216; H. R. 997, and request the members of Congress to enact the same into law; and be it further

Resolved, That the Chief Clerk of the Assembly prepare and transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives of the Congress of the United States, to such Senator or member of the House of Representatives from California in the Congress of the United States, and that the Senators and Representatives from California are hereby respectfully urged and requested to support the said Pharmacy Corps Bill.

CHAPTER 51

Assembly Joint Resolution No. 27—Relative to memorializing Congress in relation to retaining the administration of California fishery production in the United States Department of Agriculture.

[Filed with Secretary of State February 1, 1943.]

Federal administration of California fish hatcheries

WHEREAS, The general matter of the control and regulation of the production of foodstuffs in the interest of the prosecution of the war is now vested in the United States Department

of Agriculture and is being ably administered by the Secretary of Agriculture, Claude Wickard; and

WHEREAS, An attempt is being made to transfer the jurisdiction of production of the California fisheries to another agency of the Federal Government; and

WHEREAS, The production of food, regardless of the nature thereof, is all one subject and the administration of matters relating to food production should be and remain centralized in one agency; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the President and the Congress of the United States be and they hereby are memorialized and requested to take no steps which would result in the transfer of the administration of the production of the California fisheries to any agency other than the Department of Agriculture of the United States; and be it further

Resolved, That the Chief Clerk of the Assembly is directed to transmit copies of this resolution to the President and Vice President of the United States, to each member in the Congress of the United States from California, and to Claude Wickard, Secretary of Agriculture of the United States.

CHAPTER 52

Senate Joint Resolution No. 12—Relative to memorializing the President of the United States, the members of Congress from California and the Surgeon Generals of United States Army and Navy, to institute investigations concerning the advantages that would accrue to the patients, if one or more military hospitals of convalescent or other nature were erected in mineral spring areas located in California; with special reference to the treatment of invalid soldiers and sailors suffering from shock or nervous or other disorders and for whom mineral spring and spa procedures offer special advantages in recovery of health and rehabilitation for useful life.

[Filed with Secretary of State February 1, 1943.]

Military hospitals on California mineral spring land

WHEREAS, California possesses more than 400 mineral springs, the healing values of some of which have been proven through many years of use and trial; and

WHEREAS, In European countries, and in the United States at Saratoga Hot Springs in New York and at Hot Springs National Park in Arkansas, mineral spring or so-called spa treatment has been abundantly tested and shown to be of decided worth in restoring to health and useful living, thousands of persons who were sufferers from certain nervous and chronic diseases; and

WHEREAS, World War II has already brought its toll of various injuries and diseases to many American soldiers and sailors; and

WHEREAS, Many of these invalided soldiers and sailors are now being and in the future will be brought back to our Country in order to promote their better convalescence and recovery; and

WHEREAS, Soldiers and sailors suffering from shock and other nervous disorders and chronic diseases would probably have their convalescence and recovery expedited, with more certain restoration to health and return to useful military or civilian activities, if proper mineral spring treatment was available; and

WHEREAS, The mineral springs of California, in connection with beneficent climate and surroundings, offer exceptional opportunities for the placement of hospital structures, equipped with facilities for proper physiotherapeutic apparatus, pools, mud and thermal baths, and regimens of supervision; and

WHEREAS, The invalided soldiers and sailors whom such methods of treatment could especially benefit should not have these facilities denied to them: therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the President and the Congress of the United States and the Surgeon Generals of the United States Army and United States Navy be memorialized to institute measures that would make for acquirement of one or more mineral springs areas located in the State of California, on which appropriate spa structures with equipment and surroundings could be brought into being by the Government at an early date; in order to promote through such measures the more efficient care of a large number of invalided soldiers and sailors, and to the end that thereby their convalescence, health and rehabilitation would be more certainly promoted and their return to useful military or civilian life more definitely assured; and be it further

Resolved, That a copy of this resolution be sent to the President and Vice President of the United States, and to the Surgeon Generals of the United States Army and United States Navy, and to the Speaker of the House of Representatives of the Congress of the United States, and to each Senator and member of the House of Representatives from California in the Congress of the United States, and that the Senators and Representatives from California are hereby respectfully requested to urge such action.

CHAPTER 53

Senate Concurrent Resolution No. 17—Relative to the creation of a joint committee to investigate the water situation at Needles and vicinity.

[Filed with Secretary of State February 1, 1943]

Joint committee to investigate water situation at Needles

WHEREAS, Since the construction of Parker Dam on the Colorado River, the water level of said river from said dam to and beyond the City of Needles, has risen and caused the

inundation of large areas of land along the channel of said river and particularly near the City of Needles, resulting in interference with sewerage disposal, pollution of domestic water supply, accumulation of stagnant pools of water along and in said channel, damage to property and works within the State of California and in and near the City of Needles, all of which has created a condition which is extremely dangerous to the public health and to the public safety and convenience; and

WHEREAS, The boundary line of the State of California, as described in the Constitution, extends to the Colorado River "thence down the middle of the channel of said river to the boundary line between the United States and Mexico"; and

WHEREAS, Said river has at various times and will continue to meander back and forth, widening and changing said channel and causing great uncertainty as to the actual location of said boundary line between the said States, which meanderings and changing of such channel has resulted in great uncertainty as to the duty and obligations of the respective officers of said States concerning the abatement of the nuisance hereinbefore referred to, and the responsibility for protecting the public health and safety; and

WHEREAS, The responsibility of said condition is also uncertain and as yet undetermined; and

WHEREAS, The aforesaid situation requires immediate and prompt action by the State of California in order to prevent irreparable damage and injury to the property and property rights of citizens of this State and of the State itself, and to afford proper protection for the public health and safety; and

WHEREAS, The Legislature requires complete and adequate information as to all phases of this situation in order that appropriate legislation may be presented to and considered by it; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That there is hereby created a joint committee to investigate the said situation at Needles, and along said channel of said river, which committee shall investigate, ascertain, and appraise all facts and matters relating to the location of boundary lines to the encroachment of the waters of the Colorado River upon lands adjacent to said river in the vicinity of Needles and along said river both upstream and downstream from Needles where overflow conditions exist, and ascertain and determine, if possible, a plan for the immediate alleviation of said condition and determine the responsibility therefor; and be it further

Resolved, That said committee shall consist of two members of the Senate appointed by the Committee on Rules thereof and three members of the Assembly, appointed by the Speaker thereof; and be it further

Resolved, That the committee hereby created in exercising the powers and performing the functions vested in it by this

resolution shall have: (i) all the powers conferred upon legislative committees by Article 8, Chapter 2, Title 1, Part 3 of the Political Code; (ii) all the powers conferred upon committees by the Rules of the Assembly, the Rules of the Senate, and the Joint Rules of the Senate and Assembly as they are enacted and amended from time to time and such rules are hereby incorporated herein and made a part hereof the same as if they were set forth in this resolution in full; (iii) all powers necessary or convenient to accomplish the objects and purposes of this resolution, including but not limited to the following duties and powers:

(1) To make a complete study, survey and investigation of all matters connected with any phase of the subject of this resolution;

(2) To meet at any place within the State in public or executive session;

(3) To adopt and from time to time amend such rules governing its procedure as may to it appear appropriate;

(4) To contract with such other agencies, public or private, as it deems necessary for the rendition and affording of such services, facilities, studies and reports to the committee as will best assist it to carry out the purposes for which it is created;

(5) To employ such clerical, technical, engineering or professional assistants as may be necessary to carry out its purposes;

(6) To hold public hearings at any place in California;

(7) To meet at any time during the Fifty-fifth Session of the Legislature or any recess thereof but not after the final adjournment thereof;

(8) To report its findings to the Legislature;

(9) To summon and subpena witnesses, require the production of papers, books, accounts, reports, documents, and records of every kind and description, to issue subpenas and to take all necessary means to compel the attendance of witnesses and procure testimony; and be it further

Resolved, That the committee, each of its members, and any representative of the committee thereunto authorized by committee or by its chairman, is authorized and empowered to administer oaths; and be it further

Resolved, That the Sergeant-at-Arms of the Assembly, the Sergeant-at-Arms of the Senate, or other officers designated by either of them are hereby directed to serve any and all subpenas, orders and other process issued by the committee, when directed so to do by the chairman or by a majority of the membership of the committee; and be it further

Resolved, That the Attorney General, the State Engineer and every other department, commission, board, agency, officer and employee of the State Government and their subordinates, and of any political subdivision, county, city, or public district of or in this State shall furnish the committee and any subcommittee,

upon request, any and all such assistance, and information, records and documents as the committee deems proper for the accomplishment of the purposes for which the committee is created; and be it further

Resolved, That all departments and agencies of the United States having jurisdiction over any matter relating to the waters of the Colorado River are requested to assist said committee in performing its duties under this resolution; and be it further

Resolved, That the members of the committee shall serve without compensation but shall be allowed mileage at the rate of five and one-half cents ($0.05½) per mile each way incurred in connection with their services upon the committee and other actual and necessary expenses for living accommodations and meals, incurred in connection with their services upon the committee, or in lieu of such expenses for accommodations and meals an allowance of ten dollars ($10) per day; and be it further

Appropriation

Resolved, That the sum of two thousand five hundred dollars ($2,500) or so much thereof as may be necessary is hereby made available from the contingent funds of the Senate and of the Assembly for the expenses of the committee and its members and for any charges, expenses or claims it may incur under this resolution, to be paid equally from the contingent funds of the Senate and of the Assembly and disbursed, after certification by the chairman of the committee, upon warrants drawn by the State Controller upon the State Treasurer; provided, however, that no member of said committee shall be entitled to receive expenses or mileage during the sessions of the Legislature, except such expenses and mileage as shall be incurred during the constitutional recess; and be it further

Resolved, That the Governor and Legislature of the State of Arizona be respectfully invited to have representatives of that State meet with the aforesaid committee and participate in the discussion of the problems herein referred to; and be it further

Resolved, That the Secretary of the Senate transmit engrossed copies of this resolution to the Governor and Secretary of State, and to each house of the Legislature of the State of Arizona.

CHAPTER 54

Senate Concurrent Resolution No. 21—Amending and Supplementing Joint Rule 36 and Senate Concurrent Resolution No. 4, relative to the Legislative Budget Committee.

[Filed with Secretary of State February 1, 1943.]

Resolved by the Senate of the State of California, the Assembly thereof concurring:

Amendments of Joint Rule 36

First—Joint Rule 36 is amended by striking out the last paragraph thereof (which paragraph begins with the words "Upon

the organization" and ends with the words "such committee"), inserting in lieu thereof the following:

"On and after the commencement of a succeeding regular session those members of the committee who continue to be members of the Senate and Assembly, respectively, continue as members of the committee until their successors are appointed, and the committee continues with all its powers, duties, authority, records, papers, personnel and staff, and all funds theretofore made available for its use." Continued membership

Second—Senate Concurrent Resolution No. 4 is amended as follows:

At the end of the text of Joint Rule 36 strike out the semicolon and the words "and be it further"; also strike out the last two paragraphs of said resolution (which begin with the words "*Resolved*, That a sum" and end with the words "in existence and functioning").

Third—The Legislative Budget Committee mentioned in said Joint Rule 36 is a continuation of the committee created by Senate Concurrent Resolution No. 22 adopted at the Fifty-fourth Session, with all of the powers, duties, authority, records, papers, personnel and staff, and the unexpended remainder of all funds made available for the use of the Legislative Budget Committee by said Senate Concurrent Resolution No. 22. Budget Committee continued

Fourth—The sum of forty thousand dollars ($40,000) is hereby appropriated from the contingent funds of the Senate and Assembly for payment of any and all expenses incurred by the Legislative Budget Committee or its members pursuant to and under authority of the provisions of Joint Rule 36, to be expended equally from the contingent funds of the Senate and Assembly. Appropriation

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CHAPTER 55

Senate Concurrent Resolution No. 23—Relative to opinions of the Legislative Counsel Bureau concerning legislation.

[Filed with Secretary of State February 6, 1943]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That a new rule, to be numbered 37, is hereby added to the Joint Rules of the Senate and Assembly, to read as follows: Joint Rule 37

37. Whenever the Legislative Counsel issues, to a person other than the author, an opinion as to the constitutionality, operation or effect of a pending bill, constitutional amendment, resolution or other legislative measure, he is hereby authorized and instructed to deliver a copy of the opinion to the author of such measure. Copy of opinion to author

On page 14, line 13 of the printed Senate Concurrent Resolution No. 4, being the Joint Rules of the Senate and Assembly, in the last paragraph of Rule 35, strike out the word and figure "eight ($8)", and insert: "ten ($10)." Per diem allowance

CHAPTER 56

Death of Joseph Timmons

Assembly Concurrent Resolution No. 36—Relative to the death of Joseph Timmons.

[Filed with Secretary of State March 10, 1943.]

WHEREAS, Joseph Timmons, dean of the newspaper representatives at Sacramento and one of the oldest editorial representatives in California, died in Los Angeles on Saturday, March 6, 1943, at the age of 73; and

WHEREAS, He was in active service in the Spanish-American War and went to France in 1917 with the western troops as correspondent for the Los Angeles and San Francisco Examiners; and

WHEREAS, He was among the first writers to disclose the purpose of Japan to establish herself strongly in mainland Asia; and

WHEREAS, His work was importantly instrumental in promoting the construction of Boulder Dam, which is of such tremendous value to all of the Western States and particularly to Southern California, as was recognized by Ray Lyman Wilbur, then Secretary of the Interior, when he said:

"Except for the work done by Joe Timmons and George Young of the Los Angeles Examiner, Boulder Dam would not be under construction now."

and

WHEREAS, He constantly opposed the spoliation of the beautiful beaches of California by the erection of unsightly structures and carrying on of oil drilling on the beaches and below the mean tideland; and

WHEREAS, His geniality and kindness, his loyalty to his profession and the people of this State, and his trustworthiness in keeping confidences inviolate and fulfilling his own promises has endeared him to all who knew him; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California hereby extends to his surviving brother and sisters, Charles Timmons, Flora Timmons, Clara Timmons, and Mrs. Frank Daugherty, its profound sympathy in their deep and irreparable loss; and be it further

Resolved, That a suitable engrossed copy of this resolution be transmitted to the family of Joseph Timmons; and be it further

Resolved, That when the Assembly and Senate this day adjourn they do so out of respect to Joseph Timmons.

CHAPTER 57

Assembly Concurrent Resolution No. 37—Relative to inviting Madame Chiang Kai-shek to address the California Legislature.

[Filed with Secretary of State March 10, 1943]

Invitation to Madame Chiang Kai-shek to address California Legislature

WHEREAS, Madame Chiang Kai-shek is one of the outstanding contemporary women leaders of the world; and

WHEREAS, She is the wife of Generalissimo Chiang Kai-shek, great military and political leader of China, ally of the United States in the present conflict in which our people are mutually engaged; and

WHEREAS, The people of the United States are in full sympathy with and have the utmost admiration for the position that the people of China have taken against aggression; and

WHEREAS, Madame Chiang Kai-shek has a knowledge of current world affairs which will enable her to impart to the Legislature of our State an inspiring and informative message; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That Madame Chiang Kai-shek be invited to address the Legislature of the State of California, in joint meeting assembled, at such time as she may select; and be it further

Resolved, That a copy of this resolution be delivered to Madame Chiang Kai-shek by the Chief Clerk of the Assembly.

CHAPTER 58

Assembly Joint Resolution No. 25—Memorializing Congress not to pass reciprocal trade agreements.

[Filed with Secretary of State March 12, 1943]

Request not to enter into reciprocal trade agreements

WHEREAS, The reciprocity agreement proposed by the Federal Department of State under which almonds from Iran would be admitted into the United States in competition with American grown almonds, is considered by American almond growers as a dangerous precedent leading to the extension of this policy to other almond growing nations and thus ultimately endangering if not ruining the American almond industry; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That we, the members of the California Legislature, in session assembled on this twenty-eighth day of January, 1943, do most respectfully request that the Department of State does not enter into a reciprocal trade agreement

with any foreign country which will serve to place the product of low-priced foreign labor in competition with those of the California farmer; and be it further

Resolved, That the Chief Clerk of the Assembly be and is hereby directed to send copies of this resolution to the President of the United States, the Vice President of the United States, the Department of State, the Speaker of the House of Representatives, and to the Senators and Congressmen from California in the Congress of the United States.

CHAPTER 59

Assembly Joint Resolution No. 33—Relative to memorializing Congress to enact legislation providing a Federal system of workmen's compensation for civilian defense volunteers injured in the course of their duties.

[Filed with Secretary of State March 15, 1943.]

Federal workmen's compensation for civilian defense workers

WHEREAS, A subcommittee of the Insurance Committee of the Assembly of the State of California was appointed to inquire into the need for a system of workmen's compensation for civilian defense volunteers injured in the course of their duties; and

WHEREAS, Said subcommittee has conducted hearings in the several sections of California and has heard testimony from representatives of all counties and cities and local civilian defense organizations all of whom were unanimous in the opinion that such legislation is essential; and

WHEREAS, It is the considered opinion of the Legislature of the State of California that such workmen's compensation is primarily a Federal responsibility in that the organization for such volunteer services and the nature of the duties of such volunteers are directly related to the conduct of the war; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California hereby memorialize Congress to enact legislation which will provide a Federal system of workmen's compensation benefits for civilian defense volunteers injured in the course of their civilian defense duties; and be it further

Resolved, That a copy of this joint resolution be transmitted to the President of the United States, the Vice President of the United States, the Speaker of the House of Representatives, members of the Congress representing the State of California and the chairmen of the committees of the Congress before which such legislation is pending.

CHAPTER 60

Assembly Concurrent Resolution No. 39—Relative to the death of Charles F. Reindollar.

[Filed with Secretary of State March 16, 1943.]

Death of Charles F Reindollar

WHEREAS, Honorable Charles F. Reindollar has departed from this life on March 11, 1943; and

WHEREAS, Charles F. Reindollar was a member of the California State Legislature continuously from 1923 to 1935, serving first as a Member of the Assembly during the Forty-fifth to Forty-ninth Regular Sessions, and later as a Senator during the Fiftieth and Fifty-first Sessions; and

WHEREAS, During his long and useful career as an effective public servant of his State and district, he endeared himself in the hearts of his fellow-members by his ever-present geniality and good will; and

WHEREAS, He was ever active in the social, fraternal and political life of his State and community, and universally loved and respected by all who knew him; and

WHEREAS, Charles F. Reindollar is survived by his widow, Mrs. Ethyle Reindollar, and two sons, both serving in the United States Navy, Lieutenant Charles Reindollar and Lieutenant Ted Reindollar, and a stepdaughter, Mrs. Dorothy Ritacca, of San Rafael; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the members of the Legislature of the State of California express their grief at the passing of their beloved former comrade; and be it further

Resolved, That the Clerk of the Assembly be and he is hereby directed to have copies of this resolution duly engrossed and presented to the family of Honorable Charles F. Reindollar.

CHAPTER 61

Senate Concurrent Resolution No. 27—Relative to reports of the department encampment and the annual convention of the United Spanish-American War Veterans.

[Filed with Secretary of State March 17, 1943.]

Printing of reports

Resolved by the Senate, the Assembly concurring, That there shall be printed as a public document 500 copies of the session of the Department Encampment of California of the United Spanish-American War Veterans for the year 1943, and of each succeeding department encampment, together with illustrations, copies of general orders of the department and of the official roll, 250 copies for the use of the Senate and 250 copies for the use of the Assembly, cost of same to be payable from the legislative printing appropriation.

CHAPTER 62

Assembly Concurrent Resolution No. 38—Relative to the facilities for the care of the dead.

[Filed with Secretary of State March 18, 1943.]

Request to place funeral and cemetery service industry on essential activities list

WHEREAS, California, due to its geographical location and to the presence within its borders of many of the most vital and essential war industries, is particularly exposed and subject to attack by the enemy; and

WHEREAS, The population of the State of California has, due to the influx of workers in war industries, increased many hundreds of thousands during the past year; and

WHEREAS, We may anticipate a marked increase in the total number of deaths which will occur in California during the ensuing year, due to such increase in population and possible attack by the enemy; and

WHEREAS, The reverent and religious burial of the dead is fundamental in the American way of life; and

WHEREAS, The proper scientific and prompt disposal of the human dead is essential to the public health and welfare; and

WHEREAS, The inroads made by the armed forces and war production industries on manpower have seriously affected and threaten to disrupt the facilities for the care of the dead in California; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the War Manpower Commission, through its local agencies and boards, the Office of Price Administration, through its gasoline rationing boards and the War Production Board, through its regional offices be requested to give the necessary priority relief and assistance to those organizations and individuals engaged in the essential activity of caring for the dead; and that the War Manpower Commission, under the chairmanship of the Honorable Paul V. McNutt, be and it is hereby requested to place the funeral and cemetery service industry on the list of essential activities; and be it further

Resolved, That a copy of this resolution be forthwith forwarded to the Honorable Paul V. McNutt, Chairman of the War Manpower Commission, to the various regional offices of the War Production Board in California and to the Honorable Prentiss M. Brown, Administrator of the Office of Price Administration.

CHAPTER 63

Assembly Joint Resolution No. 28—Relating to destruction of crops by ducks.

[Filed with Secretary of State March 24, 1943.]

Fund to reimburse rice and grain growers for wild fowl damage

WHEREAS, The damage caused to crops of rice and other grains in the State of California by wild ducks, amounted to a half million dollars in 1941, and caused the destruction and loss of entire rice and other grain crops of some farmers; and

WHEREAS, Wild ducks are increasing in numbers at an alarming rate; and

WHEREAS, Because there are now fewer hunters of wild ducks, due to hunters being drafted into the armed services of the United States, work in defense and war manufacturing plants, and shortage of transportation facilities due to rationing of gasoline; and

WHEREAS, Funds are provided for the propagation and protection of wild fowl and none for reimbursement of losses suffered by farmers through the destruction of these crops by wild fowl; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California hereby memorializes the President and the Congress of the United States and the Secretary of Agriculture to create a fund to be used to reimburse rice and other grain farmers in the State of California for damage to their crops caused by wild fowl; and that the said fund may be provided by an increase in the price of Federal stamps for hunting wild fowl; and that provision may be made to administer the said fund through local county conservation officials; and be it further

Resolved, That copies of this resolution be sent to the President and Vice President of the United States, and to the Secretary of Agriculture and to Members of the Senate and House of Representatives from California.

CHAPTER 64

Assembly Joint Resolution No. 34—Relative to memorializing the President and Congress to enact legislation to secure to all employees of the Post Office Department an increase in wages commensurate with the increased cost of living and other benefits.

[Filed with Secretary of State March 24, 1943.]

Salary increase for postal employees

WHEREAS, The great army of postal employees represents a highly loyal and efficient group of public servants; and

WHEREAS, The employees of the Post Office Department have had no increase in wages since 1925 except a temporary measure which expires on April 30, 1943; and

WHEREAS, The cost of living has risen in excess of 20 per cent during the past two years; and

WHEREAS, The continued faithful, experienced and efficient operation of this department of the National Government is important to the successful conduct of the war and to the maintenance of the morale of the Nation; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorialize the President and the Congress of the United States to enact such Federal legislation at the present session as will provide an equitable increase in the wages of employees in the Post Office Department; and be it further

Resolved, That the Chief Clerk of the Assembly of the State of California be hereby requested to transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives and to each Senator and Member of the House of Representatives from California in the Congress of the United States, and that such Senators and Members from California be respectfully urged to support such legislation.

CHAPTER 65

Senate Joint Resolution No. 19—Relative to food shortage.

[Filed with Secretary of State March 30, 1943.]

Deferment of farm workers from military service

WHEREAS, There appears to be a critical food shortage in the United States, and especially in California; and

WHEREAS, Such shortage promises to become even more serious because of the steadily increasing necessity for shipping food abroad; and

WHEREAS, A seriously contributing cause of that shortage is the drafting of farm operators and key farm workers; and

WHEREAS, Imported labor, school children, groups detailed from the armed forces, etc., can not replace such skilled and experienced producers, though they can be helpful in harvesting and some other phases of farm work, since food must be produced before it can be harvested, and a few such men, trained, equipped and already operating, can produce more than many inexperienced laborers; and

WHEREAS, The relatively small number of such farmers and farm workers can not greatly affect the military situation, but vitally affect our food and economic situation; therefore, be it

Resolved by the Senate and Assembly of the California Legislature, jointly, That we earnestly urge that such operating farmers and key farm workers be deferred from military service, at least for the current crop season; and be it further

Resolved, That copies of this resolution be forthwith forwarded by the Secretary of the Senate to the President of the United States, the Secretary of Agriculture, the United States Director of Selective Service, the Director of Selective Service for the State of California, and to each of the representatives of the State of California in the Congress of the United States.

CHAPTER 66

Senate Concurrent Resolution No. 29—Relative to approving certain amendments to the charter of the City of San Jose, a municipal corporation of the County of Santa Clara, State of California, voted for and ratified by the qualified electors of said city at a general municipal election held therein on May 18, 1942.

[Filed with Secretary of State March 30, 1943.]

City of San Jose Charter amendments

WHEREAS, Proceedings have been had and taken for the purpose of adoption and ratification of three amendments, hereinafter set forth, to the charter of the City of San Jose, a municipal corporation of the County of Santa Clara, State of California, as set forth in the certificate of the president of the council and the city clerk of said City of San Jose, as follows, to wit:

CERTIFICATE OF RATIFICATION BY ELECTORS OF THE CITY OF SAN JOSE OF CERTAIN CHARTER AMENDMENTS.

State of California,
County of Santa Clara, } ss.
City of San Jose.

Certificate

We, the undersigned, HARRY A. YOUNG, President of the Council of the City of San Jose, County of Santa Clara, State of California, and JOHN J. LYNCH, City Clerk of said City, do hereby certify and declare as follows:

That the City of San Jose, a municipal corporation of the County of Santa Clara, State of California, is now, and at all times herein mentioned was, a city containing a population of more than 3500 inhabitants, and now has a population of over 50,000 inhabitants, and ever since the year 1915 has been, and now is, organized, existing and acting under a freeholder's charter adopted under and by virtue of Section 8 of Article XI of the Constitution of the State of California, which charter was duly ratified by a majority of the qualified electors of said City at the general municipal election held for that purpose on the 19th day of April, 1915, and approved by the Legislature of the State of California on the 12th day of May, 1915 (Statutes 1915, p. 1869);

That the legislative body of said City, being the Council of the City of San Jose, by Ordinance No. 2831, duly adopted on March 30, 1942, directed that three propositions for the amendment of the Charter of said City, designated as Propositions 1, 2 and 3, be submitted to the electors of said City at the general municipal election to be held in said City on May 18, 1942, in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, and directed the City Clerk to print upon the ballot to be used at said election three proposals summarizing said proposed

amendments, and to give notice of the submission of said proposed charter amendments in accordance with the above mentioned constitutional provisions, and the election laws applicable to such matters;

That said general municipal election was duly and regularly called and held on said 18th day of May, 1942, which day was not less than forty, nor more than sixty days after the completion of the publication and advertising of said proposed amendments in the newspaper hereinafter mentioned;

That said proposed amendments were published and advertised in accordance with the requirements of Section 8 of Article XI of the Constitution of the State of California, and in accordance with the provisions of the Charter of the City of San Jose, on April 7, 1942, in the San Jose News, a daily newspaper of general circulation published, printed and circulated in the City of San Jose, County of Santa Clara, State of California, and in each edition thereof during the day of said publication; that copies of said proposed charter amendments were printed in convenient pamphlet form and in type of not less than ten point, and that until the day fixed for said election, and as required by Section 8 of Article XI of the Constitution of the State of California and by the Charter of the City of San Jose, a notice was advertised and published in the San Jose News, a daily newspaper of general circulation published, printed and circulated in said City, that copies of said proposed charter amendments might be had upon application therefor at the office of the City Clerk of said City of San Jose;

That such copies could be had upon application therefor at the office of the City Clerk of said City until the day fixed for said election;

That copies thereof were mailed to each of the qualified electors of said City, as required by law;

That in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, and of the Charter of said City of San Jose, and Resolution No. 6701 of the legislative body thereof, duly adopted on March 30, 1942, there was held in the City of San Jose on the 18th day of May, 1942, a general municipal election, and pursuant to the provisions of Section 8 of Article XI of the Constitution of the State of California, and of said charter, and said resolution, the said proposed charter amendments were submitted to the qualified electors of said City for their ratification at said election, and that at said election a majority of the qualified electors voting thereon voted in favor of, and did ratify all three of said proposed amendments to the Charter of said City, being propositions 1, 2 and 3 hereinafter set forth.

That the Council of the City of San Jose, in accordance with the law in such cases made and provided, did meet on the 25th day of May, 1942, at its usual time and place of meeting, and duly canvassed the returns of said election, as certified by the

election boards, and duly found, determined and declared that said proposed amendments to the charter of the City of San Jose, designated Proposition No. 1, Proposition No. 2 and Proposition No. 3, and each and every one of them, were ratified by a majority of the qualified electors of said City voting thereon.

That the amendments to the said Charter, so ratified by the electors of said City of San Jose, are in words and figures as follows:

Proposition No. 1

That Section 98a of Article XV of the Charter of the City of San Jose be and the same is hereby repealed. Repeal

Proposition No. 2

That Section 101 of Article XV of the Charter of the City of San Jose is hereby amended to read as follows:

"ADVISORY BOARD OF HEALTH

Section 101. An advisory board of health shall be appointed by the City Manager for a term of four years, and shall consist of five persons, three of whom shall be physicians licensed to practice in this state and one a civil engineer. They shall serve without compensation. It shall be the duty of the board of health to meet on the call of the Health Officer and to give him its advice on any matter which he may refer to it." Appointment, term, etc Duty

Proposition No. 3

That Section 128 of Article XIX of the Charter of the City of San Jose be and the same is hereby repealed. Repeal

That we have compared the foregoing amendments (Propositions Nos. 1, 2 and 3) with the original proposals submitted to the qualified electors of said City, and find that the foregoing is a full, true, correct and exact copy thereof;

And we further certify that the facts set forth in the preamble preceding said amendments to said Charter are, and each of them is, true.

IN TESTIMONY WHEREOF, we have set our hands, and caused the same to be authenticated by the seal of said City of San Jose this 5th day of January, A. D. 1943.

HARRY A. YOUNG
President of the Council
of the City of San Jose.

[SEAL]

JOHN J. LYNCH
City Clerk of said City.

WHEREAS, Said proposed amendment to the charter to the City of San Jose, so ratified by the majority of the electors voting thereon at the general election held on the eighteenth

day of May, 1942, has been submitted to the Legislature of the State of California for approval and ratification as a whole, without power of alteration or amendment in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Approval

Resolved by the Senate of the State of California, the Assembly concurring, A majority of all members elected to each house voting for the adoption of this resolution and concurring therein, that said amendment to the charter of the City of San Jose, as proposed, adopted and ratified by the electors of the said City of San Jose, and as hereinbefore set forth, be, and the same is hereby approved as a whole, without amendment or alteration, and as an amendment to and as a part of the charter of the City of San Jose.

CHAPTER 67

Senate Joint Resolution No. 18—Relative to the construction of a dam on the Stanislaus River.

[Filed with Secretary of State March 31, 1943]

Construction of a dam on Stanislaus River

WHEREAS, During the winter season the Stanislaus River carries great quantities of storm and flood waters which add to the flood menace in the valley below; and

WHEREAS, The impounding of these waters by a dam in the upper reaches of the Stanislaus River would provide for flood control, would make available water for irrigation during the time such water is needed, would provide for the equation of stream flow in the Stanislaus and the San Joaquin Rivers, and would provide a source of electrical power which is particularly needed in the present war emergency; and

WHEREAS, The cost of such a dam and its appurtenant works would be more than balanced by the benefits thereof; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to take such steps as may be necessary to cause to be constructed a multiple purpose dam on the upper reaches of the Stanislaus River to restrain the usual recurring excess flow of water of said river and to utilize the water so impounded for the generation of electric power, for irrigation, for domestic water supply, and for other useful and beneficial purposes; and be it further

Resolved, That the Secretary of the Senate is hereby instructed to forward copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

CHAPTER 68

Assembly Joint Resolution No. 36—Relative to memorializing Congress to designate the limits beyond which the Congress and administrative agencies of the United States shall not go in exercise of the power given to Congress to regulate interstate commerce.

[Filed with Secretary of State April 1, 1943]

Redefinition of "interstate commerce" powers

WHEREAS, The United States Constitution gives to the Congress of the United States power to regulate interstate and foreign commerce; and

WHEREAS, This power is one delegated to the Congress by the States, and not one inherent in the Congress; and

WHEREAS, Increasingly liberal interpretations have been put on the "commerce clause" by the Congress and the courts, to the extent that it is said now to extend to anything "affecting interstate commerce"; and

WHEREAS, Such liberal interpretations have led to encroachment by administrative boards of the United States upon the right of the States; and

WHEREAS, Such encroachment makes it extremely difficult for all who are engaged in trade in any form to know whether or not they are engaged in trade that "affects interstate commerce"; and

WHEREAS, The state of uncertainty thus created has resulted in chaotic conditions in intrastate trade and commerce; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the State of California, through its Legislature respectfully urges the Congress of the United States to so redefine its powers under the "interstate commerce clause," as to prevent further encroachment upon the rights of the States and to ameliorate the chaotic conditions under which intrastate commerce is now conducted; and be it further

Resolved, That the Chief Clerk of the Assembly be directed to forward a copy of this resolution to the President of the United States and to each member of the Senate and the House of Representatives of the United States from California.

CHAPTER 69

Assembly Concurrent Resolution No. 47—Relative to the death of Judge Ben B. Lindsey.

[Filed with Secretary of State April 2, 1943.]

Death of Judge Ben B Lindsey

WHEREAS, The death in Los Angeles this morning, brings to a close the long life of Judge Ben B. Lindsey, in which he had distinguished himself as author, lecturer, and jurist; and

WHEREAS, As a campaigner for political and social reforms, Judge Lindsey vigorously propounded views which were at times misunderstood; and

WHEREAS, In spite of all misunderstandings and opposition Judge Lindsey courageously continued the work in which he believed, and on more than one occasion was honored by National rulers during his world travels; and

WHEREAS, In California he continued to take an active part in civic life, and, ever a friend to youth and solicitous for the welfare of all young people, by working ceaselessly for a wiser administration of laws relating to domestic relations, he succeeded in having established the Children's Court of Conciliation, over which he presided with great pride and care, and where many families, desperately unhappy and facing the cruel consequences of broken homes, have found in the court a friend as well as a jurist, and through the careful and understanding work of the court have learned how to surmount their difficulties and have resumed peaceful and happy lives; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That when the Legislature this day adjourns it do so out of respect to the memory of Judge Ben B. Lindsey; and be it further

Resolved, That the Chief Clerk of the Assembly is directed to transmit a suitably engrossed copy of this resolution to Mrs. Henrietta Lindsey, the widow of Judge Ben B. Lindsey.

CHAPTER 70

Senate Joint Resolution No. 15—Relative to the making of payments by the Federal Government to counties to reimburse them for loss of tax receipts on account of the use of certain lands by the United States.

[Filed with Secretary of State April 7, 1943.]

Payments by Federal Government to counties for tax-free lands

WHEREAS, There are many thousands of acres of tax-free lands owned by the Federal Government and held in National forests, National parks, National wild life refuges, National grazing land acquisition projects, military and naval reservations, Indian reservations and Indian trust lands; and

WHEREAS, Thousands of acres of such tax-free lands are located in counties of California; and

WHEREAS, The remaining acres of these counties are overburdened with taxation to meet the educational, police protection and other costs of county government; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Congress of the United States be memorialized to enact legislation similar to Senate Bill 1201 introduced by Senator McNary on March 24, 1941, which provided for annual payments to the State for apportionment

among counties of 2 per centum of the fair value of Federal-owned tax-free land situated in the State; and be it further

Resolved, That the Secretary of the Senate is hereby directed to send copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Secretary of Agriculture, to the Speaker of the House of Representatives and each of the Senators and Congressmen from California in the Congress of the United States, and that the Senators and Congressmen from California in the Congress of the United States are respectfully requested to urge such legislation.

CHAPTER 71

Assembly Constitutional Amendment No. 1—A resolution to propose to the people of the State of California an amendment to the Constitution of said State by amending Section 1¼ of Article XIII, relating to exemptions of property on account of military service.

[Filed with Secretary of State April 7, 1943.]

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California, at its Fifty-fifth Session commencing on the fourth day of January, 1943, two-thirds of all Members elected to each of the two houses of said Legislature voting in favor thereof, hereby proposes to the people of the State of California that Section 1¼ of Article XIII of the Constitution of this State be amended to read as follows: Constitution, Article XIII, Sec 1¼

SEC. 1¼. The property to the amount of one thousand dollars ($1,000) of every resident of this State who has served in the Army, Navy, Marine Corps, Coast Guard or Revenue Marine (Revenue Cutter) Service of the United States (1) in time of war, or (2) in time of peace, in a campaign or expedition for service in which a medal has been issued by the Congress of the United States, and in either case has received an honorable discharge therefrom, or who after such service of the United States under such conditions has continued in such service, or who in time of war is in such service, or who has been released from active duty because of disability resulting from such service in time of peace or under other honorable conditions, or lacking such amount of property in his own name, so much of the property of the wife of any such person as shall be necessary to equal said amount; and the property to the amount of one thousand dollars ($1,000) of the widow resident in this State, or if there be no such widow, of the widowed mother resident in this State, of every person who has so served and has died either during his term of service or after receiving an honorable discharge from said service, or who has been released from active duty because of disability resulting from such service in time of peace or under other Veterans' exemption

honorable conditions, and the property to the amount of one thousand dollars ($1,000) of pensioned widows, fathers, and mothers, resident in this State, of soldiers, sailors and marines who served in the Army, Navy, Marine Corps, Coast Guard or Revenue Marine (Revenue Cutter) Service of the United States shall be exempt from taxation; provided, this exemption shall not apply to any person named herein owning property of the value of five thousand dollars ($5,000) or more, or where the wife of such soldier or sailor owns property of the value of five thousand dollars ($5,000) or more. No exemption shall be made under the provisions of this section of the property of a person who is not legal resident of the State; provided, however, all real property owned by the Ladies of the Grand Army of the Republic and all property owned by the California Soldiers Widows Home Association shall be exempt from taxation.

CHAPTER 72

Assembly Concurrent Resolution No. 48—Approving certain amendments to the charter of the City of Alameda, a municipal corporation in the County of Alameda, State of California, voted for and ratified by the qualified electors of said city at a general municipal election held therein on the ninth day of March, 1943.

[Filed with Secretary of State April 9, 1943.]

City of Alameda. Charter amendments

WHEREAS, Proceedings have been taken and had for the purpose of adoption and ratification of certain amendments, hereinafter set forth, to the charter of the City of Alameda, a municipal corporation in the County of Alameda, State of California, as set out in the certificate of the mayor and city clerk of said city, as follows, to:

CERTIFICATE OF RATIFICATION AND ADOPTION OF AMENDMENTS TO THE CHARTER OF THE CITY OF ALAMEDA.

STATE OF CALIFORNIA,
COUNTY OF ALAMEDA, } ss.
CITY OF ALAMEDA.

Certificate

We, the undersigned, MILTON C. GODFREY, Mayor of the City of Alameda, State of California, and LOREME R. BEATIE, City Clerk of said City, do hereby certify and declare as follows:

That the City of Alameda, a municipal corporation in the County of Alameda, State of California, is now and at all times herein mentioned was, a city containing a population of more than three thousand five hundred inhabitants, and, as ascertained by the last preceding census taken under the authority

of the Congress of the United States, now has a population of over 36,000 inhabitants, and ever since the 5th day of May, 1937, has been and is now, organized, existing and acting under a freeholders' charter adopted under and by virtue of Section 8 of Article XI of the Constitution of the State of California, which charter was duly ratified by a majority of qualified electors of said City at an election duly held for that purpose on the 29th day of April, 1937, and approved by the Legislature of the State of California by a concurrent resolution passed on the 5th day of May, 1937 (Statutes of 1937, page 2880).

That pursuant to the provisions of Section 8 of Article XI of the Constitution of the State of California the Council of the City of Alameda, being the legislative body thereof, on its own motion, by and in pursuance of Resolution No. 2829 adopted by said Council on the 25th day of January, 1943, duly and regularly proposed and submitted to the qualified electors of said City of Alameda seven (7) certain proposals for the amendment of the Charter of said City, designated and separately and consecutively numbered as Proposal No. 1 to Proposal No. 7, inclusive, to be voted on by said qualified electors at a general municipal election called and held in said City on the 9th day of March, 1943. That said election was duly and regularly called, authorized and provided for pursuant to the Charter of said City of Alameda.

That by order of the City Council of said City, said proposed charter amendments were published and advertised in accordance with the provisions of Section 8, Article XI of the Constitution of the State of California, on the 26th day of January, 1943, in the Alameda Times-Star, a daily newspaper of general circulation printed and published in said City and the Official Newspaper of said City, and in each edition thereof during the day of said publication;

That copies of said proposed charter amendments were printed in convenient pamphlet form and in type of not less than ten-point, and a notice that copies thereof could be had on application therefor at the office of the City Clerk of the City of Alameda was advertised and published in said Alameda Times-Star, a daily newspaper of general circulation printed and published in said City, on the 26th day of January, 1943, and thereafter in each and every issue of said newspaper until and including the day fixed for said general municipal election, all as required by Section 8, Article XI of the Constitution of the State of California;

That printed copies of said proposed charter amendments were on hand, and could be had upon application therefor, at the office of the City Clerk of said City of Alameda from the 26th day of January, 1943, until and including the day fixed for said general municipal election;

That copies of said proposed charter amendments, in convenient pamphlet form, and in type of not less than ten-point, were mailed to each qualified elector of said City of Alameda

with the sample ballot of said election, more than ten whole days preceding the date of such election;

That pursuant to the provisions of the Charter of said City of Alameda there was held in said City of Alameda, on the 9th day of March, 1943, a general municipal election, said day being at least forty (40) days after the completion of the advertising of said proposed charter amendments in said Official Newspaper of said City, and not more than sixty (60) days after the completion of such advertising, and that pursuant to the provisions of Section 8, of Article XI of the Constitution of the State of California and of said Charter and of said resolution of said Council, the said proposed charter amendments were submitted to the qualified electors of said City for their ratification at said election, and that at said election a majority of the qualified electors voting thereon voted in favor of the ratification and adoption of, and did ratify and adopt, each and all of said proposed amendments to the Charter of said City hereinafter set forth;

That the returns of said general municipal election were, in accordance with the law in such cases made and provided, duly and regularly canvassed and certified to by the Council of said City of Alameda at its regular meeting held on March 16, 1943, and the said City Council duly found, determined and declared that a majority of the qualified electors of said City voting on each of said proposed amendments had voted for the ratification and adoption thereof, and that each of said proposed amendments was ratified and adopted by a majority of the qualified electors of said City voting thereon at said election;

That the said amendments to the Charter so ratified by the qualified electors of the City of Alameda at said general municipal election are in words and figures as follows, to wit:

PROPOSAL NO. 1

That Sec. 3-10, of Article III, of the charter of the City of Alameda be amended to read as follows:

When ordinance required

"Sec. 3-10. All acts of the Council imposing penalties, prescribing public regulations, granting franchises, or providing for the acquisition, transfer, or lease for a period longer than one year, of real property, shall be by ordinance; provided, however, that the acquisition of real property, or any interest therein, may be authorized by resolution when the purchase price to be paid, together with any obligation imposed on the City in connection with any such acquisition, does not exceed the sum of $1,000.00, or when such acquisition is to be accomplished by condemnation in eminent domain proceedings, or in connection with public improvements proceedings taken under some law.

Resolution permitted

Lien or sale of realty

No real property of the City shall be leased for a period in excess of one year or sold, except upon the affirmative vote of four members of the Council.

The provisions of this section shall not apply to the acquisition or transfer of real property when, pursuant to procedure established by ordinance or by any code or general law of the State of California, such property has been acquired, or is transferred or acquired, in satisfaction, foreclosure or enforcement of a lien for taxes or special assessments of any character." Exception

PROPOSAL NO. 2

That Sec. 3-12, of Article III, of the charter of the City of Alameda be amended to read as follows:

"Sec. 3-12. No ordinance shall become effective until thirty days from and after the date of its final passage, except an ordinance calling or otherwise relating to an election, or an ordinance determining the amount of money necessary to be raised by taxation, or fixing the rate of taxes to be levied, or an ordinance relating to a street improvement proceeding taken under some law, or an ordinance relating to public improvements or work the cost of which, or any portion of which, is to be borne by special assessments against property benefitted thereby, or an ordinance for the immediate preservation of the public peace, health or safety, which contains a declaration of the facts constituting its urgency, and is passed by a four-fifths vote of the Council, or an ordinance enacted in the event of great emergency or necessity passed by four votes of the Council and containing a statement of the emergency or necessity. Ordinances for the immediate preservation of the public peace, health or safety and ordinances enacted in the event of great emergency or necessity, when passed as aforesaid, may be introduced and passed at one and the same meeting and at either a regular or special meeting. No grant of any franchise, however, shall ever be construed as an urgency or emergency measure." Effective date of ordinance

PROPOSAL NO. 3

That Sec. 17-7, of Article XVII, of the charter of the City of Alameda be amended to read as follows:

"Sec. 17-7. Unless otherwise provided by ordinance, the levy and collection of City taxes shall be pursuant to general law for the levy and collection of State and County taxes, and to that end all duties required by general law to be performed by County officers shall be performed by the City officers performing similar duties. Levy and collection of taxes

Every tax levied pursuant to law shall be a personal obligation of the person to whom the property or the tax is assessed. Personal obligation

Every tax shall be and constitute a lien on the property assessed and, as to taxes on personal property, on the real property in this city of the person to whom the tax is assessed and, as to taxes on improvements, on the taxable land on which such improvements are located and, as to taxes on assessments of possessory interests, on the other taxable real property of the owner in this city. The time when taxes for any fiscal Lien

year become a lien on property is at noon on the first Monday in March preceding the beginning of the fiscal year for which the taxes are to be collected.

Removal of lien

Except as otherwise provided in this section, the personal obligation is satisfied and the tax lien removed when, but not before,

(a) the tax is paid or legally canceled, or

(b) for non-payment of any taxes, the property is sold to a private purchaser or deeded to the City.

Presumption

After thirty years succeeding the time, heretofore or hereafter, when any tax becomes a lien, if the lien has not been otherwise removed, the lien ceases to exist and the tax is conclusively presumed to be paid.

PROPOSAL NO. 4

That Sec. 17-9, of Article XVII, of the charter of the City of Alameda be amended to read as follows:

Official fees

"Sec. 17-9. All charges, fees, commissions and percentages collected or received by any officer or employee of the City in the performance of any official duty as such officer or employee, or in the performance of the duties of any office held ex officio, shall be the property of the City; provided, that the Council may by ordinance provide that the Health Officer of the City shall be entitled to receive and retain the fees provided by law to be paid by the State or County to Local Registrars of Vital Statistics for the registration of birth and death certificates."

PROPOSAL NO. 5

That Sec. 19-3, of Article XIX, of the charter of the City of Alameda be amended to read as follows:

Provisions governing elections

"Sec. 19-3. The provisions of the Elections Code and the Constitution of the State of California relating to the qualifications of electors and voters shall govern in all municipal elections. Except as otherwise provided in this charter or in any ordinance enacted by the affirmative vote of four members of the Council, the provisions and procedure provided in the Elections Code and the general law of the State of California, now in effect and as hereafter amended or codified, for elections in chartered cities and municipalities generally, and in all respects not so provided, then the present and future provisions of said code or laws governing County elections generally, insofar as they may be applicable, shall govern all elections in this City. The Council and the City Clerk, respectively, shall exercise the powers and perform the duties conferred or imposed by law on Boards of Supervisors and County Clerks, respectively, concerning elections.

For the purpose of this article, all seats or positions on the Council shall be considered as a single office for which as many persons are to be selected as there are full and unexpired terms to be filled.

No election, either general or special, shall be set aside for any error, irregularity or defect in the proceedings leading up to said election or in said election when the provisions of law governing the same are substantially complied with and where a fair expression of the will of the electorate is secured."

PROPOSAL NO. 6

That there be added to Article XIX of the charter of the City of Alameda a new section to be known as Sec. 19-15 and which shall read as follows:

"Sec. 19-15. No person shall be entitled to vote at any City election unless he shall be registered as a voter in the office of the County Clerk of Alameda County and unless he would have been entitled to vote in a precinct in this city at a State or County election held on the same day as such City election. Voting qualifications

The registers used at all City elections or in connection with the certification of any petition provided by law shall be the books of current affidavits of registration kept in the office of the County Clerk of Alameda County for voters within this city."

PROPOSAL NO. 7

That there be added to Article XIX of the charter of the City of Alameda a new section to be known as Sec. 19-16 and which shall read as follows:

"Sec. 19-16. At any time not later than twenty days before any election, and without reference to any procedure provided therefor in the Elections Code, the Council may divide the City into election precincts and may change the boundaries of, create new, or consolidate established precincts. In the ordinance or resolution establishing, changing or consolidating precincts the boundaries thereof may be defined by reference to exterior descriptions or delineations on precinct maps or both, or by reference to orders or resolutions of the Board of Supervisors of the County of Alameda last theretofore establishing precincts within the City for holding general State and County elections. Unless precincts be established as herein provided, they shall remain as last theretofore established within the City by said Board of Supervisors for holding general State and County elections. Division of city into election precincts

In case a City election is consolidated with a State or County election the precincts and polling places for such municipal election shall be as established within the City by the Board of Supervisors of the County of Alameda for the holding of such State or County election. It shall not be necessary to set forth in any ordinance or resolution calling or relating to such consolidated municipal election the election officers for the several precinct boards, but reference may be made to the resolution or ordinance of said Board of Supervisors appointing election officers for such State or County election.

Precinct board

At all municipal elections the election officers for each precinct board shall consist of one inspector, one judge and two clerks, except that the Council may determine that one inspector, one judge and one clerk is sufficient."

And we further certify that we have compared the foregoing amendments with the original proposals submitting the same to the qualified electors of said City and find that the foregoing is a full, true and exact copy thereof.

That as to said amendments this certificate shall be taken as a full and complete certification as to the regularity of all proceedings had and done in connection therewith.

IN WITNESS WHEREOF we have hereunto set our hands and caused the seal of the said City of Alameda to be affixed hereto this 19th day of March, 1943.

MILTON C. GODFREY
Mayor of the City of Alameda
LOREME R. BEATIE
City Clerk of the City of Alameda

[SEAL]

WHEREAS, Said proposed charter amendments so ratified as hereinabove set forth have been, and are now, duly presented and submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration or amendment, in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Approval

Resolved by the Assembly of the State of California, the Senate thereof concurring, a majority of all the members elected to each house voting therefor, and concurring therein, that said amendments to said charter of the City of Alameda herein set forth, as submitted and proposed to and adopted and ratified by the qualified electors of said city, be and the same are hereby approved as a whole, without alteration or amendment, for and as amendments to and as part of the charter of said City of Alameda.

CHAPTER 73

Assembly Concurrent Resolution No. 33—Relative to the establishment of a memorial to the veterans of the United States who participated in the campaigns of the Union Army in the Civil War.

[Filed with Secretary of State April 13, 1943.]

Grand Army of the Republic Highway

WHEREAS, It is the desire of the people and of the Legislature of the State of California to erect a fitting memorial to the Union veterans of the Civil War and to perpetuate the memory of their sacrifices in the preservation of the Union of States; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the portion of United States Highway No. 6 extending from the eastern border of the State of California to Los Angeles shall be known and designated as Grand Army of the Republic Highway; and be it further

Resolved, That the Department of Public Works is hereby directed to erect suitable markers along and upon the said highway to indicate the name in accordance with this resolution; and be it further

Resolved, That a copy of this resolution be forwarded by the Chief Clerk of the Assembly to the Department of Public Works.

CHAPTER 74

Senate Joint Resolution No. 23—Relative to memorializing the War Production Board to rescind its revocation of the order to reconstruct the Albion River Bridge.

[Filed with Secretary of State April 13, 1943]

Reconstruction of Albion River Bridge

WHEREAS, There exists on the Mendocino coast a bridge spanning Albion River which is 18½ miles south of the City of Fort Bragg; and

WHEREAS, The precarious condition of this bridge is manifested by its excessive swaying and deflection; and

WHEREAS, Its complete failure may occur at any moment since it is impossible to maintain it in a safe condition; and

WHEREAS, This bridge is of the utmost necessity in moving war materials, particularly redwood lumber from the sawmills of the Caspar Lumber Company at Caspar, California, the Union Lumber Company at Fort Bragg, and the Rockport Lumber Company at Rockport, California; and

WHEREAS, The War Department is now building an airport to be located 3½ miles north of this bridge and thus it is essential to have the road open for delivery of materials for war; and

WHEREAS, This bridge spans a deep canyon with no detour available and the failure of the structure would disrupt traffic so as to require the use of a circuitous route over unimproved mountain roads with attendant delay in ultimate delivery of vital war materials to the San Francisco Bay area; and

WHEREAS, Failure of this bridge would impede the shipments of lumber, transportation of fish and farm products, and would result in the blocking of the coast road to all civilian and military traffic; and

WHEREAS, A contract was let by the California State Department of Public Works to reconstruct the Albion River Bridge; and

WHEREAS, By an order issued by C. E. Wilson, Executive Vice President of the War Production Board, on March 31,

1943, the preference rating order for the construction of the new bridge was revoked; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California hereby respectfully urges that the War Production Board rescind its cancellation order and continue with the work of having the Albion River Bridge reconstructed; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to C. E. Wilson, Executive Vice President of the War Production Board in Washington, D. C., and a copy each to the Congressmen and Senators from California.

CHAPTER 75

Senate Joint Resolution No. 20—Relative to memorializing Congress to extend the effective date of the act providing for suspension of assessment work on mining claims held by location in the United States, including Alaska, to July 1, 1944.

[Filed with Secretary of State April 15, 1943]

Extension of suspension of assessment work on mining claims

WHEREAS, The Congress of the United States did, by Chapter 294 of Public Law 542 of the Seventy-seventh Congress, Second Session, provide for suspension of assessment work on mining claims held by location in the United States, including Alaska, to be effective until July 1, 1943; and

WHEREAS, Conditions in the mining industry in the whole of the United States which made such legislation necessary have not improved since passage of that legislation, and give no promise of improving before July 1, 1944; and

WHEREAS, The stability of the internal economy of the State of California is to a large extent dependent upon the welfare of the mining industry; and

WHEREAS, There has heretofore been introduced in Congress House Resolution No. 334, which proposes to extend the suspension of such assessment work to July 1, 1944; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That Congress is hereby respectfully memorialized to extend the suspension of assessment work to July 1, 1944; and be it further

Resolved, That the Secretary of the Senate immediately cause a copy of this resolution to be dispatched to the President and Vice President of the United States and to the Senators and Representatives in Congress from the State of California.

CHAPTER 76

Senate Joint Resolution No. 9—Memorializing Congress and the United States Fish and Wild Life Service to allow hunting in the Sheepy Lake area.

[Filed with Secretary of State April 16, 1943]

Hunting in Sheepy Lake area

WHEREAS, Sheepy Lake, located in the Lower Klamath Lake Basin in Siskiyou County has for many years been open to the shooting of migratory waterfowl by residents not only of Siskiyou County, but of other sections of California as well; and

WHEREAS, This Sheepy Lake, which is now a part of the Lower Klamath Lake Migratory Waterfowl Refuge, was closed to shooting during the 1942 open waterfowl season by the United States Fish and Wild Life Service, ostensibly for the preservation of the Pacific flyway; and

WHEREAS, The waterfowl population of the Pacific Coast is not in danger at the present time, but has increased to the point where it constitutes a serious threat to the growers of grain crops, particularly rice, in California; and

WHEREAS, The shooting of waterfowl not only provides a healthful recreational outlet for California citizens during this wartime emergency, but provides a valuable addition to the food supply as well; and

WHEREAS, It is understood that the United States Fish and Wild Life Service contemplates developing the entire Lower Klamath Lake area including that section of it known as Sheepy Lake in a Migratory Waterfowl Refuge; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the United States Fish and Wild Life Service be and the same hereby is memorialized to include in its management plan for the Lower Klamath Lake Migratory Waterfowl Refuge, a provision for the establishment of a public shooting ground which will replace the area lost to the sportsmen of Siskiyou County, in particular, and California, in general, as a result of the closure of Sheepy Lake; and be it further

Resolved, That in the preparation of any plans covering this region, consideration be given to access roads to any area set aside as a public shooting ground; and be it further

Resolved, That any departments of the State of California or any of the political subdivisions of the State of California concerned therewith be urged to work with and cooperate with the United States Fish and Wild Life Service in providing facilities for public shooting grounds in the vicinity of the Sheepy Lake district, in the Lower Klamath Lake region; and be it further

Resolved, That the Chief Clerk of the Assembly be and he hereby is directed to send a copy of this resolution to each Senator and Member of the House of Representatives in the Congress of the United States from California, to the Secretary of the Interior, and to the Director of the United States Fish and Wild Life Service.

CHAPTER 77

Assembly Joint Resolution No. 35—Relative to memorializing the Congress of the United States to immediately launch an investigation into the administration of the Federal rent control program in California as requested in House Resolution No. 51 presented by the Hon. Thomas Rolph, Representative of the Fourth California Congressional District.

[Filed with Secretary of State April 21, 1943.]

Investigation of Federal rent control program

WHEREAS, The Federal program for the control of residential rents has been placed in effect in many communities in this State for several months past; and

WHEREAS, A reasonable period of time has elapsed to permit fair and equitable administrative policies to be adopted; and

WHEREAS, Widespread complaint of administrative policies has arisen on the part of both landlords and tenants in many communities; and

WHEREAS, Unfair and inequitable administrative policies may seriously affect the tax yield from real property which contributes primarily to the support of local government in this State; and

WHEREAS, Many communities of California are vital war industry centers wherein fair and equitable administration of a rent control program which will not unduly antagonize either landlords or tenants is an important factor in obtaining unity of effort in the conduct of the war; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Congress of the United States is hereby respectfully memorialized to adopt House Resolution No. 51 introduced into the Seventy-eighth Congress by Hon. Thomas Rolph, Representative of the Fourth California Congressional District, in order that immediate investigation may be made into the administration of the Federal rent control program throughout the Nation and particularly in the important centers of war industry in this State; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives of the Congress of the United States and to the Senators and Representatives in Congress from the State of California.

CHAPTER 78

Senate Concurrent Resolution No. 33—Approving an amendment to the charter of the City of Santa Clara, County of Santa Clara, State of California, voted for and ratified by the qualified electors of said city at a general municipal election held therein on the fifth day of April, 1943.

[Filed with Secretary of State April 22, 1943.]

City of Santa Clara. Charter amendment

WHEREAS, The City of Santa Clara, in the County of Santa Clara, State of California, is now organized and existing and acting under a freeholders' charter, adopted under and by virtue of Section 8 of Article XI of the Constitution of the State of California, duly ratified by the electors of said city at an election held for that purpose on the fifth day of April, 1926, and approved and ratified by the Legislature of the State of California by concurrent resolution filed with the Secretary of State on the thirty-first day of January, 1927; and

WHEREAS, The City of Santa Clara contains a population of more than 3,500 inhabitants and less than 50,000 inhabitants; and

WHEREAS, The board of trustees of the City of Santa Clara, being a legislative body of said city, did, by and in pursuance of a certain resolution passed and adopted by said board of trustees on the first day of February, 1943, by more than two-thirds vote, duly submit to the qualified electors of said city a proposal to amend the charter thereof, to be voted upon by said qualified electors at a general municipal election to be held in said city on the fifth day of April, 1943; and

WHEREAS, Said proposal was published and advertised in the form and manner and for the length of time and in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, in the Santa Clara Journal, a weekly newspaper printed, published and circulated in said city, which said newspaper was for the purpose of such advertising designated by said board of trustees as the official newspaper of said city (there being no official newspaper in said city); and

WHEREAS, The said proposal was published in the manner hereinabove described and within 15 days after it was filed with the city clerk, and the election at which it was voted upon was held on the fifth day of April, 1943, not less than 40, nor more than 60, days after the completion of said advertising; and

WHEREAS, A majority of the qualified voters, voting on the said proposal, voted in favor thereof, and the said board of trustees of the City of Santa Clara did, in the manner provided by law, duly and regularly canvass the returns of said election, and did, by resolution adopted on the twelfth day of April, 1943, declare, after the result of the said election had been determined, that the proposal hereinafter set forth was

duly ratified and adopted by a majority of the voters of the city voting thereon; and

WHEREAS, The said proceedings and the text of the said proposal are duly set forth in the certificate of the Honorable James R. Bacigalupi, Acting Mayor of the City of Santa Clara, and the Honorable A. J. Cronin, City Clerk of the City of Santa Clara, as follows, to wit:

STATE OF CALIFORNIA }
COUNTY OF SANTA CLARA } ss.
CITY OF SANTA CLARA }

Certificate

We, the undersigned, James R. Bacigalupi, Acting Mayor of the City of Santa Clara, and A. J. Cronin, City Clerk of the City of Santa Clara, do hereby certify and declare as follows:

That the City of Santa Clara is a municipal corporation in the County of Santa Clara, State of California, and is now and at all times hereinafter referred to as a City containing a population of more than thirty-five hundred (3500) inhabitants and less than fifty thousand (50,000) inhabitants, as ascertained by the last preceding census taken under the authority of the Congress of the United States;

That said City of Santa Clara is now organized, existing and acting under a freeholders' charter adopted under and by virtue of Section VIII of Article XI of the Constitution of the State of California, which Charter was duly ratified by the qualified electors of said City at an election duly held for that purpose on April 6th, 1927, and approved by the Legislature of the State of California by concurrent resolution filed with the Secretary of State on the 31st day of January, 1927;

That in pursuance of Section VIII of Article XI of the Constitution of the State of California, and on its own motion, the Board of Trustees of the City of Santa Clara, being the legislative body of said City, by more than two-thirds vote of said Board of Trustees, duly submit to the qualified electors of said City of Santa Clara, a proposal for the amendment of the Charter of said City, to be voted on by said qualified electors at a general municipal election held in said City on the 5th day of April, 1943, which said proposal is hereinafter set forth at length;

That said proposed amendment was published and advertised in the form and manner and for the length of time, and in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California in the Santa Clara Journal, which was then and there a weekly newspaper printed and circulated at and within the City of Santa Clara, County of Santa Clara, State of California, and which said newspaper was duly designated by said Board of Trustees of the City of Santa Clara as the official newspaper of said City for said publishing and advertising, (there being no official newspaper of said city);

That said proposed amendment was so published within fifteen days after it was filed with the City Clerk, and that the election at which it was voted on was by ordinance of the said City of Santa Clara adopted and passed on the 1st day of February, 1943, set for April 5th, 1943, which was not less than forty, and not more than sixty days after the completion of the advertising in the official paper aforesaid;

That thereafter the Board of Trustees of the City of Santa Clara did in the manner provided by law, duly and regularly canvass the returns of said election, and that said Board of Trustees by resolution adopted on the 12th day of April, 1943, declared the result of said municipal election as determined from the canvass thereof;

That at said election held on the 5th day of April, 1943, said proposed amendment was ratified and adopted by a majority of the electors of said City voting thereon.

That said proposed Charter amendment so ratified by the electors of the said City of Santa Clara is in the words and figures, as follows, to-wit:

PROPOSED CHARTER AMENDMENT

Section 1 of Article III of the Charter of the City of Santa Clara is hereby amended to read as follows:

"Section 1. Elections: The Board of Trustees shall call and give notice of each election, shall appoint Boards of Election Officers, and fix their compensation, and shall establish election precincts and polling places, and may change the same. All provisions of laws of the State of California relating to elections, the qualifications of electors, and the manner of voting, the duties of election officers, and all other particulars, so far as the same may be applicable, shall govern all municipal elections, except as otherwise provided in this charter, or by the ordinance calling the election; provided, that the persons having the plurality of all votes cast for each of the respective officers voted for shall be declared duly elected, and that no primary elections shall be held for municipal officers. Elections

"No person who is not an elector of said City and shall not have resided therein for one year shall be eligible to any elective office under this Charter, nor shall any person be entitled to vote at any municipal election unless he shall be a qualified elector of said City.

"The elections to be held on the first Monday of April of each year for the purpose of electing municipal officers shall be known as general municipal elections and all other elections shall be known as special elections. Any special election may be consolidated with a general municipal election or with any State or County election held in the city, in which case only one ballot need be printed for such consolidated election.

"Notice of the holding of any election may be given by the Board of Trustees either by ordinance or notice published in a newspaper of general circulation printed in the City of

Santa Clara at least twenty days before the date of such election, and one publication of said ordinance or notice shall be sufficient. In case there be no newspaper of general circulation printed in said City, then such notice may be given by posting a copy of said ordinance or notice in a conspicuous place in the office of the City Clerk of said City at least twenty days before such election. No error, omission or defect in said notice shall be cause to invalidate any election held under the provisions of this charter.

"The mode of nomination of officers to be voted for at any municipal election held hereunder shall be as follows:

"Not earlier than the sixtieth day nor later than five o'clock P.M. of the twentieth day before such election electors of the City may by written nomination papers present names of candidates for election. Each candidate shall be proposed by not less than twenty nor more than thirty qualified electors, but only one candidate shall be named in any one nomination paper. No elector shall sign more than one nomination paper for the same office, but each seat on the Board of Trustees shall be deemed to be a separate office. Any person or persons may circulate a nomination paper.

"The signatures to each nomination paper shall all be appended on the same sheet of paper and each signer shall add thereto his place of residence and the date of signing. All such nomination papers shall be filed with the City Clerk not later than five o'clock P.M. of the twentieth day before such election, and shall have annexed thereto an affidavit of the person who circulated the same to the effect that he saw all the signatures written thereto and knows that they are the bona fide signatures of the persons whose names they purport to be. Each nomination paper shall be accompanied by a verified statement of the candidate that he will accept the office in the event of his election.

"Upon the filing of such nomination papers the City Clerk shall immediately cause the Great Register to be examined and shall ascertain therefrom whether such paper is signed by the requisite number of qualified electors, and shall within five days of said filing attach his certificate thereto showing the result of such examination or nomination.

"The returns of each election precinct shall be filed with the City Clerk and no person shall be permitted access to them until canvassed by the Board of Trustees. Not later than the seventh day after any election, and at the usual hour and place of meeting, the Board of Trustees shall meet and canvass the returns and declare the result. Any such canvass may be held earlier than seven days after such election provided that all absentee ballots furnished for such election have been returned to the Clerk. The Board may adjourn from day to day for the purpose of completing any such canvass. When a canvass of the votes has been made by said Board of Trustees sitting as a Board of Canvassers, and when two or

more persons have an equal number of votes, the Board of Trustees shall decide the election by a plurality vote thereof.

"After having been canvassed the returns shall be sealed up by the Clerk for six months and no person shall have access to them except upon order of a Court of competent jurisdiction.

"After the result of an election is declared the Clerk, under his hand and the official seal of said City, shall issue a certificate thereof and deliver the same personally or by mail to the person elected.

"The officers of the present town government shall continue in office under this Charter until their successors are elected and qualified with such powers and duties as are herein provided.

"Should any officer elected fail to qualify and give the requisite bond, for a period of ten days after having been notified of his election, the office shall be declared vacant and shall be filled as in this Charter provided.

"Notwithstanding any other provision in this Charter, and in the event that the Board of Trustees, by reason of vacancies thereon, shall consist of less than five members, then a majority of the members of such Board as so constituted, may pass any ordinance, resolution or order pertaining to the calling, holding or conduct of any special or general municipal election, and cause notice thereof to be given, with the same effect as if the same were passed by a complete Board.

"The Board of Trustees may, by ordinance, make further provisions than are herein contained, for the holding and the manner of holding and conduct of any election."

That the returns of said election were in accordance with the law in such cases made and provided, duly and regularly canvassed and certified to, and it was duly found, determined and declared by the proper officers thereunto duly authorized, that a majority of the qualified electors voting thereon had voted for and in favor of said proposal for the amendment to the Charter, and had ratified said proposed amendment to said Charter, as hereinbefore set forth, and that we and each of us further certify that we have compared the foregoing and enclosed and ratified amendment to the Charter of the City of Santa Clara with the original resolution and proposals submitting the same to the electors of said City at the general municipal election held on the 5th day of April, 1943, and that the foregoing is a full, true and correct and exact copy thereof.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the seal of the City of Santa Clara to be affixed this 12th day of April, 1943.

JAMES R. BACIGALUPI
Acting Mayor

A. J. CRONIN
City Clerk

[SEAL]

and

WHEREAS, The said proposed charter amendment as ratified as hereinbefore set forth has been and is now duly presented to the Legislature of the State of California for approval or rejection as a whole without power of alteration or amendment, in accordance with the provisions of Section 8 of Article XI of the Constitution; now, therefore, be it

Approval

Resolved by the Senate of the State of California, the Assembly thereof concurring, A majority of all the members elected to each house voting thereon and concurring therein, that the aforementioned amendment to the charter of the City of Santa Clara, as proposed to, and adopted and ratified by, the electors of said city, as hereinbefore set forth, be, and the same hereby is, approved, as a whole without amendment or alteration, for and as an amendment to, and as part of, the charter of the City of Santa Clara.

CHAPTER 79

Senate Concurrent Resolution No. 35—Relative to approving certain amendments to the charter of the City of Vallejo, a municipal corporation of the County of Solano, State of California, voted for and ratified by the qualified electors of said city at a general municipal election held therein on April 6, 1943.

[Filed with Secretary of State April 22, 1943.]

City of Vallejo Charter amendments

WHEREAS, Proceedings have been had and taken for the purpose of adoption and ratification of two amendments, hereinafter set forth, to the charter of the City of Vallejo, a municipal corporation of the County of Solano, State of California, as set forth in the certificates of the city clerk of said City of Vallejo as follows, to wit:

April 14, 1943

CERTIFICATE OF H. W. MITCHELL, CITY CLERK OF THE CITY OF VALLEJO, SOLANO COUNTY, CALIFORNIA, AND AMENDMENT TO CHARTER OF THE SAID CITY OF VALLEJO RELATING TO AN INCREASE IN THE ANNUAL COMPENSATION OF THE MAYOR AND TWO COMMISSIONERS OF SAID CITY.

State of California }
County of Solano } ss.
City of Vallejo }

Certificate

I, H. W. Mitchell, the undersigned, do hereby certify and declare as follows:

That I am the City Clerk and Clerk of the City Council of the City of Vallejo, a municipal corporation of the County of Solano, State of California.

That proceedings have been had and taken for adoption and ratification of the amendment to the Charter of the City of Vallejo, a municipal Corporation, in the County of Solano, State of California, relating to the amendment of that portion of the charter, City of Vallejo, designated as Section 19, Article V, pertaining to an increase in the annual compensation of the Mayor and two Commissioners of said City, which said charter amendment is hereinafter set forth verbatim and will hereinafter be designated and referred to as CHARTER AMENDMENT NO. 1.

That the City of Vallejo in the County of Solano, State of California, contains a population of more than 3500 inhabitants and less than 50,000 inhabitants as ascertained by the last preceding census taken under the authority of the Congress of the United States or of the Legislature of the State of California and has been ever since the year 1911 and is now organized and acting under a freeholders' charter adopted under and by virtue of Section 8, Article XI of the Constitution of the State of California, which charter was duly ratified by a majority of the qualified electors of said City at a special election held for that purpose on the 21st day of February, 1911 and approved and ratified by the legislature of the State of California on the 11th day of March, 1911.

That the legislative body of the said City, namely the "City Council" did pursuant to Section 8, Article XI of the Constitution of the State of California, by Resolution No. 28521 N. S., adopted February 24, 1943, duly and on its own motion propose to the qualified electors of said City of Vallejo an amendment to the Charter of said City which said amendment thereafter appeared on the ballot as Charter Amendment No. 1, and ordered that said amendment be submitted to the qualified electors of the City of Vallejo at the General Municipal Election to be held in said City, as in said Charter provided for, on the first Tuesday in April, namely, the 6th day of April, 1943.

That the said proposed Charter Amendment No. 1, was thereafter on the 24th day of February, 1943, duly published in the Vallejo Evening Chronicle, a daily newspaper of general circulation, printed and published in said City of Vallejo and in each and all editions thereof issued and/or printed and/or published during the said day of such publication, which said newspaper was the newspaper designated by the said Council for that purpose; and the said proposed Charter Amendment No. 1 was printed in convenient pamphlet form and could be had on application therefor at the office of the City Clerk of said City.

That the said City Council did by Resolution No. 28575 N. S., dated March 17, 1943, order the holding of the general municipal election in said City of Vallejo on the 6th day

of April, 1943, for the purpose among other things of causing a vote upon the ratification of the said proposed Charter Amendment No. 1, which said date was not less than forty (40) days and not more than sixty (60) days after the completion of the publication of the said proposed Charter Amendment No. 1; and that in accordance with the instructions of the said City Council the said City Clerk of the City of Vallejo did cause to be published in the Vallejo Morning Times Herald, a daily newspaper of general circulation, printed and published in said City of Vallejo, an election proclamation and notice of general municipal election which was published five (5) times prior to the time for holding said election, to-wit: On March 30th and 31st, 1943, and April 1, 2, and 3rd, 1943, pursuant to the provisions of the Charter of said City of Vallejo; and which proclamation and notice provided, among other things, for the voting upon said proposition designated as Charter Amendment No. 1.

That said general municipal election was held in the said City of Vallejo on the 6th day of April, 1943, which said date was not less than forty (40) and not more than sixty (60) days after the said proposed Charter Amendment No. 1 had been published once in the said Vallejo Morning Times Herald as aforesaid.

That the said City Council of said City of Vallejo did in the manner provided by law duly and regularly canvass the returns of said election and did duly declare the result of said election insofar as it concerned said proposed Charter Amendment No. 1 as determined from the canvass of the returns thereof, which said result was as follows:

Total number of votes cast upon ratification of said proposed Charter Amendment No. 1 5722

In favor of the ratification of said proposed Charter Amendment No. 1 3557

Against the ratification of said proposed Charter Amendment No. 1 2165

That at said general municipal election held on the 6th day of April, 1943, the said proposed Charter Amendment No. 1, was ratified by a majority of the electors of said City voting thereon.

That the said Charter Amendment No. 1 so ratified by the Electors of the City of Vallejo is now submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration or amendment in accordance with Section 8, Article XI of the Constitution of the State of California and is in words and figures as follows:

City Council. Salaries

"The City Council of the City of Vallejo, comprising the Mayor and two Commissioners, shall each receive an annual salary of THIRTY-SIX HUNDRED AND 00/100 ($3,600.00) DOLLARS, payable in equal semi-monthly installments."

That the foregoing contains a full, true and correct statement of all proceedings affecting, relating to or in anywise appertaining to the ratification of the proposed Charter

Amendment No. 1 of the Charter of the said City of Vallejo by the qualified electors of said City of Vallejo.

That the City Council of said City of Vallejo did heretofore, by Resolution No. 28625 N. S., duly and regularly authorize and direct me as such City Clerk to certify hereto and for and on behalf of said City Council and said City of Vallejo, to cause to be submitted to the Legislature of the State of California the said proposed Charter Amendment No. 1 as ratified by the qualified electors of said City of Vallejo at the general municipal election held therein for that purpose, among other things, on the 6th day of April, 1943.

H. W. MITCHELL
City Clerk and Clerk of the City Council of said City of Vallejo.

STATE OF CALIFORNIA }
COUNTY OF SOLANO } ss.

H. W. MITCHELL being first duly sworn, deposes and says: That the City of Vallejo is a municipal corporation and affiant is the City Clerk thereof and makes this affidavit on behalf of said corporation and as an officer thereof.

That affiant has read the foregoing and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters stated therein on his information and belief, and as to those matters he believes it to be true.

H. W. MITCHELL

Subscribed and sworn to before
me this 15th day of April, 1943.

ROLLAND L. POPE
NOTARY PUBLIC IN AND FOR THE COUNTY
OF SOLANO, STATE OF CALIFORNIA.

April 14, 1943

CERTIFICATE OF H. W. MITCHELL, CITY CLERK OF THE CITY OF VALLEJO, SOLANO COUNTY, CALIFORNIA, AND AMENDMENT TO CHARTER OF THE SAID CITY OF VALLEJO RELATING TO AN INCREASE IN THE ANNUAL COMPENSATION OF THE AUDITOR AND EX-OFFICIO ASSESSOR OF SAID CITY.

State of California }
County of Solano } ss.
City of Vallejo }

I, H. W. MITCHELL, the undersigned, do hereby certify Certificate
and declare as follows:

That I am the City Clerk and Clerk of the City Council of the City of Vallejo, a municipal corporation of the County of Solano, State of California.

That proceedings have been had and taken for adoption and ratification of the amendment to the Charter of the City of Vallejo, a municipal Corporation, in the County of Solano, State of California, relating to the amendment of that portion of the Charter, City of Vallejo, designated as Section 19 Article V, pertaining to an increase in the annual compensation of the Auditor and Ex-Officio Assessor of said City, which said charter amendment is hereinafter set forth verbatim and will hereinafter be designated and referred to as CHARTER AMENDMENT NO. II.

That the City of Vallejo in the County of Solano, State of California, contains a population of more than 3500 inhabitants and less than 50,000 inhabitants as ascertained by the last preceding census taken under the authority of the Congress of the United States or of the Legislature of the State of California and has been ever since the Year 1911 and is now organized and acting under a freeholders' charter adopted under and by virtue of Section 8, Article XI of the Constitution of the State of California, which charter was duly ratified by a majority of the qualified electors of said City at a special election held for that purpose on the 21st day of February, 1911 and approved and ratified by the legislature of the State of California on the 11th day of March, 1911.

That the legislative body of the said City, namely the "City Council" did pursuant to Section 8, Article XI of the Constitution of the State of California, by Resolution No. 28522 N. S., adopted February 24, 1943, duly and on its own motion propose to the qualified electors of said City of Vallejo an amendment to the Charter of said City which said amendment thereafter appeared on the ballot as Charter Amendment No. II and ordered that said amendment be submitted to the qualified electors of the City of Vallejo at the General Municipal Election to be held in said City, as in said Charter provided for, on the first Tuesday in April, to-wit: the 6th day of April, 1943.

That the said proposed Charter Amendment No. II was thereafter on the 24th day of February, 1943, duly published in the Vallejo Evening Chronicle, a daily newspaper of general circulation, printed and published in said City of Vallejo and in each and all editions thereof issued and/or printed and/or published during the said day of such publication, which said newspaper was the newspaper designated by the said Council for that purpose; and the said proposed Charter Amendment No. II was printed in convenient pamphlet form and could be had on application therefor at the office of the City Clerk of said City.

That the said City Council did by Resolution No. 28575 N. S., dated March 17, 1943, order the holding of the general municipal election in said City of Vallejo on the 6th day of April, 1943, for the purpose among other things of causing a vote upon the ratification of the said proposed Charter Amendment No. II, which said date was not less than forty

(40) days and not more than sixty (60) days after the completion of the publication of the said proposed Charter Amendment No. II; and that in accordance with the instructions of the said City Council the said City Clerk of the City of Vallejo did cause to be published in the Vallejo Morning Times Herald, a daily newspaper of general circulation, printed and published in said City of Vallejo, an election proclamation and notice of general municipal election which was published five (5) times prior to the time for holding said election, to-wit: On March 30th and 31st, 1943, and April 1, 2, and 3rd, 1943, pursuant to the provisions of the Charter of said City of Vallejo; and which proclamation and notice provided, among other things, for the voting upon said proposition designated as Charter Amendment No. II.

That said general municipal election was held in the said City of Vallejo on the 6th day of April, 1943, which said day was not less than forty (40) and not more than sixty (60) days after the said proposed Charter Amendment No. II had been published once in the said Vallejo Morning Times Herald as aforesaid.

That the said City Council of said City of Vallejo did in the manner provided by law duly and regularly canvass the returns of said election and did duly declare the result of said election insofar as it concerned said proposed Charter Amendment No. II as determined from the canvass of the returns thereof, which said result was as follows:

Total number of votes cast upon ratification of said proposed Charter Amendment No. II	5577
In favor of the ratification of said proposed Charter Amendment No. II	3099
Against the ratification of said proposed Charter Amendment No. II	2478

That at said general municipal election held on the 6th day of April, 1943, the said proposed Charter Amendment No. II, was ratified by a majority of the electors of said City voting thereon.

That the said Charter Amendment No. II so ratified by the Electors of the City of Vallejo is now submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration or amendment in accordance with Section 8, Article XI of the Constitution of the State of California and is in words and figures as follows:

"The Auditor and Ex-Officio Assessor shall receive an annual salary of FORTY-TWO HUNDRED AND 00/100 ($4,200.00) DOLLARS, payable in equal semi-monthly installments." Salary of auditor

That the foregoing contains a full, true and correct statement of all proceedings affecting, relating to or in anywise appertaining to the ratification of the proposed Charter Amendment No. II of the Charter of the said City of Vallejo by the qualified electors of said City of Vallejo.

That the City Council of said City of Vallejo did heretofore, by Resolution No. 28625 N. S., duly and regularly authorize and direct me as such City Clerk to certify hereto and for and on behalf of said City Council and said City of Vallejo, to cause to be submitted to the Legislature of the State of California the said proposed Charter Amendment No. II as ratified by the qualified electors of said City of Vallejo at the general municipal election held therein for that purpose, among other things, on the 6th day of April, 1943.

H. W. MITCHELL
City Clerk and Clerk of the City Council
of said City of Vallejo

STATE OF CALIFORNIA }
COUNTY OF SOLANO } ss.

H. W. MITCHELL being first duly sworn, deposes and says: That the City of Vallejo is a municipal corporation and affiant is the City Clerk thereof and makes this affidavit on behalf of said Corporation and as an officer thereof.

That affiant has read the foregoing and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters stated therein on his information and belief, and as to those matters he believes it to be true.

H. W. MITCHELL

Subscribed and sworn to before me
this 15th day of April, 1943

ROLLAND L. POPE
NOTARY PUBLIC IN AND FOR THE COUNTY
OF SOLANO, STATE OF CALIFORNIA.

WHEREAS, Said proposed amendments to the charter to the City of Vallejo, so ratified by the majority of the electors voting thereon at the general municipal election held on the sixth day of April, 1943, have been submitted to the Legislature of the State of California for approval and ratification as a whole, without power of alteration or amendment in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California; now, therefore be it

Approval

Resolved by the Senate of the State of California, the Assembly concurring, A majority of all members elected to each house voting for the adoption of this resolution and concurring therein, that said amendments to the charter of the City of Vallejo, as proposed, adopted and ratified by the electors of the said City of Vallejo, and as hereinbefore set forth, be, and the same are hereby approved as a whole, without amendment or alteration, and as amendments to and as a part of the charter of the City of Vallejo.

CHAPTER 80

Assembly Joint Resolution No. 2—Relative to hearing instruments for persons who are hard of hearing.

[Filed with Secretary of State April 23, 1943.]

Hearing devices for deaf

WHEREAS, The manufacture of hearing instruments, batteries, and other hearing devices is being limited and their distribution is being put under priority regulations; and

WHEREAS, Many persons in civilian life who are hard of hearing are unable to secure needed hearing instruments because of the limited manufacture and regulated distribution; and

WHEREAS, These persons are placed in great danger because without such instruments they can not hear air raid sirens and other warnings; and persons to whom they would be a handicap are also placed in great danger; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California does hereby respectfully urge the President of the United States, the Congress of the United States, the War Production Board and the Office of Production Management to give greater consideration to the necessity of providing hearing instruments, batteries, and other hearing devices to persons who are hard of hearing; and be it further

Resolved, That copies of this resolution be transmitted by the Chief Clerk of the Assembly to the President of the United States, the Congress of the United States, the War Production Board, the Office of Production Management, and to each Senator and Member of the House of Representatives from California in the Congress of the United States.

CHAPTER 81

Senate Concurrent Resolution No. 36—Relative to recognition of entertainers who appeared at dinner given members of the Legislature on April 16, 1943.

[Filed with Secretary of State April 23, 1943.]

Appreciation for entertainment

WHEREAS, On the evening of April 16th the members of the Legislature and their wives enjoyed an unusual entertainment and dinner; and

WHEREAS, This entertainment of the highest order was furnished through the courtesy of Will H. Hays, President of the Motion Picture Producers and Distributors of America, Inc., Mr. Y. Frank Freeman, President of the Association of Motion Picture Producers, Inc., and President of Paramount Pictures; Louis B. Mayer, Metro-Goldwyn-Mayer; Wm. Goetz, Twentieth Century-Fox; Charles Koerner, R. K. O., Cliff Work, Universal; Harry Cohn, Columbia; Jack Warner,

Warner Bros., M. J. Siegel, Republic, and Sam Goldwyn, Goldwyn Studio; and

WHEREAS, The following artists entertained: Leo Carrillo, Betty Jaynes, Johnny Johnston, Louis De Prom, Gloria Grafton, Rufe Davis, Lena Horne, Carlos Ramirez, Ida Koverman, Director; Earl Brent, Accompanist; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Members of the Legislature express their appreciation to the motion picture associations and studios and to the artists who furnished such delightful entertainment; and be it further

Resolved, That the Secretary of the Senate be directed to forward a suitable copy of this resolution to each of the above named artists and to each of the presidents of the above named associations and studios.

CHAPTER 82

Assembly Concurrent Resolution No. 57—Relative to approving certain amendments to the charter of the City of Fresno, in the County of Fresno, State of California, voted for and ratified by the electors of the city at a special election held therein on the twelfth day of April, 1943.

[Filed with Secretary of State April 26, 1943]

City of Fresno: Charter amendments

WHEREAS, Proceedings have been taken and had for the proposal, adoption and ratification of certain amendments, hereinafter set forth, to the charter of the City of Fresno, a municipal corporation in the County of Fresno, State of California, as set out in the certificate of the commissioner of public safety and welfare, the ex officio mayor of the City of Fresno, and the city clerk of the City of Fresno as follows, to wit:

STATE OF CALIFORNIA }
COUNTY OF FRESNO } ss.
CITY OF FRESNO }

Certificate

WE, the undersigned, Z. S. LEYMEL, Commissioner of Public Safety and Welfare and ex officio Mayor of the City of Fresno, County of Fresno, State of California, and H. S. FOSTER, City Clerk of said city, do hereby certify and declare as follows:

That the City of Fresno, a municipal corporation in the County of Fresno, State of California, now is and at all times herein mentioned was, a city containing a population of more than three thousand five hundred inhabitants, and has been ever since January 21, 1921, and is now, organized and acting under a freeholders charter adopted under and by virtue of Section 8 of Article XI of the Constitution of the State of

California, which Charter was duly ratified by a majority of the qualified electors of such city at a municipal election held for that purpose on the 2d day of November, 1920, and approved by the Legislature of the State of California by Senate concurrent resolution No. 2, filed with the Secretary of State on the 21st day of January, 1921 (Stats. 1921, page 1821).

That in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, on its own motion, the Commission of the City of Fresno, being the legislative body thereof, duly and regularly submitted to the qualified electors of said City of Fresno, certain proposals for certain amendments to the Charter of said City of Fresno at a certain Special Election called and held for that purpose in said city on the 12th day of April, 1943.

That such proposed amendments were published and advertised in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, and the Charter of the City of Fresno, on the 27th day of February, 1943, in the Fresno Bee-The Republican, a daily newspaper of general circulation printed and published in said City of Fresno, and the official newspaper of said city. That copies of said proposed amendments were printed in convenient pamphlet form, and in type of not less than ten point, as required by law, and a notice that copies thereof could be had upon application therefor at the office of the City Clerk of the City of Fresno was published daily continuously in said Fresno Bee-The Republican from and including the 28th day of February, 1943, until the 12th day of April, 1943, all as required by Section 8 of Article XI of the Constitution of the State of California. That copies thereof were mailed to each of the qualified electors of said city within the time and in the manner required by law.

That copies of said pamphlet containing said proposed amendments could be had upon application therefor at the office of the City Clerk of said city at all times, to and including the 12th day of April, 1943, the date fixed for said election, all as required by said Section 8 of Article XI of the Constitution of the State of California.

That under and pursuant to proceedings duly and regularly taken in the manner provided by law, the Commission of the City of Fresno consolidated said Special Election with the General Municipal Election held in said City of Fresno on the 12th day of April, 1943; that in accordance with the provisions of the Charter of the City of Fresno and in the manner provided by law, the said consolidated elections were duly and regularly held in said city after due notice given and published, on the 12th day of April, 1943, which day was not less than forty (40) nor more than sixty (60) days after the completion of the publication and advertisement of the aforementioned proposed amendments in the Fresno Bee-The Republican, the official newspaper of said city.

That thereafter the Commission of the City of Fresno did, in the manner provided by law, duly and regularly canvass the returns of said consolidated elections, and did on the 19th day of April, 1943, adopt its Resolution No. 1728 declaring the results of the canvass of the returns of said elections and the results of said election as determined from the canvass of the returns thereof; that the said Commission of said city did, by said Resolution, find, determine and declare that said proposed amendments to the Charter of the City of Fresno were ratified by a majority of the electors of said city voting thereon.

That as to said amendments to the Charter of Fresno this certificate shall be taken as a full and complete certification as to the regularity of all proceedings had and done in connection therewith.

That said amendments to the Charter of the City of Fresno so ratified by the electors of said city are in words and figures as follows, to wit:

That section 22½ be added to Article III of the Charter of Fresno to read as follows:

Removal of emergency appointees

SECTION 22½. APPOINTMENTS DURING EMERGENCIES. The provisions of section 22 hereof as to removal of officers or employees shall not apply when in time of great public emergency leaves of absence are granted to officers or employees by reason of such emergency. Under such circumstances persons employed to fill the positions so vacated from such cause shall be removed upon the return of the officers or employees so granted such leaves of absence without reference to the provisions of section 22 hereof.

That section 41½ be added to Article V of the Charter of Fresno to read as follows:

Contract with county for treasurer's services

SECTION 41½. ADDITIONAL AUTHORITY TO CONTRACT WITH COUNTY RESPECTING FUNDS. The Commission of the City of Fresno is authorized and empowered to enter into contracts with the County of Fresno, through its Board of Supervisors, upon such terms as may be mutually agreed upon, for the performance by the county treasurer, as ex officio city treasurer, of municipal functions in connection with the collection, custody, safekeeping and disbursement of moneys belonging to the City of Fresno in addition to city taxes.

That section 119 of Article XIV of the Charter of Fresno be amended to read as follows:

Absence from city

SECTION 119. ABSENCE FROM THE CITY. No elective officer shall absent himself from the city for more than sixty consecutive days. If any such elective officer shall so absent himself from the city or be adjudged insane, his office shall be declared vacant by the City Commission and the vacancy shall thereupon be filled by the City Commission in the manner provided by law. Leaves of absence for other officers and employees of the city shall be governed by ordinance. The City Commission shall grant leaves of absence to

Leaves of absence

elective officers of the city who enter the armed forces of the United States in any war in which the United States is now or may hereafter become engaged, and until ninety days after his discharge from said service, said leave to be effective only during the term for which said officer was elected. The City Commission shall appoint a qualified person to fill any vacancy so created during the absence of such elective officer. Persons appointed to fill such vacancy shall have all of the powers and perform all of the duties of the officers whose places they fill during the absence of said officer. Leaves of absence heretofore granted to officers and employees for service in the armed forces of the United States or for other employment in aid of the war effort are hereby ratified.

And we further certify that we have compared the foregoing proposed and ratified amendments to the Charter of the City of Fresno with the original proposals submitting the same to the electors of said city, and find that the foregoing is a full, true and correct and exact copy of each thereof.

IT WITNESS WHEREOF, we have hereunto set our hands and caused the Seal of the said City of Fresno to be affixed hereto, this 19th day of April, 1943.

Z. S. LEYMEL
Commissioner of Public Safety and Welfare and ex officio Mayor of the City of Fresno

[SEAL]

H. S. FOSTER
City Clerk of the City of Fresno

and

WHEREAS, The proposed amendments to the charter of Fresno as ratified as hereinbefore set forth have been and are now duly presented and submitted to the Legislature of the State of California for approval or rejection as a whole without power of alteration in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate concurring, A majority of all members elected to each house voting therefor and concurring therein, That said amendments to the charter of the City of Fresno as proposed to and adopted and ratified by the electors of said city, and each of them, as hereinbefore fully set forth, be and the same are hereby approved as a whole, without amendment or alteration for and as amendments to and as a part of, the charter of the City of Fresno, a municipal corporation in the County of Fresno, State of California. Approval

CHAPTER 83

Assembly Concurrent Resolution No. 58—Approving certain amendments to the charter of the City of Glendale, State of California, voted for and ratified by the electors of such City at a special municipal election held therein on April 13, 1943.

[Filed with Secretary of State April 26, 1943.]

City of Glendale. Charter amendments

WHEREAS, The City of Glendale, in the County of Los Angeles, State of California, contains a population of over 50,000 inhabitants and has been, ever since the year 1921, and is now, organized and acting under a freeholders' charter, adopted under and by virtue of Section 8, Article XI of the Constitution of the State of California, which charter was duly ratified by a majority of the qualified electors of said city at a special election held for that purpose on the twenty-ninth day of March, 1921, and approved by the Legislature of the State of California on the eleventh day of May, 1921; and

WHEREAS, Proceedings have been concluded for the proposal, adoption and ratification of certain amendments to said charter, as set forth in the certificate of the Mayor and the City Clerk of said City as follows, to wit:

"CERTIFICATE OF RATIFICATION OF CHARTER AMENDMENTS BY ELECTORS OF THE CITY OF GLENDALE

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss
CITY OF GLENDALE }

Certificate

We, the undersigned, Archie L. Walters, Mayor of the City of Glendale, State of California, and G. E. Chapman, City Clerk and Ex-officio Clerk of the Council of said City, do hereby certify and declare as follows:

That the legislative body of said city, namely, the council of said city, did, pursuant to Section 8, Article XI of the Constitution of the State of California, by resolution adopted March 2, 1943, duly propose to the qualified electors of said City of Glendale three amendments to the charter of said city, designated as charter amendments Nos. 1, 2 and 3, and ordered that said amendments be submitted to said qualified electors of said city at a special municipal election to be held in said city on the 13th day of April, 1943, which date was fixed in said resolution as the date for holding said special municipal election;

That each of said proposed amendments was, on March 3, 1943, published in the Glendale News-Press, the official newspaper of said city and a newspaper of general circulation therein, and in each edition thereof during said day of publication, and each of said proposed amendments was printed in

convenient pamphlet form and in type of not less than 10-point, and copies thereof were mailed to each of the qualified electors of said city, and until the day fixed for the election upon said amendments it was advertised in said newspaper that copies thereof could be had upon application therefor at the office of the city clerk of said city;

That the said council of said city did by ordinance designated as Ordinance No. 1936, which was duly adopted on March 11, 1943, order the holding of a general and a special municipal election in the City of Glendale on the 13th day of April, 1943, which said date was not less than 40 days and not more than 60 days after the completion of the publication of said amendments as aforesaid, which said ordinance was approved by the mayor of said city on March 11, 1943, and was published once a week for two weeks prior to the time for the holding of said election, to wit: On March 22nd and March 29th, 1943, pursuant to the provisions of the charter of the City of Glendale, in said newspaper; and said council of said city did by said ordinance order said special municipal election consolidated with the general municipal election to be held in said city on the 13th day of April, 1943;

That said special municipal election was held in said City of Glendale on the 13th day of April, 1943, which day was not less than 40 days and not more than 60 days after said amendments to said charter had been published once in said Glendale News-Press;

That thereafter the council of said City of Glendale did, in the manner provided by law, duly and regularly canvass the returns of said election, and did, by resolution adopted on April 19, 1943, duly declare the result of said special municipal election as determined from the canvass of the returns thereof;

That at said special municipal election, each of said amendments was ratified by a majority of the electors of said city voting thereon, to wit: Said charter amendments Nos. 1, 2 and 3;

That the said three charter amendments so ratified by the electors of the City of Glendale are now submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration or amendment, in accordance with Section 8, of Article XI of the Constitution of the State of California, and are in words and figures as follows, to wit:

CHARTER AMENDMENT NO. 1

Paragraph (8) of section 2 of Article XXIV (Civil Service) of the Charter of the City of Glendale is hereby amended to read as follows:

"(8) For temporary appointments to permanent positions and appointments to temporary or seasonal positions, when there is no appropriate eligible list; provided that no permanent position shall be filled by temporary appointees for a

Temporary appointments

period longer than six months except when due to a leave of absence or in cases of emergency. Appointments to temporary or seasonal positions and temporary appointments due to a leave of absence may be for such period of time as may be fixed by the Commission. The Commission shall determine whether any position is in character temporary, seasonal or permanent. The acceptance or refusal to accept temporary or seasonal employment on the part of a person on an eligible list shall not be a bar to appointment to a permanent position from said eligible list."

CHARTER AMENDMENT NO. 2

Paragraph (10) of section 2 of Article XXIV (Civil Service) of the Charter of the City of Glendale is hereby amended to read as follows:

Promotional examinations

"(10) For promotion based upon competitive examination and records of efficiency, character, conduct and seniority; provided that promotional examinations shall be open only to those persons who are employed in positions designated by the Commission as appropriate for promotional purposes, who have served in any such position or positions for an aggregate of at least six months, and who satisfy the preliminary requirements of the Commission for the position to be filled. Examinations may be exclusively promotional or may be combined with original examinations. Unless the Commission finds that it would not be consistent with the best interests of the City, a vacancy, except one for which competition has been suspended, as provided in this article, shall be filled by promotion."

CHARTER AMENDMENT NO. 3

Article XXIV (Civil Service) of the Charter of the City of Glendale is hereby amended by adding to said Article a new section to be numbered Section 13 and to read as follows:

War emergency appointments

"SECTION 13. WAR EMERGENCY APPOINTMENTS. During any war in which the United States is engaged or any national emergency causing induction or conscription for the armed forces, and notwithstanding any other provision of this article, the Commission, after public notice and hearing, may authorize temporary appointments with or without examination to any position or positions in the classified service for such period of time as the Commission may determine, but not exceeding the duration of said war or emergency and six months thereafter. Such position or positions, while filled by such temporary appointments, shall be in the unclassified service. The date of termination of a war or emergency, for the purposes of this section, shall be as fixed by proclamation of the President of the United States, or by concurrent resolution of the two Houses of Congress of the United States, or by resolution of the Council of the City of Glendale, which ever date is earliest."

That the foregoing proposed and ratified amendments to the charter of said City of Glendale, submitted to the electors of

said city at a special municipal election held in said city on the 13th day of April, 1943, have been compared by us and each of us, with the proposed amendments set forth in the resolution adopted by the council, as hereinbefore stated, and that the foregoing is a full, true, correct and exact copy thereof;

That this certificate shall be deemed to be a full and complete certification of the regularity of all proceedings had and done in connection with said amendments.

In witness whereof, we have hereunto set our hands and caused the seal of the City of Glendale to be affixed this 19th day of April, 1943.

ARCHIE L. WALTERS
Mayor of the City of Glendale

[SEAL]

G. E. CHAPMAN
City Clerk of the City of Glendale

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss
CITY OF GLENDALE }

I, G. E. CHAPMAN, City Clerk of the City of Glendale, do hereby certify that on the 19th day of April, 1943, as appears from the official record of the proceedings of the council of the City of Glendale for that date, the Mayor of the City of Glendale and the City Clerk of the City of Glendale were authorized and directed by the said council to execute and attest the foregoing Certificate of Ratification of Charter Amendments by Electors of The City of Glendale, for and on behalf of said city, and the City Attorney of said city was authorized to take such steps as might be necessary to secure the approval by the Legislature of the State of California of said charter amendments set forth in said certificate.

[SEAL]

G. E. CHAPMAN
City Clerk of the City of Glendale"

and

WHEREAS, The said proposed charter amendments as ratified as hereinbefore set forth have been and are now duly presented and submitted to the Legislature of the State of California for approval or rejection as a whole without power of amendment or alteration, in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Approval

Resolved by the Assembly of the State of California, the Senate thereof concurring, and a majority of all the members elected to each house voting therefor and concurring therein, that the aforementioned amendments to the charter of the City of Glendale, as proposed to and adopted and ratified by the electors of said city, as hereinbefore fully set forth, be and the same are hereby approved as a whole without amendment or alteration, for and as amendments to and as part of the charter of the City of Glendale.

CHAPTER 84

Senate Concurrent Resolution No. 32—Relative to adjournment sine die of the Fifty-fifth Session of the Legislature of the State of California.

[Filed with Secretary of State April 26, 1943.]

Adjournment sine die

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Fifty-fifth Session of the Legislature of the State of California shall adjourn sine die at 3 p.m., May 5, 1943; and be it further

Resolved, That on or after April 28, 1943, neither house shall pass any bill originating in such house except upon recommendation of the presiding officer and with the permission to consider and vote on such bill being granted by a three-fourths vote of the members elected to the house.

CHAPTER 85

Senate Concurrent Resolution No. 37—Approving an amendment to the charter of the City of Visalia, County of Tulare, State of California, voted for and ratified by the qualified electors of said city at a general municipal election held therein on the twelfth day of April, 1943.

[Filed with Secretary of State April 26, 1943.]

City of Visalia: Charter amendment

WHEREAS, Proceedings have been taken and had for the purpose of adoption and ratification of certain amendments hereinafter set forth to the charter of the City of Visalia, a municipal corporation in the County of Tulare, State of California, as set forth in the certificate of the Mayor and City Clerk of said city, as follows, to wit:

CERTIFICATE OF PROCEEDINGS FOR THE AMENDMENT OF SECTION 3 OF ARTICLE IV, AND OF SECTION 8 OF ARTICLE XXIII, OF THE CHARTER OF THE CITY OF VISALIA, CALIFORNIA

STATE OF CALIFORNIA
COUNTY OF TULARE } ss.
CITY OF VISALIA

Certificate

We, the undersigned, J. Pierce Gannon, Mayor of the City of Visalia, State of California, and Beatrice Thut, City Clerk of said City of Visalia, do hereby certify and declare as follows:

That said City of Visalia is now and at all times herein mentioned was, duly organized and governed by a special freeholders charter, created, passed, adopted and approved

pursuant to the provisions of Section 8 of Article XI of the Constitution of the State of California;

That pursuant to and in accord with the provisions of said Section 8 of Article XI of the Constitution, the City Council of said City did, on the 23rd day of February, 1943, on its own motion, by its resolution duly passed and adopted, propose as measures to be submitted to the qualified electors of said city at the general municipal election to be held in said City on the 12th day of April, 1943, two proposed amendments of the Charter of said City, as follows:

Measure No. 1: Shall Section 3 of Article IV of the Charter of the City of Visalia be amended to read in its entirety as follows:

"Section 3. All officers, assistants, deputies, clerks and employees shall receive such compensation as the Council may from time to time determine by resolution, except, that the members of the Council while sitting as a Board of Equalization shall be paid $10.00 per day, for each day actually served; provided, however, that the compensation of elective officers, not otherwise fixed by this Charter, shall be fixed and determined by ordinance only."

Measure No. 2: Shall Section 8 of Article XXIII of the Charter of the City of Visalia be amended to read in its entirety as follows:

"Section 8. No member of the Council or of any board and no officer or employee of the City, shall be or become interested in any contract for which bids are or may be required for the furnishing of labor or materials to or for the City, nor shall either or any of them receive any gratuity or advantage from any contract or from the contractor furnishing any labor or material under any contract, the cost or consideration of which is payable from the City Treasury. Any such contract with the City in which any such officer or employee is or becomes interested shall be declared void by the Council."

That said proposed amendments were thereafter duly advertised, published and noticed for the time and in the manner in all respects as required and provided in and by said Section 8 of Article XI of the Constitution, and were duly submitted to the electors of said City at the general municipal election conducted and held in said City on the 12th day of April, 1943;

That said election was duly and regularly held in said City of Visalia on the 12th day of April, 1943, and that at said election a majority of the qualified voters voting on said proposed amendments voted in favor thereof;

That the Council of the City of Visalia at a meeting thereof. held as required by the Charter of said City, duly canvassed the returns of said election and duly found, determined and declared that a majority of the electors voting upon said proposed amendments voted in favor thereof and in favor of each thereof, and that the same were and each thereof was, ratified by said qualified electors of the City of Visalia; and

That said Charter Amendments, proposed and ratified as herein set forth are in words and figures as follows, to-wit:

"ARTICLE IV.

Compensation of officers, etc

"Section 3. All officers, assistants, deputies, clerks and employees shall receive such compensation as the Council may from time to time determine by resolution, except, that the members of the Council while sitting as a Board of Equalization shall be paid $10.00 per day, for each day actually served; provided, however, that the compensation of elective officers, not otherwise fixed by this Charter, shall be fixed and determined by ordinance only."

"ARTICLE XXIII.

Contracts tainted with interest

"Section 8. No member of the Council or of any board and no officer or employee of the City, shall be or become interested in any contract for which bids are or may be required for the furnishing of labor or materials to or for the City, nor shall either or any of them receive any gratuity or advantage from any contract or from the contractor furnishing any labor or material under any contract, the cost or consideration of which is payable from the City Treasury. Any such contract with the City in which any such officer or employee is or become interested shall be declared void by the Council."

And we do hereby further certify that the foregoing constitutes a full and true statement of all of the facts and all of the proceedings had by the City of Visalia, in the matter of the proposing, advertising, publishing, noticing, voting upon, canvassing the returns, and declaring the results of the election, in the matter of the proposed amendments of Section 3 of Article IV, and of Section 8 of Article XXIII, of the Charter of the City of Visalia; and that said proposed amendments as hereinbefore set forth are true and correct copies of said amendments as proposed, advertised, published, noticed, votes upon and ratified by the electors of the City of Visalia, as hereinbefore set forth.

IN WITNESS WHEREOF, we have hereunto set our hands and hereunto affixed the seal of the City of Visalia this 19th day of April, 1943.

J. P. GANNON
Mayor of the City of Visalia.

[SEAL]

BEATRICE THUT
City Clerk of the City of Visalia.

and

WHEREAS, The said proposed charter amendment as ratified, as hereinbefore set forth, has been, and is now duly presented and submitted to the Legislature of the State of California

for approval or rejection as a whole, without power of alteration or amendment, in accordance with the provisions of Section 8, Article XI of the Constitution of the State of California; now, therefore, be it

Approval

Resolved by the Senate of the State of California, the Assembly thereof concurring, A majority of all the members elected to each house voting thereon and concurring therein, that the aforementioned amendment to the charter of the City of Visalia as proposed to, and adopted and ratified by, the electors of said city as hereinbefore set forth, be, and the same hereby is, approved as a whole, without amendment or alteration, for and as an amendment to, and as part of, the charter of the City of Visalia.

CHAPTER 86

Senate Concurrent Resolution No. 38—Approving an amendment to the charter of the City of Chico, County of Butte, State of California, voted for and ratified by the qualified electors of said city at a general municipal election held therein on the twelfth day of April, 1943.

[Filed with Secretary of State April 26, 1943]

City of Chico: Charter amendment

WHEREAS, Proceedings have been taken and had for the purpose of adoption and ratification of certain amendments hereinafter set forth to the charter of the City of Chico, a municipal corporation in the County of Butte, State of California, as set forth in the certificate of the mayor and city clerk of said city, as follows, to wit:

STATE OF CALIFORNIA,
County of Butte, } ss.
CITY OF CHICO.

Certificate

We, the undersigned, E. L. MEYERS, M. D., Mayor of the City of Chico, and H. H. HUME, Clerk of the City of Chico, do hereby certify and declare as follows:

That the City of Chico in the County of Butte, State of California, has at all times mentioned herein been, and now is, a municipal corporation of the State of California, containing a population of more than thirty-five hundred (3500) inhabitants and less than fifty thousand (50,000) inhabitants, and ever since the 16th day of April, 1923, organized, existing and acting under a free-holders charter adopted under and by virtue of the provisions of Section VIII, Article XI of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said City at an election held for that purpose on the 15th day of December, 1921, and approved by the Legislature of the State of California on the 3rd day of February, 1923.

That the legislative body of said city, namely: the Council of said City, of its own motion did pursuant to the provisions of Section VIII, Article XI of the Constitution of the State of California by resolution adopted the 2nd day of February, 1943, and duly published in the manner and form required by law, duly proposed to the qualified electors of the City of Chico a certain amendment to the Charter of said city and order that said amendment be submitted to the qualified electors of said city at the General Municipal Election to be held in said City on the 12th day of April, 1943, the date of which election is fixed by said Charter of the City of Chico hereinbefore referred to, and which said date was fixed in said resolution as the date for voting upon said amendment as proposed.

That the proposed amendment was duly and regularly published and advertised on the 28th day of February, 1943, in accordance with Section VIII, Article XI of the Constitution of the State of California, in the "CHICO RECORD", a daily newspaper of general circulation printed and published in the City of Chico and having a general circulation therein, the said newspaper being the official newspaper of the City of Chico.

That copies of said proposed amendment to said Charter were printed in convenient pamphlet form, and from the date of the first publication of said proposed amendment until the date fixed for the election on said Charter amendment, the legislative body of the City of Chico, to-wit: the Council of the City of Chico, caused to be published in the CHICO RECORD, said official newspaper of the City of Chico, a notice that such copies could be had upon application therefor in the office of the City Clerk of the City of Chico.

That the said Council of the City of Chico did by Ordinance No. 331, dated March 2, 1943, entitled: "An Ordinance Calling for the Holding of a Municipal Election on Monday, April 12, 1943, Fixing the Time, Stating the Objects of said Election, Designating the Officers of the Election Precincts, Consolidating Regular Election Precincts and Designating the Polling Places of each Consolidated Polling Precinct", order the holding of the general municipal election for the said City of Chico on the 12th day of April, 1943, for the purpose, among other things, of causing a vote upon the ratification of said proposed charter amendment, which said date so fixed was not less than forty days nor more than sixty days after the completion of the publication of the proposed charter amendment; and that in accordance with the provisions of the Charter of the City of Chico and said Ordinance so adopted, the City Clerk of the City of Chico did cause said Ordinance to be published in the CHICO RECORD once each week for two weeks next preceding the date fixed for said election, to-wit: March 30, 1943, and April 6, 1943, pursuant to the provisions of the Charter of the City of Chico; and which said Ordinance provided, among other

things, for the voting upon said proposition entitled: "Proposed Amendment to the Charter of the City of Chico."

That said General Municipal Election was held in the said City of Chico on the 12th day of April, 1943, which said day was not less than forty days nor more than sixty days after the publication of the "Resolution that Proposed Amendment to the Charter of the City of Chico be Submitted to the Voters of said City at the General Municipal Election to be held in said City on April 12, 1943," in the CHICO RECORD on February 28, 1943, as aforesaid.

That the said Council of the City of Chico did in the manner provided by law, duly and regularly canvas the returns of said election, and did duly declare the result of said election insofar as it concerned the proposed charter amendment as determined from a canvas of the returns thereof, which result was as follows:

Total number of votes cast upon ratification of said proposed Charter amendment	1419
In favor of the ratification of said proposed Charter Amendment	824
Against the ratification of said proposed Charter Amendment	482

That at the said general municipal election held on the 12th day of April, 1943, as aforesaid, the said proposed charter amendment was ratified by a majority of the qualified electors of said City voting thereon.

That the Charter amendment so ratified by the qualified electors of the City of Chico is now submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration or amendment, in accordance with Section VIII, Article XI of the Constitution of the State of California, and which is in words and figures as follows:

"PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF CHICO.

April 12, 1943.

PROPOSITION ONE

Section 1. That Section 38, Article V, of the Charter of the City of Chico be amended by repealing and striking therefrom the following language:

"one per cent"

and adding thereto and substituting therefor the language:

"one and one-quarter per cent"

said section as amended to read as follows:

Section 38. TAX RATE: The total tax rate for any one year shall not exceed one and one-quarter per cent of the assessed valuation, unless a special tax be authorized by a two-thirds majority of all votes cast at an election held after at least thirty days' notice in the published call for the election; and the proceeds of all such special tax shall be used

Tax rate

Additional amount

for no other purpose than that specified in said call; provided, however, that in addition to said one and ¼ per cent there shall be included in every annual levy a sufficient amount to cover all liabilities of the City for principal and interest of all bonds or judgments due and unpaid, or to become due during the ensuing fiscal year and not otherwise provided for.

Provided further, that in addition to the above taxes mentioned, there shall be levied a tax not to exceed twenty cents on each one hundred dollars of assessed valuation for the Library fund; and further there shall be levied a tax not to exceed thirty-five cents on each one hundred dollars of assessed valuation for the support of Parks and Playgrounds and street and sidewalk trees and shrubbery; provided, further, that the Council may in its discretion levy a tax not to exceed thirty cents on each one hundred dollars of assessed valuation for the purpose of paving or repaving streets or sidewalks and gutters in front of property belonging to the City, and for paying for street and sewer improvements assessed or liened against City owned property."

We further certify that we have compared the foregoing proposed and ratified amendment to the Charter of the City of Chico with the original proposal submitting the same to the electors of said City, and find that the foregoing is a full, true, exact and correct copy thereof.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the seal of the City of Chico to be affixed hereto this 19th day of April, 1943.

E. L. MEYERS, M.D.,
Mayor of the City of Chico
H. H. HUME,
Clerk of the City of Chico.

[SEAL]

WHEREAS, The said proposed charter amendment as ratified, as hereinbefore set forth, has been, and is now duly presented and submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration or amendment, in accordance with the provisions of Section 8, Article XI of the Constitution of the State of California; now, therefore, be it

Approval

Resolved by the Senate of the State of California, the Assembly thereof concurring, A majority of all the members elected to each house voting thereon and concurring therein, that the aforementioned amendment to the charter of the City of Chico as proposed to, and adopted and ratified by, the electors of said city as hereinbefore set forth, be, and the same hereby is, approved as a whole, without amendment or alteration, for and as an amendment to, and as part of, the charter of the City of Chico.

CHAPTER 87

Senate Concurrent Resolution No. 39—Relative to approving certain amendments to the charter of the City of San Luis Obispo in the County of San Luis Obispo, State of California, voted for and ratified by the electors of said city at the general municipal election held therein on the fifth day of April, 1943.

[Filed with Secretary of State April 26, 1943.]

City of San Luis Obispo Charter amendments

WHEREAS, Proceedings have been taken and had for the purpose of adoption and ratification of certain amendments hereinafter set forth to the charter of the City of San Luis Obispo, a municipal corporation in the County of San Luis Obispo, State of California, as set forth in the certificate of the mayor and city clerk of said city, as follows, to wit:

CERTIFICATE OF ADOPTION BY THE QUALIFIED ELECTORS OF THE CITY OF SAN LUIS OBISPO OF CERTAIN AMENDMENTS TO THE CHARTER OF THE CITY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

STATE OF CALIFORNIA,
COUNTY OF SAN LUIS OBISPO } SS
CITY OF SAN LUIS OBISPO.

Certificate

We, F. C. Kimball, Mayor of the City of San Luis Obispo and J. E. Brown, City Clerk of the City of San Luis Obispo, do hereby certify as follows:

That said City of San Luis Obispo, in the County of San Luis Obispo, State of California, is now, and was at all times herein mentioned a city containing a population of more than three thousand five hundred inhabitants, but less than fifty thousand inhabitants, as ascertained by the last preceding census taken under authority of the Congress of the United States; and,

That said City of San Luis Obispo is now, and was at all of the times herein mentioned, organized and existing under a freeholder's charter adopted under the provisions of Section Eight, Article Eleven, of the Constitution of the State of California, which charter was duly ratified by a majority of the electors of said city at a special election held therein on the 12th day of September, 1910, and approved by the Legislature of the State of California, by Concurrent Resolution, filed with the Secretary of State, February 23, 1911 (Statutes of 1911, Page 1698); and,

That, pursuant to the provisions of Section Eight of Article Eleven of the Constitution of the State of California, the Legislative body of said city, namely: the City Council of said city did, on its own motion and pursuant to the provisions of Section Eight of Article Eleven of the Constitution of the

State of California, duly propose to the electors of said City of San Luis Obispo two amendments to the charter of said city and ordered that said amendments be submitted to said electors at the general municipal election to be held in said city on the 5th day of April, 1943; and,

That said proposed amendments were, and each of them was, on the 18th day of February, 1943, duly published in the Telegram-Tribune, a daily newspaper of general circulation published in said City of San Luis Obispo, and the newspaper designated by said City Council for that purpose, and in each and every addition thereof published on said day, as appears from the affidavit of publication now on file; and

That said proposed amendments were printed in convenient pamphlet form in type of not less than ten-point, and from the 18th day of February, 1943, to the 5th day of April, 1943, both inclusive, a notice was published in said Telegram-Tribune that such copies could be had upon application therefor at the office of the City Clerk of said city, as appears from the affidavit of publication now on file; and,

That said City Council did, by an election proclamation and resolution which was duly adopted on the 15th day of March, 1943, order the holding of the general municipal election and consolidated charter amendment election in said City of San Luis Obispo, on the 5th day of April, 1943, which date was not less than forty days and not more than sixty days after the completion of the publication of said proposals of amendments to the charter of the City of San Luis Obispo, as aforesaid, and which election proclamation and resolution was published at least once a week for two successive weeks prior to said election, in the Telegram-Tribune, a newspaper of general circulation printed and published in said city; and,

That said general municipal election and consolidated charter amendment election was held in said City of San Luis Obispo on said 5th day of April, 1943, and that at such election, held as aforesaid, a majority of the qualified voters of said City of San Luis Obispo voting thereon voted in favor of said two proposals of amendment to the charter of the City of San Luis Obispo, and duly ratified the same; and,

That said proposals of amendment to the charter of the City of San Luis Obispo so ratified as aforesaid, were and are amendments known as and numbered, Charter Amendment No. 1 and Charter Amendment No. 2; and,

That the City Council of said City of San Luis Obispo, after duly and regularly canvassing the return of said election, at the time and in the manner and form prescribed by law, duly found, determined and declared that a majority of the qualified voters voting thereon voted in favor of and ratified said proposals of amendment to the charter of the City of San Luis Obispo known as charter amendment No. 1 and charter amendment No. 2; and,

That said proposals of amendment to the Charter of the City of San Luis Obispo ratified by the electors of said city, as aforesaid, are in words and figures as follows, to-wit:

CHARTER AMENDMENT NO. 1

That Section 15 of Article III of the charter of the City of San Luis Obispo be amended so that the same shall be and read as follows:

Sec. 15 SALARIES. The mayor shall receive an annual salary of six hundred dollars, payable in equal monthly installments. Salaries

Each councilman shall receive an annual salary of five hundred dollars, payable in equal monthly installments.

The city council shall regulate the compensation of the city clerk and shall regulate the number, method of appointment, terms of office or employment, and compensation of any deputy or assistant city clerk and all employees in the office of the city clerk.

Each school director shall receive two and one-half dollars for each regular meeting of the board of education which he shall attend, provided that he shall not receive more than 10 dollars in any one month.

The provisions of this section in reference to the compensation of the city clerk shall apply to the person elected as city clerk at the election at which this amended section is adopted.

CHARTER AMENDMENT NO. 2

That Section 52 of Article IX of the charter of the City of San Luis Obispo be amended so that the same shall be and read as follows:

Sec. 52 BOARD OF EQUALIZATION. The Council shall meet at their usual place of holding meetings on the first Monday in July of each year, at ten o'clock in the forenoon of said day, and sit as a board of equalization and shall continue in session for that purpose, from time to time, until the business of equalization is disposed of, but not later than the third Monday in July. Place and time of meeting

That the foregoing is a full, true and correct copy of said proposals of amendment to the charter of the City of San Luis Obispo, ratified by the electors of said city, as aforesaid, on file in the office of the City Clerk of said City of San Luis Obispo.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the seal of the City of San Luis Obispo to be hereunto affixed, on this 16th day of April, 1943.

F. C. KIMBALL
Mayor of the City of
San Luis Obispo

[SEAL]

J. E. BROWN
City Clerk of the City of
San Luis Obispo

and

WHEREAS, The said proposed charter amendments as ratified, as hereinbefore set forth, have been, and are now, duly presented and submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration or amendment, in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Approval

Resolved by the Senate of the State of California, the Assembly thereof concurring, A majority of all members elected to each House voting thereon and concurring therein, that the aforementioned amendments to the charter of the City of San Luis Obispo as proposed to, and adopted and ratified by, the electors of said city as hereinbefore set forth, be, and the same hereby are, approved as a whole, without amendment or alteration, for and as amendments to and as parts of, the charter of the City of San Luis Obispo.

CHAPTER 88

Senate Concurrent Resolution No. 41—Relative to execution by Japanese military authorities of American fliers held as prisoners of war.

[Filed with Secretary of State April 26, 1943]

Condolence to bereaved families of fliers executed by Japanese

WHEREAS, Our Government has received from neutral sources authentic information that the military authorities of Japan have murderously executed American fliers held by them as prisoners of war, which has come as a profound shock to the entire civilized world; and

WHEREAS, Our fliers were engaged in a legitimate service in the cause of humanity as members of our armed forces during a state of war, which war was instigated by Japan in the unprovoked and dastardly attack on Pearl Harbor and on our cities and civilian population; and

WHEREAS, The execution of those prisoners of war is a malicious and premeditated violation of international law, is uncivilized, cruel, brutal and constitutes an act of barbarism unparalleled in the annals of modern warfare; now, therefore, be it

Resolved by the Senate of the California Legislature, the Assembly thereof concurring, That we severely condemn in unmeasured terms such executions as contrary to all rules of humanity, against the accepted edicts of international law and as acts of barbarism reminiscent of the Dark Ages and now practiced only by savages and brutes; and be it further

Resolved, That this Legislature extend to the bereaved families and friends of those devoted heroes the heartfelt

sympathy of the millions of citizens throughout the length and breadth of the great State of California and that by this resolution the people of this State pay a loving tribute to those gallant fliers who so patriotically offered their lives in defense of country and of those principles so vital to liberty —they were not afraid to fight—they were not afraid to die. Wherever they sleep, a Nation's love is with them and their memory will ever be cherished by a grateful people; and be it further

Resolved, That the Secretary of the Senate be directed to forward copies of this resolution to the families of these deceased heroes.

CHAPTER 89

Assembly Concurrent Resolution No. 30—Relative to the problem of spastic and crippled children.

[Filed with Secretary of State April 27, 1943]

Investigation of spastic and crippled children problem

WHEREAS, It is the desire of the Legislature to provide in every way possible for the treatment and education of spastic and crippled children within the State; and

WHEREAS, It is necessary in making such provision that the Legislature be fully informed on the problems relating to the treatment and education of such children; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Public Health is hereby requested and directed to investigate the problem of spastic and crippled children, having particular reference to the number of such children in the State who are in need of, and can be benefited by, special treatment or education; and be it further

Resolved, That the Department of Education cooperate in making the investigation, and that each department be given full access to the findings of the other, and that each department report to the Fifty-sixth Session of the Legislature the result of its investigation and make recommendations as to the treatment and education of such children, together with the facilities required for such purposes and the costs thereof; and be it further

Resolved, That the Governor and the State Planning Board be requested to include a study of such program as a part of the postwar planning; and be it further

Resolved, That the Chief Clerk of the Assembly shall transmit copies of this resolution to the Governor, to the Department of Public Health, to the Department of Education, and to the State Planning Board.

CHAPTER 90

Assembly Joint Resolution No. 16—Relative to Federal participation in the construction of the highway known as the Los Angeles Freeway.

[Filed with Secretary of State April 27, 1943.]

Federal participation in construction of Los Angeles Freeway

WHEREAS, While a large portion of Los Angeles County consists of one metropolitan area, there are nevertheless numerous independent municipalities therein; and

WHEREAS, The highways through this metropolitan area are entirely inadequate to accommodate the traffic using them; and

WHEREAS, In Los Angeles County there are numerous manufacturing and industrial plants which immeasurably contribute to the war effort, particular reference being made to the aircraft and ship building plants located therein; and

WHEREAS, The County of Los Angeles has already expended considerable sums of money in surveying a highway known as the Los Angeles County Freeway which will extend from approximately the northwesterly portion of the metropolitan area through most of the major cities in the county, including the central business district of the City of Los Angeles, generally along and adjacent to the course of the Los Angeles River to the intersection of Long Beach Boulevard and the Los Angeles County Flood Control Channel in Long Beach, and thence generally along the west bank of said channel to a terminus at Pico Avenue and Ocean Boulevard in Long Beach; and

WHEREAS, It appears that the ultimate construction of said Los Angeles County Freeway is essential to the welfare of Los Angeles County and will aid greatly in facilitating the production of those plants now committed to the war effort; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Congress of the United States of America is hereby memorialized to take such steps as may lead to the enactment of appropriate Federal legislation for the construction of said Los Angeles County Freeway at the earliest date possible; and be it further

Resolved, That the Governor be requested to forward copies of this resolution to the President and to the Vice President of the United States, to the Speaker of the House of Representatives and to each of the Senators and Congressmen from California in the Congress of the United States.

CHAPTER 91

Assembly Joint Resolution No. 43—Relative to increasing the quota for Portuguese immigration from Portugal and the Azores as an aid to milk production in California.

[Filed with Secretary of State April 27, 1943]

Increase in immigration quotas from Portugal and Azores

WHEREAS, The dairy industry in the State of California has, by the development of the finest breeds of dairy cattle and through the energetic efforts of producers of milk, become one of the most progressive States in the Union, for the production of dairy cattle and milk; and

WHEREAS, The great milk producing areas of the State and the fine herds of milk cows established therein are now by reason of a shortage of labor and of milkers threatened with extinction, with the result that the production of a sufficient quantity of pure and wholesome milk will not be available to the consuming public; and

WHEREAS, One of the primary reasons for the shortage of the production of milk and consequent shortage of butter, cheese and other milk products is the lack of suitable and capable labor upon the dairy farms and the shortage of qualified milkers; and

WHEREAS, In the development of the dairy industry in the State of California, especially in the San Joaquin Valley, Portuguese immigrants from the Azores Islands have played a major role in the development of the dairy industry and in the increased production of milk; and

WHEREAS, The Portuguese people who have immigrated to the United States from Portugal and the Azores Islands and their children who have been born in California have proven their patriotism and their adherence to the American ideals of government, and have become worthy and sincere citizens of California and the United States; and

WHEREAS, The restricted immigration quota for the Portuguese people from Portugal and the Azores Islands now precludes the entry into the United States of sufficient numbers of them to successfully continue in their efforts for the preservation and greater development of the dairy industry and the increasing of the production of milk in California; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact such legislation as is necessary to permit the increase in the immigration quotas for the Portuguese people from Portugal and the Azores Islands to the United States, in order that they may come to the State of California to augment and increase the labor on dairy farms and engage as milkers; and be it further

Resolved, That the Chief Clerk of the Assembly of the State of California is hereby directed to transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives and to each Senator and Member of the House of Representatives from California in the Congress of the United States.

CHAPTER 92

Senate Concurrent Resolution No. 42—Approving certain amendments to the charter of the City of Modesto, County of Stanislaus, State of California, voted for and ratified by the electors of said City of Modesto, at a general municipal election held therein on the thirteenth day of April, 1943.

[Filed with Secretary of State April 27, 1943.]

City of Modesto. Charter amendments

WHEREAS, Proceedings have been had and taken for the proposal, adoption, and ratification of certain amendments, hereinafter set forth, to the charter of the City of Modesto, a municipal corporation in the County of Stanislaus, State of California, as set out in the certificate of the mayor and city clerk of the said City of Modesto, as follows, to-wit:

CERTIFICATE.

STATE OF CALIFORNIA,
COUNTY OF STANISLAUS, } ss.
CITY OF MODESTO.

Certificate

We, the undersigned, CARL W. SHANNON, Mayor of the City of Modesto, and ELMER J. BLUM, city Clerk of said City, do hereby certify and declare as follows:

That the City of Modesto is a municipal corporation in the County of Stanislaus, State of California; that it now is and at all times herein mentioned was, a city containing a population of more than thirty-five hundred (3500) inhabitants as ascertained by the last preceding census taken under the authority of the Congress of the United States; that it is now organized, existing and acting under a freeholder's charter adopted under and by virtue of Section Eight of Article Eleven of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said City at an election held for that purpose on April 11th, 1910, and approved by the Legislature of the State of California by concurrent resolution filed with the Secretary of State on February 3, 1911;

That in pursuance of Section Eight of Article Eleven of the Constitution of the State of California, on its own motion, the Council of the City of Modesto, being the legislative body of said City, by and in pursuance of a certain resolution passed and adopted by said City Council on the 3rd day of Feb-

ruary, 1943, duly submitted to the qualified electors of the said City of Modesto a certain proposal for the amendments of the charter of said City, to be voted on by said qualified electors at a general municipal election held in said City on the 13th day of April, 1943, which said proposals are hereinafter set forth at length;

That said such proposed amendments were published and advertised in accordance with the provisions of Section Eight, Article Eleven of the Constitution of the State of California, and in accordance with the provisions of the Charter of the City of Modesto, in the "Modesto Bee," which was then and there the official newspaper of the said City of Modesto, and copies of the same were printed in convenient pamphlet form and kept in the office of the City Clerk of said City until the date fixed for the election, the said City Clerk having also advertised, until the date set for the election upon such amendments in said newspaper a notice that such copies might be had upon application therefor; that said proposed amendments were so published and advertised within fifteen days after they were filed with the City Clerk, and that the election at which they were voted on was, by a resolution of the said City Council adopted on March 10th, 1943, fixed and set for the 13th day of April, 1943, which was not less than forty and not more than sixty days after the completion of the advertising in the official paper as aforesaid;

That said election was, as aforesaid, duly called and held on the 13th day of April, 1943, and at said election a majority of the qualified electors, voting thereon, voted in favor of and the ratification of, and did ratify, the proposed amendments to the Charter of the City of Modesto hereinafter set forth;

That said election was, as aforesaid, duly called and held on the 13th day of April, 1943, in accordance with the law in such cases made and provided, duly and regularly canvassed and certified to, and it was duly found, determined and declared by the proper officers thereunto duly and properly authorized, that a majority of the qualified electors voting thereon had voted for and in favor of and ratified said proposed amendments to said charter as hereinafter set forth;

That the said proposed amendments were and are in the words and figures following:

CHARTER AMENDMENTS.

Amend Subdivision 25 of Section 6 of Article IV of the Charter of the City of Modesto to read as follows:

Subdivision 25. The provisions of the State Law relating to the qualifications of electors, the manner of voting, the duties of election officers, the canvassing of returns, and all other particulars in respect to the management of elections, so far as they may be applicable, shall govern all municipal elections, provided that the Council shall meet as a canvassing board and duly canvass the election returns within eight

Municipal elections

days after any municipal election, except as otherwise in this Charter provided.

Amend Section 67 of Article XI of said Charter of the City of Modesto to read as follows:

Street franchises

Section 67. Every franchise or privilege for the use of any streets, ways, alleys, or other public places in the City of Modesto, for any purpose other than transmission of gas and/or electricity, shall be granted upon the conditions set forth in sections 68 to 87 inclusive, of this Article and not otherwise, and every franchise for the transmission and distribution of gas and/or electricity shall be granted exclusively pursuant to the provisions of Section 87½ of this Article.

Amend Article XI of said Charter of the City of Modesto by adding thereto and incorporating therein a new section to be numbered 87½ immediately following Section 87 of said Article XI and to read as follows, to-wit:

Gas and electric franchises

Section 87½. Every franchise to use, or to construct and use, poles, wires, conduits and appurtenances for transmitting and distributing electricity for any and all purposes, or to use, or to lay and use, pipes and appurtenances for transmitting and distributing gas for any and all purposes, under, along, across or upon any streets, ways, alleys, or other public places, as the same now or may hereafter exist within the City of Modesto, shall be granted under and pursuant to the "Franchise Act of 1937" as approved by the Governor of the State of California on June 29, 1937, and any amendments thereto, and the life of any such franchise may, as provided in said Act, be indeterminate.

STATE OF CALIFORNIA }
COUNTY OF STANISLAUS, } SS.
CITY OF MODESTO. }

That we, CARL W. SHANNON, Mayor of the City of Modesto, and ELMER J. BLUM, Clerk of the City of Modesto, have compared the foregoing proposed and ratified amendments to the Charter of the City of Modesto with the original proposal submitting the same to the electors of said City at a general municipal election held on the 13th day of April, 1943, and that the foregoing is a full and true, correct and exact copy of said amendments.

We further certify that the facts set forth in the preamble preceding said amendments to said Charter and the matters set forth herein are, and each of them is, true.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the same to be authenticated by the seal of said City of Modesto this 16th day of April, 1943.

CARL W. SHANNON
Mayor of the City of Modesto

[SEAL]

ELMER J. BLUM
City Clerk of the City of Modesto

WHEREAS, Said proposed amendments so ratified as hereinbefore set forth have been and now are duly passed and submitted to the Legislature of the State of California for approval or rejection without power of alteration in accordance with Section Eight of Article Eleven of the Constitution of the State of California; now, therefore, be it

Approval

Resolved by the Senate of the State of California, the Assembly thereof concurring, The majority of all the members elected to each house voting therefor and concurring therein, that said amendments to the charter of the City of Modesto, as proposed to and adopted and ratified by the electors of said city, and as hereinbefore fully set forth, be, and the same are, hereby approved as a whole without amendment or alteration for and as an amendment to and as a part of the charter of said City of Modesto.

CHAPTER 93

Assembly Concurrent Resolution No. 60—Approving an amendment to the charter of the City of San Mateo, a municipal corporation in the County of San Mateo, State of California, voted for and ratified by the qualified electors of said city at a regular municipal election held therein on the sixth day of April, 1943.

[Filed with Secretary of State April 27, 1943.]

WHEREAS, Proceedings have been taken and had for the proposal, adoption and ratification of a certain amendment hereinafter set forth, to the charter of the City of San Mateo, State of California, as set out in the certificate of the mayor and city clerk of said city, as follows, to wit:

City of San Mateo Charter amendment

CERTIFICATE OF ADOPTION OF CHARTER AMENDMENT

STATE OF CALIFORNIA }
County of San Mateo } SS.
City of San Mateo }

We, the undersigned, CLAUDE J. HIRSCHEY, Mayor of the City of San Mateo, and BELTON RHODES, City Clerk of said City, do hereby certify and declare as follows:

Certificate

That the City of San Mateo, a municipal corporation in the County of San Mateo, State of California, is now and at all times herein mentioned was, a city containing a population of more than 3,500 inhabitants and less than 50,000 inhabitants, and has ever since the 26th day of January, 1923, and is now, organized, existing and acting under a freeholders' charter adopted under and by virtue of Section 8 of Article XI of the Constitution of the State of California, which Charter was duly ratified by the qualified electors of said city at an election duly held for that purpose on the 19th day of December, 1922,

and approved by the Legislature of the State of California by a concurrent resolution filed with the Secretary of State on the 26th day of January, 1923.

That pursuant to and in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, the Council of the City of San Mateo, being the legislative body thereof, on its own motion, duly and regularly submitted a certain proposal for the amendment of the Charter of said city, to be voted on by the qualified electors of said city at the regular municipal election to be held therein on the 6th day of April, 1943.

That pursuant to resolution duly adopted by the City Council of said City of San Mateo, the said proposed charter amendment was published and advertised in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California.

That said general municipal election was duly and regularly held on Tuesday, April 6, 1943, and the City Council of said City of San Mateo did, in the manner provided by law, duly and regularly canvass the returns of said election and did on the 13th day of April, 1943, by Resolution No. 437, duly declare and certify the result of said general municipal election as determined from the canvass of the returns thereof.

That at said general municipal election a majority of the qualified electors voting on said proposal to amend the Charter of said City of San Mateo voted in favor of said amendment, and the said City Council of said City did by said Resolution No. 437 find, determine and declare that the said proposed amendment to the Charter of the City of San Mateo, being Proposal No. One was ratified by a majority of the qualified electors of said city voting thereon.

That said amendment to the charter so ratified by the qualified electors of the City of San Mateo, at said general municipal election, is in words and figures as follows, to-wit:

PROPOSAL NO. ONE

Shall the charter of the City of San Mateo, California, be amended by adding thereto a new section designated as Section 49a to read as follows:

Civil service

Section 49a. Any ordinance submitted to and approved by vote of the people which establishes a merit system for the selection and promotion of subordinate officials and employees of the city and which provides against their demotion, suspension, or dismissal, shall be controlling as against any conflicting provisions of the charter, and shall only be repealed or amended by a majority vote of the people, except as in said ordinance otherwise provided"?

And we further certify that we have compared the foregoing amendment with the original proposal filed and submitted to the qualified electors of the City of San Mateo, as aforesaid, and find that the foregoing is a full, true and correct copy thereof.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the Seal of said City of San Mateo to be affixed hereto, this 14th day of April, 1943.

CLAUDE J. HIRSCHEY
Mayor of the City of San Mateo

[SEAL]

BELTON RHODES
City Clerk of the City of San Mateo

and

WHEREAS, Said proposed charter amendment has been and is now submitted to the Legislature of the State of California, for approval or rejection as a whole, without power of alteration or amendment, in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Resolved, by the Assembly of the State of California, the Senate thereof concurring, A majority of all the members elected to each house voting therefor, and concurring therein, that said amendment to said charter, herein set forth, as submitted to and ratified by the qualified electors of said city, be, and the same is hereby approved as a whole, without alteration or amendment, for and as amendment to, and as part of, the charter of said City of San Mateo. Approval

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CHAPTER 94

Assembly Concurrent Resolution No. 61—Relative to the death of W. O. Russell.

[Filed with Secretary of State April 27, 1943.]

WHEREAS, W. O. Russell of Woodland came to his death on April 22d at the age of 75 years; and Death of W O Russell

WHEREAS, W. O. Russell was a native of California, the son of Francis E. Russell, who reached this State in 1850 and became a Member of California's first Legislature; and

WHEREAS, Although farming was his life's work, W. O. Russell had a great interest in politics and devoted much of his time to public service, having served for 36 years as a member of the Yolo County Board of Supervisors, and having been one of the founders and a past president of the California State Association of County Supervisors; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Members of this Legislature by this resolution take recognition of the faithful public service of W. O. Russell, and express their deepest sympathy to his surviving children, Dr. W. O. Russell of Washington, D. C., and Mrs. Charlotte Ham, wife of Richard C. Ham of Piedmont, California, and that when this Legislature today adjourns it do so out of respect to the memory of W. O. Russell; and be it further

Resolved, That the Chief Clerk of the Assembly is hereby directed to transmit suitable copies of this resolution to the surviving children of W. O. Russell.

CHAPTER 95

Assembly Constitutional Amendment No. 2—A resolution proposing to the people of the State of California to amend Article IV of the Constitution of said State, by adding a new section thereto, relating to expenses of Members of the Legislature.

[Filed with Secretary of State May 4, 1943.]

Constitution, Article IV, Sec 23b

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California, at its Fifty-fifth Regular Session, commencing on the fourth day of January, 1943, two-thirds of all the members elected to each of the two houses of the said Legislature voting in favor thereof, hereby proposes to the people of the State of California that Article IV of the Constitution of said State be amended by adding a new section thereto to be known as Section 23b, to read as follows:

Expense allowance for members of Legislature

Sec. 23b. Members of the Legislature shall receive no compensation for their services other than that fixed by the Constitution but each member shall be allowed and reimbursed expenses necessarily incurred by him while attending regular, special and extraordinary sessions of the Legislature. The amount of the expense necessarily incurred by the respective members, while attending any such sessions, shall be determined and payment thereof provided for by joint rules of the Senate and Assembly. Such expense allowances may equal but shall not exceed the expense allowances now authorized for other elected State officers.

CHAPTER 96

Senate Concurrent Resolution No. 46—Approving certain amendments to the charter of the City of San Diego, a municipal corporation in the County of San Diego, State of California, voted for and ratified by the qualified electors of said city at the regular municipal election held therein on the twentieth day of April, 1943.

[Filed with Secretary of State May 4, 1943.]

STATE OF CALIFORNIA,
County of San Diego,
City of San Diego. } ss.

City of San Diego Charter amendments

We, the undersigned, Howard B. Bard, Mayor of The City of San Diego, and Fred W. Sick, City Clerk of said City, do hereby certify and declare as follows:

Certificate

The City of San Diego, a municipal corporation of the County of San Diego, State of California, now, and at all times herein mentioned, was a City containing a population of

more than one hundred thousand inhabitants, and has been ever since the year 1931, and is now, organized and existing under and pursuant to the provisions of a freeholders' charter adopted in accordance with and by virtue of the provisions of Section 8 of Article XI of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said City at the general municipal election held in said City on the 7th day of April, in the year 1931, in manner, form and substance as required by law, and was thereafter duly approved by joint resolution of the Legislature of the State of California, adopted on the 15th day of April, 1931.

That pursuant to and in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, the Council of The City of San Diego, being the legislative body thereof, on its own motion, by Ordinance No 2624 (New Series), passed and adopted by said Council on the 9th day of March, 1943, and by Ordinance No. 2628 (New Series), passed and adopted by said Council on said 9th day of March, 1943, duly proposed to the qualified electors of The City of San Diego five certain amendments to the charter of said City, designated as Propositions 3, 4, 5, 6 and 7, respectively, and ordered said five proposed charter amendments to be submitted to said qualified electors at the General Municipal Election to be held in said City on the 20th day of April, 1943

That all of said proposed charter amendments were published and advertised in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, in The San Diego Union, a daily newspaper of general circulation published in said The City of San Diego, and the official newspaper of said City, and in each edition thereof during the day of publication.

That copies of said proposed charter amendments were printed in convenient pamphlet form and in type of not less than ten point, and an advertisement that copies thereof could be had upon application therefor at the office of the City Clerk of The City of San Diego was published in The San Diego Union, a daily newspaper of general circulation published in said City, and the official newspaper of said City, on the 24th day of March, 1943, and on each day thereafter until the day fixed for said election, all as required by Section 8 of Article XI of the Constitution of the State of California.

That copies of said proposed charter amendments could be had upon application therefor at the office of the City Clerk of said City until the day fixed for said election. That copies thereof were mailed to each of the qualified electors, as required by law.

That said proposed amendments were submitted, pursuant to the provisions of said Ordinance No. 2624 (New Series) and said Ordinance No. 2628 (New Series), to the qualified electors of said City at the General Municipal Election held in said City on the 20th day of April, 1943.

The said Council did on the second day next succeeding the date of said election then and there by resolution direct the City Clerk to make the canvass of the returns of said election. That upon the completion of said canvass and the certification of the results thereof by the City Clerk to the Council, said Council did, by Resolution No. 78119, passed and adopted April 23, 1943, duly declare the result of said election from the canvass of the returns thereof.

The said Council did by said Resolution No. 78119 declare that the proposed amendments to the Charter of The City of San Diego, being Propositions 3, 4, 5, 6 and 7, were, and each of them was, ratified by a majority of the qualified electors of said City voting thereon.

The said amendments to the Charter, so ratified by the qualified electors of The City of San Diego at said General Municipal Election, are in the words and figures as follows, to-wit:

PROPOSITION NO. 3.

Amend Section 40 of the Charter of The City of San Diego, so as to read as follows:

City attorney

"Section 40. CITY ATTORNEY. A City Attorney shall be elected by the people for a term of four years. The City Attorney shall be the chief legal adviser of, and attorney for the City and all Departments and offices thereof in matters relating to their official powers and duties. The Attorney and his deputies shall devote their full time to the duties of the office and shall not engage in private legal practice during the term for which they are employed by the City, except to carry to a conclusion any matters for which they have been retained prior to taking office.

The City Attorney shall appoint such deputies, assistants, and employees to serve him, as may be provided by ordinance of the Council, but all appointments of subordinates other than deputies and assistants shall be subject to the Civil Service provisions of this Charter.

It shall be his duty, either personally or by such assistants as he may designate, to perform all services incident to the legal department; to give advice in writing, when so requested, to the Council, its Committees, the Manager, the Commissions, or Directors of any Department, but all such advice shall be in writing with the citation of authorities in support of the conclusions expressed in said written opinions; to prosecute or defend, as the case may be, all suits or cases to which the City may be a party; to prosecute for all offenses against the ordinances of the City and for such offenses against the laws of the State as may be required of him by law; to prepare in writing all ordinances, resolutions, contracts, bonds, or other instruments in which the City is concerned, and to endorse on

each his approval of the form or correctness thereof; to preserve in his office a docket of all cases in which the City is interested in any of the courts and keep a record of all proceedings of said cases; to preserve in his office copies of all written opinions furnished by him to the Council, Manager, Commission, or any officer. Such docket, copies and papers shall be the property of the City, and the City Attorney shall, on retiring from office, deliver the same, together with all books, accounts, vouchers, and necessary information, to his successor in office.

He shall have charge and custody of all legal papers, books, and dockets belonging to the City pertaining to his office and, upon a receipt therefor, may demand and receive from any officer of the City any book, paper, document, or evidence necessary to be used in any suit, or required for the purpose of his office.

He shall apply, upon order of the Council, in the name of the City, to a court of competent jurisdiction for an order or injunction to restrain the misapplication of funds of the City or the abuse of corporate powers, or the execution or performance of any contract made in behalf of the City which may be in contravention of the law or ordinances governing it, or which was procured by fraud or corruption. He shall apply, upon order of the Council, to a court of competent jurisdiction for a writ of mandamus to compel the performance of duties of any officer or Commission which fails to perform any duty expressly enjoined by law or ordinance.

The City Attorney shall perform such other duties of a legal nature as the Council may by ordinance require or as are provided by the Constitution and general laws of the State.

Additional counsel

The Council shall have authority to employ additional competent technical legal attorneys to investigate or prosecute matters connected with the Departments of the City when such assistance or advice is necessary in connection therewith. The Council shall provide sufficient funds in the annual appropriation ordinance for such purposes and shall charge such additional legal service against the appropriation of the respective Departments.

Salary

The City Attorney shall receive a salary of $6,500.00 per year, payable monthly.

Vacancy

In the event of a vacancy occurring in the office of the City Attorney by reason of any cause, the Council shall have authority to fill such vacancy, which said authority shall be exercised within thirty (30) days after the vacancy occurs. Any person appointed to fill such vacancy shall hold office only until the next regular municipal election, at which time a person shall be elected to serve for a full term of four years."

PROPOSITION NO. 4.

Amend the Charter of The City of San Diego by adding thereto a new section, to be numbered "Section 71a," to read as follows:

Reappropriations for salaries, etc

"Section 71a. REAPPROPRIATIONS AT BEGINNING OF FISCAL YEAR FOR SALARIES AND MAINTENANCE AND SUPPORT EXPENSES. If at the beginning of any fiscal year the appropriations necessary for the support of the various City offices, departments, services or institutions for such fiscal year shall not have been made, the several amounts appropriated in the Annual Appropriation Ordinance for the preceding year for the objects and purposes therein specified, so far as the same shall relate to salaries and wages and maintenance and support expenses, shall be deemed to be reappropriated for the several objects and purposes specified in said previous year's Annual Appropriation Ordinance until the Council shall adopt the Annual Appropriation Ordinance for the new fiscal year; and during such interim the Auditor and Comptroller shall approve the payments necessary for the support of the various City offices, departments, services and institutions on the basis of the appropriations of the preceding fiscal year."

PROPOSITION NO. 5.

Amend Section 77 of the Charter of The City of San Diego, so as to read as follows:

Levy, collection and disposition of assessments and taxes

"Section 77. CAPITAL OUTLAYS FUND. Notwithstanding any provision contained in this Charter to the contrary, save and except the limitations imposed by Section 76 of this Article, the Council by a vote of not less than five (5) of its members shall have the power to levy and collect, or cause to be collected, assessments or taxes during any fiscal year, for the creation and accumulation of a fund for capital outlays, and subject to the limitations of said Section 76 of this Article.

From and after the creation of such a capital outlay fund all proceeds derived from the sale of any City-owned real estate shall be transferred to such fund.

Whenever such capital outlay fund is created, as herein provided, it shall remain inviolate for the making of any capital outlays, as the term 'capital outlays' is hereinafter defined, and no moneys shall be disbursed therefrom excepting for such a purpose and upon a vote of not less than five (5) members of the Council; provided, however, that the Council may at any time submit a proposition to the electors of the City to obtain the consent of said electors to the use of the moneys, or any portion thereof, in said fund for some other specific purpose. Such proposition may be submitted at any election.

It shall require a two-thirds vote of all the voters voting upon such proposition to authorize the expenditure of the moneys in said fund, or any portion thereof, for such other purpose.

The term 'capital outlays' as used in this section shall be construed to mean and be confined to permanent public improvements, including the reconstruction and replacement of existing public improvements, but shall not include, or take the place of, or be in lieu of:

(a) Harbor improvements or developments provided for by Section 54 of Article V of this Charter.

(b) Specific public improvements for which appropriations are made in the Annual Appropriation Ordinance;

(c) Departmental outlay appropriations contained in the Annual Appropriation Ordinance."

PROPOSITION NO. 6.

Amend Sections 157 and 158 of the Charter of The City of San Diego, so as to read as follows:

"Section 157 CONTRIBUTIONS TO FUND BY POLICE. The Auditor and Comptroller of The City of San Diego shall retain from the pay of each regular member or employee of the Police Department a sum equal to six per cent (6%) of the salary paid to said member or employee, and all fines imposed upon members of the Police Department in keeping with the rules and regulations of said Department, to be forthwith paid into said Police Relief and Pension Fund, and no other or further retention or reduction shall be made from such pay of any member or employee of the Police Department to said fund." Police Relief and Pension Fund

"Section 158. CONTRIBUTIONS TO FUND BY COUNCIL. The Council shall, for the purposes of said Police Relief and Pension Fund herein provided for, except as hereinafter provided, direct the payment annually, from the General Fund of The City of San Diego, into the Police Relief and Pension Fund, of the following moneys: City contributions

(a) One-third ($\frac{1}{3}$) of all rewards given or paid to members of the Police Department because of or in recognition of the performance of official duty.

(b) One-third ($\frac{1}{3}$) of all fines collected in the Municipal Court of The City of San Diego for a violation of any law, except such fines as may be otherwise provided for under the laws of the State of California.

(c) Five per cent (5%) of all revenues derived from licenses granted by The City of San Diego where said licenses are directly under the supervision of the Police Department.

(d) For the payment of a sum equal to all revenue paid into the Police Relief and Pension Fund by members or employees of the Police Department as provided for in Section 157 of this Article, said sum to be equal to the amount retained

by the Auditor and Comptroller of The City of San Diego during the next preceding year; and all such further sum or sums as shall be required for maintenance of said Police Relief and Pension Fund."

PROPOSITION NO. 7.

Amend Section 197 of the Charter of The City of San Diego, so as to read as follows:

Alien labor on public works

"Section 197. ALIEN LABOR ON PUBLIC WORKS PROHIBITED. No alien shall be employed upon the public works of the City, whether such work is done within or outside the limits of the City, and whether such work is done directly by the City or under contract or sub-contract or any other arrangement whatsoever, except in cases of extraordinary emergency caused by fire, flood, or danger to life or property, or except to work upon public military or naval defenses or works in time of war; provided, however, that within thirty days after any alien is permitted to work thereon due to such an extraordinary emergency, the contractor doing the work, or his duly authorized agent, shall file with the officer or public body awarding the contract a report, verified by his oath, setting forth the nature of the said emergency and containing the name of the said alien, and failure to file the said report within the said time shall be prima facie evidence that no such extraordinary emergency existed. If the work is being done directly by the City the officer directly in charge of the work shall file the said verified report covering any such extraordinary emergency with his superior officer or the officer or board which appointed him. The contractor to whom such contract is awarded shall forfeit as a penalty to the City ten dollars for each alien employed in the execution of said contract, or by virtue of the contract, by him, or by any subcontractor under him, upon any of the public works of the City, or upon any work herein mentioned, for each calendar day during which such alien is permitted or required to labor in violation of the provisions of this Section, and the said officer or public body awarding the contract shall cause to be inserted in the contract a provision to this effect. The term 'alien' as used herein shall mean any person who is not a born or fully naturalized citizen of the United States.

Provided, however, anything to the contrary in this section notwithstanding, that during a period when the United States is engaged in war, and for six (6) months following the cessation of hostilities, the City Council may by ordinance adopted by a vote of five (5) of its members, authorize the employment upon the public works of the City, of the nationals of countries allied with the United States or with which the United States is at peace."

And we further certify that we have compared the foregoing amendments with the original proposals submitting the same to the qualified electors of said City and find that the foregoing is a full, true and exact copy thereof.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the seal of said The City of San Diego to be affixed hereto this 27th day of April, 1943.

HOWARD B. BARD
Mayor of The City of San Diego, California.

[SEAL]

FRED W. SICK
City Clerk of The City of San Diego, California.

and

WHEREAS, Said proposed charter amendments are now submitted to the Legislature of the State of California for approval or rejection as a whole without power of alteration or amendment, in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly concurring, A majority of all the members elected to each house voting therefor and concurring therein, that said amendments to said charter herein set forth, as submitted to and adopted and ratified by the qualified electors of said city, be, and the same are, hereby approved as a whole, without amendment or alteration, for and as amendments to and as part of the charter of said The City of San Diego. Approval

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CHAPTER 97

Senate Constitutional Amendment No. 21—A resolution to propose to the people of the State of California to amend the Constitution of the State, by adding Section 5 of Article XIII thereof, relating to property taxation.

[Filed with Secretary of State May 4, 1943]

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its Fifty-fifth Regular Session commencing on the fourth day of January, 1943, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that Section 5 of Article XIII of the Constitution be added, to read as follows: Constitution, Article XIII, Sec 5

Sec. 5. All deeds heretofore and hereafter issued to the State of California or to any taxing agency by reason of delinquency of property taxes or assessments levied by any taxing agency or revenue district, shall be conclusively presumed to be valid unless held to be invalid in an appropriate proceeding in a court of competent jurisdiction to determine the validity of said deed commenced within one year after the execution of said deed, or within one year after the effective date of this Conclusive presumption of validity of tax deeds to State or taxing agency

section, whichever be later. Such proceedings may be prosecuted within the time limits above specified in the manner and subject to the provisions of Sections 3618 to 3636 of the Revenue and Taxation Code, as said sections now exist or may hereafter be amended, or in any other appropriate proceeding now or hereafter provided for by the Legislature.

CHAPTER 98

Senate Concurrent Resolution No. 48—Approving certain amendments to the charter of the City of Oakland, a municipal corporation in the County of Alameda, State of California, voted for and ratified by the qualified electors of said city at a special municipal election held therein on the twentieth day of April, 1943.

[Filed with Secretary of State May 4, 1943.]

City of Oakland Charter amendments

WHEREAS, Proceedings have been taken and had for the proposal, adoption and ratification of certain amendments hereinafter set forth, to the charter of the City of Oakland, a municipal corporation in the County of Alameda, State of California, as set out in the certificate of the mayor and city clerk of said city, as follows, to wit:

STATE OF CALIFORNIA,
COUNTY OF ALAMEDA,
CITY OF OAKLAND. } SS.

Certificate

We, the undersigned, Dr. John F. Slavich, Mayor of the City of Oakland, State of California, and Frank Colbourn, City Clerk of said City, do hereby certify and declare as follows:

That the City of Oakland, a municipal corporation in the County of Alameda, State of California, now is and at all times herein mentioned was a city containing a population of more than three thousand five hundred inhabitants, and has been ever since the first day of July, 1911, and is now, organized, existing and acting under a Freeholders' Charter, adopted under and by virtue of Section 8 of Article XI of the Constitution of the State of California, which charter was duly ratified by a majority of the qualified electors of said city at an election held for that purpose on the eighth day of December, 1910, and approved by the Legislature of the State of California, by Senate Concurrent Resolution filed with the Secretary of State on the fifteenth day of February, 1911 (Statutes of 1911, p. 1551.)

That in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, the Council of the City of Oakland, being the legislative body of said City, on its own motion by its Resolution No. 12,500 C.M.S. passed March 6, 1943, duly and regularly proposed

and submitted to the qualified electors of said City, eight certain proposals designated as Propositions 1 to 8, inclusive, for amending the Charter of said City, to be voted upon by said qualified electors at a special municipal election called and held for that purpose in said City on the 20th day of April, 1943. That said special election was duly and regularly called, authorized and provided for by said Council of said City of Oakland by said aforementioned resolution, and that by said resolution said special election was duly and regularly consolidated with the Nominating Municipal Election to be held in said City on said date. That said consolidated Special Municipal Election was duly and regularly held in said City in accordance with the provisions of the Charter of the City of Oakland and in manner provided by law, after due notice given and published, with the said Nominating Municipal Election, on the 20th day of April, 1943, which said day was not less than forty nor more than sixty days after the completion of the publication and advertisement of the aforementioned proposed amendments in the "Oakland Tribune," the official newspaper of said City.

That such proposed amendments were published and advertised in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, and in accordance with the provisions of the Charter of the City of Oakland, on the 9th day of March, 1943, in the "Oakland Tribune," a daily newspaper of general circulation published in said City of Oakland and the official newspaper of said City, and in each edition thereof, during the day of publication.

That copies of said proposed amendments were printed in convenient pamphlet form, and in type of not less than ten point, and copies thereof were mailed to each of the qualified electors in said City, in accordance with the Constitution of the State of California and the Charter of the City of Oakland; and an advertisement that copies thereof could be had upon application therefor at the office of the City Clerk of the City of Oakland was published in said "Oakland Tribune," a newspaper of general circulation published in said City, on the 12th day of March, 1943, and on each day thereafter to and including the 20th day of April, 1943, the date of said election, all as required by Section 8 of Article XI of the Constitution of the State of California.

That in accordance with the provisions of the Charter of the City of Oakland, the Council of said City provided for the formulation and printing of a statement not exceeding five hundred words in length, descriptive of and explaining the nature or purpose of said proposals to amend the Charter of said City; that a copy of said printed statement was mailed and distributed by the City Clerk of said City to each voter of the City of Oakland, in connection with the sample ballots and the aforementioned printed copies of said proposed amendments.

That as to each of the amendments to the Charter of the City of Oakland hereinafter set forth, this certificate shall be taken as a full and complete certification as to the regularity of all proceedings had and done in connection therewith, and that all provisions of law and of the Charter of the City of Oakland, applicable thereto have been fully conformed to and complied with.

That in accordance with the provisions of the Charter of the City of Oakland, and with the law in such cases made and provided, the Council of the City of Oakland, on the 27th day of April, 1943, at a meeting duly and regularly called and held at its usual place of meeting, duly canvassed the returns of said consolidated elections, as certified by the election boards, and duly found, determined and declared that the said proposed amendments to the Charter of the City of Oakland, designated as Propositions 1, 2, 4, 5, 6, 7 and 8, and each and every one of them, was ratified by a majority of the qualified electors of said City voting thereon, and that said proposed amendment to said Charter designated as Proposition 3 received less than a majority of the votes of the qualified electors voting thereon, and was not ratified; that the proposed amendments to the Charter of the City of Oakland which were so ratified by a majority of the electors of said City, are in words and figures as follows:

Amend Section 126 of the Charter to read as follows: Requirements for Bids.

Bid requirements

Sec. 126. All proposals shall be made upon printed forms to be prepared by the City and furnished gratuitously upon application, with a form for the affidavit, hereinafter provided for, printed thereon. Each bid shall have thereon the affidavit of the bidder that such bid is genuine and not sham or collusive or made in the interest or in behalf of any person not therein named and that the bidder has not directly or indirectly induced or solicited any other bidder to put in a sham bid, or any other person, firm or corporation to refrain from bidding, and that the bidder has not in any manner sought by collusion to secure to himself an advantage over any other bidder. Any bid made without such affidavit or in violation thereof, and also any contract let thereunder, shall be absolutely void. All bids shall be clearly and distinctly written without any erasure or interlineation, and if any bid shall have an erasure or interlineation it shall be invalid.

All proposals offered shall be accompanied by a check certified by a responsible bank, payable to the order of the City Clerk, for an amount not less than 10 per cent of the aggregate of the proposal; and no proposal shall be considered unless accompanied by such check.

No person, firm or corporation shall be allowed to make or file or be interested in more than one bid for the same work. If it appears that the same person, firm or corporation is interested in more than one bid, all such bids shall be rejected.

Prior to the hour specified in the notice inviting sealed proposals, all bids shall be delivered to the City Clerk, or Secretary of the Board as the case may be. Any bid not so delivered shall not be considered. Each bid as it is received and opened by the Council, or Board as the case may be, shall be numbered and marked "Filed" by the President and authenticated by his signature. At the hour stated in the advertisement, or as soon thereafter as the Council, or Board as the case may be, shall convene, it shall, in open session, open, examine and publicly declare all bids received, and an abstract of each bid shall be recorded in the minutes of the Council, or Board as the case may be, by the City Clerk or the Secretary of such Board. Before adjourning, or at any time, not exceeding twenty days, thereafter, the Council, or Board as the case may be, shall award the contract to the lowest responsible bidder, except as otherwise in this Charter provided. Notice of such award shall forthwith be posted conspicuously for five days by the City Clerk, or the Secretary of such Board, on a bulletin board at or near the Council Chamber door of the Council.

The Council, or Board as the case may be, may reject any and all bids, and must reject the bid of any party who has been delinquent or unfaithful in any former contract with the City, and all bids other than the lowest regular bid; and on accepting such lowest bid, shall thereupon return to the proper parties the checks corresponding to the bids so rejected. If all the bids are rejected, the Council, or Board as the case may be, shall return all the checks to the proper parties and may again invite sealed proposals as in the first instance.

The check accompanying the accepted bid shall be held by the City Clerk until the contract, as hereinafter provided, has been entered into, and the bond accompanying the same, as hereinafter provided, is approved and filed, whereupon said certified check shall be returned to said bidder.

If said bidder fails or refuses to enter into the contract, as hereinafter provided, then the certified check accompanying his bid, and the amount therein mentioned, shall be forfeited to the City, and shall be collected and paid into the General Fund. Neither the City Council nor any Board shall have the power to relieve from or remit such forfeiture.

Amend Subdivision (7) of Section 46 of the Charter to read as follows:

Ordinances Required in Certain Cases.

When ordinance required

(7) No action providing for the transfer, sale or lease of public property; for the acquisition of real property, or any interest therein, the purchase price of which is Five Hundred Dollars ($500.00) or more; for the levying of any tax or assessment; for the establishing or changing fire limits, or for the imposing of any penalty, shall be taken, and no franchise shall be granted, except by ordinance; provided, that such

exceptions be observed as may be called for in cases where the Council takes action in pursuance of a general law of the State.

The provisions of Section 178 of this Charter shall not apply to the acquisition of real property, or any interest therein, the purchase price of which is less than Five Hundred Dollars ($500.00).

Appropriations

All appropriations of money by the Council shall be by ordinance, provided that appropriations for sums less than Five Hundred Dollars ($500.00) may be made by resolution, on which a vote by ayes and noes shall be taken and recorded; provided further that six affirmative votes shall be required to pass such resolutions; provided further that only one such resolution shall be passed appropriating money, directly or indirectly, for any one purpose or object, or for any two or more purposes or objects directly or indirectly related to each other or which may be directly or indirectly parts of the same general or particular scheme or proposition.

Add Subdivision (4½) to Section 33 of the Charter to read as follows:

Contributions by Members in Military Service.

Contributions to retirement system by members in military service

(4½) Members of the retirement system who are absent from the City service by reason of having been ordered to duty with the armed forces of the United States, or by reason of voluntary service in said forces, during a war involving the United States as a belligerent, or in any other national emergency, may contribute to the system, and the City Council shall establish by ordinance the conditions under which and the manner in which such contributions may be made. Said ordinance shall provide further that the City shall also contribute to the retirement system at the rates established on behalf of each respective absent member who may make contributions hereunder.

Add Section 80c to the Charter to read as follows:

Emergency Patrolman and Hoseman.

Emergency patrolmen and hosemen

Sec. 80c. During the continuance of the existence of the present National emergency declared by the President of the United States, and not to exceed one year thereafter, the Council shall have the power to create positions of Emergency Patrolman in the Police Department and Emergency Hoseman in the Fire Department, and fix the compensation thereof, which emergency positions shall not be subject to the Civil Service provisions of this Charter. No appointments shall be made to such emergency positions while there exists any eligible list for positions of Patrolman in the Police Department or Hoseman in the Fire Department from which regular appointments can be made. The Civil Service Board shall have the power to fix the age limit and other qualifications for appointment to such emergency positions. All persons appointed to the position of Emergency Patrolman shall be members of the Police Department during the term of their

employment, and all persons appointed to the position of Emergency Hoseman shall be members of the Fire Department during the term of their employment. The positions created pursuant to this section shall cease to exist upon the termination of the power to create such positions.

While this section is in effect it shall supersede any existing provisions of this Charter which are in conflict with this section, but any provisions in conflict herewith are not repealed by this section.

Repeal Section 90 of the Charter, the title of which is "Change of Titles of Present Officers." Repeal

Amend Sections 91, 96½ and 97 of, and add Sections 91a, 91b, 91c, 97a, 97b, 97c and 97d to, the Charter to read as follows:

Sec. 91. The officers and members of the Police Department shall receive annual compensations comprising their salaries of not less than the amounts hereinafter set forth, to-wit: Police department salaries

Chief of Police	$5,400.00
Captain of Inspectors	4,200.00
Captain of Police, each	3,600.00
Lieutenants of Police, each	3,000.00
Inspectors of Police, each	2,760.00
Assistant Inspectors, each	2,640.00
Sergeants of Police, each	2,640.00
Corporals of Police, each	2,580.00
Patrolmen, third year of employment, each	2,400.00
Patrolmen, second year of employment, each	2,280.00
Patrolmen, first year of employment, each	2,160.00

Said compensations shall be paid in equal monthly installments.

In addition to the minimum compensation or salary hereinabove set forth, each officer and member of the Police Department shall receive an increase in his compensation or salary sufficient to make such compensation or salary equal to fifteen (15) per cent more than the minimum compensation or salary for his respective rank as hereinabove set forth, from and after the effective date of this amendment; provided, whenever it shall be found by the City Council, by ordinance, adopted by not less than six affirmative votes, that an economic condition justifying a reduction in compensation or salaries herein provided for confronts the Oakland city government due to extraordinary conditions beyond the control of said city government, said Council may by said ordinance provide for and effect a reduction of all or any part of said fifteen (15) per cent increase fixed by this section, and Section 96½ of this Charter, and the consequent decrease of monthly installments of such annual salaries shall be in direct proportion to such decrease in annual salaries; provided, further, that said reduction shall not affect other than monthly installments paid during the remaining portion of the then current fiscal year,

except that such ordinance may be adopted within the month of June of any year to effect such reduction for the ensuing fiscal year or portion thereof.

No compensation or salary less than those herein specified shall be paid to any officer or member of the Police Department except as provided herein and in Section 91a and no rank or grade other than those herein specified shall be created or exist in the said Department.

Any increases in salary or compensation granted for any rank or grade shall apply to all officers or members in such rank or grade; provided, however, that the City Council shall have the power to provide compensation, in addition to that hereinabove provided for, for the following members of the Police Department: Members of the Department assigned or detailed to duty as motorcycle officers, Lieutenants of Police assigned or detailed for duty under the direction of the Captain of Inspectors, and the member of the Department assigned or detailed for duty in charge of the City Jail.

Police Relief and Pension Fund

Sec. 91a. There shall be deducted from each monthly installment of salary due pursuant to the provisions of Section 91, a sum equal to five per cent of such monthly installment, which sum so deducted shall be retained by the Treasurer of the City and forthwith paid by him into the Police Relief and Pension Fund. The City shall contribute the balance necessary to maintain said fund pursuant to the provisions of this Charter. No other or further deduction shall be made from the pay of any officer or member of the Department for any fund or purpose unless the same is authorized by this Charter.

Temporary vacancy

Sec. 91b. When a temporary vacancy is caused in the Department in any rank above patrolman by sickness, injury, temporary retirement, leave of absence, vacation, or otherwise, the Chief of Police may assign an officer or member of the Department to the position so vacated from the next lower rank and from the eligible list of the Civil Service Board, if there be such an eligible list, to fill said position until such time as the absent officer or member shall return. When any such vacancy is caused in the rank of patrolman the Chief of Police may assign a person to such vacancy from the eligible list of the Civil Service Board to fill said position until such time as the absent member shall return. Any officer, member or person so assigned to fill a temporary vacancy shall receive the salary attached to the rank to which he may be assigned and any person who was not previously a member of the Police Department who may receive a temporary assignment as patrolman shall be a member of the Department during the time of such assignment.

Promotion

Sec. 91c. Promotions in the Police Department shall be based on ascertained merit, seniority in service and standing upon competitive examination. In all cases, where practicable,

vacancies shall be filled by promotion from among such members of the next lower rank, without further physical examination or agility test, as present themselves for examination for promotion. Appointment to the lowest rank in the Department shall be made from those highest on the eligible list.

Lay-off

In case the Police Department is reduced for any reason, the last member or members in the lowest rank shall be the first laid off; then, if necessary, the last member or members who have received a promotion to a higher rank shall be returned to the position held prior to promotion and so on in like order until the required reduction is complete. When the Department is increased at any time, or a vacancy occurs for any reason, any member or members previously laid off or demoted pursuant to a reduction in the number of members of the Department shall be reinstated to the position held prior to reduction in the order of their original certification.

Any member whose promotional appointment to a position of higher rank is terminated by reason of the return of the former occupant of such position shall be returned to the position in the rank held by such member prior to promotion.

Matrons and substitute matrons of city prison

Sec. 96½. There shall be employed in the Department of Public Health and Safety such number of matrons and substitute matrons of the City Prison as the Council shall from time to time prescribe by ordinance; providing, that such number of matrons shall not be less than three and that such number of substitute matrons shall not be less than one. All appointments of matrons and substitute matrons shall be made by the City Manager from the eligible list of the Civil Service Board. The compensation of said matrons shall not be less than $1,920 00 per annum each. Such compensation shall be paid in equal monthly installments. The compensation of said substitute matrons shall be at the rate of not less than $1,920 00 per annum each, to be paid only for the time during which said substitute matrons shall actually perform the services of matrons There shall be deducted from each monthly installment of salary due pursuant to the provisions of this article, a sum equal to five per cent of such monthly installment, which sum so deducted shall be retained by the Treasurer of the City and forthwith paid by him into the Police Relief and Pension Fund. Such matrons and substitute matrons shall be entitled as if officers or members of the Police Department to all the rights, privileges and benefits conferred by Sections 92, 92½, 93, 93½, 94, 95 and 96 of the Charter upon officers or members of the Police Department, and their compensation or salary shall be subject to increase and decrease as provided in Section 91 hereof.

Fire department salaries

Sec. 97. The Fire Department shall consist of the officers and members of the respective ranks in the order as in this

section enumerated and they shall receive annual compensations comprising their salaries of not less than the amounts hereinafter set forth, to-wit:

Chief of the Fire Department	$5,400.00
First Assistant Chief of Fire Department	4 200.00
Second Assistant Chief of Fire Department	4.200.00
Battalion Chiefs, each	3.600.00
Superintendent of Engines	3.900.00
Captains, each	2.820.00
Lieutenants, each	2.670.00
Engineers, each	2.640.00
Chiefs' Operators, each	2.520.00
Hosemen, third year of employment	2,400.00
Hosemen, second year of employment	2.280.00
Hosemen, first year of employment	2,160.00

Said compensations shall be paid in equal monthly installments.

Persons holding the position of Stoker in the Fire Department at the time this amendment to the Charter takes effect shall be ranked as Hosemen and shall receive the same compensation as other Hosemen in the Department.

In addition to the minimum compensation or salary hereinabove set forth, each officer and member of the Fire Department shall receive an increase in his compensation or salary sufficient to make such compensation or salary equal to fifteen (15) per cent more than the minimum compensation or salary for his respective rank as hereinabove set forth, from and after the effective date of this amendment; provided, whenever it shall be found by the City Council, by ordinance, adopted by not less than six affirmative votes, that an economic condition justifying a reduction in compensation or salaries herein provided for confronts the Oakland city government due to extraordinary conditions beyond the control of said city government, said Council may by said ordinance provide for and effect a reduction of all or any part of said fifteen (15) per cent increase fixed by this section, and the consequent decrease of monthly installments of such annual salaries shall be in direct proportion to such decrease in annual salaries; provided, further, that said reduction shall not affect other than monthly installments paid during the remaining portion of the then current fiscal year, except that such ordinance may be adopted within the month of June of any year to effect such reduction for the ensuing fiscal year or portion thereof.

No compensation or salary less than those herein specified shall be paid to any officer or member of the Fire Department except as provided herein and in Section 97b and no rank or grade other than those herein specified shall be created or exist in the said Department. Any increases in salary or compensation granted for any rank or grade shall apply to all officers or members in such rank or grade.

Fire department ranks

Sec. 97a. There shall not be less than the following number of occupants of positions in the ranks specified in Section 97, to-wit:

One Chief of the Fire Department
One First Assistant Chief of the Fire Department
One Second Assistant Chief of the Fire Department
Four Battalion Chiefs
One Superintendent of Engines
Seven Captains
Twenty-one Lieutenants
Twenty-one Engineers
Six Chiefs' Operators
One hundred and seventy-five Hosemen

Provided, that the City Council may increase the number of positions as the necessity of the City may require.

Firemen's Relief and Pension Fund

Sec. 97b. There shall be deducted from each monthly installment of salary due pursuant to the provisions of Section 97, a sum equal to five per cent of such monthly installment, which sum so deducted shall be retained by the Treasurer of the City and forthwith paid by him into the Firemen's Relief and Pension Fund. The City shall contribute the balance necessary to maintain said fund pursuant to the provisions of this Charter. No other or further deduction shall be made from the pay of any member of the Department for any fund or purpose unless the same is authorized by this Charter and no compensation or salary less than that herein specified shall be paid to any officer or member of the Fire Department.

Promotions

Sec. 97c. Promotions in the Fire Department shall be based on ascertained merit, seniority in service and standing upon competitive examination; in all cases, where practicable, vacancies shall be filled by promotion from among such members of the next lower rank, without further physical examination or agility test, as present themselves for examination for promotion. Appointment to the lowest rank in the Department shall be made from those highest on the eligible list.

Lay-off

In case the Fire Department is reduced for any reason, the last member or members employed in the lowest rank shall be first laid off; then, if necessary, the last member or members who have received a promotion to a higher rank shall be returned to the position held prior to promotion and so on in like order until the required reduction is complete. When the Department is increased at any time, or a vacancy occurs for any reason, any member or members previously laid off or demoted pursuant to a reduction in the number of members of the Department shall be reinstated to the position held prior to reduction in the order of their original certification.

The holders of all positions in the Fire Department are members of the said Fire Department.

Any member whose promotional appointment to a position of higher rank is terminated by reason of the return of the former occupant of such position shall be returned to the position in the rank held by such member prior to promotion.

Temporary vacancy

Sec. 97d. When a temporary vacancy is caused in the Department in any rank above Hoseman by sickness, injury, temporary retirement, leave of absence, vacation, or otherwise, the Chief of the Fire Department may assign a member of the Department to the position so vacated from the next lower rank and from the eligible list of the Civil Service Board, if there be such eligible list, to fill such position until such time as the absent member shall return. When such vacancy is caused in the rank of Hoseman, the Chief of the Fire Department may assign a person to such vacancy from the eligible list of the Civil Service Board to fill such position until such time as the absent member shall return. Any member or person so assigned to fill such temporary vacancy shall receive the salary attached to the rank to which he is assigned and any person who was not previously a member of the Fire Department, who may receive such a temporary assignment, shall be a member of the Department during the time of such assignment.

Amend Sections 96 (2) and 104 (2) of, and add Sections 93½ and 101½ to the Charter to read as follows:

Refund of policeman's contributions

Sec. 93½. Any member of the Department who resigns or is discharged from the service previous to retirement, shall have all such sums as have been deducted from his pay and contributed to the Police Relief and Pension Fund pursuant to the provisions of Section 91a, refunded to him plus simple interest at the rate fixed by the Board of Trustees.

Refund to widow, etc

Sec. 96 (2). When a member of the Department shall die from causes other than those specified in Subdivision (1) hereof after ten years of service, then his widow, and if there be no widow, then his children, and if there be no widow or children, then his mother, if dependent upon him for support, shall be entitled to the sum of One Thousand (1,000) Dollars; provided, further, when a member of the Department shall die from causes other than those specified in Subdivision (1) hereof before retirement or eligibility for retirement, regardless of length of service, then his widow, and if there be no widow, then his children, and if there be no widow or children, then his parents or parent, and if there be none of these, then his estate, shall have and receive a refund of all such sums as have been deducted from his pay and contributed to the Police Relief and Pension Fund, plus simple interest at a rate fixed by the Board of Trustees. When a member of the Department dies at such time as to qualify under both provisions of this subdivision, the person or representative entitled to receive the payment or refund herein provided shall elect whether the One Thousand (1,000)

Dollar payment or the refund of salary deductions shall be received, but in no event shall both be paid on account of the same death.

Refund of fireman's contributions

Sec. 101½. Any member of the Department who resigns or is discharged from the service previous to retirement, shall have all such sums as have been deducted from his pay and contributed to the Firemen's Relief and Pension Fund pursuant to the provisions of Section 97b, refunded to him plus simple interest at the rate fixed by the Board of Trustees.

Refund to widow, etc

Sec. 104 (2). When a member of the Department shall die from causes other than those specified in Subdivision (1) hereof after ten years of service, then his widow, and if there be no widow, then his children, and if there be no widow or children, then his mother, if dependent upon him for support, shall be entitled to the sum of One Thousand (1,000) Dollars; provided, further, when a member of the Department shall die from causes other than those specified in Subdivision (1) hereof before retirement or eligibility for retirement, regardless of length of service, then his widow, and if there be no widow, then his children, and if there be no widow or children, then his parents or parent, and if there be none of these, then his estate, shall have and receive a refund of all such sums as have been deducted from his pay and contributed to the Firemen's Relief and Pension Fund, plus simple interest at a rate fixed by the Board of Trustees. When a member of the Department dies at such time as to qualify under both provisions of this subdivision, the person or representative entitled to receive the payment or refund herein provided shall elect whether the One Thousand (1,000) Dollar payment or the refund of salary deductions shall be received, but in no event shall both be paid on account of the same death.

And we further certify that we have compared the foregoing proposed and ratified amendments to the Charter of the City of Oakland with the original proposals submitting the same to the electors of said City, and find that the foregoing is a full, true and correct and exact copy thereof.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the seal of the said City of Oakland to be affixed hereto this 27th day of April, 1943.

[SEAL]

DR. JOHN F. SLAVICH
Mayor of the City of Oakland
FRANK COLBOURN
City Clerk of the City of Oakland

WHEREAS, The said proposed amendments as ratified as hereinbefore set forth have been and are now duly presented and submitted to the Legislature of the State of California for approval or rejection as a whole without power of alteration in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Approval

Resolved by the Senate of the State of California, the Assembly concurring, a majority of all the members elected to each house voting therefor and concurring therein, that said amendments to the charter of the City of Oakland as proposed to, and adopted and ratified by the electors of the said city, and as hereinbefore fully set forth, be and the same are hereby approved as a whole, without amendment or alteration, for and as amendments to and as part of the charter of the said City of Oakland.

CHAPTER 99

Senate Constitutional Amendment No. 10—A resolution to propose to the people of the State of California an amendment to the Constitution of the State by adding Section 3.5 to Article XX thereof, relating to public officers and employees, and authorizing the Legislature to provide for the rights of such officers and employees after service in the armed forces.

[Filed with Secretary of State May 4, 1943.]

Constitution Article XX, Sec. 3.5

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its Fifty-fifth Regular Session commencing on the fourth day of January, 1943, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the State be amended by adding Section 3.5 to Article XX thereof, to read:

Reinstatement and reentry into public offices of public officers or employees in armed forces

Sec. 3.5. Notwithstanding any other provision of this Constitution, the Legislature by general law may provide for the reinstatement and reentry into public office within the terms for which they were elected, and the reinstatement in public employment, respectively, of public officers and employees who have resigned or who resign their offices or employments to serve or to continue to serve in the armed forces of the United States or in the armed forces of this State. The Legislature may determine the extent to which such provisions shall be given retroactive effect.

"Public officers and employees"

As used in this section, "public officers and employees" includes all of the following:

(a) Members of the Senate and of the Assembly.

(b) Justices of the Supreme Court and the district courts of appeal, judges of the superior courts and of the municipal courts, and all other judicial officers.

(c) All other State officers and employees, whether or not within the State civil service, including all officers for whose selection and term of office provision is made in the Constitution and laws of this State.

(d) All officers and employees of any county, city and county, city, township, district, political subdivision, authority, commission, board, or other public agency within this State.

Every person elected or appointed to any public office or employment within this State holds such office or employment subject to the right of reentry or reinstatement which may be granted to a former holder of the office or employment pursuant to this section.

All laws enacted prior to the adoption of this section providing for the right of public officers and employees to reenter office or to be reinstated in employment after service in the armed forces of the United States or of this State shall have the same force and effect as if they had been enacted after the adoption of this section. Prior laws

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CHAPTER 100

Senate Joint Resolution No. 16—Relating to the production of synthetic rubber.

[Filed with Secretary of State May 5, 1943]

WHEREAS, Nearly all types of industrial and agricultural enterprise in California are dependent upon adequate transportation of material and workers and upon mobile farm equipment; a dependence well illustrated by the fact that approximately 10 per cent of the commercial vehicles of the entire Nation are concentrated in California; and Speeding up synthetic rubber production

WHEREAS, At this critical time the effective production of agricultural and other commodities for war and civilian needs is the most vital factor in the drive for victory; and

WHEREAS, At the present time all forms of production are either being slowed or threatened by an alarming decrease of transportation facilities and farm equipment, due to the acute shortage of rubber and the consequent lack of tires to equip vehicles and mobile farm machinery; and

WHEREAS, It seems well established by all surveys, and by the Baruch Report in particular, that the only real hope for meeting these great shortages lies in the immediate manufacture of synthetic rubber; and

WHEREAS, The Federal Rubber Administrator reports that in spite of the great effort being made and the obstacles being overcome in carrying out the presidential mandate for the construction and operation of plants for the manufacture of synthetic rubber as recommended in the Baruch Report, the completion and operation of such plants is far from accomplished; and

WHEREAS, Unless some means be found at once for increasing available commercial vehicles and farm machinery, properly equipped with sufficient rubber tires for maximum use, a

disastrous reduction in the quantity of farm and other products will occur; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of California commends the Federal Rubber Administrator, and those who have assisted him, upon the very great effort and progress which has been made, and directs the attention of the President, the Congress, the Federal Rubber Administrator, and the responsible heads of Government agencies whose activities affect the operation of the rubber program, to the urgent need of speeding up in every way possible the construction of the remaining plants called for in the Baruch Committee Report and to get them in operation for the manufacture of synthetic rubber at their maximum capacity at the earliest possible date; and be it further

Resolved, That the Secretary of the Senate be and he is hereby directed to send copies of this resolution to the President and Vice President of the United States, and to the Senators and Representatives from California in the Congress of the United States.

CHAPTER 101

Senate Joint Resolution No. 24—Relative to memorializing the Congress of the United States to act favorably on H. R. 1398 to provide the mining and mineral leasing laws of the United States be extended to include the area within the boundaries of Death Valley National Monument.

[Filed with Secretary of State May 5, 1943.]

Extension of Federal mineral leasing laws to Death Valley National Monument

WHEREAS, There are large deposits of sodium and other minerals in the lands included within the area of the Death Valley National Monument; and

WHEREAS, These minerals including sodium are minerals necessary to the prosecution of the war; and

WHEREAS, These minerals constitute a substantial portion of the mineral wealth of the State of California; and

WHEREAS, At the time the Death Valley National Monument was established it was believed that mining would continue to be permitted on the lands under the mining and mineral leasing laws of the United States; and

WHEREAS, It is the sense of the Legislature of the State of California that the best interests of the State and Nation will be served by permitting mining on the lands included within the area; and

WHEREAS, There has been introduced by Harry Englebright, member of Congress from California, a bill known as H. R. 1398 to provide that the mining and mineral leasing laws of the United States be extended to the area included within the Death Valley National Monument, under general

regulations to be prescribed by the Secretary of the Interior; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That Congress is hereby respectfully memorialized to act favorably on H. R. 1398; and, be it further

Resolved, That the Secretary of the Senate is directed to forward a copy of this resolution to the President, Vice President, Speaker of the House of Representatives and to the Secretary of the Interior, and to each member of the Senate and House of Representatives in the Congress of the United States from California.

CHAPTER 102

Assembly Joint Resolution No. 21—Memorializing the President and the Secretary of the Navy to name a Navy cruiser of the United States Fleet, for the City of Long Beach, California.

[Filed with Secretary of State May 6, 1943.]

Naming Navy cruiser "Long Beach"

WHEREAS, The City of Long Beach, State of California, is now and for many years has been a home port of the Pacific Fleet of the United States; and

WHEREAS, The said City of Long Beach has recently presented to the United States Government a tract of oil-bearing land consisting of 105 acres of an estimated value of more than ten million dollars ($10,000,000), situated along the water front to be used for a great permanent naval base; and

WHEREAS, The Navy Department has located a large naval hospital near the City of Long Beach; and

WHEREAS, Many of the homes of the officers and men of the Navy are located at Long Beach, and the citizens thereof are all interested in the welfare and progress of the Navy; and

WHEREAS, Throughout many years of loyal support the City of Long Beach, and its citizens, have from time to time extended numerous benefits and favors upon the Navy; and

WHEREAS, It is the custom for the President, through the Secretary of the Navy, to "christen" the naval cruisers for some prominent city of the United States; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the President and the Honorable Secretary of the Navy are hereby respectfully solicited and requested that one of the naval cruisers of the United States Fleet, now under construction, or to be constructed, when launched, be christened "Long Beach" in honor of the City of Long Beach in the State of California; and be it further

Resolved, That the Chief Clerk of the Assembly be hereby directed to transmit copies of this resolution to the President of the United States and to the Honorable Secretary of the Navy and to the Senators and Representatives of the State of California in the Congress of the United States.

CHAPTER 103

Assembly Joint Resolution No. 30—Relative to an increase of pay for employees of the Department of Employment.

[Filed with Secretary of State May 6, 1943.]

Increase of salary for employees of Department of Employment

WHEREAS, By the passage of Senate Bill No. 15 the Legislature of the State of California has indicated its policy is to provide for increases in the salaries of State employees to offset the increase in living costs caused by war conditions; and

WHEREAS, The increase provided for State employees amounts to twenty-five dollars ($25) per month for employees whose salaries do not exceed three hundred dollars ($300) per month, and twenty dollars ($20) per month for employees whose salaries exceed three hundred dollars ($300) per month; and

WHEREAS, Such an increase in compensation is just and equitable; and

WHEREAS, The employees of the Department of Employment do not participate in said increase, although the necessity and propriety of granting such increases is equally applicable to them; and

WHEREAS, The Department of Employment lacks the necessary funds to provide for such an increase for the employees of that department; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the regional board of the Social Security Board is hereby requested to transmit to the Social Security Board at Washington, D. C., a statement of the facts hereinabove recited, and that said Social Security Board is hereby memorialized and petitioned to make an allocation to the California unemployment administration fund of sufficient money to pay to the employees of the Department of Employment salary increases equivalent to those granted State employees pursuant to said Senate Bill No. 15; and be it further

Resolved, That the Chief Clerk of the Assembly shall transmit to the regional board of the Social Security Board, Humboldt Building, San Francisco, and to the Social Security Board, Washington, D. C., copies of this resolution and copies of said Senate Bill No. 15 as enrolled; and be it further

Resolved, That the Chief Clerk of the Assembly shall send copies of this resolution to each member in the Congress of the United States from California.

CHAPTER 104

Assembly Joint Resolution No. 32—Relative to auditing the accounts of the Department of Employment.

[Filed with Secretary of State May 6, 1943.]

Federal funds for Department of Employment audit

WHEREAS, The receipts and disbursements of the Benefit Fund of the State Department of Employment receiving vast sums of money from employers and employees of California have never been audited by any State or Federal agency; and

WHEREAS, The employers of this State, subject to the Federal Unemployment Tax Act, normally pay two and seven-tenths per cent (2.7%) of the wages paid by them, into the Treasury of the United States; and employees pay one per cent (1%) of their wages to that source; and

WHEREAS, It is desirable and necessary that every agency of Government expending money have a periodical audit of its books and accounts; and

WHEREAS, The Federal Social Security Board has made no allowance to the State of California for auditing the accounts of the Department of Employment, and has declined, itself, to make such audits for the California Department of Employment or a similar department in any other State; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Congress of the United States is hereby memorialized to pass such legislation as will make it mandatory upon the Social Security Board to allocate funds to the various States of the Union, and particularly to this State, for a proper audit under the supervision of the State Department of Finance, of the funds and accounts of the State Department of Employment; and be it further

Resolved, That the Chief Clerk is hereby directed to send a copy of this resolution to the President of the United States, the Vice President of the United States, the Speaker of the House of Representatives, every Member of the Senate and House of Representatives from California, the Social Security Board, and every Governor and State Legislature.

CHAPTER 105

Assembly Joint Resolution No. 40—Relative to memorializing Congress to enact legislation to establish a military and a naval academy on the Pacific Coast.

[Filed with Secretary of State May 6, 1943.]

Establishment of military and naval academy on Pacific Coast

WHEREAS, The United States is to have a great Army and Navy and will need twice and three times the number of officers that West Point Military Academy and Annapolis Naval Academy can produce because these institutions have reached

the limit of expansion at their present sites, can not provide needed room for airplanes to fly and tanks to maneuver and can not teach adequately more students than they have taught in the past; and

WHEREAS, There are many miles of coast along the Pacific which would afford the country ideal locations for both a military and a naval academy; and

WHEREAS, World conditions and the war have made it advisable that cadets and midshipmen can be made familiar with the Pacific coast as well as with the Atlantic coast; and

WHEREAS, Army and Navy traditions could be maintained by having cadets and midshipmen receive their first two years of training on the Pacific coast and complete their training at West Point or Annapolis and in so doing become familiar with the west coast and the Pacific as well as with the east coast and the Atlantic; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Congress of the United States be memorialized immediately to enact legislation to establish a military and a naval academy on the Pacific coast; and be it further

Resolved, That the Chief Clerk of the Assembly is hereby requested to transmit copies of this resolution to the President and Vice President of the United States and to the Speaker of the House of Representatives of the Congress of the United States, and to the Senators and Representatives from California in the Congress of the United States, and that the Senators and Representatives from California are hereby respectfully requested to urge such action.

CHAPTER 106

Senate Concurrent Resolution No. 30—Relative to use of true names by State employees.

[Filed with Secretary of State May 6, 1943.]

True names of State employees

WHEREAS, The State of California has thousands of employees who have been employed since the commencement of the war; and

WHEREAS, The State has many women employees who are married but are employed under their maiden names; and

WHEREAS, It is to the best interests of the State that the State ascertain the true names of all its employees, and that they be employed under their true names; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the respective heads of all departments in the State are called upon to ascertain the true names of all employees under their jurisdiction, including the married names, if any, of all women employees, and to make a duplicate list of such true names, delivering one such duplicate

list to the Secretary of the Senate and one such duplicate list to the Chief Clerk of the Assembly of the State of California; and be it further

Resolved, That all heads of departments within the State are called upon to require all of their employees to use their true names and the women employees to use their married names in State employment, and to cause the true names of all such employees to appear on the pay rolls of their departments.

CHAPTER 107

Assembly Joint Resolution No. 44—Relative to the appointment of the Honorable Jesse Tapp as Assistant to the Food Administrator of the United States.

[Filed with Secretary of State May 7, 1943.]

Appointment of Honorable Jesse Tapp as Assistant Food Administrator

WHEREAS, The State of California has been called upon to increase its agricultural production goals during 1943 although it is faced with an agricultural labor supply which is less than that available in 1942; and

WHEREAS, The President of the United States has appointed the Honorable Chester C. Davis as Food Administrator with the duty, among others, of obtaining adequate agricultural labor for this year's crops; and

WHEREAS, The Honorable Chester C. Davis, Food Administrator, has appointed the Honorable Jesse Tapp as his assistant, thereby recognizing the need of having in Washington, someone familiar with the problems of western agriculture; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Honorable Chester C. Davis, Food Administrator, be commended for his recognition of the problems of western agriculture in appointing the Honorable Jesse Tapp as his assistant; and be it further

Resolved, That the Honorable Jesse Tapp be congratulated upon his selection for this important assignment; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to Honorable Chester C. Davis, Food Administrator, to Honorable Jesse Tapp, Assistant to the Food Administrator, to the President and Vice President of the United States, to the Speaker of the House of Representatives of the Congress of the United States, and to the Senators and Representatives from California in the Congress of the United States.

CHAPTER 108

Assembly Joint Resolution No. 45—Relative to facilitating the employment of Mexican citizens in agriculture

[Filed with Secretary of State May 7, 1943.]

Employment of Mexican citizens in agriculture

WHEREAS, The United States of America is sorely in need of skilled agricultural labor and has entered into arrangements with the government of the Republic of Mexico for permitting its citizens to engage in agricultural pursuits in the United States; and

WHEREAS, There reside within close proximity of the borders of California and other States bordering upon the Republic of Mexico, a large number of citizens of the Republic of Mexico who, if existing governmental arrangements permitted, could either continue to reside in Mexico and work in the United States, or reside intermittently in the United States for agricultural purposes; and

WHEREAS, Existing regulations governing recruitment of Mexican citizens for agricultural labor in the United States require application for such work in Mexico City; and

WHEREAS, The President of the United States on Tuesday, March 30, 1943, stated that importation of Mexican agricultural workers was one of three means of relieving the farm labor shortage in the United States; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That Honorable Cordell Hull, Secretary of State, and Honorable Chester C. Davis, Food Administrator of the United States of America, be and they are hereby memorialized to enter into negotiations which will, for the duration of the current emergency, permit the citizens of Mexico residing in proximity to the borders of the United States to enter the United States freely for the purpose of engaging in agricultural pursuits, without the necessity of making application personally in Mexico City; and be it further

Resolved, That Honorable Cordell Hull, Secretary of State, and the Honorable Earl G. Harrison, Director of Immigration, be and they are hereby requested to make such adjustment in the immigration regulations of the United States as will, for the duration of the current emergency, facilitate the free ingress and egress of such Mexican citizens for the purpose of engaging in agricultural pursuits; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to Honorable Cordell Hull, Secretary of State, to Honorable Chester C. Davis, Food Administrator, to Honorable Earl G. Harrison, Director of Immigration and Naturalization, and to the President and Vice President of the United States, to the Speaker of the House of Representatives of the Congress of the United States, and to the Senators and Representatives from California in the Congress of the United States.

CHAPTER 109

Assembly Joint Resolution No. 46—Relative to repair facilities and materials for agricultural machinery and implements.

[Filed with Secretary of State May 7, 1943]

Adequate supplies for repairing agricultural machinery

WHEREAS, The production of a sufficient food supply is essential to the continued health of the Nation and its successful prosecution of the war; and

WHEREAS, Such production can not be maintained unless necessary farm machinery and equipment is kept in working condition; and

WHEREAS, Shops devoted to the repair of such machinery and equipment are being forced out of operation because of inability to get supplies; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Congress and President of the United States and the War Priorities Board are memorialized to make such laws, rules or orders as may be necessary to make available to shops engaged in the repair of farm machinery adequate supplies of welding rod, acetylene, oxygen and other essential materials; and be it further

Resolved, That the Chief Clerk of the Assembly is requested to forward copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Member of the House of Representatives from California, and to the members of the War Priorities Board.

CHAPTER 110

Senate Concurrent Resolution No. 24—Relative to child care, and the employment of mothers of young children.

[Filed with Secretary of State May 8, 1943]

Employment of mothers with children under seven

WHEREAS, The participation of the United States in the present world war has resulted in a tremendous increase in the number of women gainfully employed, both in war industries and in industries and occupations not directly connected with the war; and among the women who have responded and are responding to the increasingly urgent demands for workers are many mothers of young children, who must entrust the care of their children to strangers during the hours they are at work; and

WHEREAS, The welfare of its children is of the utmost importance to the community, and the care of strangers is at best an inadequate substitute for parental care and supervision; and

WHEREAS, The family unit is the foundation of the American form of Government, and every effort should be made to maintain and protect the family, and to assure the children of the

community the opportunity to enjoy the benefits of parental care and normal family life; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That employers of labor are hereby urged to refrain from employing mothers of children under seven years in industrial plants except in cases of the greatest necessity, and to make every effort to satisfy their needs for labor by employing men who are exempt or deferred from military service, and women who do not have young children; and be it further

Resolved, That mothers of young children are also urged to bear in mind the inestimable value of their personal care to these children, and not to leave their children and homes to the care of strangers in the mistaken belief that by so doing they are rendering services of greater value than the performance of their maternal and domestic duties.

CHAPTER 111

Senate Concurrent Resolution No. 49—Relative to leaves of absence of the Governor, Lieutenant Governor, Secretary of State, Attorney General, Controller, Treasurer, Superintendent of Public Instruction, members of the Board of Equalization, and the members of the Senate and Assembly.

[Filed with Secretary of State May 8, 1943.]

Leaves of absence during term of office

Resolved by the Senate of the State of California, the Assembly thereof concurring, That leave of absence from the State for a longer period than 60 days during their term of office is hereby granted to His Excellency Earl Warren, Governor of the State of California; to the Honorable Frederick F. Houser, Lieutenant Governor of the State of California; to Frank M. Jordan, Secretary of State; to Robert W. Kenny, Attorney General; to Harry B. Riley, Controller; to Charles G. Johnson, Treasurer; to Walter F. Dexter, Superintendent of Public Instruction; to Richard E. Collins, George R. Reilly, James H. Quinn, William G. Bonelli, members of the Board of Equalization; and to the following members of the Senate and the Assembly of the Fifty-fifth Session of the Legislature of the State of California:

Senators George M. Biggar, Arthur H. Breed, Jr., Charles Brown, Hugh M. Burns, Oliver J. Carter, Randolph Collier, Bradford S. Crittenden, R. R. Cunningham, T. H. DeLap, Charles H. Deuel, H. E. Dillinger, Hugh P. Donnelly, Jess R. Dorsey, Clair Engle, Ed Fletcher, Frank L. Gordon, George J. Hatfield, Chris N. Jespersen, H. R. Judah, Thomas F. Keating, Thomas H. Kuchel, George E. Luckey, Jesse M. Mayo, James J. McBride, Thomas McCormack, Frank W. Mixter, Harry L. Parkman, Harold J. Powers, Irwin T. Quinn, W. P. Rich, Byrl R. Salsman, Jerrold L. Seawell,

John F. Shelley, Herbert W. Slater, John Harold Swan, Ralph E. Swing, Jack B. Tenney, Edward H. Tickle, Clarence C. Ward;

Assemblymen Don A. Allen, Glenn M. Anderson, Douglas P. Armstrong, Lee T. Bashore, Julian Beck, Elwyn S. Bennett, William Clifton Berry, Bernard R. Brady, Ralph M. Brown, Everett G. Burkhalter, Michael J. Burns, Harrison W. Call, Edward J. Carey, Arthur W. Carlson, George A. Clarke, George D. Collins, Jr., Sam L. Collins, J. G. Crichton, Ernest C. Crowley, Ernest E. Debs, Paul Denny, Earl D. Desmond, Randal F. Dickey, Clayton A. Dills, Ralph C. Dills, Nelson S. Dilworth, Thomas J. Doyle, Francis Dunn, Jr., Thomas M. Erwin, John W. Evans, C. Don Field, Walter J. Fourt, Edward M. Gaffney, Chester F. Gannon, C. L. Guthrie, Gerald P. Haggerty, Harvey E. Hastain, Augustus F. Hawkins, S. L. Heisinger, Jonathan J. Hollibaugh, Gardiner Johnson, Jesse Randolph Kellems, Vernon Kilpatrick, Albert M. King, John B. Knight, T. Fenton Knight, Frederick H. Kraft, Jacob M. Leonard, Lloyd W. Lowrey, Charles W. Lyon, John C. Lyons, Thomas A. Maloney, Jack Massion, Richard H. McCollister, Lester A. McMillan, Lorne D. Middough, Raup Miller, Kathryn T. Niehouse, Edward F. O'Day, John B. Pelletier, Franklin J. Potter, R. Fred Price, Alfred W. Robertson, William H. Rosenthal, Willis Sargent, Harold F. Sawallisch, Bernard A. Sheridan, Lothrop Smith, Charles W. Stream, Vincent Thomas, John F. Thompson, James E. Thorp, Allen G. Thurman, Frank J. Waters, Clyde A. Watson, Charles M. Weber, Thomas Harold Werdel, Fred Weybret, Albert C. Wollenberg.

CHAPTER 112

Senate Joint Resolution No. 1—Relative to old age assistance.

[Filed with Secretary of State May 8, 1943.]

Federal participation in increase of old age assistance

WHEREAS, It is the desire of the Legislature of California to make sufficient provision for the needy aged of this State; and

WHEREAS, Prior to July 1, 1941, the Old Age Security Law of California permitted a recipient of aid to receive up to fifteen dollars ($15) per month from certain specified sources, including the earnings of the recipient, without deduction thereof from the amount of his aid, and it was with the greatest reluctance that the Legislature of California in 1941 amended the California law to deny the aged this privilege, which amendment was made solely to enable the State to comply with the Federal Social Security Act as that act was construed by the Federal Social Security Board, and so to continue to receive Federal old age assistance; and the Legislature of California believes that this privilege should be afforded to the aged, and that the withdrawal of the privilege was hasty and ill-advised; and

WHEREAS, At the present time a recipient of aid in California may receive income in addition to the aid only by showing excess need therefor, and submitting to the most detailed and onerous supervision of his personal budget, and so is discouraged from engaging in gainful employment despite the well-recognized need for the maximum utilization of the services of every American in the furtherance of the war effort; and

WHEREAS, The maximum amount of old age assistance granted to an eligible aged person which the Government of the United States will recognize for the purpose of reimbursing the State to the extent of one-half of the assistance granted is forty dollars ($40), which sum is entirely inadequate under present conditions to provide an aged person with the necessities of life or to permit him to maintain a proper standard of living; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the President and Congress of the United States are hereby memorialized to amend the Federal Social Security Act to provide for Federal participation at the present rate in the payment of aid in the amount of sixty dollars ($60) to any eligible individual in any month, or, if this is not possible, to amend the Federal Social Security Act to permit the State agency, in determining need, not to take into consideration other income and resources of an individual claiming old-age assistance to the extent of twenty dollars ($20), or such greater sum as the President and Congress may determine to be proper and just; and be it further

Resolved, That the Secretary of the Senate is hereby directed to send copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

CHAPTER 113

Senate Joint Resolution No. 3—Relative to memorializing the Congress of the United States to initiate proper action and legislation to determine the identity, and forfeit the citizenship of those holding a dual citizenship in any other country and prohibiting such citizenship.

[Filed with Secretary of State May 8, 1943.]

Dual citizens

WHEREAS, The war in which the United States is engaged has focused attention upon certain traitorous and disloyal elements in the citizenship of this country which have used their technical citizenship as a cloak behind which to promote and carry out these disloyal designs; and

WHEREAS, Attention has also been focused on nationals, of foreign countries, who have regarded their primary and real loyalty to the country of their origin and their American

citizenship as only a necessary convenience in better securing the material and political advantages which this great Nation holds forth; and

WHEREAS, These elements have been weakening factors in the unified body of loyal American citizens believing in the traditions and principles of the American democracy; and

WHEREAS, An outstanding evidence of the existence of these elements has been the acceptance of a dual citizenship status by acknowledging allegiance to the sovereignty of their native country particularly among the Japanese, German Bundists and Italian Fascists; and

WHEREAS, Foreign countries have held forth such dual citizenship status for their nationals in this country for the purpose of retaining their sovereignty and jurisdiction over said nationals and for the purpose of commanding their loyalty and obedience in peace and in war; and

WHEREAS, This war has made us aware of the necessity of scrutinizing more carefully our citizenship in order that by infiltration of disloyal elements our democratic processes are not perverted from their original purposes and used against our own interests; and

WHEREAS, The safety and protection of the American democracy requires the immediate weeding out of said disloyal elements and the forfeiture of, and exclusion from, American citizenship of those nationals of other countries practicing dual citizenship; now, therefore, be it

Resolved by Senate and Assembly of the State of California, jointly, That the Congress of the United States be, and the same is hereby, memorialized to institute proper action and legislation: (1) to determine the identity of those persons in this country of Japanese ancestry or otherwise subscribing to dual citizenship, or making themselves amenable to the sovereignty, of any other country; (2) to forfeit the American citizenship of such persons and (3) to prohibit any person now or heretofore holding or exercising a dual citizenship from being or ever becoming an American citizen; and be it further

Resolved, That copies of this resolution be forwarded to the President and Vice President of the United States, to the Speaker of the House of Representatives and to each Senator and Member of the House of Representatives in the Congress of the United States from California.

CHAPTER 114

Senate Joint Resolution No. 21—Relative to memorializing Congress to make available to the civilian population property of Japanese evacuees.

[Filed with Secretary of State May 8, 1943.]

Use of implements and commodities of Japanese evacuees

WHEREAS, The Federal Government has, in furtherance of the war effort, taken large numbers of automobile tires from the civilian population; and

WHEREAS, The Federal Government has restricted the manufacture and sale of innumerable implements of civilian use, such as machinery and farm equipment; and

WHEREAS, Great quantities of needed commodities and materials have been placed in storage to be returned to Japanese evacuees after the war; and

WHEREAS, The civilian population of the country could use these materials in storage to good advantage to alleviate the scarcity now looming large in wartime America; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California hereby urges Congress to release implements and commodities stored for Japanese evacuees to the civilian population for use during this time of war; and be it further

Resolved, That the Secretary of the Senate is hereby requested to transmit a copy of this resolution to the President and Vice President of the United States and to each member from California of the Senate and House of Representatives of the United States.

CHAPTER 115

Assembly Constitutional Amendment No. 17—A resolution proposing to the people of the State of California an amendment to the Constitution of the State, by adding a new section numbered 1c to Article XIII thereof, relating to taxation.

[Filed with Secretary of State May 8, 1943.]

Constitution, Article XIII, Sec 1c

Resolved by the Assembly of the State of California, the Senate concurring, That the Legislature of the State of California at its Fifty-fifth Session, commencing on the fourth day of January, 1943, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the State be amended by adding a new section, to be numbered 1c, to Article XIII thereof, to read:

Charity exemption

Sec. 1c. In addition to such exemptions as are now provided in this Constitution, the Legislature may exempt from taxation all or any portion of property used exclusively for religious, hospital or charitable purposes and owned by community chests, funds, foundations or corporations organized and operated for religious, hospital or charitable purposes, not conducted for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

CHAPTER 116

Assembly Joint Resolution No. 7—Relative to memorializing Congress to give a larger part in the war effort to the small businesses of the United States.

[Filed with Secretary of State May 8, 1943.]

Government work for small businesses

WHEREAS, It is essential in the interest of our war program to protect and encourage the welfare of small and independent businesses throughout the United States; and

WHEREAS, The opportunity of taking part in the country's war program has been to a great extent denied to such businesses notwithstanding that the President has endeavored to change this unfortunate condition; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, To memorialize Congress to take immediately such steps as will correct the dangerous tendency outlined above, and to restore to such businesses the opportunity to take their part in the war effort and amongst other things;

To give every possible latitude to allowing material to civilian industries;

To recall for reletting large contracts where it is evident that subcontracting is not being carried out wherever possible;

To eliminate government subsidized expansion of large plants when there are idle small plants available to do the job;

To refuse to permit the piling up of work in large plants while small concerns are able to assume a portion of the work;

To substitute normal business methods for fixed-fee contracts;

To prefer, wherever possible, local small contractors to migrant contractors;

To encourage combinations of small industries in localities;

To invite wide participation in public contracts, simplifying of procedure and reducing the size of contracts.

CHAPTER 117

Assembly Joint Resolution No. 49—Relative to memorializing Congress to appropriate additional funds to provide for payment to student nurses during their training to become trained nurses a monthly wage in keeping with the high and noble nature of their profession.

[Filed with Secretary of State May 8, 1943.]

Salaries for student nurses

WHEREAS, The need for trained nurses in the armed forces of the United States and in public and private hospitals throughout the country is far in excess of the numbers of trained nurses now qualified as such; and

WHEREAS, The training of a qualified nurse requires a course of study and training extending over a period of three years; and

WHEREAS, Women are importuned to become trained nurses and to undergo the rigorous training required of them for three years without any wage, salary or compensation; and

WHEREAS, Many women are accepting employment in various industries connected with the production of war materials in which they are paid attractive wages; and

WHEREAS, The policy of club sponsorship of the student nurses is unsatisfactory and tends to place student nurses on a charity basis; and

WHEREAS, A nurse's occupation is among the highest to which a woman may aspire; and

WHEREAS, Women willing to undergo the arduous tasks of training to become trained nurses should be paid a fair salary during their three years' training in the same manner as are women training for work in war industries; now, therefore, be it

Resolved, That the Assembly and the Senate of the State of California, jointly, memorialize the President and the Congress of the United States to consider the advisability of making an appropriation to provide funds for paying women in training to become trained nurses a salary during their years of training commensurate with the high and noble nature of their profession as trained nurses; and be it further

Resolved, That the Chief Clerk of the Assembly be hereby directed to forward copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives and to each Senator and to each Member of the House of Representatives from California in the Congress of the United States.

CHAPTER 118

Assembly Joint Resolution No. 19—Relative to memorializing and petitioning Congress to enact legislation giving to draftees and others entering the military and naval service of the United States adequate insurance protection for themselves in the form of permanent total disability insurance as well as life insurance protection.

[Filed with Secretary of State May 8, 1943.]

Insurance protection for those in armed forces

WHEREAS, From 1919 up to and including October 8, 1940, persons entering the military and naval service of the United States were given the privilege of applying for United States Government (Converted) Life Insurance, including the permanent total disability features thereof, which protected the soldier himself; and

WHEREAS, Congress in the passage of the National Service Life Insurance Act of 1940, approved October 8, 1940, provided in Section 611 of said act that, "No United States Government Life Insurance shall be granted hereafter to any person under the provisions of Section 300 of the World War Veterans Act of 1924, as amended"; and

WHEREAS, The National Service Life Insurance Act does not provide permanent total disability benefit features or protection for the soldier himself and protects only the dependents and near relatives of the soldier; and

WHEREAS, It is estimated that 90 per cent of those now in the military and naval service are without dependents and therefore not in need of such insurance but are in need of insurance with permanent total disability features protecting the soldier himself; and

WHEREAS, Experience during and since the World War has adequately proved and demonstrated the merits of permanent total disability features of Government insurance, particularly as relates to the so-called "misconduct" cases, which are noncompensable for both compensation and pension, thereby taking care of these unfortunates who would otherwise be thrown upon local communities for care and sustenance; and

WHEREAS, It appears that in the passage of the National Service Life Insurance Act of 1940, including Section 611 thereof which prevented further application for United States Government Life Insurance with total permanent disability features thereof, those persons, including National Guard units entering Federal service after October 8, 1940, were discriminated against and were denied the privilege of taking out United States Government (Converted) Life Insurance with permanent total disability features thereof, whereas those persons, including National Guard units entering Federal service prior to October 8, 1940, were allowed and permitted to take out such insurance; and

WHEREAS, We believe in order to give to every commissioned officer and enlisted man and every member of the Army Nurses Corps (female) and the Navy Nurses Corps (female) when employed in active service under the War Department or Navy Department, proper protection for themselves and their dependents, the United States should again permit such persons, including draftees, the opportunity to apply for and be granted either National Service Life Insurance or United States Government (Converted) Life Insurance with permanent total disability features as now constituted; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California hereby memorializes and petitions Congress to enact legislation which will provide that such persons so entering

the military and naval service of the United States, including draftees, shall be given the opportunity of taking either National Service Life Insurance or United States Government (Converted) Life Insurance, at their option, including the permanent total disability features thereof; and be it further

Resolved, That a copy of this joint resolution be transmitted to the President of the United States, to the Vice President of the United States, and to each member of the Senate and the House of Representatives of the United States, and that the Senators and Representatives representing the State of California in Congress be urged actively to support such legislation.

CHAPTER 119

Assembly Joint Resolution No. 52—Relative to a sponsorship of the Thirteenth Armored Division of the United States Armed Forces.

[Filed with Secretary of State May 8, 1943.]

State sponsorship of Thirteenth Armored Division

WHEREAS, The Thirteenth Armored Division of the United States Armed Forces, stationed at Camp Beale, California, is the only armored division of the United States Army activated in California; and

WHEREAS, The said Thirteenth Armored Division will receive most of its training within the State of California; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That Governor Warren be requested to communicate with Major General John B. Wogan, Commanding General of the Thirteenth Armored Division, at Camp Beale, California, and declare it is the desire of the State of California to be granted the privilege of sponsoring the said Thirteenth Armored Division if such privilege may be granted by military authorities; and be it further

Resolved, That the State of California desires and requests that all armored vehicles with which the said Thirteenth Division is equipped be named after cities within the State of California; and be it further

Resolved, That should the State of California be granted the privilege of so sponsoring the said Thirteenth Armored Division, the Governor of the State of California do issue a proclamation declaring such sponsorship; and be it further

Resolved, That the Chief Clerk of the Assembly be directed to prepare and to transmit a copy of this resolution to the Governor of the State of California, and to Major General John B. Wogan, Commanding General, Thirteenth Armored Division, Camp Beale, California.

CHAPTER 120

Assembly Concurrent Resolution No. 52—Relative to the Joint Rules.

[Filed with Secretary of State May 8, 1943.]

Joint Rules

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Joint Rules be amended as follows:

First: That Rule 6 be amended to read:

Resolutions, etc., as bills

6. Constitutional amendments, concurrent and joint resolutions shall be treated in all respects as bills; except that they shall be given only one formal reading in each house and that they shall not be deemed bills within the meaning of Section 2 of Article IV of the Constitution, and shall not be referred to the Committee on Introduction of Bills, and shall not require a vote to authorize their introduction, and except as provided in Rule 24. As in the case of bills, they shall be engrossed in the house in which they originate before being voted upon.

Second: That Rule 24 be amended to read:

Enrollment of bills, etc

24. After a bill has passed both houses it shall be printed in enrolled form, omitting symbols indicating amendments, and shall be compared by the engrossing and enrolling clerk and the proper committee of the house where it originated to determine that it is in the form approved by the houses. The enrolled bill shall thereupon be signed by the presiding officers of both houses and the Secretary of the Senate and Chief Clerk of the Assembly and presented without delay to the Governor. The committee shall report the time of presentation of the bill to the Governor to the house and the record shall be entered in the Journal. After enrollment and signature by the officers of the Legislature, constitutional amendments, concurrent and joint resolutions shall be filed without delay in the office of the Secretary of State and the time of filing shall be reported to the house and the record entered in the Journal.

Third: That subdivision (e) of Rule 32 be amended to read:

Press room

(e) One or more rooms shall be assigned for the exclusive use of correspondents during the legislative session, which rooms shall be known as the press room. The press room shall be under the control of the Chief of the Bureau of Buildings and Grounds; provided, that all rules and regulations shall be approved by the Senate Committee on Rules and the Speaker of the Assembly.

CHAPTER 121

Assembly Concurrent Resolution No. 62—Relative to requesting the University of California to establish and equip a forest products laboratory.

[Filed with Secretary of State May 8, 1943.]

Forest products laboratory

WHEREAS, The effective conduct of the war in which the United States is now engaged, as well as the success of peacetime industry, demands the use of the resources of the forests as well as of the fields; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the University of California be and is hereby requested to devise plans for the establishment and equipping of a forest products laboratory and a pilot plant for the conduct of experiments in relation to the use of such products in industry as a part of their postwar program.

CHAPTER 122

Senate Concurrent Resolution No. 10—Relative to the creation of a joint committee on the tax structure of the State to study, investigate, and report on the subject of taxation in the State.

[Filed with Secretary of State May 12, 1943.]

Joint committee to investigate tax structure of State

WHEREAS, The world-wide war in which the United States of America is now engaged has necessitated and will continue to necessitate vast outlays of money by the Federal Government; and

WHEREAS, Federal taxes have been greatly increased and there is great likelihood that the burden of such taxes upon the individual taxpayers will increase rather than diminish; and

WHEREAS, The people of the State of California are unanimous in their desire to lend all possible aid to the government of the United States in the prosecution of the war regardless of personal sacrifice; and

WHEREAS, The financial condition of the State of California at the present time is excellent but the future effects of the war and the tremendous dislocation it has caused are unpredictable; and

WHEREAS, The desirability of immediate relief to the burdened taxpayers should by no means precipitate hasty and ill-considered action which might in the final analysis prejudice rather than benefit the same taxpayers; and

WHEREAS, The entire subject of State taxation is one of such vital importance that a thorough study of all factors is necessary in order that equitable and proper legislation may be enacted; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That there is hereby created a joint committee on the tax structure of the State which shall investigate, ascertain, collate, and appraise all facts, matters, and conditions relating to State taxation, with particular reference to the impact of the war thereon, the present and future needs of State government, and the necessity for adequate financial support to the government of the United States by the people of the State of California in the prosecution of the war effort; and be it further

Resolved, That said committee shall consist of six members, three of whom shall be members of the Assembly appointed by the Speaker thereof, and three of whom shall be members of the Senate appointed by the Committee on Rules thereof; and be it further

Resolved, That the committee hereby created in exercising the powers and performing the functions vested in it by this resolution shall have: (i) all the powers conferred upon legislative committees by Article 8, Chapter 2, Title 1, Part 3 of the Political Code; (ii) except when inconsistent with this resolution, all the powers conferred upon committees by the Rules of the Assembly, the Rules of the Senate, and the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time and such rules are hereby incorporated herein and made a part hereof the same as if they were set forth in this resolution in full. The powers specified in such rules may be exercised by the committee after the final adjournment of this session; (iii) all powers necessary or convenient to accomplish the objects and purposes of this resolution, including but not limited to the following duties and powers:

(1) To select a chairman from its membership and to employ and fix the compensation of a secretary and such clerical, expert and technical assistants as it may deem necessary;

(2) To create subcommittees from its membership, assigning to the subcommittee any study, inquiry, investigation or hearing which the committee itself has authority to undertake or hold, and the subcommittee for the purpose of this assignment shall have and exercise all of the powers conferred upon the committee limited by the express terms of the resolution or resolutions of the latter defining the powers and duties of the subcommittee, which powers may be withdrawn or terminated at any time by the committee;

(3) To adopt and from time to time amend such rules governing its procedure (including the fixing of its own quorum and the number of votes necessary to take action on any matter) as may to it appear appropriate;

(4) To contract with such other agencies, public or private, as it deems necessary for the rendition and affording of such services, facilities, studies and reports to the committee as

will best assist it to carry out the purposes for which it is created;

(5) To hold public hearings at any place in California at which hearings the people are to have an opportunity to present their views to the committee;

(6) To make a complete study, survey and investigation of every phase of the subject of this resolution, including but not limited to the operation, effect, administration, enforcement, and needed revision of any and all laws in anywise bearing upon or relating to the subject of this resolution;

(7) To meet at any and all places in this State, in public or executive session;

(8) To act during this session of the Legislature, including any recess hereof, and after final adjournment hereof, until the commencement of the Fifty-sixth Legislature;

(9) To file a report with the Legislature during any session of the Fifty-fifth Legislature and with the Legislature during the regular session of the Fifty-sixth Legislature;

(10) To summon and subpena witnesses, require the production of papers, books, accounts, reports, documents, and records of every kind and description, to issue subpenas and to take all necessary means to compel the attendance of witnesses and procure testimony; and

(11) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution; and be it further

Resolved, That the committee, each of its members, and any representative of the committee thereunto authorized by the committee or by its chairman, is authorized and empowered to administer oaths; and be it further

Resolved, That the Sergeant-at-Arms of the Assembly, the Sergeant-at-Arms of the Senate, or other officers designated by either of them are hereby directed to serve any and all subpenas, orders and other process issued by the committee, when directed so to do by the chairman or by a majority of the membership of the committee; and be it further

Resolved, That every department, commission, board, agency, officer and employee of the State Government, including the Legislative Counsel, the Attorney General and their subordinates, and of any political subdivision, county, city, or public district of or in this State shall furnish the committee and any subcommittee, upon request, any and all such assistance, and information, records and documents as the committee or subcommittee deems proper for the accomplishment of the purposes for which the committee is created; and be it further

Resolved, That the members of the committee shall serve without compensation but shall be allowed mileage at the rate of five and one-half cents ($0.05½) per mile each way incurred in connection with their services upon the committee and other actual and necessary expenses for living accommodations and meals, incurred in connection with their services

upon the committee, or in lieu of such expenses for accommodations and meals an allowance of ten dollars ($10) per day; and be it further

Resolved, That the sum of six thousand dollars ($6,000) or so much thereof as may be necessary is hereby made available from the Contingent Funds of the Senate and of the Assembly for the expenses of the committee and its members and for any charges, expenses or claims it may incur under this resolution, to be paid equally from the Contingent Funds of the Senate and of the Assembly and disbursed, after certification by the chairman of the committee, upon warrants drawn by the State Controller upon the State Treasurer. Appropriation

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CHAPTER 123

Senate Concurrent Resolution No. 40—Relative to continuing in existence the Fact-Finding Committee created by Senate Concurrent Resolution No. 13 of the Fifty-fifth Session, and authorizing the study of economic planning.

[Filed with Secretary of State May 12, 1943.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Fact-Finding Committee on Agricultural and Industrial Employment created by Senate Concurrent Resolution No. 13 of the Fifty-fifth Session of the Legislature is continued in existence and is directed to carry on the investigations authorized by said Senate Concurrent Resolution No. 13, with all the powers and authority and duties granted and conferred and imposed by said resolution; and be it further Continuance of Fact-Finding Committee on Agricultural and Industrial Employment

Resolved, That in addition to the duties imposed and the powers conferred upon the committee by Senate Concurrent Resolution No. 13 the committee is authorized and directed to gather, study, analyze and report plans for the transfer of peacetime workers to defense industries and for the development of new products for civilian use without interference with wartime needs, for complete utilization of our agricultural and industrial capacity for wartime purposes, and for efficient planning by labor, capital and government for the war effort and for later peacetime adjustments and all matters affecting agriculture in all its phases including the effect upon, and the relationship of governmental activities to, agricultural problems, all with a view to formulating plans and preparing and submitting such legislative measures as will enable the State to bring about and assure the best possible adjustment to economic and social conditions during the prosecution of the Victory Campaign and following cessation of the war; and be it further

Resolved, That the committee shall investigate the operation, effect, administration, and enforcement of any and all

laws in anywise bearing upon or relating to the subject of this resolution; and be it further

Resolved, That notwithstanding the provisions of subparagraph (7) of the first "Resolved" clause of Senate Concurrent Resolution No. 13, the committee created by that resolution and continued in existence by this resolution shall have power to act during this session of the Legislature, including any recess hereof, and after final adjournment hereof, until the commencement of the Fifty-sixth Legislature; and to file a report with the Legislature during any session of the Fifty-fifth Legislature and with the Legislature during the regular session of the Fifty-sixth Legislature; and be it further

Resolved, That pursuant to Joint Rule 35, the members of the committee shall continue to serve without compensation, but shall be allowed mileage at the rate of five and one-half cents ($0.05½) per mile each way, incurred in connection with their services upon the committee, and other necessary and actual expenses for living accommodations and meals, incurred in connection with their services upon the committee, or in lieu of such expenses for accommodations and meals, they shall, pursuant to Joint Rule 35, continue to be allowed the sum of ten dollars ($10) per day; and be it further

Appropriation

Resolved, That the sum of seven thousand dollars ($7,000), or so much thereof as is necessary, and any unexpended portion of the money made available by Senate Concurrent Resolution No. 13, is hereby made available from the contingent funds of the Senate and of the Assembly for the expenses of the committee and its members and for any charges, expenses or claims it may incur under this resolution and under Senate Concurrent Resolution No. 13, to be paid equally from the contingent funds of the Senate and of the Assembly and disbursed, after certification by the chairman of the committee, upon warrants drawn by the State Controller upon the State Treasurer.

CHAPTER 124

Senate Concurrent Resolution No. 44—Providing for the continuance of the Joint Committee on Water Problems created by Senate Concurrent Resolution No. 11 (1941 Res. Ch. 130).

[Filed with Secretary of State May 12, 1943.]

Continuance of Joint Committee on Water Problems

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Joint Committee on Water Problems created by Senate Concurrent Resolution No. 11 of the Fifty-fourth Legislature and continued as a joint committee of this (the Fifty-fifth) Session of the Legislature by Senate Concurrent Resolution No. 16 with those members it had on January 1, 1943, who are members of this Legislature and with all the powers and duties defined and

conferred by said Senate Concurrent Resolution, shall have power to act during this session of the Legislature, including any recess hereof, until the convening of the Fifty-sixth Session of the Legislature and the time for the making of its final report to the Legislature is extended to March 15, 1945; and there shall continue to be available any moneys heretofore made available to said committee for expenses of the committee and its members and for any expenses, charges, or claims it may incur until March 15, 1945, to be disbursed as in Senate Concurrent Resolution No. 11 prescribed. No money not heretofore appropriated is made available by this resolution from the contingent funds of the Senate and Assembly.

CHAPTER 125

Senate Concurrent Resolution No. 47—Relative to investigating committees.

[Filed with Secretary of State May 12, 1943.]

Joint Rule 38

Resolved by the Senate of the State of California, the Assembly thereof concurring, That a new rule, to be numbered 38, is hereby added to the Joint Rules of the Senate and Assembly, to read as follows:

Delivery of documents to Budget Committee

38. Upon the conclusion of its work, any Assembly, Senate, or joint committee (other than a standing committee) shall deliver to the Legislative Budget Committee for use and custody, available to the members of the Legislature, all documents, data, reports and other materials that have come into the possession of such committee and which are not included within the final report of such committee to the Assembly, Senate, or the Legislature, as the case may be.

CHAPTER 126

Senate Concurrent Resolution No. 51—Relative to the appointment of the State Controller as accounting officer for the Legislature for tax and other purposes.

[Filed with Secretary of State May 12, 1943.]

State Controller as Victory Tax accounting officer

WHEREAS, Each department of the Government of this State is accountable to the Federal Government for the payment of the Victory Tax which is deducted from the salaries of the officers and employees of such departments, and discharges its responsibility in this respect through its own fiscal officer; and

WHEREAS, There is no fiscal officer for the Legislature or either House thereof; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the State Controller be and he is hereby designated as the accounting officer for the Legislature and each House thereof, for the purpose of making deductions and filing returns with the Federal Government in connection with the Victory Tax or any other tax that may provide for salary deductions, including those of the Members of the Legislature, attaches thereof, and attaches and employees of such committees of the Legislature as may from time to time exist; and be it further

Appropriation

Resolved, That there is hereby appropriated and made available from the contingent funds of the Senate and Assembly, equally, a sum not to exceed four hundred dollars ($400) per month for the purpose of defraying the expenses of the Controller in carrying out the duties imposed upon him by this resolution, to be disbursed, after approval by the Chief Clerk of the Assembly and the Secretary of the Senate, upon warrants drawn by the State Controller upon the State Treasurer; and be it further

Duration

Resolved, That this resolution shall be of no further force or effect after January 31, 1945.

CHAPTER 127

Assembly Concurrent Resolution No. 42—Relative to classification by the Personnel Board of civil service positions established for the duration of the emergency and six months.

[Filed with Secretary of State May 12, 1943.]

Civil service duration positions

WHEREAS, It is disclosed that many departments of the State Government have requested the creation of new positions, most of which are claimed to be necessary because of an increased volume of business brought on by war-time conditions, which are of a temporary nature; and

WHEREAS, It has become increasingly difficult, because of the current man-power shortage, to recruit competent personnel to fill existing positions which are now vacant, in view of the high minimum qualifications and the rigorous testing procedure now established by the State Personnel Board; and

WHEREAS, It would be in the public interest that the State Personnel Board establish a more lenient testing procedure and that it establish new classifications of positions with a reorganized arrangement of duties and less exacting minimum qualifications in order that all positions which are necessary but vacant may be filled without delay; and

WHEREAS, It appears desirable that a procedure be established by which no such new positions or persons appointed to existing but vacant positions may, by reason of the opera-

tion of civil service laws, be attached permanently to the departmental pay rolls; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Personnel Board and the respective departmental heads are called upon to cooperate in devising a plan which will facilitate a segregation of any such new or vacant positions from those of a permanent nature and which were previously established and are now filled; and be it further

Resolved, That the State Personnel Board and the respective departmental heads are directed to handle any such requests for new positions or for the filling of vacant positions by creating new classifications of positions with minimum qualifications more liberal and less exacting in nature than those now provided for similar or comparable positions of a permanent nature, so as to facilitate filling such positions under the man-power shortage now existing, all such positions and classifications to be abolished in their entirety within six months after the termination of the war emergency.

CHAPTER 128

Assembly Concurrent Resolution No. 45—Relative to a Fact-Finding Committee on old-age pension advocacy and promotion, and defining its powers and duties.

[Filed with Secretary of State May 12, 1943.]

Fact-Finding Committee on old-age pension advocates

WHEREAS, The concern of the State of California for the welfare of the aged citizenry of the State is evidenced by the fact that this State is now and for many years has been among the foremost States in providing aid to the needy aged; and

WHEREAS, There are in the State numerous persons, groups, and organizations engaged in the advocacy and promotion of expanded programs of pensions for the aged, many of whom solicit and accept fees or donations from the public, and particularly from aged persons in impecunious circumstances who are induced to contribute from their meager resources by the hope of benefiting from the activities of such persons and organizations; and

WHEREAS, The situation presents an unrestricted opportunity for personal profit to unscrupulous individuals who may utilize the general public interest in the improvement of the condition of the aged and the hopes of the aged for more liberal provision to enrich themselves and enter upon a remunerative career of agitation and promotion under the guise of beneficent and disinterested concern for the welfare of the aged; and

WHEREAS, The facts concerning the activities of old-age pension advocates and the necessity for legislation to govern or restrict their activities can best and most expeditiously be

ascertained and studied by the Legislature through a joint Fact-Finding Committee of the Senate and Assembly charged with the study of every phase of this subject during this session of the Legislature and any recesses thereof, reporting to the Legislature as soon as may be; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That a committee on old-age pension advocates and promoters, designated "The Fact-Finding Committee," of three members, of the Assembly appointed by the Speaker and two members of the Senate appointed by the Rules Committee thereof, is hereby created, which committee is authorized and directed to gather, assemble, study and analyze all facts relating to any and every phase of the promotion and advocacy of old-age pensions, including the amount of money collected by the persons and organizations engaged therein, the representations and promises made to the contributors and donors, the disposition of the funds collected, and the character and qualifications of the organizers and promoters, with a view to determining whether or not substantial sums of money are being collected by misrepresentation or fraud, whether or not the moneys collected are being expended for the purposes for which they were contributed or are being diverted from those purposes, whether or not any laws are being violated, and whether or not legislation concerning the advocacy and promotion of old-age pension programs and the solicitation, collection, and expenditure of funds therefor, is necessary or desirable; to which end the committee shall have and exercise the duty and power:

(1) To select a chairman from its membership and to employ and fix the compensation of a secretary and such clerical, expert and technical assistants as it may deem necessary;

(2) To create subcommittees from its membership, assigning to such subcommittees any study, inquiry, investigation or hearing which the committee itself has authority to undertake or hold, and such subcommittees for the purpose of this assignment shall have and exercise all of the powers conferred upon the committee limited by the express terms of the resolution or resolutions of the latter defining the powers and duties of such subcommittees, which powers may be withdrawn or terminated at any time by the committee;

(3) To adopt and from time to time amend such rules governing its procedure (including the fixing of its own quorum and the number of votes necessary to take action on any matter) as may to it appear appropriate;

(4) To contract with such other agencies, public or private, as it deems necessary for the rendition and affording of such services, facilities, studies and reports to the committee as will best assist it to carry out the purposes for which it is created;

(5) To hold public hearings at any place in California, at which hearings the people are to have an opportunity to present their views to the committee;

(6) To make a complete study, survey and investigation of every phase of the subject of this resolution;

(7) To meet at any and all times prior to final adjournment of this session of the Legislature, whether the Senate or Assembly be actually then sitting or not, and at any and all places within the State, in the performance of its duties and in carrying out the objects and purposes of this resolution;

(8) To summon and subpena witnesses, require the production of papers, books, accounts, reports, documents, and records of every kind and description, to issue subpenas, and to take all necessary means to compel the attendance of witnesses and procure testimony;

(9) To report its findings and recommendations to the Senate and Assembly and to the people from time to time and at any time; and

(10) To cooperate so far as the judgment of the committee dictates with any Federal agency; and

(11) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution; and be it further

Resolved, That the committee, each of its members, and any representative of the committee thereunto authorized by the committee or by its chairman, is authorized and empowered to administer oaths; and all of the provisions of Article 8, Chapter 2, Title 1, Part 3 of the Political Code, relating to the attendance and examination of witnesses before the Legislature and committees thereof, and the Joint Rules of the Senate and Assembly as they now are or may hereafter be amended, shall apply to the committee hereby created; and be it further

Resolved, That the Sergeant-at-Arms of the Senate and of the Assembly and each of them or other officers designated by either of them, are hereby directed to serve any and all subpenas, orders and other process issued by the committee, when directed so to do by the chairman or by a majority of the membership of the committee; and be it further

Resolved, That every department, commission, board, agency, officer and employee of the State Government and of any political subdivision, county, city, or public district of or in this State shall furnish the committee and any subcommittee, upon request, any and all such assistance, and information, records and documents as the committee or subcommittee deems proper for the accomplishment of the purposes for which the committee is created; and be it further

Resolved, That the members of the committee shall serve without compensation but shall be allowed mileage at the rate of five and one-half cents ($0.05½) per mile each way incurred in connection with their services upon the committee and other actual and necessary expenses for living accommodations and meals, incurred in connection with their services

upon the committee, or in lieu of such expenses for accommodations and meals an allowance of ten dollars ($10) per day; and be it further

Appropriation

Resolved, That the sum of two thousand five hundred dollars ($2,500) or so much thereof as may be necessary is hereby made available from the contingent funds of the Senate and of the Assembly for the expenses of the committee and its members and for any charges, expenses or claims it may incur under this resolution, to be paid equally from the contingent funds of the Senate and of the Assembly and disbursed, after certification by the chairman of the committee, upon warrants drawn by the State Controller upon the State Treasurer.

CHAPTER 129

Assembly Concurrent Resolution No. 46—Relative to the creation of a joint committee to investigate fish and game problems.

[Filed with Secretary of State May 12, 1943.]

Joint Legislative Committee on Fish and Game Problems

WHEREAS, It is important that all pertinent facts bearing upon the fish and game problems of California be found, assembled and analyzed to the end that the Senate and Assembly and the members of each may be able to act advisedly in the formulation of legislation to meet and solve those problems; and

WHEREAS, The facts can best and most expeditiously be ascertained and analyzed for the information of the Legislature through a joint investigating committee of the Senate and Assembly charged with the study of every phase of the subject of fish and game; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That a committee to be known as the Joint Legislative Committee on Fish and Game Problems, consisting of three members of the Assembly appointed by the Speaker and two members of the Senate appointed by the Rules Committee thereof, is hereby created, which committee is authorized and directed to gather, assemble, study and analyze all facts relating to every phase of the fish and game problems of this State, with a view to formulating and submitting such advice and such legislative measures as will contribute to the solution of those problems; and be it further

Resolved, That the committee hereby created shall in performing the functions vested in it by this resolution have all the powers conferred upon legislative committees by Article 8, Chapter 2, Title 1, Part 3 of the Political Code, and, except when inconsistent with this resolution, all the powers conferred upon committees by the Rules of the Assembly, the Rules of the Senate, and the Joint Rules of the Senate and Assembly, particularly Joint Rule 35 relating to the powers

of investigating committees. Said powers may be exercised by the committee after the adjournment of this session, and the committee is hereby authorized and directed to file its report with the Legislature during the session of the Fifty-sixth Legislature; and be it further

Resolved, That the members of committee shall not be entitled to any salary because of membership on the committee but shall be allowed mileage and necessary expenses in the amount and in the manner prescribed in Joint Rule 35, except that no mileage or expenses shall be allowable or payable during the session of the Legislature or any recess of not more than 3 days; and be it further

Resolved, That the sum of three thousand dollars ($3,000) from the contingent fund of the Assembly and two thousand dollars ($2,000) from the contingent fund of the Senate, or so much thereof as may be necessary, is hereby made available for the expenses of the committee and its members for any charges, expenses or claims it may incur under this resolution, to be paid, in proportion to contribution, from the contingent funds of the Senate and of the Assembly and disbursed, after certification of the chairman of the committee, upon warrants drawn by the State Controller upon the State Treasurer

Appropriation

CHAPTER 130

Assembly Concurrent Resolution No. 50—Relative to providing for a full year state-wide celebration in 1950 commemorating admission of California to the Union and the end of the war and providing for a joint committee to plan for the celebration.

[Filed with Secretary of State May 12, 1943.]

WHEREAS, The year 1950 will mark the one hundredth anniversary of the admission of the State of California to the Union; and

Joint Centennial Committee

WHEREAS, By the year 1950 it is confidently hoped and expected that the world will be in an era of peace and unprecedented prosperity; and

WHEREAS, In the era of peace and prosperity to come, the Pacific Coast of the United States and particularly the State of California will be the meeting ground of the markets and the culture of the East and the products and the culture of the West; and

WHEREAS, The State of California will be the focal point of all the forces that will lead to the establishment of peaceful and prosperous communion between the East and the West as is demonstrated by the fact that those forces planning for the time of peace to come are even now at work within the State of California; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the year 1950 is hereby designated the California Centennial Year; and be it further

Resolved, That a committee to be known as the Joint Centennial Committee, consisting of three members of the Assembly to be appointed by the Speaker thereof, and two members of the Senate to be appointed by the Rules Committee thereof, is hereby created to make comprehensive plans for a full year, state-wide celebration of the one hundredth anniversary of the admission of California into the Union, the Days of Gold Centennial, and the return of the world to a state of peace; and be it further

Resolved, That the committee hereby created in exercising the powers and performing the functions vested in it by this resolution shall have: (i) All the powers conferred upon legislative committees by Article 8, Chapter 2, Title 1, Part 3 of the Political Code; (ii) all the powers conferred upon committees by the Joint Rules of the Senate and Assembly as they are enacted and such rules are hereby incorporated herein and made a part hereof the same as if they were set forth in this resolution in full; (iii) all powers necessary or convenient to accomplish the objects and purposes of this resolution, including but not limited to the following duties and powers:

(1) To make a complete study, survey, and investigation of all matters connected with any phase of the subject of this resolution;

(2) To adopt and from time to time amend such rules governing its procedure as may to it appear appropriate;

(3) To meet at any time during the sessions of the Fifty-fifth Legislature and any recess thereof, and at any time until but not after the commencement of the Fifty-sixth Session of the Legislature;

(4) To report its findings and propose plans relating to the subject matter of this resolution to the Fifty-sixth Legislature; and be it further

Advisory committee

Resolved, That an advisory committee to the Joint Centennial Committee is hereby created, to consist of 15 nonlegislator members appointed by the Chairman of the Joint Centennial Committee, to advise, aid and counsel the Joint Centennial Committee in the duties carried out by the latter in connection with this resolution and that the advisory committee shall have and exercise such powers and duties as shall be defined from time to time by the Joint Centennial Committee, within the scope of the powers and duties committed to the latter by this resolution; and be it further

Appropriation

Resolved, That the sum of five thousand dollars ($5,000) or so much thereof as may be necessary, is hereby made available from the contingent funds of the Assembly and Senate for the expenses or claims it may incur under this resolution, to be paid equally from the contingent funds of the Assembly and the Senate and disbursed, after certification by the chairman of the committee, upon warrants drawn by the State Controller upon the State Treasurer.

CHAPTER 131

Assembly Concurrent Resolution No. 56—Relative to settlement of Jewish refugees in Palestine.

[Filed with Secretary of State May 12, 1943.]

Continued establishment of Jewish homeland in Palestine

WHEREAS, The intolerable sufferings of the Jewish people in Europe at the hands of the ruthless dictators of the Axis Powers make an irresistible appeal to the Christian world and to the enlightened conscience of the United Nations, and make clear the need for a homeland where stricken and persecuted Jewish people may settle in peace; and

WHEREAS, The favor with which Great Britain viewed the establishment in Palestine of a national home for the Jewish people was evidenced by the Balfour Declaration of November 2, 1917; and

WHEREAS, The United States of America expressed concurrence in this policy by joint congressional resolution adopted on June 30, 1922, and by the provisions of the Anglo-American Treaty of December 2, 1924; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That we favor the continued establishment of a Jewish homeland in Palestine and its further development for the absorption of as many Jewish refugees as may be called for by the exigencies of the situation be commended to the considered judgment of the United Nations, not only as an act of justice to the Jewish people, but as an integral part of a new democratic world order in which every people shall have the right to self-government and self-determination in accordance with the principles, to perpetuate which we are now engaged in the fiercest struggle of all time; and be it further

Resolved, That a copy of this resolution be forwarded to the President of the United States, to Senators Wagner and McNary, Cochairmen of the American Palestine Committee, and to the British Embassy in Washington for transmission to the proper authorities in London, to the Secretary of State of the United States, to the President of the United States Senate, and to the Speaker of the House of Representatives of the United States.

CHAPTER 132

Assembly Concurrent Resolution No. 59—Relative to the creation of a Joint Fact-Finding Committee on Un-American Activities in California to investigate the activities of persons and groups known or suspected to be foreign dominated or controlled and recommend legislation for their regulation.

[Filed with Secretary of State May 12, 1943.]

Joint Fact-Finding Committee on Un-American Activities

WHEREAS, These are times of public danger. Subversive persons and groups are endangering our domestic unity so as

to leave us unprepared to resist aggression. Under color of the protection afforded by the Bill of Rights these persons and groups seek to destroy our liberties and our freedom by force, threats and sabotage and to subject us to the domination of foreign powers.

State legislation to meet the problem and to assist law enforcement officers can best be based on a thorough and impartial investigation by a competent and active legislative committee; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That there is hereby created a Joint Fact-Finding Committee on Un-American Activities in California which shall investigate, ascertain, collate and appraise all facts causing or constituting interference with the National defense program in California or rendering the people of the State, as a part of the Nation, less fit physically, mentally, morally, economically or socially; and be it further

Resolved, That in addition to other duties imposed upon the committee, the committee shall investigate the activities of groups and organizations whose membership includes persons who are members of the Communist Party, the Fascist organizations, the German Nazi Bund, or any other organization known or suspected to be dominated or controlled by a foreign power, which activities affect the conduct of this State in National defense, the functioning of any State agency, unemployment relief and other forms of public assistance, educational institutions of this State supported in whole or in part by State funds, or any political program; and be it further

Resolved, That the committee shall consist of three members of the Assembly, appointed by the Speaker thereof; and two members of the Senate appointed by the Committee on Rules thereof; and be it further

Resolved, That the committee hereby created in exercising the powers and performing the functions vested in it by this resolution shall have: (i) All the powers conferred upon legislative committees by Article 8, Chapter 2, Title 1, Part 3 of the Political Code and by Chapter 4, Part 1, Division 2, Title 2 of the Government Code; (ii) except when inconsistent with this resolution, all the powers conferred upon committees by the Rules of the Assembly, the Rules of the Senate, and the Joint Rules of the Senate and Assembly as they are enacted and amended from time to time and such rules are hereby incorporated herein and made a part hereof the same as if they were set forth in this resolution in full; (iii) all powers necessary or convenient to accomplish the objects and purposes of this resolution, including but not limited to the following duties and powers:

(1) To select a chairman from its membership and to employ and fix the compensation of a secretary and such clerical, expert and technical assistants as it may deem necessary;

(2) To create subcommittees from its membership, assigning to the subcommittee any study, inquiry, investigation or hearing which the committee itself has authority to undertake or hold, and the subcommittee for the purpose of this assignment shall have and exercise all of the powers conferred upon the committee limited by the express terms of the resolution or resolutions of the latter defining the powers and duties of the subcommittee, which powers may be withdrawn or terminated at any time by the committee;

(3) To adopt and from time to time amend such rules governing its procedure (including the fixing of its own quorum and the number of votes necessary to take action on any matter) as may to it appear appropriate;

(4) To contract with such other agencies, public or private, as it deems necessary for the rendition and affording of such services, facilities, studies and reports to the committee as will best assist it to carry out the purposes for which it is created;

(5) To hold public hearings at any place in California at which hearings the people are to have an opportunity to present their views to the committee;

(6) To make a complete study, survey and investigation of every phase of the subject of this resolution, including but not limited to the operation, effect, administration, enforcement, and needed revision of any and all laws in anywise bearing upon or relating to the subject of this resolution;

(7) To meet either during sessions of this Legislature or during any recess thereof at any and all places in this State, in public or executive session;

(8) To act during this session of the Legislature including any recess thereof, and until the convening of the Fifty-sixth Legislature;

(9) To file reports with the Legislature during the Fifty-fifth Session thereof or any special extraordinary session thereof, and to file its final report with the Fifty-sixth Legislature;

(10) To summon and subpena witnesses, require the production of papers, books, accounts, reports, documents, and records of every kind and description, to issue subpenas and to take all necessary means to compel the attendance of witnesses and procure testimony; and

(11) To cooperate with and secure the cooperation of county, city, city and county and other local law enforcement agencies in investigating any matter within the scope of this resolution, and to direct the sheriff of any county to serve subpenas, orders, and other process issued by the committee; and

(12) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution; and be it further

Resolved, That the committee, each of its members, and any representative of the committee thereunto authorized by the committee or by its chairman, is authorized and empowered to administer oaths; and be it further

Resolved, That every department, commission, board, agency, officer and employee of the State Government, including the Legislative Counsel, the Attorney General and their subordinates, and of any political subdivision, county, city, or public district of or in this State shall furnish the committee and any subcommittee, upon request, any and all such assistance, and information, records and documents as the committee or subcommittee deems proper for the accomplishment of the purposes for which the committee is created; and be it further

Resolved, That the California Highway Patrol and all officers and members thereof shall furnish such assistance to the committee as the chairman may direct; and be it further

Resolved, That the members of the committee shall serve without compensation but shall be allowed mileage at the rate of five and one-half cents ($0.05½) per mile each way incurred in connection with their services upon the committee and other actual and necessary expenses for living accommodations and meals, incurred in connection with their services upon the committee, or in lieu of such expenses for accommodations and meals an allowance of ten dollars ($10) per day; and be it further

Appropriation

Resolved, That the sum of twenty thousand dollars ($20,000) or so much thereof as may be necessary is hereby made available from the contingent funds of the Senate and of the Assembly for the expenses of the committee and its members and for any charges, expenses or claims it may incur under this resolution, to be paid equally from the contingent funds of the Senate and of the Assembly and disbursed, after certification by the chairman of the committee, upon warrants drawn by the State Controller upon the State Treasurer.

CHAPTER 133

Assembly Concurrent Resolution No. 64—Relative to discontinuing the use of a dated symbol on the stationery of the Members of the Legislature.

[Filed with Secretary of State May 12, 1943.]

Discontinuance of dated symbol on stationery

WHEREAS, The stationery now being prepared for the use of Members of this Legislature will continue to be used by them beyond this year; and

WHEREAS, The imprinting of a symbol bearing the number of the current year on this stationery renders it unsuitable for use in any other year; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That Senate Concurrent Resolution No. 15, adopted January 27, 1943, be amended to eliminate the direction that the slogan "Victory in 43" be printed on the stationery of Members of the Legislature; and be it further

Resolved, That such imprinting be henceforth discontinued, although the supply of stationery already so imprinted may be distributed and used until exhausted.

CHAPTER 134

Assembly Concurrent Resolution No. 65—Relative to the Joint Rules of the Senate and Assembly.

[Filed with Secretary of State May 12, 1943.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Joint Rules of the Senate and Assembly be amended by adding thereto Rule 33.3, to read as follows: Joint Rule 33 3

33.3. Members of the Legislature shall be entitled to their actual and necessary expenses incurred in connection with their attendance upon regular and special sessions of the Legislature, or in lieu thereof an allowance of ten dollars ($10) per day for each day of such sessions, excluding days within recesses of more than three days. Session expenses

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CHAPTER 135

Assembly Joint Resolution No. 17—Relative to assistance to needy disabled persons.

[Filed with Secretary of State May 12, 1943.]

WHEREAS, The Government of the United States has recognized the obligation of civilized communities to provide for the security of their citizens and to afford assistance to those who are in need by enactment of the Federal Social Security Act; and Extension of Social Security Act to adult physically disabled not capable of vocational rehabilitation

WHEREAS, The Federal Social Security Act, although a marked advance over all previous legislation for the purpose, is still incomplete and defective in that it does not make provision for assistance to certain classes and groups in the population no more secure and no less deserving than the classes and groups for assistance to whom provision has been made; and

WHEREAS, Provision has been made in the Federal Social Security Act for cooperation with the States in extending and strengthening their programs of vocational rehabilitation of persons disabled in industry or otherwise, and in extending and improving services to crippled children, but no provision

has been made therein for assistance to adult needy disabled persons not eligible or feasible for vocational rehabilitation, whose condition is even more piteous than that of those persons capable of rehabilitation and whose need is equally great; and

WHEREAS, The provision of grants in aid to the States by the United States Government for assistance to needy disabled persons not capable of vocational rehabilitation would encourage and enable the States to provide for such persons the security and aid they now lack, and which are enjoyed by other groups in the community formerly equally underprivileged; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the President and Congress of the United States are hereby urged and memorialized to extend the Social Security Act to provide grants in aid to the States for assistance to needy physically disabled persons not capable of vocational rehabilitation; and be it further

Resolved, That the Chief Clerk of the Assembly is hereby directed to transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives of the Congress of the United States, to the Federal Social Security Board, and to each Senator and Representative from California in the Congress of the United States.

CHAPTER 136

Assembly Joint Resolution No. 50—Relative to decentralization of the steel industry.

[Filed with Secretary of State May 12, 1943.]

Development of steel industry in California

WHEREAS, The concentration of the steel production industry in the hands of a limited few, centralized within a small geographical area, has stifled the development of this all-important industry in other large sections of the Nation, and particularly in California; and

WHEREAS, This situation has resulted in a serious shortage of steel—the backbone of our National economy and the keystone of our war production and agricultural development—which continues to be an ever-increasing major source of distress in fully mobilizing the war effort of the Nation at this critical period in its history; and

WHEREAS, The critical shortage of steel is further causing a 62 per cent reduction in the manufacture of agricultural machinery and implements from the production in 1940-41, at a time when the great agricultural sections of the State of California are being urged to increase the production of food supplies so urgently needed now; and

WHEREAS, Large high-grade ore deposits of iron, and other essential by-product minerals, are already known to exist throughout the State of California, in areas closely adjacent to adequate hydroelectric power, natural gas, and other requirements for the mining and processing of iron ore and its production into steel; and

WHEREAS, Huge quantities of steel are particularly required to continue the remarkable record of shipbuilding and war industry production, in general, which has been established on the Pacific Coast, thus creating a more difficult steel shortage situation than in other parts of the Nation due to the long distances over which steel now must be transported, increasing the strain upon our transportation facilities to coastal cities, through which must flow almost all of the military equipment and supplies necessary for the use of our Army, Navy, Air Force and Merchant Marine in the Pacific; and

WHEREAS, Further quantities of steel are required to furnish hardware necessary for the construction of adequate housing facilities to provide proper homes for shipyard and war industry workers in close proximity to their places of employment, thus eliminating the abominable conditions under which thousands of them must now live which create health, fire and safety hazards, and provides a major cause of absenteeism; and increases the problems of transportation to and from work for thousands of others; and

WHEREAS, Notwithstanding the apparent opposition of sectional private interests which have continuously thwarted the development of these vast natural resources of the State of California, it is necessary that they be immediately developed to the fullest possible extent in the interest of National Defense; and

WHEREAS, All California industry is unfavorably affected in successfully competing with other large sections of the Nation in developing its own economic well-being through the operation of the so-called Pittsburgh-plus system of steel costs which has been permitted to dominate the steel industry; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That it is our firm conviction that the best interests of the Nation in the matter of adequate National Defense, demand the immediate development of our natural iron ore resources, the construction of blast furnaces, steel mills and rolling mills, with sufficient capacity to meet all the needs of the Pacific Coast area; and be it further

Resolved, That it is our firm conviction that the immediate projection and completion of such facilities to develop an adequate steel industry, will prove a major asset contributing toward the permanent economic advancement and well-being of our people, throughout the years to come, and be it further

Resolved, That every agency of the Government of the United States concerned with the problem of war production be urged to lend support to and give favorable consideration

to the development and construction of an iron and steel industry in the State of California in the interest of National Defense, and be it further

Resolved, That copies of this resolution be transmitted forthwith by the Chief Clerk of the Assembly to the Honorable Franklin Delano Roosevelt, President of the United States, the Members of the Senate and the House of Representatives from the State of California, the Director of the War Production Board, the Secretary of War, the Secretary of the Navy, the Chairman of the United States Maritime Commission, and to the Committee for the Investigation of the War Effort of the United States Senate.

CHAPTER 137

Assembly Joint Resolution No. 51—Relative to memorializing Congress to enact legislation creating a Federal agency to study tax structures.

[Filed with Secretary of State May 12, 1943.]

Federal agency to study tax structures

WHEREAS, The National emergency has brought about the necessity for new and additional tax levies; and

WHEREAS, The formation of new Federal tax policies is in many instances threatening the very existence of local governmental units whose continued functioning is essential in this National emergency and in the return to normal economic conditions thereafter; and

WHEREAS, No real satisfactory tax reform can be achieved without readjusting the Federal, State and local fiscal relationships; and

WHEREAS, An agency created by Congress would be best fitted to study tax structures and make recommendations; and

WHEREAS, In the Seventy-eighth Congress, the Honorable John M. Coffee, Congressman from the Sixth Washington Congressional District introduced House Joint Resolution 56, by the terms of which there is proposed a Federal Commission on Tax Integration, for the purpose hereinbefore set forth; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Congress of the United States is hereby requested to enact legislation creating a Federal agency to study tax structures to the end that inequitable burdens be avoided and the financial stability of the various local governmental agencies be assured; and be it further

Resolved, That the Chief Clerk of the Assembly shall transmit copies of this resolution to the President, Vice President, Speaker of the House of Representatives and to each Senator and Member of the House of Representatives from California in the Congress of the United States

CHAPTER 138

Senate Joint Resolution No. 26—Relative to deduction of earnings from agricultural labor from old-age assistance.

[Filed with Secretary of State May 14, 1943.]

Protest regarding deduction of earnings from agricultural labor from old-age assistance in California

WHEREAS, House Joint Resolution 96, as passed by the Senate of the United States included, as subdivision (f) of Section 5 thereof, provisions that no person should be deemed not to be a needy individual by reason of remuneration paid to such person for any agricultural labor performed by him from the enactment of the resolution until six months after the termination of hostilities in the present war; and that no State should be required, in determining need in the case of any individual, to take into consideration any income or resources derived by him from agricultural labor; and

WHEREAS, Conference reports amending House Joint Resolution 96 were adopted by both houses of Congress, whereby the benefits of the subdivision were withheld from any State which had increased the amount of aid payable to recipients of old-age aid since April 30, 1943; and

WHEREAS, The State of California has at the present session of the Legislature increased the maximum monthly individual grant of aid to the aged from forty dollars ($40) per month to fifty dollars ($50) per month; and the State of California is the only State which has increased the amount of aid payable to recipients of old-age assistance since April 30, 1943; and

WHEREAS, House Joint Resolution 96 in the form in which it was put by the amendments made by the Conference Report is flagrantly discriminatory against the State of California, and penalizes this State for its action in increasing the amount of aid to an amount more nearly adequate, under present conditions, for the maintenance of health and decency; and

WHEREAS, The farm labor shortage in the State of California is no less severe than in other States whose contributions to the production of food and other agricultural products do not surpass nor even equal the contribution of the State of California; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California does hereby protest the action of the Congress of the United States in passing legislation so unfair and unjust to the State of California, and does most urgently request the Congress of the United States to take such measures as may be necessary immediately to correct their ill-advised and discriminatory action; and be it further

Resolved, That the Secretary of the Senate is hereby directed to send copies of this resolution to the President and the Vice President of the United States, the Speaker of the House of Representatives, and to each Member of the Senate and the House of Representatives in the Congress of the United States from California.

CHAPTER 139

Senate Constitutional Amendment No. 25—A resolution to propose to the people of the State of California to amend Sections 2 and 34 of Article IV of the Constitution of said State, relating to the Legislature.

[Filed with Secretary of State May 14, 1943.]

Constitution, Article IV, Secs. 2 and 34

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its Fifty-fifth Regular Session commencing on the fourth day of January, 1943, two-thirds of all the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California to amend Sections 2 and 34 of Article IV of the Constitution of said State so as to read as follows, respectively:

First: That Section 2 of Article IV of the State Constitution be amended to read:

Sessions of Legislature

Sec. 2. The sessions of the Legislature shall be annual. The Governor may, in the interim, convene the Legislature, by proclamation, in extraordinary session. All sessions, other than extraordinary, shall commence at 12 o'clock m. on the first Monday in March, and shall continue in session for a period not exceeding 60 days thereafter.

The compensation of the Members of the Legislature provided by Section 23 of this article shall be paid during each annual regular legislative session at such times as may be provided by law.

Second: That Section 34 of Article IV of the State Constitution be amended to read:

Budget

Sec. 34. The Governor shall, within the first five days of each regular session of the Legislature, submit to the Legislature, with an explanatory message, a budget containing a complete plan and itemized statement of all proposed expenditures of the State provided by existing law or recommended by him, and of all its institutions, departments, boards, bureaus, commissions, officers, employees and other agencies, and of all estimated revenues, for the next fiscal year, together with a comparison, as to each item of revenues and expenditures, with the actual revenues and expenditures for the preceding fiscal year. If the proposed expenditures for the ensuing fiscal year shall exceed the estimated revenues therefor, the Governor shall recommend the sources from which the additional revenue shall be provided.

The Governor, and also the Governor-elect, shall have the power to require any institution, department, board, bureau, commission, officer, employee or other agency to furnish him with any information which he may deem necessary in connection with the budget or to assist him in its preparation.

Budget Bill

The budget shall be accompanied by an appropriation bill covering the proposed expenditures, to be known as the Budget Bill. The Budget Bill shall be introduced during the first five

days of the session into each House of the Legislature by the respective chairmen of the committees having to do with appropriations, and shall be subject to all the provisions of Section 15 of this article. The Governor may at any time amend or supplement the budget and propose amendments to the Budget Bill before or after its enactment, and each such amendment shall be referred in each House to the committee to which the Budget Bill was originally referred. At regular session, neither House shall place any bill except the Budget Bill upon final passage until 15 days after its introduction, without the consent of three-fourths of the members thereof. Until the Budget Bill has been finally enacted, neither House shall place upon final passage any other appropriation bill, except emergency bills recommended by the Governor, or appropriations for the salaries, mileage and expenses of the Senate and Assembly.

More than one item of appropriation

No bill making an appropriation of money, except the Budget Bill, shall contain more than one item of appropriation, and that for one single and certain purpose to be therein expressed.

Reduction etc., of items

In any appropriation bill passed by the Legislature, the Governor may reduce or eliminate any one or more items of appropriation of money while approving other portions of the bill, whereupon the effect of such action and the further procedure shall be as provided in Section 16 of this article.

Conflicting provisions

In case of conflict between this section and any other portion of this Constitution, the provisions of this section shall govern, except that any item of appropriation in the Budget Act, other than for the usual current expenses of the State, shall be subject to the referendum.

Necessary laws

The Legislature shall enact all laws necessary or desirable to carry out the purposes of this section, and may enact additional provisions not inconsistent herewith.

CHAPTER 140

Senate Constitutional Amendment No. 29—A resolution to propose to the people of the State of California to amend the Constitution of said State by adding Section 22 to Article V thereof, relating to the compensation of State officers.

[Filed with Secretary of State May 14, 1943.]

Constitution, Article V, Sec 22

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its Fifty-fifth Regular Session commencing on the fourth day of January, 1943, two-thirds of the members elected to each of the two houses of the said Legislature voting in favor thereof, hereby proposes to the people of the State of California, that Section 22 be

added to Article V of the Constitution of said State, to read as follows:

Salaries of certain elective officers

Sec. 22. Notwithstanding anything contained elsewhere in this Constitution, the compensation for the services of the Lieutenant Governor, the State Controller, Secretary of State, Superintendent of Public Instruction and State Treasurer may be fixed at any time by the Legislature at an amount not less than five thousand dollars ($5,000) per annum.

STATUTES OF CALIFORNIA

FIRST EXTRA SESSION OF THE FIFTY-FIFTH LEGISLATURE

1943

BEGAN THURSDAY, JANUARY TWENTY-EIGHT AND
ADJOURNED FRIDAY, JANUARY THIRTY
NINETEEN HUNDRED FORTY-THREE

PROCLAMATION BY THE GOVERNOR CONVENING THE LEGISLATURE IN EXTRAORDINARY SESSION

EXECUTIVE DEPARTMENT, STATE OF CALIFORNIA

WHEREAS, An extraordinary occasion has arisen and now exists, requiring that the Legislature of the State of California be convened in extraordinary session; now, therefore,

I, EARL WARREN, Governor of the State of California, by virtue of the power and authority in me vested by Section 9 of Article V of the Constitution of the State of California, do hereby convene the Legislature of the State of California to meet and assemble in extraordinary session at Sacramento, California, on Thursday, the twenty-eighth day of January, 1943, at 10 o'clock a.m. of said day, for the following purposes, and to legislate upon the following subjects, to wit:

1. To consider and act upon legislation to repeal Division 7 of the Military and Veterans Code, and to add a new Division 7 thereto, relating to and providing for State, local, and regional participation in civilian defense and the war effort, including but not limited to provision for a State War Council and local war councils and other State, regional, and local agencies, bodies, and officers, and defining their powers and duties and those of the Governor and other existing State and local officers, bodies, and agencies in relation thereto.

2. To consider and act upon legislation making an appropriation for the support of civilian defense activities within the State of California until such time as the legislation referred to in paragraph one (1) hereof becomes legally effective and an appropriation by the Legislature to carry out the purposes of such legislation can be made.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this twenty-sixth day of January, 1943

EARL WARREN, Governor of California

Attest:

FRANK M. JORDAN, Secretary of State

[SEAL]

STATUTES OF CALIFORNIA

PASSED AT THE FIRST EXTRA SESSION OF THE FIFTY-FIFTH LEGISLATURE

CHAPTER 1

An act to repeal Division 7, comprising Sections 1500 to 1561, of, and to add Division 7, comprising Sections 1500 to 1601, to the Military and Veterans Code, relating to and providing for State, local, and regional participation in civilian defense and the war effort, including but not limited to provision for a State War Council and local war councils and other State, regional and local agencies, bodies and officers, and defining their powers and duties and those of the Governor and other existing State and local officers, bodies and agencies in relation thereto.

Stats. 1935, p. 1338, amended

[Approved by Governor January 30, 1943. Filed with Secretary of State January 30, 1943.]

In effect May 1, 1943

The people of the State of California do enact as follows:

SECTION 1. Division 7, consisting of Chapter 1, Sections 1500 to 1561, inclusive, of the Military and Veterans Code is hereby repealed.

Stats. 1941, p. 1940

SEC. 2. Division 7, consisting of Chapter 1, Sections 1500 to 1601, inclusive, is hereby added to the Military and Veterans Code, to read as follows:

New division

DIVISION 7. NATIONAL DEFENSE

CHAPTER 1. EMERGENCY WAR POWERS

Article 1. General Provisions

1500. It is hereby found and declared that it is necessary, because of the war in which the United States of America is engaged, to grant to the Governor, to certain State officers, and to the political subdivisions, municipal corporations and other public agencies of the State and to the officers and employees thereof, certain emergency war powers and the incidents thereof enumerated herein. It is further declared to be the purpose of this chapter, and the policy of the State thereby to assist the President of the United States of America,

Necessity

Policy

as Commander in Chief of the Army and Navy, in the successful prosecution of the war; to cooperate with the Federal Government and other States in matters relating to the war effort; to meet the extraordinary conditions and problems resulting in this State from the war by establishing such organizations and taking such steps as are necessary and appropriate to carry out the provisions hereof; and, generally, to defend the State, protect the public peace, health, and safety and preserve the lives and property of the people of the State.

Short title

1501. This chapter may be cited as the "California War Powers Act."

"War Council"

1502. As used in this chapter, "War Council" means the California State War Council.

"Cessation of hostilities"

1503. As used in this chapter, the term "cessation of hostilities" means the date on which hostilities in the present war between the United States and the governments of Germany, Japan and Italy and each of them shall cease, as fixed by proclamation of the President or by the concurrent resolution of the two houses of the Congress of the United States, or of the Legislature of the State of California, whichever date is earlier.

Duration

1503.5. This division shall terminate and have no force and effect at the expiration of six months after cessation of hostilities.

"Protective region"

1504. As used in this chapter, "protective region" means an area within the State not wholly confined to a single city, or city and county, and not necessarily coterminous with the boundary lines of any city, city and county or county, in which during periods of a "state of extreme emergency" certain centralized responsibility and authority with respect to the rendering of aid among public agencies is vested in a regional civilian protection officer over all protective services, personnel, equipment and facilities within such area.

"State of extreme emergency"

1505. As used in this chapter, "state of extreme emergency" means the duly proclaimed existence, by the Governor or by the State Director of Civilian Defense or a regional civilian protection officer in the name of the Governor, of conditions of extreme peril to the safety of persons and property within the State caused by an enemy attack by land, sea or air, or when upon the advice of the commanding general of this area, such an attack is imminent, an air raid alarm, sabotage, or other cause such as a fire, flood, storm, epidemic or earthquake, which conditions by reason of their magnitude are or are likely to be beyond the control of the protective services, personnel, equipment and facilities of any single city, city and county or county and require the combined forces of a "protective region or regions" to combat.

"Period of a state of extreme emergency"

1506. As used in this chapter, "period of a state of extreme emergency" means the interval of time between the duly authorized proclamation of the existence of a state of extreme emergency and the proclamation by the Governor or the con-

current resolution of the two houses of the State Legislature declaring it at an end.

"Civilian defense"

1507. As used in this chapter, "civilian defense" means all activities of persons and agencies, public and private, other than the activities of the armed forces, to assist in the successful prosecution of the war, to limit the effects of enemy action and to protect life and property.

"Civilian protection"

1508. As used in this chapter, "civilian protection" means that part of civilian defense activities which has for its purpose the limitation of the effects of enemy action and the protection of life and property.

"Civilian war services"

1509. As used in this chapter, "civilian war services" means all civilian defense activities, other than those relating to civilian protection, with which the State, communities and individuals must be concerned as part of their contribution to the successful prosecution of the war. They include but are not limited to, salvage, transportation, war savings, services to service men, recreation, consumer interests, nutrition, health and medical care, welfare and child care, housing, education, agriculture, manpower supply and training, and plant utilization.

"Governor"

1509.3. As used in this division "Governor" means the Governor or person upon whom the powers and duties of the office of Governor have devolved pursuant to Section 16 of Article V of the Constitution.

Salaries

1509.4. No salary provided by this chapter shall exceed the sum of seven thousand five hundred dollars ($7,500) per annum.

Civil service rights

Any State civil service employee who may be appointed by the Governor to any position under this chapter has the right to be reinstated to his civil service position upon termination of such appointment.

Vote on consent to appointment

1509.5. No member of the War Council whose appointment is by this chapter required to be with the advice and consent of the War Council can participate or vote in the proceedings of the War Council in connection with the determination of the War Council as to whether or not the War Council consents to his appointment. A majority of the de jure members of the War Council then in office disregarding vacancies is sufficient to consent to such an appointment.

Article 2. Organization and Duties of the War Council

Membership

1510. There is hereby created a California State War Council to consist of the following:

(a) The Governor;
(b) The Lieutenant Governor;
(c) The State Director of Civilian Defense;
(d) The State Director of Civilian Protection;
(e) The State Director of Civilian War Services;
(f) The Attorney General;
(g) Two representatives of the city governments of the State to be appointed by the Governor and to serve at his pleasure;

(h) Two representatives of the county governments of the State to be appointed by the Governor and to serve at his pleasure.

Two members of the Senate appointed by the Rules Committee of the Senate, and two members of the Assembly appointed by the Speaker shall meet with and participate in the work of the War Council to the same extent as members of the council appointed by the Governor, excepting when such participation is constitutionally incompatible with their respective positions as Members of the Legislature.

Expenses

1511. Excepting those members of the War Council for whom compensation is specifically provided herein, neither the members of the War Council, nor the members of the Legislature shall receive compensation for their services under this chapter, but shall be reimbursed for their actual and necessary expenses incurred in connection with their duties hereunder, or in lieu thereof shall receive mileage and ten dollars ($10) per day of actual service.

Ex officio officers

1512. The Governor shall be ex officio chairman, and the State Director of Civilian Defense ex officio vice chairman, of the War Council.

Powers and duties

1513. It shall be the duty of the War Council, and it is hereby empowered:

(a) To act as an advisory body to the Governor in all activities made necessary by the war which requires State direction, administration, assistance or coordination;

(b) To prepare and recommend for consideration by the Governor rules, regulations or orders which are within the province of the Governor to promulgate;

(c) To consider and recommend to the Governor for approval the boundaries of each of the "protective regions" of the State;

(d) To consider and approve inter-regional and regional mutual aid plans;

(e) To consider and recommend to the Governor the establishment of regions for the coordination and direction of civilian war services on a regional basis as and when the magnitude of the particular problem so requires;

(f) To consider and recommend the creation by the Governor of advisory committees in order to make available to the State civilian participation and cooperation in civilian defense activities;

(g) To consider and recommend the expenditures of moneys appropriated for any of the objects or purposes of this chapter.

Article 3. Civilian Defense Advisory Committees

Appointment

1520. The Governor shall create advisory committees to assist in specific fields of civilian defense activity. He shall appoint the members thereof and they shall serve at his pleasure. He shall also designate the chairman and vice chairman thereof.

Direction

The committees shall be under the direction of the

State Director of Civilian Defense and shall be solely advisory in character and shall not be delegated any administrative authority or responsibility. Members of such committees shall not receive compensation from the State for their services under this chapter, but when called into conference or session by the Governor shall be reimbursed for their actual and necessary expenses incurred in connection with such conferences or sessions. Expenses

Article 4. Creating the Office of State Director of Civilian Defense

1530. There is hereby created in the office of the Governor, the Office of State Director of Civilian Defense. Such officer shall be appointed by the Governor with the advice and consent of the War Council. He shall serve at the pleasure of the Governor and receive such salary as the Governor shall designate. The Governor shall also employ and fix the salaries of such assistants and employees as he may deem necessary, and shall prescribe their duties. State Director of Civilian Defense. Employees

The State Director of Civilian Defense, under the direction and supervision of the Governor, shall be the chief executive officer in carrying out the objects and purposes of this chapter. All of the administrative staff, including the two principal functional State directors, namely, the State Director of Civilian Protection and the State Director of Civilian War Services, shall be under the supervision and direction of the State Director of Civilian Defense. He shall coordinate, under the direction of the Governor, all activities of other departments and agencies of State Government which are directly related to the objects and purposes of this chapter. Chief executive officer. Coordination of related activities.

Whenever conditions exist within any region or regions which warrant the proclamation by the Governor of a state of extreme emergency and the Governor has not acted under the provisions of Section 1580 hereof by reason of the fact that he has been inaccessible, the State Director of Civilian Defense may proclaim the existence of a state of extreme emergency in the name of the Governor as to any region or regions of the State. Emergency proclamation.

Article 5. Creating the Office of State Director of Civilian Protection

1540. There is hereby created in the Governor's office as an assistant to the State Director of Civilian Defense, the Office of the State Director of Civilian Protection. Such officer shall be appointed by the Governor with the advice and consent of the War Council. He shall serve at the pleasure of the Governor and receive such salary as the Governor shall designate. State Director of Civilian Protection.

Powers and duties

1541. The State Director of Civilian Protection shall have the following powers and duties:

(a) He shall assist in the coordination of all protective services in the State, including those of local agencies of government.

(b) He shall have the direction and supervision of all regional civilian protection officers who shall be appointed to serve in the various protective regions which may be established hereunder.

(c) He shall review and recommend to the State Director of Civilian Defense for consideration by the War Council interregional and regional mutual aid plans.

(d) He shall supervise the development and maintenance by the State of an adequate system of emergency communication within the protective regions and among such regions.

(e) During a period of a state of extreme emergency, he shall exercise such powers in the name of the Governor as may be delegated to him by the Governor in order to carry out the purposes of this chapter.

(f) Whenever a state of extreme emergency has been declared in any region he is empowered to order the moving up of mutual aid equipment and personnel in accordance with duly approved interregional mutual aid plans whether or not a state of extreme emergency has been declared in such regions.

(g) He shall direct and supervise the work of such of the civilian defense committees as are placed under his supervision.

Chief fire officer

1542. In addition to such other assistants to the State Director of Civilian Protection as may be appointed, the Governor shall appoint an experienced chief fire officer as assistant to the State Director of Civilian Protection for fire service, who, acting, for the State Director of Civilian Protection and under his supervision and control, shall administer and continue in effect, subject to the provisions of this chapter, the State Fire Disaster Plan as heretofore approved by the State Council of Defense, as said plan may hereafter be modified or amended by the State War Council.

Article 6. Creating the Office of State Director of Civilian War Services

Director of Civilian War Services

1550. There is hereby created in the office of the Governor as an assistant to the State Director of Civilian Defense, the Office of State Director of Civilian War Services. Such officer shall be appointed by the Governor with the advice and consent of the War Council. He shall serve at the pleasure of the Governor and receive such salary as the Governor shall designate.

Powers and duties

1551. The State Director of Civilian War Services shall have the following powers and duties:

(a) He shall assist in the organization and coordination of all civilian war services in the State.

(b) He shall have the direction and supervision of all regional war service officers who may be appointed to direct and coordinate civilian war services on a regional basis as and when such regions are established.

(c) He shall direct and supervise the work of such of the civilian defense advisory committees as are placed under his supervision.

Article 7. Authorizing the Creation of Protective Regions and the Appointment of Regional Civilian Protection Officers

Protective regions

1560. The Governor with the advice of the War Council, is hereby authorized and empowered to divide the State into protective regions. He shall appoint regional civilian protection officers for each of such regions with the advice and consent of the War Council. Such officers shall serve at the pleasure of the Governor and receive such salary as the Governor shall designate.

Regional officers

Powers and duties of regional officers

1561. The regional civilian protection officer shall advise and consult with the commanders of the local defense corps within such region, and the local officers in charge of the several protective services of the local agencies of government, and it shall be the duty of such commanders and other responsible officers and employees of the counties, cities and counties, cities and other public agencies within such region to cooperate with and assist the regional civilian protection officer:

(a) In the development of regional mutual aid plans whereunder the public agencies involved may most effectively protect life and property during periods of a state of extreme emergency, which plans shall be submitted to the State Director of Civilian Protection for presentation to the State War Council for final approval;

(b) In the development and maintenance by the State of a system of emergency communication including State, regional and local control centers, so that such mutual aid plans may be effectively carried out;

(c) In recommending adequate standards for the protective services within the region.

Regional mutual aid plans

1562. During the period of a state of extreme emergency when the need arises for outside aid in any county, city and county or city within the region such aid shall be rendered in accordance with the regional mutual aid plans developed in the manner provided for herein. It is the responsibility of the regional civilian protection officer to enforce the fulfillment and carrying through of such regional mutual aid plans and it shall be the duty of local commanders to whom the orders of the regional civilian protection officer shall be directed in the enforcement thereof to comply therewith.

Nondelegation of responsibility

The responsibility vested in regional civilian protection officers hereunder to enforce such regional mutual aid plans shall not be delegated to commanders of defense corps or other officers, employees or agents of counties, cities and counties, cities

or other public agencies. The foregoing provision shall not preclude or interfere with the vesting in officers or employees of such local agencies of government as a part of such mutual aid plans, such authority, duties and responsibilities as are deemed necessary in the operation and administration of such plans.

Use of State personnel and equipment

1563. In the development of the regional mutual aid plans the regional civilian protection officer shall provide for the most effective use of State personnel and equipment as a part of such plans and during periods of a state of extreme emergency he shall exercise the same authority over the use of such equipment and personnel as he does with respect to the equipment and personnel of local agencies under the provisions of Section 1562 hereof.

Responsibility of local official

1564 The responsible local official in whose jurisdiction an incident requiring mutual aid has occurred shall remain in charge at such incident including the direction of such personnel and equipment provided him through the operation of such mutual aid plans.

Article 7.5. Regional War Services Officers

Regional war service officers

1565. When protective regions have been established, the Governor may with the advice and consent of the War Council appoint regional war services officers for such regions. They shall serve at the pleasure of the Governor and receive such salary as the Governor shall designate.

Article 8. Local War Councils

Civilian defense agencies

1570. Every county, city and county and city may create a civilian defense department or agency and provide for the organization, powers and duties thereof by ordinance duly enacted by its governing body or if heretofore created may continue such department or agency in existence. In the creation of such department or agency such county, city and county or city may establish a local war council or defense council and may also provide for a commander in addition to such other officers and committees as in the opinion of the local legislative body is required, and may prescribe their powers and duties.

Commanders

Limitation on powers of commanders

1571. The emergency power which may be vested in a local commander hereunder, during a period of a state of extreme emergency duly proclaimed as provided in this chapter, shall be subject or subordinate to the powers herein vested in the Governor and in the regional civilian protection officer of the protective region in which such county, city and county or city is located.

Article 9. Powers and Duties During a Period of a State of Extreme Emergency

Proclamation

1580. In accordance with the provisions of Section 1505 the Governor is hereby empowered to proclaim a state of extreme emergency in the protective region or regions affected

or likely to be affected thereby. Such proclamation shall be in writing and shall take effect immediately upon its issuance. As soon thereafter as possible it shall be filed in the office of the Secretary of State. The Governor shall cause widespread publicity and notice to be given of such proclamation.

Authority of Governor

1581. During a period of a state of extreme emergency the Governor shall have complete authority over all agencies of the State Government and the right to exercise within the protective regions designated all police power vested in the State by the Constitution and the laws of the State of California, in order to effectuate the purposes of this chapter. In exercise thereof he is authorized to promulgate, issue and enforce rules, regulations and orders which he considers necessary for the protection of life and property. Such rules, regulations and orders shall be in writing and shall take effect upon their issuance. They shall be filed in the office of the Secretary of State as soon as possible after their issuance. A copy of such rules, regulations and orders shall likewise be filed in the office of the county clerk of each county any portion of which is included within any one of the protective regions wherein a state of extreme emergency has been proclaimed. Whenever the period of a state of extreme emergency has been ended by either of the methods provided for in this chapter, the rules, regulations or orders promulgated or issued by the Governor during such period shall be of no further force and effect.

Rules, regulations, etc

Proclamation of a state of extreme emergency other than by Governor

1582. Whenever conditions exist within any county, city and county or city of this State which warrant the proclamation by the Governor of a state of extreme emergency, and the Governor has not acted under the provisions of Section 1580 hereof, the commander of any such agency shall communicate the existence of such conditions directly to the Governor, or if for any reason the Governor is inaccessible, to the regional civilian protection officer of the region affected who shall forthwith communicate with the Governor. The Governor may thereupon proclaim a state of extreme emergency, or if he is inaccessible, the regional civilian protection officer is hereby empowered to do so in the name of the Governor as to the region for which he was appointed, or the State Director of Civilian Defense may do so in the name of the Governor as to any region or regions of the State.

Performance of emergency functions

1583. When a state of extreme emergency has been proclaimed to exist in one or more or in all of the protective regions of the State the regional civilian protection officer or officers of the region or regions affected shall thereupon be empowered during the period thereof to perform the emergency functions imposed upon them in their respective regions by the provisions of Section 1562 of this chapter.

Compliance by State officers, etc

1584. During the period of a state of extreme emergency, every department, commission, agency, board, officer and employee of the State Government and of every political subdivision, county, city, city and county, public district and

public corporation of or in this State is required to comply with the lawful rules, regulations and orders of the Governor and with the lawful orders of regional civilian protection officers within their respective protective regions and within the limits of their authority as provided for herein. Every such officer or employee who refuses or wilfully neglects to obey such rules, regulations or orders of the Governor, or such orders of a regional civilian protection officer, or who wilfully resists, delays or obstructs the Governor or a regional civilian protection officer in the discharge of any of their respective functions hereunder, is guilty of a misdemeanor. In the event that any such officer or employee shall refuse or wilfully neglect to obey any such rules, regulations or orders, the Governor may by his order temporarily suspend him from the performance of any and all the rights, obligations and duties of his office for the remainder of the period of the state of extreme emergency, and the Governor may thereupon designate the person who shall carry on the rights, obligations and duties of the office for the duration of such suspension.

Failure

Suspension from service

Commandeering of private property and personnel

1585. In the exercise of the emergency war powers hereby vested in the Governor during a period of a state of extreme emergency, he is authorized to commandeer or utilize any private property or personnel deemed by him necessary in carrying out the responsibilities hereby vested in him as chief executive of the State and the State shall pay the reasonable value thereof.

Claim for payment

1586. Before payment may be made by the State to any person pursuant to the provisions of Section 1585 of this chapter such person must present a claim to the State Board of Control in accordance with the provisions of the Political Code of the State of California governing the presentation of claims against the State for the taking or damaging of private property for public use which provisions shall govern the presentment, allowance or rejection of such claims and the conditions upon which suit may be brought against the State. Payment for such property or services shall be made from any funds appropriated by the State for such purpose.

Extra-territorial duties

1587. In the event that the Governor, the State Director of Civilian Protection, or any regional civilian protection officer in a protective region under his jurisdiction, during a state of extreme emergency and in the exercise of the emergency war powers vested in such officers respectively, shall order the officers, employees or agencies of any county, city and county, city or district to perform duties outside of the territorial limits of their respective agencies, any services performed or expenditures made in connection therewith by any such agency, shall be deemed conclusively to be for the direct protection and benefits of the inhabitants and property of such agency. In the event that any equipment belonging to any county, city and county, city or district is damaged or destroyed while being used outside of the territorial limits of the public agency owning such equipment during a state of

Claims for damage

extreme emergency, the public agency suffering loss shall be entitled to file a claim for the amount thereof against the State of California in the manner provided in Section 1586 of this chapter. Such agency shall have no claim against the State for services of such personnel or for the rental, use or ordinary wear and tear of such equipment. All of the privileges and immunities from liability, exemptions from laws, ordinances and rules, all pension, relief, disability, workmen's compensation, and other benefits which apply to the activity of such officers, agents or employees of any such agency when performing their respective functions within the territorial limits of their respective public agencies, shall apply to them to the same degree and extent while engaged in the performance of any of their functions and duties extraterritorially under the provisions of this chapter.

Preservation of rights, etc

1588. None of the provisions of this chapter shall limit, modify or abridge the powers vested in the Governor under the Constitution and other provisions of this code, by proclamation, to declare any county or city or any portion thereof to be in a state of insurrection, or to proclaim the existence of martial law and to exercise all the powers vested in him thereunder independent of, or in conjunction with, any of the provisions of this chapter.

Governor's powers not limited

1589. All of the emergency war powers created by Sections 1562 and Article 9 shall expire and be of no further force and effect from and after the date of "cessation of hostilities" as defined in this chapter.

Duration

Article 10. Responsibilities and Immunities of Civilian Defense Volunteers

1591. (a) Civilian defense volunteers duly enrolled or registered with any civilian defense corps or civilian service corps of any public agency, in carrying out, complying with, or attempting to comply with, any order, rule or regulation issued or promulgated pursuant to the provisions of this chapter, or performing any of their authorized functions or duties, shall have the same degree of responsibility for their actions and enjoy the same immunities as officers and employees of counties or cities performing similar work for their respective entities.

Responsibilities and immunities

(b) No political subdivision, municipal corporation or other public agency under any circumstances nor the officers, employees, agents or duly enrolled or registered volunteers thereof acting within the scope of their official duties under this chapter shall be liable for personal injury or property damage sustained by any duly enrolled or registered civilian defense volunteer engaged in civilian defense activity. The foregoing shall not affect the right of any such person to receive benefits or compensation which may be specifically provided by the provisions of any Federal or State statute nor shall it affect the right of any person to recover under the terms of any policy of insurance.

Acts of employees, etc

Article 11. Penalties and Severability

Fine and imprisonment

1600. Any person who violates any of the provisions of this chapter or who refuses or wilfully neglects to obey any lawful rule, regulation or order promulgated or issued as provided in this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not to exceed five hundred dollars ($500) or by imprisonment for not to exceed six months, or by both such fine and imprisonment.

Constitutionality

1601. If any provision of this chapter, or the application thereof, to any person or circumstance, is held invalid, the remainder of the chapter, or the application of such provision to other persons or circumstances, shall not be affected thereby.

Unexpended appropriation

SEC. 3. All money heretofore appropriated to the California State Council of Defense and remaining unexpended, shall, on the effective date of this act, be transferred to and be available for expenditures by the Governor for the purposes of this act.

CHAPTER 2

Stats 1941, p. 2041

An act making an appropriation in augmentation of the Emergency Fund specified in Item 216 of the Budget Act of 1941, declaring the urgency of this act, to take effect immediately.

In effect immediately

[Approved by Governor February 1, 1943. Filed with Secretary of State February 1, 1943.]

The people of the State of California do enact as follows:

Appropriation: Emergency Fund

SECTION 1. Out of any money in the State Treasury not otherwise appropriated the sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated to the Emergency Fund specified in Item 216 of Section 2 of the Budget Act of 1941, and in augmentation thereof, to be expended as provided therein and in this act, for civilian defense activities.

The moneys hereby appropriated are available for transfer to Item 21 of said Budget Act, for support of the Governor and the Governor's Office, and in augmentation thereof, in furtherance of the purposes hereof.

Urgency

SEC. 2. This act is an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution. The following is a statement of the facts constituting such necessity:

The United States is at war and it is necessary to have this money immediately available for expenditure for civilian defense activities.

CONCURRENT RESOLUTIONS

FIRST EXTRA SESSION

1943

CONCURRENT RESOLUTIONS

ADOPTED AT THE FIRST EXTRA SESSION OF THE FIFTY-FIFTH LEGISLATURE

CHAPTER 1

Senate Concurrent Resolution No. 1—Relative to Joint Rules of the Legislature.

[Filed with Secretary of State January 30, 1943.]

Joint Rules

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Joint Rules of the Senate and the Assembly adopted at the Fifty-fifth Session of the California Legislature be and the same are hereby adopted as Joint Rules of this extraordinary session.

CHAPTER 2

Senate Concurrent Resolution No. 2—Relative to adjournment sine die of the Fifty-fifth (First Extraordinary) Session of the Legislature of the State of California.

[Filed with Secretary of State February 6, 1943.]

Adjournment sine die

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the first extraordinary session of the Fifty-fifth Legislature of the State of California, which convened at 10 o'clock a.m., on the twenty-eighth day of January, 1943, pursuant to a proclamation issued by the Governor of the State of California under date of January 27, 1943, shall adjourn sine die at 2.15 o'clock p.m., January 30, 1943.

STATUTES OF CALIFORNIA

SECOND EXTRA SESSION OF THE FIFTY-FIFTH LEGISLATURE

1943

BEGAN SATURDAY, MARCH TWENTY AND
ADJOURNED THURSDAY, MARCH TWENTY-FIVE
NINETEEN HUNDRED FORTY-THREE

107—L-2860

PROCLAMATION BY THE GOVERNOR CONVENING THE LEGISLATURE IN EXTRAORDINARY SESSION

EXECUTIVE DEPARTMENT, STATE OF CALIFORNIA

WHEREAS, An extraordinary occasion has arisen and now exists, requiring that the Legislature of the State of California be convened in extraordinary session; now, therefore,

I, EARL WARREN, Governor of the State of California, by virtue of the power and authority in me vested by Section 9 of Article V of the Constitution of the State of California, do hereby convene the Legislature of the State of California to meet and assemble in extraordinary session at Sacramento, California, on Saturday, the twentieth day of March, 1943, at 10 o'clock a.m. of said day, for the following purposes, and to legislate upon the following subjects, to wit:

To consider and act upon legislation providing means of achieving and making available the maximum production of food and fiber from existing farm labor and facilities, augmenting such labor and facilities, providing for such officers and agencies as may be necessary therefor, and defining their powers and duties and the powers and duties of existing officers and agencies with respect thereto, and appropriating money therefor.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this eighteenth day of March, 1943.

EARL WARREN, Governor of California

Attest:

FRANK M. JORDAN, Secretary of State

[SEAL]

STATUTES OF CALIFORNIA

PASSED AT THE SECOND EXTRA SESSION OF THE FIFTY-FIFTH LEGISLATURE

CHAPTER 1

An act to provide means of achieving and making available the maximum production of food and fiber from existing farm labor and facilities; to augment such labor and facilities; creating a Farm Production Council; providing for certain officers; defining the powers and duties of the council, such officers, and other officers and agencies of the State and local governments; and making an appropriation. California Food and Fiber Production Act

[Approved by Governor March 29, 1943. Filed with Secretary of State March 29, 1943.] In effect July 29, 1943

The people of the State of California do enact as follows:

Article 1. General Provisions

SECTION 1. The purpose of this act is to achieve the maximum production and availability of food and fiber possible from the farms of this State; to provide for the most effective use of existing farm labor and facilities; and to augment such labor and facilities. Purpose

SEC. 2. This act shall be known as the California Food and Fiber Production Act. Short title

SEC. 3. As used in this act: Definitions

(a) "Council" means the California Farm Production Council.

(b) "Director" means the California Farm Production Director.

(c) "County Coordinator" means a county farm production coordinator.

(d) "County Committee" means a county farm production committee.

(e) "Farm labor" means all services performed on a farm or in connection with farm operations and includes but is not restricted to: The planting, cultivating, irrigating, harvesting, caring for, handling, packing, packaging, grading, sorting, freezing, drying, processing, or the storage, or delivery to storage, or to market, or to a carrier for transportation to market, of any farm product; provided, however, that this definition of "farm labor" shall be limited to the purposes of

this act and shall not be construed as a definition of "farm labor" for the purposes of any other law of this State.

(f) "Farm products" include all agricultural, horticultural, viticultural, vegetable, and other products of the soil, all live stock and live stock products, all bees and bee products, but does not include timber and forestry products, fish or fish products, or minerals or mineral products.

(g) "Public agencies," includes those of the Federal Government, this State, another State, and local governmental units and political subdivisions of this or another State.

Appointments

SEC. 4. In respect to any office filled by appointment hereunder by the Governor, with the advice and consent of the Senate, if an appointment is made while the Senate is not in session, the person appointed shall immediately undertake the performance of his duties and his name shall be submitted to the Senate for confirmation when the Senate is next in session, whether at a regular or extraordinary session, or the reconvening of a recessed session; but the appointee can hold the office only until the adjournment or the fifteenth legislative day of such next session, whichever first occurs, unless prior thereto his appointment is confirmed by the Senate.

Duration

SEC. 5. This act shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the expiration of one year after the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs.

Construction

SEC. 6. This act shall be liberally construed in order to effectuate its declared purposes, but nothing in this act shall be construed to impair, curtail or destroy any right given by law to or suspend the performance of any duty imposed by law upon any employee or impair, curtail or destroy any right given by law to or suspend the performance of any duty imposed by law upon any employer.

Constitutionality

SEC. 7. If any provision of this act, or the application thereof to any person or circumstance, is held invalid, the remainder of the act, or the application of such provision to other persons or circumstances, shall not be affected thereby.

Article 2. Administration

California Farm Production Council Membership

SEC. 20. The California Farm Production Council hereby created consists of the following:

Seven members appointed by the Governor with the advice and consent of the Senate. One of the members shall be a person of practical knowledge and experience in the production of citrus fruits; one in fruits other than citrus; one in dairy products; one in live stock; one in field crops; one in truck crops; and one in cotton. These members of the council serve at the pleasure of the Governor.

In acting as a member of the council, an appointive member shall not be deemed to be a representative of a particular area nor of the particular branch of production in which his practical knowledge and experience qualified him for appointment,

but he shall represent the entire State and all persons engaged in the production of farm products.

Cooperation by State officers, etc

SEC. 20.5. Upon the request of the council or the director every officer and employee of this State shall consult and advise with the council or the director, as the case may be, and each department, division, bureau, board, commission, and officer of this State and each agency or political subdivision of this State shall render all possible assistance to the council and the director for the purpose of carrying out the provisions of this act.

Expenses

SEC. 21. The members of the council shall receive no compensation for their services under this act, but shall be reimbursed for their actual and necessary expenses incurred in connection with their duties hereunder or in lieu thereof shall receive mileage and ten dollars ($10) per day of actual service.

Organization

SEC. 22. Within 15 days after this act becomes effective, the appointive members of the council shall meet at Sacramento and organize for the transaction of business.

Officers

Quorum

Meetings

SEC. 23. The council shall elect a chairman and vice chairman from its appointive membership. Such officers shall hold their respective positions at the pleasure of the council. A majority of the appointive members of the council in office constitutes a quorum and the vote of such a majority is necessary to the transaction of the business of the council. The council shall by rule provide for such regular and special meetings as it may determine and for the method of calling such meetings.

State Farm Production Director

SEC. 24. The Office of State Farm Production Director hereby created is filled by appointment by the Governor. He serves at the pleasure of the Governor and receives such salary as the council shall designate, not in excess of ten thousand dollars ($10,000) annually, with the approval of the Director of Finance, and the actual and necessary expenses incurred by him in the performance of his duties. He also may be removed from office by a vote of a majority of the appointive members of the council then in office.

Chief executive officer

SEC. 25. The director shall be the chief executive officer for the administration of this act, but the council shall require the prior approval by it of any or all contracts involving the expenditure of more than five hundred dollars ($500) that may be executed by the director.

Delegation of powers

The director may delegate any of the powers vested in him by this act, except the power to contract, to employees and officers engaged in the administration of this act and to county coordinators. Any power so delegated may at any time be modified, withdrawn or terminated by the director.

Head of department

SEC. 26. The director is the head of a department within the meaning of Sections 353, 354, 355, and 356 of the Political Code.

County farm production coordinator

SEC. 27. The board of supervisors of any county may by resolution establish and fill the position of county farm production coordinator who shall serve at the pleasure of the board. It may also provide him with such assistants and

Compensation and expenses

facilities as it deems necessary. If such a position be created and filled the compensation and expenses of the coordinator and such assistants shall be a county charge but the council, out of State moneys available therefor, may pay each county a portion of such costs in an amount determined by the council, conditioned upon the observance of standards and regulations prescribed by the council and compliance with the directions of the director and his authorized representatives.

Contributions

Contributions by the council to any county toward the payment of the salary of its county coordinator shall not exceed the sum of one hundred fifty dollars ($150) per month. A county coordinator may also be an employee or officer of this State or any city, county or other public agency of this State.

Adjoining county farm production coordinator

SEC. 28. The board of supervisors of any county in which there is no county coordinator may employ a county coordinator (or one of his assistants) of an adjoining county to perform the duties of county coordinator in the employing county, but only with the consent of the board of supervisors of such adjoining county.

County farm production committee

SEC. 29. The board of supervisors of each county may by resolution create a county farm production committee and upon petition of 20 resident farmers of the county each of whom operates an orchard, greenhouse, nursery, dairy, ranch, or other agricultural enterprise shall create such a committee. Each committee shall consist of such number of members as in the opinion of the board of supervisors will properly represent those engaged in the production of food and fiber in the county, and the county agricultural commissioner and the county farm adviser, if any, serving ex officio. The board of supervisors shall appoint the members of the committee. If in the county there are a county agricultural commissioner and a county farm adviser, the members shall be appointed from a panel of names which such commissioner and such adviser shall jointly furnish to the board. If in the county there is only a county farm adviser or only a county agricultural commissioner the panel shall be furnished by him. The number of names submitted shall be not less than one-third more than the number of members to be appointed.

If the board of supervisors fails to determine the number of members that will constitute the committee within 30 days after this act becomes effective, the number shall be determined by the director. If the board of supervisors fails to make the appointments provided for in this section within 15 days after receipt of the panel of names, the director shall make the appointments from the same panel.

Subcommittees

A county farm production committee may by resolution create such subcommittees as it deems desirable. Such subcommittees may include members other than members of the county committee.

Term

The members of the committee shall serve at the pleasure of the board and shall advise and assist the county coordinator in the performance of his duties.

Article 3. Operations

Recruitment, etc., of labor

SEC. 30. The director may provide for the recruitment, placement, transportation, housing and sustenance of farm labor and for the facilities required by or in connection with the use of such labor in order to effectuate the purposes of this act.

Contracts for services, etc

SEC. 31. The director may contract with such other agencies, public or private, as he deems necessary or desirable for the rendition and affording of such services, facilities, studies and reports to him as will assist in carrying out the provisions of this act.

Relief of shortage of farm labor

SEC. 32. The director may cooperate or contract with public and private agencies for the performance of any acts or the rendition of any services which are proper and necessary to the relief of the shortage of farm labor and equipment in this State or in any portion thereof or may undertake such acts directly or through county coordinators.

Further powers

SEC. 33. The director shall for the purpose of obtaining and making available the maximum production of food and fiber in this State:

(a) Provide for the recruitment, distribution and placement of farm labor;

(b) Coordinate, plan, and arrange for and assist in the transportation and housing of farm labor;

(c) Plan for and assist in procuring adequate food supplies for farm labor;

(d) Generally plan for and assist in providing any facility or means necessary to the production or making available of farm products, including the procurement through Federal and other agencies of sufficient materials for the manufacture and repair of necessary farm machinery and equipment for use in California;

(e) Assist in making labor available to any primary processor of farm products when necessary and expedient to prevent loss of such products which require processing.

Offices

SEC. 34. The director may procure and maintain offices in such parts of the State as to him appears necessary or convenient in order to effectuate the purposes of this act.

Necessary powers

The director has power to do such other acts and things as may be necessary and incidental to the full discharge of duties expressly conferred or imposed upon him.

Regions

SEC. 35. The council may for the proper administration of this act divide the State into regions and provide for the supervision of each such region by an administrative supervisor who shall be a civil executive officer of this State appointed by and serving at the pleasure of the Governor, but also removable by the council.

Rules of council

SEC. 36. In the execution of their powers and duties under this act, officers and employees engaged in the administration of this act and county coordinators shall be governed by such rules as the council may from time to time make.

Employees

SEC. 37. The council shall create positions, fix the compensation and prescribe the powers and duties of officers and employees necessary for the administration and to effectuate the purposes of this act. The compensation fixed shall be subject to the approval of the Director of Finance. All such officers and employees shall be appointed by the Governor to serve at his pleasure but may also be removed by the council.

Article 4. Student Harvest Camps

Student harvest camps

SEC. 40. Subject to the approval of the Superintendent of Public Instruction and under such regulations as he may from time to time prescribe with respect to supervision, board, lodging and camp standards, any school district may establish, maintain and operate student harvest camps within or without the district for the use of pupils engaged in farm labor or, subject to such approval and such regulations, any school district may contract with the director for the establishment, maintenance or operation of such student harvest camps or for the use of the property and personnel of the district to effectuate the purposes of this act. The director shall have general supervision of and coordinate all student harvest camp activities.

Article 5. Support

Appropriation

SEC. 50. Out of any moneys in the State Treasury not otherwise appropriated, there is hereby appropriated to be expended during the Ninety-fifth and Ninety-sixth Fiscal Years in accordance with law to effectuate the purposes of this act the sum of one million five hundred thousand dollars ($1,500,000). Any sums received, whether by way of reimbursement for advances or expenditures made on behalf of or in cooperation with any public or private agency or otherwise, shall be deposited in the State Treasury in augmentation of any appropriations made for the purposes of this act.

Additional funds

CONCURRENT RESOLUTIONS

SECOND EXTRA SESSION

1943

CONCURRENT RESOLUTIONS

ADOPTED AT THE SECOND EXTRA SESSION OF THE FIFTY-FIFTH LEGISLATURE

CHAPTER 1

Senate Concurrent Resolution No. 1—Relative to Joint Rules of the Legislature.

[Filed with Secretary of State March 22, 1943.]

Joint Rules

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Joint Rules of the Senate and the Assembly adopted at the Fifty-fifth Session of the California Legislature be and the same are hereby adopted as Joint Rules of this extraordinary session.

CHAPTER 2

Assembly Concurrent Resolution No. 1—Relative to adjournment sine die of the Fifty-fifth (Second Extraordinary) Session of the Legislature of the State of California.

[Filed with Secretary of State March 29, 1943.]

Adjournment sine die

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Second Extraordinary Session of the Fifty-fifth Legislature of the State of California, which convened at 10 o'clock a.m. on the twentieth day of March, 1943, pursuant to a proclamation issued by the Governor of the State of California under date of March 18, 1943, shall adjourn sine die at 2.15 o'clock p.m., March 25, 1943.